

**As Passed by the Senate**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Am. Sub. H. B. No. 66**

**Representatives Calvert, Flowers, Martin, McGregor, Peterson, Schlichter,  
Webster, Aslanides, Blasdel, Coley, Collier, Combs, DeWine, Dolan,  
C. Evans, D. Evans, Hagan, Kearns, Kilbane, Law, T. Patton, Seaver, Setzer,  
Wagoner, White, Widowfield Speaker Husted  
Senators Amstutz, Goodman, Clancy, Carey, Jacobson, Harris**

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**A B I L L**

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121st General Assembly, as subsequently amended; 266  
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Am. Sub. H.B. 95 of the 125th General Assembly to 268  
make operating appropriations for the biennium 269  
beginning July 1, 2005 and ending June 30, 2007, 270  
and to provide authorization and conditions for 271  
the operation of state programs, and to repeal 272  
Section 553.01 of this act on December 16, 2005. 273

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

**Section 101.01.** That sections 9.24, 101.68, 102.02, 102.06, 274  
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5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 be amended; that 381  
sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 382  
181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3314.031 383  
(3314.21), 3314.032 (3314.22), 3314.033 (3314.23), 3314.034 384  
(3314.24), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 385  
(3318.49), 4115.21 (4115.16), 4723.63 (4723.91), 5101.75 (173.42), 386  
5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 387  
5111.022 (5111.023), 5111.023 (5111.0115), 5111.112 (5111.113), 388  
5111.113 (5111.114), 5111.231 (5111.232), 5111.257 (5111.258), 389  
5111.81 (5111.085), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 390  
(5121.02), 5121.02 (5121.03), and 5121.03 (5121.01) be amended for 391  
the purpose of adopting new section numbers as indicated in 392  
parentheses; that Section 41.36 of Am. Sub. H.B. 95 of the 125th 393  
General Assembly be amended and that Section 41.36 of Am. Sub. 394  
H.B. 95 of the 125th General Assembly be amended for the purpose 395  
of codifying it as section 3323.19 of the Revised Code; that new 396  
sections 3317.012, 3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 397  
5111.112, 5111.231, 5111.24, 5111.257, 5111.88, and 5123.048 and 398  
sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 399  
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5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 444  
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5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 446  
5751.98, 5751.99, 5919.31, 5919.341, 6111.30, 6111.31, and 6111.32 447  
of the Revised Code be enacted to read as follows: 448

Sec. 9.23. As used in sections 9.23 to 9.239 of the Revised 449  
Code: 450

(A) "Allocable nondirect costs" means the amount of nondirect 451  
costs allocated as a result of actual expenditures on direct 452  
costs. "Allocable nondirect costs" shall be calculated as follows: 453  
direct costs actually incurred for the provision of services 454  
pursuant to a contract entered into under section 9.231 of the 455  
Revised Code divided by the minimum percentage of money that is to 456  
be expended on the recipient's direct costs, as specified in the 457  
contract, minus the direct costs actually incurred. 458

(B) "Contract payment earned" means payment pursuant to a 459  
contract entered into under section 9.231 of the Revised Code for 460  
direct costs actually incurred in performing the contract, up to 461  
the minimum percentage of money that is to be expended on the 462  
recipient's direct costs, as specified in the contract, plus 463  
allocable nondirect costs associated with those direct costs. 464

(C) "Direct costs" means the costs of providing services that 465  
directly benefit a patient, client, or the public and that are set 466  
forth in the contract entered into under section 9.231 of the 467  
Revised Code. "Direct costs" does not include the costs of any 468  
financial review or audit required under section 9.234 of the 469  
Revised Code. 470

(D)(1) "Governmental entity" means a state agency or a political subdivision of the state. 471  
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(2) "Contracting authority" of a governmental entity means the director or chief executive officer, in the case of a state agency, or the legislative authority, in the case of a political subdivision. 473  
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(E) "Minimum percentage of money that is to be expended on the recipient's direct costs" means the percentage of the total amount of the contract entered into under section 9.231 of the Revised Code that, at a minimum, has to be expended on the recipient's direct costs in performing the contract in order for the recipient to earn the total amount of the contract. 477  
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(F) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 483  
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(G) "Recipient" means a person that enters into a contract with a governmental entity under section 9.231 of the Revised Code. 487  
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(H) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government. 490  
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(I) A judgment is "uncollectible" if, at least ninety days after the judgment is obtained, the full amount of the judgment has not been collected and either a settlement agreement between the governmental entity and the recipient has not been entered into or a settlement agreement has been entered into but has not been materially complied with. 493  
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Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of this section, a governmental entity shall not disburse money 499  
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totaling twenty-five thousand dollars or more to any person for  
the provision of services for the primary benefit of individuals  
or the public and not for the primary benefit of a governmental  
entity or the employees of a governmental entity, unless the  
contracting authority of the governmental entity first enters into  
a written contract with the person that is signed by the person or  
by an officer or agent of the person authorized to legally bind  
the person and that embodies all of the requirements and  
conditions set forth in sections 9.23 to 9.236 of the Revised  
Code. If the disbursement of money occurs over the course of a  
governmental entity's fiscal year, rather than in a lump sum, the  
contracting authority of the governmental entity shall enter into  
the written contract with the person at the point during the  
governmental entity's fiscal year that at least seventy-five  
thousand dollars has been disbursed by the governmental entity to  
the person. Thereafter, the contracting authority of the  
governmental entity shall enter into the written contract with the  
person at the beginning of the governmental entity's fiscal year,  
if, during the immediately preceding fiscal year, the governmental  
entity disbursed to that person an aggregate amount totaling at  
least seventy-five thousand dollars.

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(2) If the money referred to in division (A)(1) of this  
section is disbursed by or through more than one state agency to  
the person for the provision of services to the same population,  
the contracting authorities of those agencies shall determine  
which one of them will enter into the written contract with the  
person.

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(3) The requirements and conditions set forth in divisions  
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2)  
of section 9.234, divisions (A)(2) and (B) of section 9.235, and  
sections 9.233 and 9.236 of the Revised Code do not apply with  
respect to the following:

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(a) Contracts to which all of the following apply: 533

(i) The amount received for the services is a set fee for 534  
each time the services are provided, is determined in accordance 535  
with a fixed rate per unit of time or per service, or is a 536  
capitated rate, and the fee or rate is established by competitive 537  
bidding or by a market rate survey of similar services provided in 538  
a defined market area. The market rate survey may be one conducted 539  
by or on behalf of the governmental entity or an independent 540  
survey accepted by the governmental entity as statistically valid 541  
and reliable. 542

(ii) The services are provided in accordance with standards 543  
established by state or federal law, or by rules or regulations 544  
adopted thereunder, for their delivery, which standards are 545  
enforced by the federal government, a governmental entity, or an 546  
accrediting organization recognized by the federal government or a 547  
governmental entity. 548

(iii) Payment for the services is made after the services are 549  
delivered and upon submission to the governmental entity of an 550  
invoice or other claim for payment as required by any applicable 551  
local, state, or federal law or, if no such law applies, by the 552  
terms of the contract. 553

(b) Contracts under which the services are reimbursed through 554  
or in a manner consistent with a federal program that meets all of 555  
the following requirements: 556

(i) The program calculates the reimbursement rate on the 557  
basis of the previous year's experience or in accordance with an 558  
alternative method set forth in rules adopted by the Ohio 559  
department of job and family services. 560

(ii) The reimbursement rate is derived from a breakdown of 561  
direct and indirect costs. 562

(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs are acceptable as direct costs for purposes of calculating the reimbursement rate. 563  
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(iv) The program includes a uniform cost reporting system with specific audit requirements. 567  
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(c) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that calculates the reimbursement rate on a fee for service basis in compliance with United States office of management and budget Circular A-87, as revised May 10, 2004. 569  
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(d) Contracts for medicaid-funded services, other than the services described in division (B)(2)(b) of this section, that are authorized by rules adopted by the department of job and family services. 574  
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(e) Contracts for services that are paid pursuant to the earmarking of an appropriation made by the general assembly for that purpose. 578  
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(B) Division (A) of this section does not apply if the money is transferred to a person pursuant to a contract with the United States or a governmental entity under any of the following circumstances: 581  
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(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money. 585  
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(2) The person receives the money solely in return for the performance of one or more of the following types of services: 588  
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(a) Medical, therapeutic, or other health-related services provided by a person if the amount received is a set fee for each time the person provides the services, is determined in accordance 590  
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with a fixed rate per unit of time, or is a capitated rate, and  
the fee or rate is reasonable and customary in the person's trade  
or profession;

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(b) Medicaid-funded services provided by a nursing home,  
hospital, or intermediate care facility for the mentally retarded  
for which payment is calculated on the basis of the person's cost  
of providing the services. For purposes of division (B)(2)(b) of  
this section, "medicaid" has the same meaning as in section  
5111.01 of the Revised Code; "nursing home" means a nursing home  
or home for the aging, as those terms are defined in section  
3721.01 of the Revised Code, that is issued a license pursuant to  
section 3721.02 of the Revised Code; "hospital" means a facility  
that meets the operating standards of section 3727.02 of the  
Revised Code; and "intermediate care facility for the mentally  
retarded" has the same meaning as in section 5111.20 of the  
Revised Code.

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(c) Services, other than administrative or management  
services or any of the services described in division (B)(2)(a) or  
(b) of this section, that are commonly purchased by the public at  
an hourly rate or at a set fee for each time the services are  
provided, unless the services are performed for the benefit of  
children, persons who are eligible for the services by reason of  
advanced age, medical condition, or financial need, or persons who  
are confined in a detention facility as defined in section 2921.01  
of the Revised Code, and the services are intended to help promote  
the health, safety, or welfare of those children or persons;

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(d) Educational services provided by a school to children  
eligible to attend that school. For purposes of division (B)(2)(d)  
of this section, "school" means any school operated by a school  
district board of education, any community school established  
under Chapter 3314. of the Revised Code, or any nonpublic school  
for which the state board of education prescribes minimum

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education standards under section 3301.07 of the Revised Code. 625

(e) Services provided by a foster home as defined in section 5103.02 of the Revised Code; 626  
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(f) "Routine business services other than administrative or management services," as that term is defined by the attorney general by rule adopted in accordance with Chapter 119. of the Revised Code; 628  
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(g) Services to protect the environment or promote environmental education that are provided by a nonprofit entity or services to protect the environment that are funded with federal grants or revolving loan funds and administered in accordance with federal law. 632  
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(3) The person receives the money solely in return for the performance of services intended to help preserve public health or safety under circumstances requiring immediate action as a result of a natural or man-made emergency. 637  
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(C) With respect to a nonprofit association, corporation, or organization established for the purpose of providing educational, technical, consulting, training, financial, or other services to its members in exchange for membership dues and other fees, any of the services provided to a member that is a governmental entity shall, for purposes of this section, be considered services "for the primary benefit of a governmental entity or the employees of a governmental entity." 641  
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Sec. 9.232. A contract entered into under section 9.231 of the Revised Code shall, at a minimum, set forth all of the following: 649  
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(A) The minimum percentage of money that is to be expended on the recipient's direct costs; 652  
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(B) The records that a recipient must maintain to document 654

direct costs;

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(C) If some of the recipient's obligations under the contract involve the performance of any of the types of services described in division (B)(2)(a), (c), or (f) of section 9.231 of the Revised Code, the name and telephone number of the individual designated by the governmental entity as the contact for obtaining approval of contract amounts for purposes of division (A)(2)(a)(ii) of section 9.235 of the Revised Code;

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(D) The financial review and audit requirements established under section 9.234 of the Revised Code and by rules of the auditor of state adopted under section 9.238 of the Revised Code or, with respect to any contract described in division (A)(3) of section 9.231 of the Revised Code, the financial review or audit requirements established for purposes of that contract;

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(E) The provisions established by rules of the attorney general adopted under section 9.237 of the Revised Code;

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(F) Permissible dispositions of money received by a recipient in excess of the contract payment earned, if the excess is not to be repaid to the governmental entity.

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**Sec. 9.233.** (A) A recipient shall be entitled to the contract payment earned. In no event shall a recipient be entitled to more than the contract payment earned. A recipient shall repay any money received in excess of the contract payment earned to the governmental entity or, if a different disposition is provided for in the recipient's contract with the governmental entity, dispose of that money in accordance with the terms of the contract.

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(B) In order to determine the contract payment earned, all financial books and records open to inspection pursuant to section 9.235 of the Revised Code shall be held to standards consistent with generally accepted accounting principles.

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Sec. 9.234. (A) Unless otherwise explicitly provided in the 685  
Revised Code, a recipient shall do all of the following: 686

(1) With respect to any money received prior to the 687  
performance of the recipient's obligations under the contract 688  
entered into under section 9.231 of the Revised Code, and any 689  
money received in excess of the contract payment earned, keep 690  
current and accurate records of the receipt and use of the money 691  
in a manner consistent with the contract; 692

(2) With respect to any money received after the recipient 693  
has performed its obligations under the contract entered into 694  
under section 9.231 of the Revised Code, keep current and accurate 695  
records of the recipient's expenditures on direct costs; 696

(3) Annually provide the contracting authority of the 697  
governmental entity with a report that includes both of the 698  
following: 699

(a) An audit report or financial review, if a financial audit 700  
or review is required by the applicable state or federal grant 701  
program; an audit report, if a financial audit is required by 702  
division (B)(3) of this section; a financial review, if a 703  
financial review is required by division (B)(2) of this section; a 704  
financial review, if a financial review is required by division 705  
(B)(1) of this section and is not waived; or financial statements, 706  
major categories of expenditure of the money, and a summary of the 707  
activities for which the recipient used the money; 708

(b) Any other information that may be required by the 709  
contract. 710

(B) If a financial audit or review is not otherwise required 711  
with respect to a contract, the following apply: 712

(1) A recipient that, pursuant to one or more contracts 713  
entered into under section 9.231 of the Revised Code, receives 714

money totaling at least one hundred thousand dollars but less than 715  
three hundred thousand dollars in any fiscal year shall have a 716  
financial review performed for each fiscal year in which it 717  
receives that amount of money in accordance with the financial 718  
review standards of the American institute of certified public 719  
accountants. The financial review shall be performed by an 720  
independent public accounting firm. The financial review contract 721  
between the recipient and the firm shall provide that the state is 722  
an intended third-party beneficiary of the contract. 723

This financial review requirement may be waived, however, if 724  
the contracting authority of each governmental entity from which 725  
the recipient received money that fiscal year pursuant to a 726  
contract entered into under section 9.231 of the Revised Code 727  
agrees to the waiver. 728

(2) A recipient that, pursuant to one or more contracts 729  
entered into under section 9.231 of the Revised Code, receives 730  
money totaling at least three hundred thousand dollars but less 731  
than five hundred thousand dollars in any fiscal year shall have a 732  
financial review performed for each fiscal year in which it 733  
receives that amount of money in accordance with the financial 734  
review standards of the American institute of certified public 735  
accountants. The financial review shall be performed by an 736  
independent public accounting firm. The financial review contract 737  
between the recipient and the firm shall provide that the state is 738  
an intended third-party beneficiary of the contract. 739

(3) A recipient that, pursuant to one or more contracts 740  
entered into under section 9.231 of the Revised Code, receives 741  
money totaling five hundred thousand dollars or more in any fiscal 742  
year shall have a financial audit performed for each fiscal year 743  
in which it receives that amount of money according to generally 744  
accepted auditing standards by an independent public accounting 745  
firm. The audit contract between the recipient and the firm shall 746



provide that the state is an intended third-party beneficiary of 747  
the contract. The audit shall comply with rules adopted by the 748  
auditor of state under section 9.238 of the Revised Code. An audit 749  
performed pursuant to the federal "Single Audit Act of 1984," 98 750  
Stat. 2327, 31 U.S.C. 7501 et seq., as amended, is sufficient if 751  
the state is an intended third-party beneficiary of the audit 752  
contract. 753

(C)(1) An audit conducted by the auditor of state pursuant to 754  
any other provision of the Revised Code is sufficient for purposes 755  
of division (B) of this section. 756

(2) The references in division (B) of this section to fiscal 757  
year mean the recipient's fiscal year. 758

(D) Nothing in this section shall be construed to limit in 759  
any way the authority of the auditor of state to conduct audits 760  
pursuant to any other provision of the Revised Code. 761

**Sec. 9.235.** (A)(1) Subject to division (A)(2) of this 762  
section, the financial books and records of a recipient, and the 763  
financial books and records of any person with which the recipient 764  
contracts for the performance of the recipient's obligations under 765  
the recipient's contract with the governmental entity, shall be 766  
open to inspection by the governmental entity and by the state 767  
from the time the recipient first applies for payment under the 768  
contract. If the recipient is paid before the performance of its 769  
obligations under the contract, the financial books and records of 770  
the recipient and of any person with which the recipient contracts 771  
for the performance of the recipient's obligations shall be open 772  
to inspection from the first anniversary of the payment or from 773  
any earlier date that the contract may provide. 774

(2) Division (A)(1) of this section does not apply to any 775  
person that contracts with the recipient solely for the 776

performance of some of the recipient's obligations under the 777  
recipient's contract with the governmental entity that directly 778  
benefit the recipient's patients or clients, if either of the 779  
following applies: 780

(a) The services provided by the person are any of the types 781  
of services described in division (B)(2)(a), (c), or (f) of 782  
section 9.231 of the Revised Code and the full amount of the 783  
person's contract constitutes direct costs for the recipient and 784  
is reasonable and customary in the person's trade or profession. 785  
For purposes of division (A)(2)(a) of this section, the amount of 786  
the person's contract with the recipient shall be considered 787  
"reasonable and customary in the person's trade or profession" if 788  
any of the following applies: 789

(i) The amount is equal to or less than the maximum amount 790  
for those services specified in the recipient's contract with the 791  
governmental entity. 792

(ii) The amount was approved by the governmental entity after 793  
the recipient entered into the contract with the governmental 794  
entity. 795

(iii) A maximum amount for those services was specified in 796  
the recipient's contract with the governmental entity, the 797  
recipient's original contract with a person for the performance of 798  
those services was subsequently canceled or otherwise unfulfilled, 799  
the recipient entered into a replacement contract with another 800  
person, and the amount of that contract is not more than 801  
twenty-five per cent above the maximum amount for the services 802  
specified in the recipient's contract with the governmental 803  
entity. 804

(b) The services provided by the person are any of the types 805  
of services described in division (B)(2)(b), (d), or (e) of 806  
section 9.231 of the Revised Code. 807

(B)(1) Subject to division (B)(2) of this section, if a 808  
recipient contracts with another person for the performance of 809  
some or all of the recipient's obligations under the recipient's 810  
contract with the governmental entity, the recipient shall be 811  
entitled to claim spending by the other person as direct costs 812  
only to the extent the other person has spent money on direct 813  
costs in the performance of the recipient's obligations and only 814  
if the other person complies with all of the terms and conditions 815  
relating to the performance that the recipient is required to 816  
comply with under the contract with the governmental entity. 817

(2) The conditions set forth in division (B)(1) of this 818  
section do not apply with respect to any person described in 819  
division (A)(2) of this section. 820

(C)(1) Nothing in this section shall be construed as making 821  
any record of the receipt or expenditure of nonpublic money a 822  
public record for purposes of section 149.43 of the Revised Code. 823

(2) Division (C)(1) of this section does not limit in any way 824  
the authority of the auditor of state to conduct audits or other 825  
investigations when public money is commingled with nonpublic 826  
money. 827

**Sec. 9.236.** (A) A recipient is liable to repay to the 828  
governmental entity any money received in excess of the contract 829  
payment earned. 830

(B)(1) A governmental entity may bring a civil action for the 831  
recovery of money due to the governmental entity from a recipient 832  
under division (A) of this section. In such an action, any person 833  
with which the recipient has contracted for the performance of the 834  
recipient's material obligations to a group of beneficiaries under 835  
the recipient's contract with the governmental entity may be made 836  
a party defendant if the person is unable to demonstrate to the 837

satisfaction of the governmental entity that the person has 838  
materially complied with the terms of the contract with the 839  
recipient. In such a case, the person may be made a party 840  
defendant and the governmental entity may obtain a judgment 841  
against the person in accordance with division (B)(2) of this 842  
section. 843

(2) If a governmental entity obtains a judgment against a 844  
recipient in a civil action brought under division (B)(1) of this 845  
section and the judgment is uncollectible, the governmental entity 846  
may recover from the person with which the recipient contracted an 847  
amount not exceeding the lesser of the following: 848

(a) The unsatisfied amount of the judgment; 849

(b) The total amount received by the person from the 850  
recipient minus the total amount spent by the person on direct 851  
costs for services actually performed and retained by the person 852  
as allocable nondirect costs associated with those direct costs. 853

(C) If a governmental entity, pursuant to this section, 854  
obtains a judgment against a recipient or against a person with 855  
which the recipient contracted and that judgment debtor does not 856  
voluntarily pay the amount of the judgment, that judgment debtor 857  
shall be precluded from contracting with a governmental entity to 858  
the extent provided in divisions (A) and (B) of section 9.24 of 859  
the Revised Code for a debtor against whom a finding of recovery 860  
has been issued. 861

(D) In addition to other remedies provided in divisions (A) 862  
to (C) of this section, a governmental entity may void a contract 863  
between a recipient and another person for the performance by the 864  
other person of the recipient's obligations under the recipient's 865  
contract with the governmental entity to the extent that the other 866  
person has not yet performed its obligations under the contract or 867  
cannot demonstrate that the money it received was expended on 868

direct costs or retained as allocable nondirect costs. 869

(E) If a recipient is liable to repay money to a governmental entity under this section and the judgment obtained by the governmental entity against the recipient is uncollectible, then in addition to other remedies provided in divisions (A) to (C) of this section, and after the governmental entity has obtained a judgment against any necessary third party, the governmental entity may void any of the following contracts: 870  
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(1) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and a director, trustee, or officer of the recipient or a business in which a director, trustee, or officer of the recipient has a material financial interest, if either of the following applies: 877  
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(a) The recipient has paid substantial value for property received and the property can be returned to the other person. If the property has experienced only normal wear and tear, the person shall be liable to the governmental entity for the full amount the recipient paid for the property. Otherwise, the person shall be liable to the governmental entity only for the market value of the property. 883  
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(b) The person with which the recipient contracted has received money that the recipient obtained pursuant to the contract with the governmental entity and the money was not expended on direct costs or retained as allocable nondirect costs. In such a case, the governmental entity may void the contract to the extent the money was not expended on direct costs or retained as allocable nondirect costs, and the person shall be liable to the governmental entity for that amount. 890  
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(2) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible 898  
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between the recipient and an employee of the recipient or a 900  
business in which an employee of the recipient has a material 901  
financial interest, if the employee has direct knowledge of the 902  
use of the money that the recipient obtained pursuant to the 903  
contract with the governmental entity and either division 904  
(E)(1)(a) or (b) of this section applies; 905

(3) A contract between the recipient and another person 906  
pursuant to which the recipient has paid or agreed to pay money to 907  
the other person, to the extent that the other person has not yet 908  
performed its obligations under the contract; 909

(4) A contract made not more than one year before the 910  
judgment against the recipient became uncollectible between the 911  
recipient and a person other than the governmental entity if the 912  
other person has not given or agreed to give consideration of 913  
reasonable and substantial value for the consideration given by 914  
the recipient. 915

**Sec. 9.237.** The attorney general shall adopt rules in 916  
accordance with Chapter 119. of the Revised Code governing the 917  
terms of any contract entered into under section 9.231 of the 918  
Revised Code. The rules shall set forth all of the following: 919

(A) A definition of permissible components of direct costs, 920  
including a list of expenditures that may never be included in 921  
direct costs and a nonexclusive list of expenditures that may be 922  
included in direct costs pursuant to agreement of the parties; 923

(B) Permissible methods by which a recipient may keep records 924  
documenting direct costs and how long those records must be 925  
retained; 926

(C) Remedies not inconsistent with section 9.236 of the 927  
Revised Code in the event of a breach of the contract; 928

(D) Terms to be included in contracts between recipients and 929

persons other than the governmental entity, including the notice 930  
of the remedies available to the governmental entity if the money 931  
under the contract with the governmental entity is not expended on 932  
direct costs or retained as allocable nondirect costs or, with 933  
respect to any contract described in division (A)(3) of section 934  
9.231 of the Revised Code, is not earned under the terms of the 935  
contract with the governmental entity; 936

(E) Any other provisions that the attorney general considers 937  
necessary to carry out the purposes of sections 9.23 to 9.236 of 938  
the Revised Code. 939

**Sec. 9.238.** (A) The auditor of state shall prescribe a single 940  
form of the financial reviews required by divisions (B)(1) and (2) 941  
of section 9.234 of the Revised Code to be used for all 942  
governmental entities. 943

(B) The auditor of state may adopt rules in accordance with 944  
Chapter 119. of the Revised Code governing the form and content of 945  
the audit reports required by division (B)(3) of section 9.234 of 946  
the Revised Code and may prescribe a single form of the report to 947  
be used for all governmental entities. Upon request made by a 948  
recipient, the auditor of state shall, to the extent possible, 949  
require all governmental entities that have entered into a 950  
contract with that recipient under section 9.231 of the Revised 951  
Code to accept a particular audit report. 952

**Sec. 9.239.** (A) There is hereby created the government 953  
contracting advisory council. The attorney general and auditor of 954  
state shall consult with the council on the performance of their 955  
rule-making functions under sections 9.237 and 9.238 of the 956  
Revised Code and shall consider any recommendations of the 957  
council. The director of job and family services shall annually 958  
report to the council the cost methodology of the medicaid-funded 959

<u>services described in division (A)(3)(d) of section 9.231 of the</u>	960
<u>Revised Code. The council shall consist of the following members</u>	961
<u>or their designees:</u>	962
<u>(1) The attorney general;</u>	963
<u>(2) The auditor of state;</u>	964
<u>(3) The director of administrative services;</u>	965
<u>(4) The director of aging;</u>	966
<u>(5) The director of alcohol and drug addiction services;</u>	967
<u>(6) The director of budget and management;</u>	968
<u>(7) The director of development;</u>	969
<u>(8) The director of job and family services;</u>	970
<u>(9) The director of mental health;</u>	971
<u>(10) The director of mental retardation and developmental</u>	972
<u>disabilities;</u>	973
<u>(11) The director of rehabilitation and correction;</u>	974
<u>(12) The administrator of workers' compensation;</u>	975
<u>(13) The executive director of the county commissioners'</u>	976
<u>association of Ohio;</u>	977
<u>(14) The president of the Ohio grantmakers forum;</u>	978
<u>(15) The president of the Ohio chamber of commerce;</u>	979
<u>(16) The president of the Ohio state bar association;</u>	980
<u>(17) The president of the Ohio society of certified public</u>	981
<u>accountants;</u>	982
<u>(18) The executive director of the Ohio association of</u>	983
<u>nonprofit organizations;</u>	984
<u>(19) The president of the Ohio united way;</u>	985
<u>(20) One additional member appointed by the attorney general;</u>	986



<u>(21) One additional member appointed by the auditor of state.</u>	987
<u>(B) If an agency or organization represented on the council</u>	988
<u>ceases to exist in the form it has on the effective date of this</u>	989
<u>section, the successor agency or organization shall be represented</u>	990
<u>in its place. If there is no successor agency or organization, or</u>	991
<u>if it is not clear what agency or organization is the successor,</u>	992
<u>the attorney general shall designate an agency or organization to</u>	993
<u>be represented in place of the agency or organization originally</u>	994
<u>represented on the council.</u>	995
<u>(C) The two members appointed to the council shall serve</u>	996
<u>three-year terms. Original appointments shall be made not later</u>	997
<u>than sixty days after the effective date of this section.</u>	998
<u>Vacancies on the council shall be filled in the same manner as the</u>	999
<u>original appointment.</u>	1000
<u>(D) The attorney general or the attorney general's designee</u>	1001
<u>shall be the chairperson of the council. The council shall meet at</u>	1002
<u>least once every two years to review the rules adopted under</u>	1003
<u>sections 9.237 and 9.238 of the Revised Code and to make</u>	1004
<u>recommendations to the attorney general and auditor of state</u>	1005
<u>regarding the adoption, amendment, or repeal of those rules. The</u>	1006
<u>council shall also meet at other times as requested by the</u>	1007
<u>attorney general or auditor of state.</u>	1008
<u>(E) Members of the council shall serve without compensation</u>	1009
<u>or reimbursement.</u>	1010
<u>(F) The office of the attorney general shall provide</u>	1011
<u>necessary staff, facilities, supplies, and services to the</u>	1012
<u>council.</u>	1013
<u>(G) Sections 101.82 to 101.87 of the Revised Code do not</u>	1014
<u>apply to the council.</u>	1015
<b>Sec. 9.24.</b> (A) Except as may be allowed under division (F) of	1016

this section, no state agency and no political subdivision shall 1017  
award a contract as described in division (G)(1) of this section 1018  
for goods, services, or construction, paid for in whole or in part 1019  
with state funds, to a person against whom a finding for recovery 1020  
has been issued by the auditor of state on and after January 1, 1021  
2001, if the finding for recovery is unresolved. 1022

A contract is considered to be awarded when it is entered 1023  
into or executed, irrespective of whether the parties to the 1024  
contract have exchanged any money. 1025

(B) For purposes of this section, a finding for recovery is 1026  
unresolved unless one of the following criteria applies: 1027

(1) The money identified in the finding for recovery is paid 1028  
in full to the state agency or political subdivision to whom the 1029  
money was owed; 1030

(2) The debtor has entered into a repayment plan that is 1031  
approved by the attorney general and the state agency or political 1032  
subdivision to whom the money identified in the finding for 1033  
recovery is owed. A repayment plan may include a provision 1034  
permitting a state agency or political subdivision to withhold 1035  
payment to a debtor for goods, services, or construction provided 1036  
to or for the state agency or political subdivision pursuant to a 1037  
contract that is entered into with the debtor after the date the 1038  
finding for recovery was issued. 1039

(3) The attorney general waives a repayment plan described in 1040  
division (B)(2) of this section for good cause; 1041

(4) The debtor and state agency or political subdivision to 1042  
whom the money identified in the finding for recovery is owed have 1043  
agreed to a payment plan established through an enforceable 1044  
settlement agreement. 1045

(5) The state agency or political subdivision desiring to 1046  
enter into a contract with a debtor certifies, and the attorney 1047

general concurs, that all of the following are true: 1048

(a) Essential services the state agency or political 1049  
subdivision is seeking to obtain from the debtor cannot be 1050  
provided by any other person besides the debtor; 1051

(b) Awarding a contract to the debtor for the essential 1052  
services described in division (B)(5)(a) of this section is in the 1053  
best interest of the state; 1054

(c) Good faith efforts have been made to collect the money 1055  
identified in the finding of recovery. 1056

(6) The debtor has commenced an action to contest the finding 1057  
for recovery and a final determination on the action has not yet 1058  
been reached. 1059

(C) The attorney general shall submit an initial report to 1060  
the auditor of state, not later than December 1, 2003, indicating 1061  
the status of collection for all findings for recovery issued by 1062  
the auditor of state for calendar years 2001, 2002, and 2003. 1063  
Beginning on January 1, 2004, the attorney general shall submit to 1064  
the auditor of state, on the first day of every January, April, 1065  
July, and October, a list of all findings for recovery that have 1066  
been resolved in accordance with division (B) of this section 1067  
during the calendar quarter preceding the submission of the list 1068  
and a description of the means of resolution. The attorney general 1069  
shall notify the auditor of state when a judgment is issued 1070  
against an entity described in division (F)(1) of this section. 1071

(D) The auditor of state shall maintain a database, 1072  
accessible to the public, listing persons against whom an 1073  
unresolved finding for recovery has been issued, and the amount of 1074  
the money identified in the unresolved finding for recovery. The 1075  
auditor of state shall have this database operational on or before 1076  
January 1, 2004. The initial database shall contain the 1077  
information required under this division for calendar years 2001, 1078

2002, and 2003. 1079

Beginning January 15, 2004, the auditor of state shall update 1080  
the database by the fifteenth day of every January, April, July, 1081  
and October to reflect resolved findings for recovery that are 1082  
reported to the auditor of state by the attorney general on the 1083  
first day of the same month pursuant to division (C) of this 1084  
section. 1085

(E) Before awarding a contract as described in division 1086  
(G)(1) of this section for goods, services, or construction, paid 1087  
for in whole or in part with state funds, a state agency or 1088  
political subdivision shall verify that the person to whom the 1089  
state agency or political subdivision plans to award the contract 1090  
has no unresolved finding for recovery issued against the person. 1091  
A state agency or political subdivision shall verify that the 1092  
person does not appear in the database described in division (D) 1093  
of this section or shall obtain other proof that the person has no 1094  
unresolved finding for recovery issued against the person. 1095

(F) The prohibition of division (A) of this section and the 1096  
requirement of division (E) of this section do not apply with 1097  
respect to the companies or agreements described in divisions 1098  
(F)(1) and (2) of this section, or in the circumstance described 1099  
in division (F)(3) of this section. 1100

(1) A bonding company or a company authorized to transact the 1101  
business of insurance in this state, a self-insurance pool, joint 1102  
self-insurance pool, risk management program, or joint risk 1103  
management program, unless a court has entered a final judgment 1104  
against the company and the company has not yet satisfied the 1105  
final judgment. 1106

(2) To medicaid provider agreements under Chapter 5111. of 1107  
the Revised Code ~~or payments or provider agreements under~~ 1108  
~~disability assistance medical assistance established under Chapter~~ 1109

5115. of the Revised Code. 1110

(3) When federal law dictates that a specified entity provide 1111  
the goods, services, or construction for which a contract is being 1112  
awarded, regardless of whether that entity would otherwise be 1113  
prohibited from entering into the contract pursuant to this 1114  
section. 1115

(G)(1) This section applies only to contracts for goods, 1116  
services, or construction that satisfy the criteria in either 1117  
division (G)(1)(a) or (b) of this ~~division~~ section. This section 1118  
may apply to contracts for goods, services, or construction that 1119  
satisfy the criteria in division (G)(1)(c) of this section, 1120  
provided that the contracts also satisfy the criteria in either 1121  
division (G)(1)(a) or (b) of this ~~division~~ section. 1122

(a) The cost for the goods, services, or construction 1123  
provided under the contract is estimated to exceed twenty-five 1124  
thousand dollars. 1125

(b) The aggregate cost for the goods, services, or 1126  
construction provided under multiple contracts entered into by the 1127  
particular state agency and a single person or the particular 1128  
political subdivision and a single person within the fiscal year 1129  
preceding the fiscal year within which a contract is being entered 1130  
into by that same state agency and the same single person or the 1131  
same political subdivision and the same single person, exceeded 1132  
fifty thousand dollars. 1133

(c) The contract is a renewal of a contract previously 1134  
entered into and renewed pursuant to that preceding contract. 1135

(2) This section does not apply to employment contracts. 1136

(H) As used in this section: 1137

(1) "State agency" has the same meaning as in section 9.66 of 1138  
the Revised Code. 1139

(2) "Political subdivision" means a political subdivision as defined in section 9.82 of the Revised Code that has received more than fifty thousand dollars of state money in the current fiscal year or the preceding fiscal year.

(3) "Finding for recovery" means a determination issued by the auditor of state, contained in a report the auditor of state gives to the attorney general pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated.

(4) "Debtor" means a person against whom a finding for recovery has been issued.

(5) "Person" means the person named in the finding for recovery.

(6) "State money" does not include funds the state receives from another source and passes through to a political subdivision.

**Sec. 9.241. (A) As used in this section:**

(1) "Governmental entity" and "a judgment is uncollectible" have the same meanings as in section 9.23 of the Revised Code.

(2) "Recipient" means a person that enters into or is awarded a contract with a governmental entity for the provision of goods, services, or construction.

(B) A recipient is liable to repay to the governmental entity any money received but not earned under the terms of the contract with the governmental entity.

(C)(1) A governmental entity may bring a civil action for the recovery of money due to the governmental entity from a recipient under division (B) of this section. In such an action, any person

with which the recipient has contracted for the performance of the 1169  
recipient's material obligations under the recipient's contract 1170  
with the governmental entity may be made a party defendant if the 1171  
person is unable to demonstrate to the satisfaction of the 1172  
governmental entity that the person has materially complied with 1173  
the terms of the contract with the recipient. In such a case, the 1174  
person may be made a party defendant and the governmental entity 1175  
may obtain a judgment against the person in accordance with 1176  
division (C)(2) of this section. 1177

(2) If a governmental entity obtains a judgment against a 1178  
recipient in a civil action brought under division (C)(1) of this 1179  
section and the judgment is uncollectible, the governmental entity 1180  
may recover from the person with which the recipient contracted an 1181  
amount not exceeding the lesser of the following: 1182

(a) The unsatisfied amount of the judgment; 1183

(b) The total amount received by the person from the 1184  
recipient minus the total amount earned by the person under the 1185  
terms of the recipient's contract with the governmental entity. 1186

(D) If a governmental entity, pursuant to this section, 1187  
obtains a judgment against a recipient or against a person with 1188  
which the recipient contracted and that judgment debtor does not 1189  
voluntarily pay the amount of the judgment, that judgment debtor 1190  
shall be precluded from contracting with a governmental entity to 1191  
the extent provided in divisions (A) and (B) of section 9.24 of 1192  
the Revised Code for a debtor against whom a finding of recovery 1193  
has been issued. 1194

(E) In addition to other remedies provided in divisions (B) 1195  
to (D) of this section, a governmental entity may void a contract 1196  
between a recipient and another person for the performance by the 1197  
other person of the recipient's obligations under the recipient's 1198  
contract with the governmental entity to the extent that the other 1199

person has not yet performed its obligations under the contract. 1200

(F) If a recipient is liable to repay money to a governmental entity under this section and the judgment obtained by the governmental entity against the recipient is uncollectible, then in addition to other remedies provided in divisions (B) to (D) of this section, and after the governmental entity has obtained a judgment against any necessary third party, the governmental entity may void any of the following contracts: 1201  
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(1) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and a director, trustee, or officer of the recipient or a business in which a director, trustee, or officer of the recipient has a material financial interest, if either of the following applies: 1208  
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(a) The recipient has paid substantial value for property received and the property can be returned to the other person. If the property has experienced only normal wear and tear, the person shall be liable to the governmental entity for the full amount the recipient paid for the property. Otherwise, the person shall be liable to the governmental entity only for the market value of the property. 1214  
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(b) The person with which the recipient contracted has received money that the recipient obtained pursuant to the contract with the governmental entity and has used the money other than for the performance of the contract. In such a case, the governmental entity may void the contract to the extent that the person has used the money other than for the performance of the contract, and the person shall be liable to the governmental entity for that amount. 1221  
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(2) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible 1229  
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between the recipient and an employee of the recipient or a 1231  
business in which an employee of the recipient has a material 1232  
financial interest, if the employee has direct knowledge of the 1233  
use of the money that the recipient obtained pursuant to the 1234  
contract with the governmental entity and either division 1235  
(F)(1)(a) or (b) of this section applies; 1236

(3) A contract between the recipient and another person 1237  
pursuant to which the recipient has paid or agreed to pay money to 1238  
the other person, to the extent that the other person has not yet 1239  
performed its obligations under the contract; 1240

(4) A contract made not more than one year before the 1241  
judgment against the recipient became uncollectible between the 1242  
recipient and a person other than the governmental entity if the 1243  
other person has not given or agreed to give consideration of 1244  
reasonable and substantial value for the consideration given by 1245  
the recipient. 1246

(G) This section does not apply with respect to any contract 1247  
entered into by a governmental entity under section 9.231 of the 1248  
Revised Code that is subject to section 9.236 of the Revised Code. 1249

**Sec. 101.391.** (A) There is hereby created the joint 1250  
legislative committee on medicaid technology and reform. The 1251  
committee may review or study any matter that it considers 1252  
relevant to the operation of the medicaid program established 1253  
under Chapter 5111. of the Revised Code, with priority given to 1254  
the study or review of mechanisms to enhance the program's 1255  
effectiveness through improved technology systems and program 1256  
reform. 1257

(B) The committee shall consist of five members of the house 1258  
of representatives appointed by the speaker of the house of 1259  
representatives and five members of the senate appointed by the 1260

president of the senate. Not more than three members appointed by 1261  
the speaker of the house of representatives and not more than 1262  
three members appointed by the president of the senate may be of 1263  
the same political party. 1264

Each member of the committee shall hold office during the 1265  
general assembly in which the member is appointed and until a 1266  
successor has been appointed, notwithstanding the adjournment sine 1267  
die of the general assembly in which the member was appointed or 1268  
the expiration of the member's term as a member of the general 1269  
assembly. Any vacancies occurring among the members of the 1270  
committee shall be filled in the manner of the original 1271  
appointment. 1272

(C) The committee has the same powers as other standing or 1273  
select committees of the general assembly. The committee may 1274  
employ an executive director. 1275

**Sec. 101.68.** (A) Within Subject to division (D) of this 1276  
section, within thirty days of the convening of the first regular 1277  
session of the general assembly, each agency required to submit 1278  
reports or similar documents to the general assembly pursuant to 1279  
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of 1280  
the Revised Code shall send written notice to each member of the 1281  
general assembly in order to determine whether the member desires 1282  
to personally receive the reports or similar documents as they are 1283  
made available by the agency. If the member desires to personally 1284  
receive the reports or similar documents as they become available, 1285  
the member shall send a written request to the agency within 1286  
thirty days of receiving the notice. 1287

(B) Whenever any statute or rule requires that a report, 1288  
recommendation, or other similar document be submitted to the 1289  
general assembly under a law not cited in division (A) of this 1290  
section, to the members of the general assembly, to one house of 1291

the general assembly, or to the members of one house of the  
general assembly, the requirement shall be fulfilled by the  
submission of a copy of the report, recommendation, or document to  
the director of the legislative service commission, the president  
of the senate, the minority leader of the senate, the speaker of  
the house of representatives, and the minority leader of the house  
of representatives if both houses of the general assembly or their  
members are specified, or to the director of the legislative  
service commission, the president of the senate, and the minority  
leader of the senate if only the senate or its members are  
specified, or to the director of the legislative service  
commission, the speaker of the house of representatives, and the  
minority leader of the house of representatives if only the house  
of representatives or its members are specified. This division  
does not apply to items required to be distributed to members of  
the general assembly pursuant to section 103.14, 149.04, 149.07,  
or 149.17 of the Revised Code.

(C) Each month the legislative service commission shall  
provide to each member of the senate and to each member of the  
house of representatives a list of all reports, recommendations,  
and documents submitted to the officers of the general assembly  
under division (B) of this section. The list shall include a short  
and accurate description of the content, length, and form of each  
report, recommendation, or document submitted, as well as a  
statement setting forth the number printed, if applicable, and the  
cost of preparation. Each member may request from the legislative  
service commission a copy of any report, recommendation, or  
document on the list, and the legislative service commission shall  
comply with any such request.

(D) Notwithstanding any provision of the Revised Code to the  
contrary, whenever any statute or rule requires that an agency  
submit a report, recommendation, or other similar document to the

general assembly or otherwise as described in division (B) of this 1324  
section in a paper, book, or other hard copy format, the report, 1325  
recommendation, or other document, to the extent technologically 1326  
feasible, shall be submitted to the general assembly or otherwise 1327  
as described in division (B) of this section through electronic 1328  
means, rather than in the hard copy format, and shall be displayed 1329  
by the agency on a web site it maintains. 1330

**Sec. 102.02.** (A) Except as otherwise provided in division (H) 1331  
of this section, all of the following shall file with the 1332  
appropriate ethics commission the disclosure statement described 1333  
in this division on a form prescribed by the appropriate 1334  
commission: every person who is elected to or is a candidate for a 1335  
state, county, or city office and every person who is appointed to 1336  
fill a vacancy for an unexpired term in such an elective office; 1337  
all members of the state board of education; the director, 1338  
assistant directors, deputy directors, division chiefs, or persons 1339  
of equivalent rank of any administrative department of the state; 1340  
the president or other chief administrative officer of every state 1341  
institution of higher education as defined in section 3345.011 of 1342  
the Revised Code; the executive director and the members of the 1343  
capitol square review and advisory board appointed or employed 1344  
pursuant to section 105.41 of the Revised Code; the chief 1345  
executive officer and the members of the board of each state 1346  
retirement system; each employee of a state retirement board who 1347  
is a state retirement system investment officer licensed pursuant 1348  
to section 1707.163 of the Revised Code; the members of the Ohio 1349  
retirement study council appointed pursuant to division (C) of 1350  
section 171.01 of the Revised Code; employees of the Ohio 1351  
retirement study council, other than employees who perform purely 1352  
administrative or clerical functions; the administrator of 1353  
workers' compensation and each voting member of the workers' 1354  
compensation oversight commission; the chief investment officer of 1355

the bureau of workers' compensation; all members of the board of 1356  
commissioners on grievances and discipline of the supreme court 1357  
and the ethics commission created under section 102.05 of the 1358  
Revised Code; every business manager, treasurer, or superintendent 1359  
of a city, local, exempted village, joint vocational, or 1360  
cooperative education school district or an educational service 1361  
center; every person who is elected to or is a candidate for the 1362  
office of member of a board of education of a city, local, 1363  
exempted village, joint vocational, or cooperative education 1364  
school district or of a governing board of an educational service 1365  
center that has a total student count of twelve thousand or more 1366  
as most recently determined by the department of education 1367  
pursuant to section 3317.03 of the Revised Code; every person who 1368  
is appointed to the board of education of a municipal school 1369  
district pursuant to division (B) or (F) of section 3311.71 of the 1370  
Revised Code; all members of the board of directors of a sanitary 1371  
district that is established under Chapter 6115. of the Revised 1372  
Code and organized wholly for the purpose of providing a water 1373  
supply for domestic, municipal, and public use, and that includes 1374  
two municipal corporations in two counties; every public official 1375  
or employee who is paid a salary or wage in accordance with 1376  
schedule C of section 124.15 or schedule E-2 of section 124.152 of 1377  
the Revised Code; members of the board of trustees and the 1378  
executive director of the tobacco use prevention and control 1379  
foundation; members of the board of trustees and the executive 1380  
director of the southern Ohio agricultural and community 1381  
development foundation; and every other public official or 1382  
employee who is designated by the appropriate ethics commission 1383  
pursuant to division (B) of this section. 1384

The disclosure statement shall include all of the following: 1385

(1) The name of the person filing the statement and each 1386  
member of the person's immediate family and all names under which 1387

the person or members of the person's immediate family do 1388  
business; 1389

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 1390  
and except as otherwise provided in section 102.022 of the Revised 1391  
Code, identification of every source of income, other than income 1392  
from a legislative agent identified in division (A)(2)(b) of this 1393  
section, received during the preceding calendar year, in the 1394  
person's own name or by any other person for the person's use or 1395  
benefit, by the person filing the statement, and a brief 1396  
description of the nature of the services for which the income was 1397  
received. If the person filing the statement is a member of the 1398  
general assembly, the statement shall identify the amount of every 1399  
source of income received in accordance with the following ranges 1400  
of amounts: zero or more, but less than one thousand dollars; one 1401  
thousand dollars or more, but less than ten thousand dollars; ten 1402  
thousand dollars or more, but less than twenty-five thousand 1403  
dollars; twenty-five thousand dollars or more, but less than fifty 1404  
thousand dollars; fifty thousand dollars or more, but less than 1405  
one hundred thousand dollars; and one hundred thousand dollars or 1406  
more. Division (A)(2)(a) of this section shall not be construed to 1407  
require a person filing the statement who derives income from a 1408  
business or profession to disclose the individual items of income 1409  
that constitute the gross income of that business or profession, 1410  
except for those individual items of income that are attributable 1411  
to the person's or, if the income is shared with the person, the 1412  
partner's, solicitation of services or goods or performance, 1413  
arrangement, or facilitation of services or provision of goods on 1414  
behalf of the business or profession of clients, including 1415  
corporate clients, who are legislative agents. A person who files 1416  
the statement under this section shall disclose the identity of 1417  
and the amount of income received from a person who the public 1418  
official or employee knows or has reason to know is doing or 1419

seeking to do business of any kind with the public official's or 1420  
employee's agency. 1421

(b) If the person filing the statement is a member of the 1422  
general assembly, the statement shall identify every source of 1423  
income and the amount of that income that was received from a 1424  
legislative agent during the preceding calendar year, in the 1425  
person's own name or by any other person for the person's use or 1426  
benefit, by the person filing the statement, and a brief 1427  
description of the nature of the services for which the income was 1428  
received. Division (A)(2)(b) of this section requires the 1429  
disclosure of clients of attorneys or persons licensed under 1430  
section 4732.12 of the Revised Code, or patients of persons 1431  
certified under section 4731.14 of the Revised Code, if those 1432  
clients or patients are legislative agents. Division (A)(2)(b) of 1433  
this section requires a person filing the statement who derives 1434  
income from a business or profession to disclose those individual 1435  
items of income that constitute the gross income of that business 1436  
or profession that are received from legislative agents. 1437

(c) Except as otherwise provided in division (A)(2)(c) of 1438  
this section, division (A)(2)(a) of this section applies to 1439  
attorneys, physicians, and other persons who engage in the 1440  
practice of a profession and who, pursuant to a section of the 1441  
Revised Code, the common law of this state, a code of ethics 1442  
applicable to the profession, or otherwise, generally are required 1443  
not to reveal, disclose, or use confidences of clients, patients, 1444  
or other recipients of professional services except under 1445  
specified circumstances or generally are required to maintain 1446  
those types of confidences as privileged communications except 1447  
under specified circumstances. Division (A)(2)(a) of this section 1448  
does not require an attorney, physician, or other professional 1449  
subject to a confidentiality requirement as described in division 1450  
(A)(2)(c) of this section to disclose the name, other identity, or 1451

address of a client, patient, or other recipient of professional 1452  
services if the disclosure would threaten the client, patient, or 1453  
other recipient of professional services, would reveal details of 1454  
the subject matter for which legal, medical, or professional 1455  
advice or other services were sought, or would reveal an otherwise 1456  
privileged communication involving the client, patient, or other 1457  
recipient of professional services. Division (A)(2)(a) of this 1458  
section does not require an attorney, physician, or other 1459  
professional subject to a confidentiality requirement as described 1460  
in division (A)(2)(c) of this section to disclose in the brief 1461  
description of the nature of services required by division 1462  
(A)(2)(a) of this section any information pertaining to specific 1463  
professional services rendered for a client, patient, or other 1464  
recipient of professional services that would reveal details of 1465  
the subject matter for which legal, medical, or professional 1466  
advice was sought or would reveal an otherwise privileged 1467  
communication involving the client, patient, or other recipient of 1468  
professional services. 1469

(3) The name of every corporation on file with the secretary 1470  
of state that is incorporated in this state or holds a certificate 1471  
of compliance authorizing it to do business in this state, trust, 1472  
business trust, partnership, or association that transacts 1473  
business in this state in which the person filing the statement or 1474  
any other person for the person's use and benefit had during the 1475  
preceding calendar year an investment of over one thousand dollars 1476  
at fair market value as of the thirty-first day of December of the 1477  
preceding calendar year, or the date of disposition, whichever is 1478  
earlier, or in which the person holds any office or has a 1479  
fiduciary relationship, and a description of the nature of the 1480  
investment, office, or relationship. Division (A)(3) of this 1481  
section does not require disclosure of the name of any bank, 1482  
savings and loan association, credit union, or building and loan 1483



association with which the person filing the statement has a 1484  
deposit or a withdrawable share account. 1485

(4) All fee simple and leasehold interests to which the 1486  
person filing the statement holds legal title to or a beneficial 1487  
interest in real property located within the state, excluding the 1488  
person's residence and property used primarily for personal 1489  
recreation; 1490

(5) The names of all persons residing or transacting business 1491  
in the state to whom the person filing the statement owes, in the 1492  
person's own name or in the name of any other person, more than 1493  
one thousand dollars. Division (A)(5) of this section shall not be 1494  
construed to require the disclosure of debts owed by the person 1495  
resulting from the ordinary conduct of a business or profession or 1496  
debts on the person's residence or real property used primarily 1497  
for personal recreation, except that the superintendent of 1498  
financial institutions shall disclose the names of all 1499  
state-chartered savings and loan associations and of all service 1500  
corporations subject to regulation under division (E)(2) of 1501  
section 1151.34 of the Revised Code to whom the superintendent in 1502  
the superintendent's own name or in the name of any other person 1503  
owes any money, and that the superintendent and any deputy 1504  
superintendent of banks shall disclose the names of all 1505  
state-chartered banks and all bank subsidiary corporations subject 1506  
to regulation under section 1109.44 of the Revised Code to whom 1507  
the superintendent or deputy superintendent owes any money. 1508

(6) The names of all persons residing or transacting business 1509  
in the state, other than a depository excluded under division 1510  
(A)(3) of this section, who owe more than one thousand dollars to 1511  
the person filing the statement, either in the person's own name 1512  
or to any person for the person's use or benefit. Division (A)(6) 1513  
of this section shall not be construed to require the disclosure 1514  
of clients of attorneys or persons licensed under section 4732.12 1515

or 4732.15 of the Revised Code, or patients of persons certified 1516  
under section 4731.14 of the Revised Code, nor the disclosure of 1517  
debts owed to the person resulting from the ordinary conduct of a 1518  
business or profession. 1519

(7) Except as otherwise provided in section 102.022 of the 1520  
Revised Code, the source of each gift of over seventy-five 1521  
dollars, or of each gift of over twenty-five dollars received by a 1522  
member of the general assembly from a legislative agent, received 1523  
by the person in the person's own name or by any other person for 1524  
the person's use or benefit during the preceding calendar year, 1525  
except gifts received by will or by virtue of section 2105.06 of 1526  
the Revised Code, or received from spouses, parents, grandparents, 1527  
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 1528  
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 1529  
fathers-in-law, mothers-in-law, or any person to whom the person 1530  
filing the statement stands in loco parentis, or received by way 1531  
of distribution from any inter vivos or testamentary trust 1532  
established by a spouse or by an ancestor; 1533

(8) Except as otherwise provided in section 102.022 of the 1534  
Revised Code, identification of the source and amount of every 1535  
payment of expenses incurred for travel to destinations inside or 1536  
outside this state that is received by the person in the person's 1537  
own name or by any other person for the person's use or benefit 1538  
and that is incurred in connection with the person's official 1539  
duties, except for expenses for travel to meetings or conventions 1540  
of a national or state organization to which any state agency, 1541  
including, but not limited to, any legislative agency or state 1542  
institution of higher education as defined in section 3345.011 of 1543  
the Revised Code, pays membership dues, or any political 1544  
subdivision or any office or agency of a political subdivision 1545  
pays membership dues; 1546

(9) Except as otherwise provided in section 102.022 of the 1547

Revised Code, identification of the source of payment of expenses 1548  
for meals and other food and beverages, other than for meals and 1549  
other food and beverages provided at a meeting at which the person 1550  
participated in a panel, seminar, or speaking engagement or at a 1551  
meeting or convention of a national or state organization to which 1552  
any state agency, including, but not limited to, any legislative 1553  
agency or state institution of higher education as defined in 1554  
section 3345.011 of the Revised Code, pays membership dues, or any 1555  
political subdivision or any office or agency of a political 1556  
subdivision pays membership dues, that are incurred in connection 1557  
with the person's official duties and that exceed one hundred 1558  
dollars aggregated per calendar year; 1559

(10) If the disclosure statement is filed by a public 1560  
official or employee described in division (B)(2) of section 1561  
101.73 of the Revised Code or division (B)(2) of section 121.63 of 1562  
the Revised Code who receives a statement from a legislative 1563  
agent, executive agency lobbyist, or employer that contains the 1564  
information described in division (F)(2) of section 101.73 of the 1565  
Revised Code or division (G)(2) of section 121.63 of the Revised 1566  
Code, all of the nondisputed information contained in the 1567  
statement delivered to that public official or employee by the 1568  
legislative agent, executive agency lobbyist, or employer under 1569  
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 1570  
the Revised Code. 1571

A person may file a statement required by this section in 1572  
person or by mail. A person who is a candidate for elective office 1573  
shall file the statement no later than the thirtieth day before 1574  
the primary, special, or general election at which the candidacy 1575  
is to be voted on, whichever election occurs soonest, except that 1576  
a person who is a write-in candidate shall file the statement no 1577  
later than the twentieth day before the earliest election at which 1578  
the person's candidacy is to be voted on. A person who holds 1579

elective office shall file the statement on or before the 1580  
fifteenth day of April of each year unless the person is a 1581  
candidate for office. A person who is appointed to fill a vacancy 1582  
for an unexpired term in an elective office shall file the 1583  
statement within fifteen days after the person qualifies for 1584  
office. Other persons shall file an annual statement on or before 1585  
the fifteenth day of April or, if appointed or employed after that 1586  
date, within ninety days after appointment or employment. No 1587  
person shall be required to file with the appropriate ethics 1588  
commission more than one statement or pay more than one filing fee 1589  
for any one calendar year. 1590

The appropriate ethics commission, for good cause, may extend 1591  
for a reasonable time the deadline for filing a statement under 1592  
this section. 1593

A statement filed under this section is subject to public 1594  
inspection at locations designated by the appropriate ethics 1595  
commission except as otherwise provided in this section. 1596

(B) The Ohio ethics commission, the joint legislative ethics 1597  
committee, and the board of commissioners on grievances and 1598  
discipline of the supreme court, using the rule-making procedures 1599  
of Chapter 119. of the Revised Code, may require any class of 1600  
public officials or employees under its jurisdiction and not 1601  
specifically excluded by this section whose positions involve a 1602  
substantial and material exercise of administrative discretion in 1603  
the formulation of public policy, expenditure of public funds, 1604  
enforcement of laws and rules of the state or a county or city, or 1605  
the execution of other public trusts, to file an annual statement 1606  
on or before the fifteenth day of April under division (A) of this 1607  
section. The appropriate ethics commission shall send the public 1608  
officials or employees written notice of the requirement by the 1609  
fifteenth day of February of each year the filing is required 1610  
unless the public official or employee is appointed after that 1611

date, in which case the notice shall be sent within thirty days 1612  
after appointment, and the filing shall be made not later than 1613  
ninety days after appointment. 1614

Except for disclosure statements filed by members of the 1615  
board of trustees and the executive director of the tobacco use 1616  
prevention and control foundation and members of the board of 1617  
trustees and the executive director of the southern Ohio 1618  
agricultural and community development foundation, disclosure 1619  
statements filed under this division with the Ohio ethics 1620  
commission by members of boards, commissions, or bureaus of the 1621  
state for which no compensation is received other than reasonable 1622  
and necessary expenses shall be kept confidential. Disclosure 1623  
statements filed with the Ohio ethics commission under division 1624  
(A) of this section by business managers, treasurers, and 1625  
superintendents of city, local, exempted village, joint 1626  
vocational, or cooperative education school districts or 1627  
educational service centers shall be kept confidential, except 1628  
that any person conducting an audit of any such school district or 1629  
educational service center pursuant to section 115.56 or Chapter 1630  
117. of the Revised Code may examine the disclosure statement of 1631  
any business manager, treasurer, or superintendent of that school 1632  
district or educational service center. The Ohio ethics commission 1633  
shall examine each disclosure statement required to be kept 1634  
confidential to determine whether a potential conflict of interest 1635  
exists for the person who filed the disclosure statement. A 1636  
potential conflict of interest exists if the private interests of 1637  
the person, as indicated by the person's disclosure statement, 1638  
might interfere with the public interests the person is required 1639  
to serve in the exercise of the person's authority and duties in 1640  
the person's office or position of employment. If the commission 1641  
determines that a potential conflict of interest exists, it shall 1642  
notify the person who filed the disclosure statement and shall 1643

make the portions of the disclosure statement that indicate a  
potential conflict of interest subject to public inspection in the  
same manner as is provided for other disclosure statements. Any  
portion of the disclosure statement that the commission determines  
does not indicate a potential conflict of interest shall be kept  
confidential by the commission and shall not be made subject to  
public inspection, except as is necessary for the enforcement of  
Chapters 102. and 2921. of the Revised Code and except as  
otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the  
applicable filing deadline established under this section, a  
statement that is required by this section.

(D) No person shall knowingly file a false statement that is  
required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this  
section, the statement required by division (A) or (B) of this  
section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section  
shall be accompanied by the following filing fee to be paid by the  
person who is elected or appointed to, or is a candidate for, any  
of the following offices:

For state office, except member of the		1665
state board of education	\$65	1666
For office of member of general assembly	\$40	1667
For county office	\$40	1668
For city office	\$25	1669
For office of member of the state board		1670
of education	\$25	1671
For office of member of a city, local,		1672
exempted village, or cooperative		1673
education board of		1674

education or educational service		1675
center governing board	\$20	1676
For position of business manager,		1677
treasurer, or superintendent of a		1678
city, local, exempted village, joint		1679
vocational, or cooperative education		1680
school district or		1681
educational service center	\$20	1682
(3) No judge of a court of record or candidate for judge of a		1683
court of record, and no referee or magistrate serving a court of		1684
record, shall be required to pay the fee required under division		1685
(E)(1) or (2) or (F) of this section.		1686
(4) For any public official who is appointed to a nonelective		1687
office of the state and for any employee who holds a nonelective		1688
position in a public agency of the state, the state agency that is		1689
the primary employer of the state official or employee shall pay		1690
the fee required under division (E)(1) or (F) of this section.		1691
(F) If a statement required to be filed under this section is		1692
not filed by the date on which it is required to be filed, the		1693
appropriate ethics commission shall assess the person required to		1694
file the statement a late filing fee of ten dollars for each day		1695
the statement is not filed, except that the total amount of the		1696
late filing fee shall not exceed two hundred fifty dollars.		1697
(G)(1) The appropriate ethics commission other than the Ohio		1698
ethics commission shall deposit all fees it receives under		1699
divisions (E) and (F) of this section into the general revenue		1700
fund of the state.		1701
(2) The Ohio ethics commission shall deposit all receipts,		1702
including, but not limited to, fees it receives under divisions		1703
(E) and (F) of this section and all moneys it receives from		1704
settlements under division (G) of section 102.06 of the Revised		1705

Code, into the Ohio ethics commission fund, which is hereby  
created in the state treasury. All moneys credited to the fund  
shall be used solely for expenses related to the operation and  
statutory functions of the commission.

(H) Division (A) of this section does not apply to a person  
elected or appointed to the office of precinct, ward, or district  
committee member under Chapter 3517. of the Revised Code; a  
presidential elector; a delegate to a national convention; village  
or township officials and employees; any physician or psychiatrist  
who is paid a salary or wage in accordance with schedule C of  
section 124.15 or schedule E-2 of section 124.152 of the Revised  
Code and whose primary duties do not require the exercise of  
administrative discretion; or any member of a board, commission,  
or bureau of any county or city who receives less than one  
thousand dollars per year for serving in that position.

**Sec. 102.06.** (A) The appropriate ethics commission shall  
receive and may initiate complaints against persons subject to  
this chapter concerning conduct alleged to be in violation of this  
chapter or section 2921.42 or 2921.43 of the Revised Code. All  
complaints except those by the commission shall be by affidavit  
made on personal knowledge, subject to the penalties of perjury.  
Complaints by the commission shall be by affidavit, based upon  
reasonable cause to believe that a violation has occurred.

(B) The appropriate ethics commission shall investigate  
complaints, may investigate charges presented to it, and may  
request further information, including the specific amount of  
income from a source, from any person filing with the commission a  
statement required by section 102.02 or 102.021 of the Revised  
Code, if the information sought is directly relevant to a  
complaint or charges received by the commission pursuant to this  
section. This information is confidential, except that the



commission, in its discretion, may share information gathered in 1737  
the course of any investigation with, or disclose the information 1738  
to, the inspector general, any appropriate prosecuting authority, 1739  
any law enforcement agency, or any other appropriate ethics 1740  
commission. If the accused person is a member of the public 1741  
employees retirement board, state teachers retirement board, 1742  
school employees retirement board, board of trustees of the Ohio 1743  
police and fire pension fund, or state highway patrol retirement 1744  
board, or is a voting member of the workers' compensation 1745  
oversight commission the appropriate ethics commission, in its 1746  
discretion, also may share information gathered in the course of 1747  
an investigation with, or disclose the information to, the 1748  
attorney general and the auditor of state. The person so requested 1749  
shall furnish the information to the commission, unless within 1750  
fifteen days from the date of the request the person files an 1751  
action for declaratory judgment challenging the legitimacy of the 1752  
request in the court of common pleas of the county of the person's 1753  
residence, the person's place of employment, or Franklin county. 1754  
The requested information need not be furnished to the commission 1755  
during the pendency of the judicial proceedings. Proceedings of 1756  
the commission in connection with the declaratory judgment action 1757  
shall be kept confidential except as otherwise provided by this 1758  
section. Before the commission proceeds to take any formal action 1759  
against a person who is the subject of an investigation based on 1760  
charges presented to the commission, a complaint shall be filed 1761  
against the person. If the commission finds that a complaint is 1762  
not frivolous, and there is reasonable cause to believe that the 1763  
facts alleged in a complaint constitute a violation of section 1764  
102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of 1765  
the Revised Code, it shall hold a hearing. If the commission does 1766  
not so find, it shall dismiss the complaint and notify the accused 1767  
person in writing of the dismissal of the complaint. The 1768  
commission shall not make a report of its finding unless the 1769

accused person requests a report. Upon the request of the accused 1770  
person, the commission shall make a public report of its finding. 1771  
The person against whom the complaint is directed shall be given 1772  
reasonable notice by certified mail of the date, time, and place 1773  
of the hearing and a statement of the charges and the law directly 1774  
involved and shall be given the opportunity to be represented by 1775  
counsel, to have counsel appointed for the person if the person is 1776  
unable to afford counsel without undue hardship, to examine the 1777  
evidence against the person, to produce evidence and to call and 1778  
subpoena witnesses in the person's defense, to confront the 1779  
person's accusers, and to cross-examine witnesses. The commission 1780  
shall have a stenographic record made of the hearing. The hearing 1781  
shall be closed to the public. 1782

(C)(1)(a) If, upon the basis of the hearing, the appropriate 1783  
ethics commission finds by a preponderance of the evidence that 1784  
the facts alleged in the complaint are true and constitute a 1785  
violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 1786  
2921.42, or 2921.43 of the Revised Code, it shall report its 1787  
findings to the appropriate prosecuting authority for proceedings 1788  
in prosecution of the violation and to the appointing or employing 1789  
authority of the accused. If the accused person is a member of the 1790  
public employees retirement board, state teachers retirement 1791  
board, school employees retirement board, board of trustees of the 1792  
Ohio police and fire pension fund, or state highway patrol 1793  
retirement board, the commission also shall report its findings to 1794  
the Ohio retirement study council. 1795

(b) If the Ohio ethics commission reports its findings to the 1796  
appropriate prosecuting authority under division (C)(1)(a) of this 1797  
section and the prosecuting authority has not initiated any 1798  
official action on those findings within ninety days after 1799  
receiving the commission's report of them, the commission may 1800  
publicly comment that no official action has been taken on its 1801

findings, except that the commission shall make no comment in 1802  
violation of the Rules of Criminal Procedure or about any 1803  
indictment that has been sealed pursuant to any law or those 1804  
rules. The commission shall make no comment regarding the merits 1805  
of its findings. As used in division (C)(1)(b) of this section, 1806  
"official action" means prosecution, closure after investigation, 1807  
or grand jury action resulting in a true bill of indictment or no 1808  
true bill of indictment. 1809

(2) If the appropriate ethics commission does not find by a 1810  
preponderance of the evidence that the facts alleged in the 1811  
complaint are true and constitute a violation of section 102.02, 1812  
102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the 1813  
Revised Code or if the commission has not scheduled a hearing 1814  
within ninety days after the complaint is filed or has not finally 1815  
disposed of the complaint within six months after it has been 1816  
heard, it shall dismiss the complaint and notify the accused 1817  
person in writing of the dismissal of the complaint. The 1818  
commission shall not make a report of its finding unless the 1819  
accused person requests a report. Upon the request of the accused 1820  
person, the commission shall make a public report of the finding, 1821  
but in this case all evidence and the record of the hearing shall 1822  
remain confidential unless the accused person also requests that 1823  
the evidence and record be made public. Upon request by the 1824  
accused person, the commission shall make the evidence and the 1825  
record available for public inspection. 1826

(D) The appropriate ethics commission, or a member of the 1827  
commission, may administer oaths, and the commission may issue 1828  
subpoenas to any person in the state compelling the attendance of 1829  
witnesses and the production of relevant papers, books, accounts, 1830  
and records. The commission shall issue subpoenas to compel the 1831  
attendance of witnesses and the production of documents upon the 1832  
request of an accused person. Section 101.42 of the Revised Code 1833

shall govern the issuance of these subpoenas insofar as 1834  
applicable. Upon the refusal of any person to obey a subpoena or 1835  
to be sworn or to answer as a witness, the commission may apply to 1836  
the court of common pleas of Franklin county under section 2705.03 1837  
of the Revised Code. The court shall hold proceedings in 1838  
accordance with Chapter 2705. of the Revised Code. The commission 1839  
or the accused person may take the depositions of witnesses 1840  
residing within or without the state in the same manner as 1841  
prescribed by law for the taking of depositions in civil actions 1842  
in the court of common pleas. 1843

(E) At least once each year, the Ohio ethics commission shall 1844  
report on its activities of the immediately preceding year to the 1845  
majority and minority leaders of the senate and house of 1846  
representatives of the general assembly. The report shall indicate 1847  
the total number of complaints received, initiated, and 1848  
investigated by the commission, the total number of complaints for 1849  
which formal hearings were held, and the total number of 1850  
complaints for which formal prosecution was recommended or 1851  
requested by the commission. The report also shall indicate the 1852  
nature of the inappropriate conduct alleged in each complaint and 1853  
the governmental entity with which any employee or official that 1854  
is the subject of a complaint was employed at the time of the 1855  
alleged inappropriate conduct. 1856

(F) All papers, records, affidavits, and documents upon any 1857  
complaint, inquiry, or investigation relating to the proceedings 1858  
of the appropriate ethics commission shall be sealed and are 1859  
private and confidential, except as otherwise provided in this 1860  
section and section 102.07 of the Revised Code. 1861

(G)(1) When a complaint or charge is before it, the Ohio 1862  
ethics commission or the appropriate prosecuting authority, in 1863  
consultation with the person filing the complaint or charge, the 1864  
accused, and any other person the commission or prosecuting 1865

authority considers necessary, may compromise or settle the 1866  
complaint or charge with the agreement of the accused. The 1867  
compromise or settlement may include mediation, restitution, 1868  
rescission of affected contracts, forfeiture of any benefits 1869  
resulting from a violation or potential violation of law, 1870  
resignation of a public official or employee, or any other relief 1871  
that is agreed upon between the commission or prosecuting 1872  
authority and the accused. 1873

(2) Any settlement agreement entered into under division 1874  
(G)(1) of this section shall be in writing and be accompanied by a 1875  
statement of the findings of the commission or prosecuting 1876  
authority and the reasons for entering into the agreement. The 1877  
commission or prosecuting authority shall retain the agreement and 1878  
statement in the commission's or prosecuting authority's office 1879  
and, in the commission's or prosecuting authority's discretion, 1880  
may make the agreement, the statement, and any supporting 1881  
information public, unless the agreement provides otherwise. 1882

(3) If a settlement agreement is breached by the accused, the 1883  
commission or prosecuting authority, in the commission's or 1884  
prosecuting authority's discretion, may rescind the agreement and 1885  
reinstitute any investigation, hearing, or prosecution of the 1886  
accused. No information obtained from the accused in reaching the 1887  
settlement that is not otherwise discoverable from the accused 1888  
shall be used in any proceeding before the commission or by the 1889  
appropriate prosecuting authority in prosecuting the violation. 1890  
Notwithstanding any other section of the Revised Code, if a 1891  
settlement agreement is breached, any statute of limitations for a 1892  
violation of this chapter or section 2921.42 or 2921.43 of the 1893  
Revised Code is tolled from the date the complaint or charge is 1894  
filed until the date the settlement agreement is breached. 1895

Sec. 103.132. The legislative service commission, in 1896

conjunction with the legislative information systems office, shall 1897  
establish and maintain an electronic database containing current 1898  
and historical revenue and expenditure data for each school 1899  
district in the state that is easy to use and readily accessible 1900  
through the internet. 1901

**Sec. 105.41.** (A) There is hereby created the capitol square 1902  
review and advisory board, consisting of one nonvoting member, who 1903  
shall be a member of the capital square foundation appointed by 1904  
the board of the foundation, and the following thirteen voting 1905  
members as follows: 1906

(1) Two members of the senate, appointed by the president of 1907  
the senate, both of whom shall not be members of the same 1908  
political party; 1909

(2) Two members of the house of representatives, appointed by 1910  
the speaker of the house of representatives, both of whom shall 1911  
not be members of the same political party; 1912

(3) Five members appointed by the governor, with the advice 1913  
and consent of the senate, not more than three of whom shall be 1914  
members of the same political party, one of whom shall represent 1915  
the office of the state architect and engineer, one of whom shall 1916  
represent the Ohio arts council, one of whom shall represent the 1917  
Ohio historical society, one of whom shall represent the Ohio 1918  
building authority, and one of whom shall represent the public at 1919  
large; 1920

(4) One member, who shall be a former president of the 1921  
senate, appointed by the current president of the senate. If the 1922  
current president of the senate, in the current president's 1923  
discretion, decides for any reason not to make the appointment or 1924  
if no person is eligible or available to serve, the seat shall 1925  
remain vacant. 1926

(5) One member, who shall be a former speaker of the house of representatives, appointed by the current speaker of the house of representatives. If the current speaker of the house of representatives, in the current speaker's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant.

(6) The clerk of the senate and the clerk of the house of representatives.

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the speaker of the house of representatives, ~~or~~ the governor, or the board of the foundation, as the case may be, shall in the same manner prescribed for the regular appointment to the commission, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) The board shall hold meetings in a manner and at times prescribed by the rules adopted by the board. A majority of the voting members of the board constitutes a quorum, and no action shall be taken by the board unless approved by at least six voting members or by at least seven voting members if a person is appointed under division (A)(4) or (5) of this section. At its first meeting, the board shall adopt rules for the conduct of its

business and the election of its officers, and shall organize by 1959  
selecting a chairperson and other officers as it considers 1960  
necessary. Board members shall serve without compensation but 1961  
shall be reimbursed for actual and necessary expenses incurred in 1962  
the performance of their duties. 1963

(D) The board may do any of the following: 1964

(1) Employ or hire on a consulting basis professional, 1965  
technical, and clerical employees as are necessary for the 1966  
performance of its duties; 1967

(2) Hold public hearings at times and places as determined by 1968  
the board; 1969

(3) Adopt, amend, or rescind rules necessary to accomplish 1970  
the duties of the board as set forth in this section; 1971

(4) Sponsor, conduct, and support such social events as the 1972  
board may authorize and consider appropriate for the employees of 1973  
the board, employees and members of the general assembly, 1974  
employees of persons under contract with the board or otherwise 1975  
engaged to perform services on the premises of capitol square, or 1976  
other persons as the board may consider appropriate. Subject to 1977  
the requirements of Chapter 4303. of the Revised Code, the board 1978  
may provide beer, wine, and intoxicating liquor, with or without 1979  
charge, for those events and may use funds only from the sale of 1980  
goods and services fund to purchase the beer, wine, and 1981  
intoxicating liquor the board provides. 1982

(E) The board shall do all of the following: 1983

(1) Have sole authority to coordinate and approve any 1984  
improvements, additions, and renovations that are made to the 1985  
capitol square. The improvements shall include, but not be limited 1986  
to, the placement of monuments and sculpture on the capitol 1987  
grounds. 1988



(2) Subject to section 3353.07 of the Revised Code, operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.

(3) Employ, fix the compensation of, and prescribe the duties of the executive director of the board and other employees the board considers necessary for the performance of its powers and duties;

(4) Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be placed in the capitol square.

(5) Perform repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities the board determines are necessary for the operation and maintenance of the capitol square;

(6) Maintain and preserve the capitol square, in accordance with guidelines issued by the United States secretary of the interior for application of the secretary's standards for rehabilitation adopted in 36 C.F.R. part 67.

(F)(1) The board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the authority ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by division (D) of section 152.24 of the Revised Code.

(2) Fees, receipts, and revenues received by the board from

the state underground parking garage constitute available receipts 2020  
as defined in section 152.09 of the Revised Code, and may be 2021  
pledged to the payment of bond service charges on obligations 2022  
issued by the Ohio building authority pursuant to Chapter 152. of 2023  
the Revised Code to improve or finance capital facilities useful 2024  
to the board. The authority may, with the consent of the board, 2025  
provide in the bond proceedings for a pledge of all or a portion 2026  
of those fees, receipts, and revenues as the authority determines. 2027  
The authority may provide in the bond proceedings or by separate 2028  
agreement with the board for the transfer of those fees, receipts, 2029  
and revenues to the appropriate bond service fund or bond service 2030  
reserve fund as required to pay the bond service charges when due, 2031  
and any such provision for the transfer of those fees, receipts, 2032  
and revenues shall be controlling notwithstanding any other 2033  
provision of law pertaining to those fees, receipts, and revenues. 2034

(3) All moneys received by the treasurer of state on account 2035  
of the board and required by the applicable bond proceedings or by 2036  
separate agreement with the board to be deposited, transferred, or 2037  
credited to the bond service fund or bond service reserve fund 2038  
established by the bond proceedings shall be transferred by the 2039  
treasurer of state to such fund, whether or not it is in the 2040  
custody of the treasurer of state, without necessity for further 2041  
appropriation, upon receipt of notice from the Ohio building 2042  
authority as prescribed in the bond proceedings. 2043

(G) All fees, receipts, and revenues received by the board 2044  
from the state underground parking garage shall be deposited into 2045  
the state treasury to the credit of the underground parking garage 2046  
operating fund, which is hereby created, to be used for the 2047  
purposes specified in division (F) of this section and for the 2048  
operation and maintenance of the garage. All investment earnings 2049  
of the fund shall be credited to the fund. 2050

(H) All donations received by the board shall be deposited 2051

into the state treasury to the credit of the capitol square 2052  
renovation gift fund, which is hereby created. The fund shall be 2053  
used by the board as follows: 2054

(1) To provide part or all of the funding related to 2055  
construction, goods, or services for the renovation of the capitol 2056  
square; 2057

(2) To purchase art, antiques, and artifacts for display at 2058  
the capitol square; 2059

(3) To award contracts or make grants to organizations for 2060  
educating the public regarding the historical background and 2061  
governmental functions of the capitol square. Chapters 125., 127., 2062  
and 153. and section 3517.13 of the Revised Code do not apply to 2063  
purchases made exclusively from the fund, notwithstanding anything 2064  
to the contrary in those chapters or that section. All investment 2065  
earnings of the fund shall be credited to the fund. 2066

(I) Except as provided in divisions (G), (H), and (J) of this 2067  
section, all fees, receipts, and revenues received by the board 2068  
shall be deposited into the state treasury to the credit of the 2069  
sale of goods and services fund, which is hereby created. Money 2070  
credited to the fund shall be used solely to pay costs of the 2071  
board other than those specified in divisions (F) and (G) of this 2072  
section. All investment earnings of the fund shall be credited to 2073  
the fund. 2074

(J) There is hereby created in the state treasury the capitol 2075  
square improvement fund, to be used by the board to pay 2076  
construction, renovation, and other costs related to the capitol 2077  
square for which money is not otherwise available to the board. 2078  
Whenever the board determines that there is a need to incur those 2079  
costs and that the unencumbered, unobligated balance to the credit 2080  
of the underground parking garage operating fund exceeds the 2081  
amount needed for the purposes specified in division (F) of this 2082

section and for the operation and maintenance of the garage, the 2083  
board may request the director of budget and management to 2084  
transfer from the underground parking garage operating fund to the 2085  
capitol square improvement fund the amount needed to pay such 2086  
construction, renovation, or other costs. The director then shall 2087  
transfer the amount needed from the excess balance of the 2088  
underground parking garage operating fund. 2089

(K) As the operation and maintenance of the capitol square 2090  
constitute essential government functions of a public purpose, the 2091  
board shall not be required to pay taxes or assessments upon the 2092  
square, upon any property acquired or used by the board under this 2093  
section, or upon any income generated by the operation of the 2094  
square. 2095

(L) As used in this section, "capitol square" means the 2096  
capitol building, senate building, capitol atrium, capitol 2097  
grounds, and the state underground parking garage. 2098

(M) The capitol annex shall be known as the senate building. 2099

**Sec. 108.05.** (A) The lieutenant governor shall be a member of 2100  
the governor's cabinet and shall preside at its meetings in the 2101  
absence of the governor. 2102

(B) The governor may appoint the lieutenant governor as an 2103  
administrative department head listed in section 121.03 of the 2104  
Revised Code, ~~as director of the office of criminal justice~~ 2105  
~~services pursuant to section 181.52 of the Revised Code,~~ as the 2106  
governor's representative on any board, agency, committee, or 2107  
commission of which the governor is a member and has the authority 2108  
to appoint a representative, or in an advisory capacity to any 2109  
nonelective board, agency, committee, or commission in the 2110  
executive department or may give the lieutenant governor any 2111  
special assignment as the governor considers in the interest of 2112

the state. 2113

(C) When carrying out any of the functions described in 2114  
division (B) of this section, the lieutenant governor shall be 2115  
reimbursed from funds of the particular authority for necessary 2116  
expenses incurred in the conduct of authority business. 2117

**Sec. 109.54.** (A) The bureau of criminal identification and 2118  
investigation may investigate any criminal activity in this state 2119  
that is of statewide or intercounty concern when requested by 2120  
local authorities and may aid federal authorities, when requested, 2121  
in their investigation of any criminal activity in this state. The 2122  
bureau may investigate any criminal activity in this state related 2123  
to the conduct of elections when requested by the secretary of 2124  
state. The bureau may investigate any criminal activity in this 2125  
state involving drug abuse or illegal drug distribution prohibited 2126  
under Chapter 3719. or 4729. of the Revised Code. The 2127  
superintendent and any agent of the bureau may participate, as the 2128  
director of an organized crime task force established under 2129  
section 177.02 of the Revised Code or as a member of the 2130  
investigatory staff of a task force established under that 2131  
section, in an investigation of organized criminal activity 2132  
anywhere within this state under sections 177.01 to 177.03 of the 2133  
Revised Code. 2134

(B) The bureau may provide any trained investigative 2135  
personnel and specialized equipment that are requested by any 2136  
sheriff or chief of police, by the authorized designee of any 2137  
sheriff or chief of police, or by any other authorized law 2138  
enforcement officer to aid and assist the officer in the 2139  
investigation and solution of any crime or the control of any 2140  
criminal activity occurring within the officer's jurisdiction. 2141  
This assistance shall be furnished by the bureau without 2142  
disturbing or impairing any of the existing law enforcement 2143

authority or the prerogatives of local law enforcement authorities 2144  
or officers. Investigators provided pursuant to this section, or 2145  
engaged in an investigation pursuant to section 109.83 of the 2146  
Revised Code, may go armed in the same manner as sheriffs and 2147  
regularly appointed police officers under section 2923.12 of the 2148  
Revised Code. 2149

(C)(1) The bureau shall obtain recording equipment that can 2150  
be used to record depositions of the type described in division 2151  
(A) of section 2152.81 and division (A) of section 2945.481 of the 2152  
Revised Code, or testimony of the type described in division (D) 2153  
of section 2152.81 and division (D) of section 2945.481 or in 2154  
division (C) of section 2937.11 of the Revised Code, shall obtain 2155  
closed circuit equipment that can be used to televise testimony of 2156  
the type described in division (C) of section 2152.81 and division 2157  
(C) of section 2945.481 or in division (B) of section 2937.11 of 2158  
the Revised Code, and shall provide the equipment, upon request, 2159  
to any court for use in recording any deposition or testimony of 2160  
one of those types or in televising the testimony in accordance 2161  
with the applicable division. 2162

(2) The bureau shall obtain the names, addresses, and 2163  
telephone numbers of persons who are experienced in questioning 2164  
children in relation to an investigation of a violation of section 2165  
2905.03, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2166  
2907.07, 2907.09, 2907.21, 2907.23, 2907.24, 2907.31, 2907.32, 2167  
2907.321, 2907.322, 2907.323, or 2919.22 of the Revised Code or an 2168  
offense of violence and shall maintain a list of those names, 2169  
addresses, and telephone numbers. The list shall include a 2170  
classification of the names, addresses, and telephone numbers by 2171  
appellate district. Upon request, the bureau shall provide any 2172  
county sheriff, chief of police, prosecuting attorney, village 2173  
solicitor, city director of law, or similar chief legal officer 2174  
with the name, address, and telephone number of any person 2175

contained in the list.

2176

**Sec. 109.57.** (A)(1) The superintendent of the bureau of 2177  
criminal identification and investigation shall procure from 2178  
wherever procurable and file for record photographs, pictures, 2179  
descriptions, fingerprints, measurements, and other information 2180  
that may be pertinent of all persons who have been convicted of 2181  
committing within this state a felony, any crime constituting a 2182  
misdemeanor on the first offense and a felony on subsequent 2183  
offenses, or any misdemeanor described in division (A)(1)(a) of 2184  
section 109.572 of the Revised Code, of all children under 2185  
eighteen years of age who have been adjudicated delinquent 2186  
children for committing within this state an act that would be a 2187  
felony or an offense of violence if committed by an adult or who 2188  
have been convicted of or pleaded guilty to committing within this 2189  
state a felony or an offense of violence, and of all well-known 2190  
and habitual criminals. The person in charge of any county, 2191  
multicounty, municipal, municipal-county, or multicounty-municipal 2192  
jail or workhouse, community-based correctional facility, halfway 2193  
house, alternative residential facility, or state correctional 2194  
institution and the person in charge of any state institution 2195  
having custody of a person suspected of having committed a felony, 2196  
any crime constituting a misdemeanor on the first offense and a 2197  
felony on subsequent offenses, or any misdemeanor described in 2198  
division (A)(1)(a) of section 109.572 of the Revised Code or 2199  
having custody of a child under eighteen years of age with respect 2200  
to whom there is probable cause to believe that the child may have 2201  
committed an act that would be a felony or an offense of violence 2202  
if committed by an adult shall furnish such material to the 2203  
superintendent of the bureau. Fingerprints, photographs, or other 2204  
descriptive information of a child who is under eighteen years of 2205  
age, has not been arrested or otherwise taken into custody for 2206  
committing an act that would be a felony or an offense of violence 2207

if committed by an adult, has not been adjudicated a delinquent 2208  
child for committing an act that would be a felony or an offense 2209  
of violence if committed by an adult, has not been convicted of or 2210  
pleaded guilty to committing a felony or an offense of violence, 2211  
and is not a child with respect to whom there is probable cause to 2212  
believe that the child may have committed an act that would be a 2213  
felony or an offense of violence if committed by an adult shall 2214  
not be procured by the superintendent or furnished by any person 2215  
in charge of any county, multicounty, municipal, municipal-county, 2216  
or multicounty-municipal jail or workhouse, community-based 2217  
correctional facility, halfway house, alternative residential 2218  
facility, or state correctional institution, except as authorized 2219  
in section 2151.313 of the Revised Code. 2220

(2) Every clerk of a court of record in this state, other 2221  
than the supreme court or a court of appeals, shall send to the 2222  
superintendent of the bureau a weekly report containing a summary 2223  
of each case involving a felony, involving any crime constituting 2224  
a misdemeanor on the first offense and a felony on subsequent 2225  
offenses, involving a misdemeanor described in division (A)(1)(a) 2226  
of section 109.572 of the Revised Code, or involving an 2227  
adjudication in a case in which a child under eighteen years of 2228  
age was alleged to be a delinquent child for committing an act 2229  
that would be a felony or an offense of violence if committed by 2230  
an adult. The clerk of the court of common pleas shall include in 2231  
the report and summary the clerk sends under this division all 2232  
information described in divisions (A)(2)(a) to (f) of this 2233  
section regarding a case before the court of appeals that is 2234  
served by that clerk. The summary shall be written on the standard 2235  
forms furnished by the superintendent pursuant to division (B) of 2236  
this section and shall include the following information: 2237

(a) The incident tracking number contained on the standard 2238  
forms furnished by the superintendent pursuant to division (B) of 2239



this section;	2240
(b) The style and number of the case;	2241
(c) The date of arrest;	2242
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	2243 2244 2245 2246 2247 2248 2249 2250 2251 2252 2253 2254
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	2255 2256
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	2257 2258 2259 2260
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	2261 2262 2263 2264 2265
(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of	2266 2267 2268 2269

all persons arrested on a charge of a felony, any crime 2270  
constituting a misdemeanor on the first offense and a felony on 2271  
subsequent offenses, or a misdemeanor described in division 2272  
(A)(1)(a) of section 109.572 of the Revised Code and of all 2273  
children under eighteen years of age arrested or otherwise taken 2274  
into custody for committing an act that would be a felony or an 2275  
offense of violence if committed by an adult. The superintendent 2276  
also shall file for record the fingerprint impressions of all 2277  
persons confined in a county, multicounty, municipal, 2278  
municipal-county, or multicounty-municipal jail or workhouse, 2279  
community-based correctional facility, halfway house, alternative 2280  
residential facility, or state correctional institution for the 2281  
violation of state laws and of all children under eighteen years 2282  
of age who are confined in a county, multicounty, municipal, 2283  
municipal-county, or multicounty-municipal jail or workhouse, 2284  
community-based correctional facility, halfway house, alternative 2285  
residential facility, or state correctional institution or in any 2286  
facility for delinquent children for committing an act that would 2287  
be a felony or an offense of violence if committed by an adult, 2288  
and any other information that the superintendent may receive from 2289  
law enforcement officials of the state and its political 2290  
subdivisions. 2291

(4) The superintendent shall carry out Chapter 2950. of the 2292  
Revised Code with respect to the registration of persons who are 2293  
convicted of or plead guilty to either a sexually oriented offense 2294  
that is not a registration-exempt sexually oriented offense or a 2295  
child-victim oriented offense and with respect to all other duties 2296  
imposed on the bureau under that chapter. 2297

(5) The bureau shall perform centralized recordkeeping 2298  
functions for criminal history records and services in this state 2299  
for purposes of the national crime prevention and privacy compact 2300  
set forth in section 109.571 of the Revised Code and is the 2301

criminal history record repository as defined in that section for 2302  
purposes of that compact. The superintendent or the 2303  
superintendent's designee is the compact officer for purposes of 2304  
that compact and shall carry out the responsibilities of the 2305  
compact officer specified in that compact. 2306

(B) The superintendent shall prepare and furnish to every 2307  
county, multicounty, municipal, municipal-county, or 2308  
multicounty-municipal jail or workhouse, community-based 2309  
correctional facility, halfway house, alternative residential 2310  
facility, or state correctional institution and to every clerk of 2311  
a court in this state specified in division (A)(2) of this section 2312  
standard forms for reporting the information required under 2313  
division (A) of this section. The standard forms that the 2314  
superintendent prepares pursuant to this division may be in a 2315  
tangible format, in an electronic format, or in both tangible 2316  
formats and electronic formats. 2317

(C) The superintendent may operate a center for electronic, 2318  
automated, or other data processing for the storage and retrieval 2319  
of information, data, and statistics pertaining to criminals and 2320  
to children under eighteen years of age who are adjudicated 2321  
delinquent children for committing an act that would be a felony 2322  
or an offense of violence if committed by an adult, criminal 2323  
activity, crime prevention, law enforcement, and criminal justice, 2324  
and may establish and operate a statewide communications network 2325  
to gather and disseminate information, data, and statistics for 2326  
the use of law enforcement agencies. The superintendent may 2327  
gather, store, retrieve, and disseminate information, data, and 2328  
statistics that pertain to children who are under eighteen years 2329  
of age and that are gathered pursuant to sections 109.57 to 109.61 2330  
of the Revised Code together with information, data, and 2331  
statistics that pertain to adults and that are gathered pursuant 2332  
to those sections. In addition to any other authorized use of 2333

information, data, and statistics of that nature, the 2334  
superintendent or the superintendent's designee may provide and 2335  
exchange the information, data, and statistics pursuant to the 2336  
national crime prevention and privacy compact as described in 2337  
division (A)(5) of this section. 2338

(D) The information and materials furnished to the 2339  
superintendent pursuant to division (A) of this section and 2340  
information and materials furnished to any board or person under 2341  
division (F) or (G) of this section are not public records under 2342  
section 149.43 of the Revised Code. 2343

(E) The attorney general shall adopt rules, in accordance 2344  
with Chapter 119. of the Revised Code, setting forth the procedure 2345  
by which a person may receive or release information gathered by 2346  
the superintendent pursuant to division (A) of this section. A 2347  
reasonable fee may be charged for this service. If a temporary 2348  
employment service submits a request for a determination of 2349  
whether a person the service plans to refer to an employment 2350  
position has been convicted of or pleaded guilty to an offense 2351  
listed in division (A)(1), (3), (4), (5), or (6) of section 2352  
109.572 of the Revised Code, the request shall be treated as a 2353  
single request and only one fee shall be charged. 2354

(F)(1) As used in division (F)(2) of this section, "head 2355  
start agency" means an entity in this state that has been approved 2356  
to be an agency for purposes of subchapter II of the "Community 2357  
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 2358  
as amended. 2359

(2)(a) In addition to or in conjunction with any request that 2360  
is required to be made under section 109.572, 2151.86, 3301.32, 2361  
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 2362  
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 2363  
education of any school district; the director of mental 2364

retardation and developmental disabilities; any county board of 2365  
mental retardation and developmental disabilities; any entity 2366  
under contract with a county board of mental retardation and 2367  
developmental disabilities; the chief administrator of any 2368  
chartered nonpublic school; the chief administrator of any home 2369  
health agency; the chief administrator of or person operating any 2370  
child day-care center, type A family day-care home, or type B 2371  
family day-care home licensed or certified under Chapter 5104. of 2372  
the Revised Code; the administrator of any type C family day-care 2373  
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 2374  
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 2375  
general assembly; the chief administrator of any head start 2376  
agency; or the executive director of a public children services 2377  
agency may request that the superintendent of the bureau 2378  
investigate and determine, with respect to any individual who has 2379  
applied for employment in any position after October 2, 1989, or 2380  
any individual wishing to apply for employment with a board of 2381  
education may request, with regard to the individual, whether the 2382  
bureau has any information gathered under division (A) of this 2383  
section that pertains to that individual. On receipt of the 2384  
request, the superintendent shall determine whether that 2385  
information exists and, upon request of the person, board, or 2386  
entity requesting information, also shall request from the federal 2387  
bureau of investigation any criminal records it has pertaining to 2388  
that individual. The superintendent or the superintendent's 2389  
designee also may request criminal history records from other 2390  
states or the federal government pursuant to the national crime 2391  
prevention and privacy compact set forth in section 109.571 of the 2392  
Revised Code. Within thirty days of the date that the 2393  
superintendent receives a request, the superintendent shall send 2394  
to the board, entity, or person a report of any information that 2395  
the superintendent determines exists, including information 2396  
contained in records that have been sealed under section 2953.32 2397

of the Revised Code, and, within thirty days of its receipt, shall  
send the board, entity, or person a report of any information  
received from the federal bureau of investigation, other than  
information the dissemination of which is prohibited by federal  
law.

(b) When a board of education is required to receive  
information under this section as a prerequisite to employment of  
an individual pursuant to section 3319.39 of the Revised Code, it  
may accept a certified copy of records that were issued by the  
bureau of criminal identification and investigation and that are  
presented by an individual applying for employment with the  
district in lieu of requesting that information itself. In such a  
case, the board shall accept the certified copy issued by the  
bureau in order to make a photocopy of it for that individual's  
employment application documents and shall return the certified  
copy to the individual. In a case of that nature, a district only  
shall accept a certified copy of records of that nature within one  
year after the date of their issuance by the bureau.

(3) The state board of education may request, with respect to  
any individual who has applied for employment after October 2,  
1989, in any position with the state board or the department of  
education, any information that a school district board of  
education is authorized to request under division (F)(2) of this  
section, and the superintendent of the bureau shall proceed as if  
the request has been received from a school district board of  
education under division (F)(2) of this section.

(4) When the superintendent of the bureau receives a request  
for information under section 3319.291 of the Revised Code, the  
superintendent shall proceed as if the request has been received  
from a school district board of education under division (F)(2) of  
this section.

(5) When a recipient of an ~~OhioReads~~ a classroom or community 2429  
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 2430  
the Revised Code ~~or an entity approved by the OhioReads council~~ 2431  
requests, with respect to any individual who applies to 2432  
participate in providing any program or service ~~through an entity~~ 2433  
~~approved by the OhioReads council or~~ funded in whole or in part by 2434  
the grant, the information that a school district board of 2435  
education is authorized to request under division (F)(2)(a) of 2436  
this section, the superintendent of the bureau shall proceed as if 2437  
the request has been received from a school district board of 2438  
education under division (F)(2)(a) of this section. 2439

(G) In addition to or in conjunction with any request that is 2440  
required to be made under section 173.41, 3701.881, 3712.09, 2441  
3721.121, or 3722.151 of the Revised Code with respect to an 2442  
individual who has applied for employment in a position that 2443  
involves providing direct care to an older adult, the chief 2444  
administrator of a PASSPORT agency that provides services through 2445  
the PASSPORT program created under section 173.40 of the Revised 2446  
Code, home health agency, hospice care program, home licensed 2447  
under Chapter 3721. of the Revised Code, adult day-care program 2448  
operated pursuant to rules adopted under section 3721.04 of the 2449  
Revised Code, or adult care facility may request that the 2450  
superintendent of the bureau investigate and determine, with 2451  
respect to any individual who has applied after January 27, 1997, 2452  
for employment in a position that does not involve providing 2453  
direct care to an older adult, whether the bureau has any 2454  
information gathered under division (A) of this section that 2455  
pertains to that individual. On receipt of the request, the 2456  
superintendent shall determine whether that information exists 2457  
and, on request of the administrator requesting information, shall 2458  
also request from the federal bureau of investigation any criminal 2459  
records it has pertaining to that individual. The superintendent 2460

or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a board, administrator, or other person under this section is confidential and shall not be released or disseminated.

(I) The superintendent may charge a reasonable fee for providing information or criminal records under division (F)(2) or (G) of this section.

**Sec. 109.579.** (A) On receipt of a request pursuant to division (B) of section 4123.444 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or



securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2492  
2921., 2923., and 2925. of the Revised Code or other law of this 2493  
state, or the laws of any other state or of the United States that 2494  
are substantially equivalent to those offenses. 2495

(B) The superintendent shall conduct a criminal records check 2496  
pursuant to division (A) of this section as follows: 2497

(1) The superintendent shall review or cause to be reviewed 2498  
any relevant information gathered and compiled by the bureau under 2499  
division (A) of section 109.57 of the Revised Code that relates to 2500  
the person who is the subject of the request, including any 2501  
relevant information contained in records that have been sealed 2502  
under section 2953.32 of the Revised Code. 2503

(2) If the request received by the superintendent asks for 2504  
information from the federal bureau of investigation, the 2505  
superintendent shall request from the federal bureau of 2506  
investigation any information it has with respect to the person 2507  
who is the subject of the request. The superintendent shall review 2508  
or cause to be reviewed any information that the superintendent 2509  
receives from the federal bureau of investigation. 2510

(3) The superintendent shall forward the results of a 2511  
criminal records check conducted pursuant to this division to the 2512  
administrator of workers' compensation. 2513

(C)(1) The superintendent shall prescribe a form to obtain 2514  
the information necessary to conduct a criminal records check from 2515  
any person for whom a criminal records check is requested pursuant 2516  
to division (B) of section 4123.444 of the Revised Code. The form 2517  
that the superintendent prescribes pursuant to this division may 2518  
be in a tangible format, in an electronic format, or in both 2519  
tangible and electronic formats. 2520

(2) The superintendent shall prescribe standard impression 2521

sheets to obtain the fingerprint impressions of any person for 2522  
whom a criminal records check is requested pursuant to section 2523  
4123.444 of the Revised Code. Any person for whom the 2524  
administrator requests the superintendent to conduct a criminal 2525  
records check pursuant to that section shall have the person's 2526  
fingerprint impressions made at a county sheriff's office, a 2527  
municipal police department, or any other entity with the ability 2528  
to make fingerprint impressions on the standard impression sheets 2529  
prescribed by the superintendent. The office, department, or 2530  
entity may charge the person a reasonable fee for making the 2531  
impressions. The standard impression sheets the superintendent 2532  
prescribes pursuant to this division may be in a tangible format, 2533  
in an electronic format, or in both tangible and electronic 2534  
formats. 2535

(3) The superintendent may prescribe methods of forwarding 2536  
fingerprint impressions and information necessary to conduct a 2537  
criminal records check. The methods shall include, but are not 2538  
limited to, electronic methods. 2539

(D) A determination whether any information exists that 2540  
indicates that a person previously has been convicted of or 2541  
pleaded guilty to any offense listed or described in division (A) 2542  
of this section that the superintendent makes pursuant to 2543  
information considered in a criminal records check under this 2544  
section is valid for the person who is the subject of that 2545  
criminal records check for a period of one year after the date the 2546  
superintendent makes that determination. 2547

(E) The superintendent shall prescribe and charge a 2548  
reasonable fee for providing a criminal records check requested 2549  
under section 4123.444 of the Revised Code. If another request for 2550  
a criminal records check is made under this section for a person 2551  
for whom a valid determination under division (D) of this section 2552  
is available, the superintendent shall provide the determination 2553

for a reduced fee.

2554

**Sec. 109.60.** (A)(1) The sheriffs of the several counties and 2555  
the chiefs of police of cities, immediately upon the arrest of any 2556  
person for any felony, on suspicion of any felony, for a crime 2557  
constituting a misdemeanor on the first offense and a felony on 2558  
subsequent offenses, or for any misdemeanor described in division 2559  
(A)(1)(a) of section 109.572 of the Revised Code, and immediately 2560  
upon the arrest or taking into custody of any child under eighteen 2561  
years of age for committing an act that would be a felony or an 2562  
offense of violence if committed by an adult or upon probable 2563  
cause to believe that a child of that age may have committed an 2564  
act that would be a felony or an offense of violence if committed 2565  
by an adult, shall take the person's or child's fingerprints, or 2566  
cause the same to be taken, according to the fingerprint system of 2567  
identification on the forms furnished by the superintendent of the 2568  
bureau of criminal identification and investigation, and 2569  
immediately shall forward copies of the completed forms, any other 2570  
description that may be required, and the history of the offense 2571  
committed to the bureau to be classified and filed and to the 2572  
clerk of the court having jurisdiction over the prosecution of the 2573  
offense or over the adjudication relative to the act. 2574

(2) If a sheriff or chief of police has not taken, or caused 2575  
to be taken, a person's or child's fingerprints in accordance with 2576  
division (A)(1) of this section by the time of the arraignment or 2577  
first appearance of the person or child, the court shall order the 2578  
person or child to appear before the sheriff or chief of police 2579  
within twenty-four hours to have the person's or child's 2580  
fingerprints taken. The sheriff or chief of police shall take the 2581  
person's or child's fingerprints, or cause the fingerprints to be 2582  
taken, according to the fingerprint system of identification on 2583  
the forms furnished by the superintendent of the bureau of 2584

criminal identification and investigation and, immediately after 2585  
the person's or child's arraignment or first appearance, forward 2586  
copies of the completed forms, any other description that may be 2587  
required, and the history of the offense committed to the bureau 2588  
to be classified and filed and to the clerk of the court. 2589

(3) Every court with jurisdiction over a case involving a 2590  
person or child with respect to whom division (A)(1) of this 2591  
section requires a sheriff or chief of police to take the person's 2592  
or child's fingerprints shall inquire at the time of the person's 2593  
or child's sentencing or adjudication whether or not the person or 2594  
child has been fingerprinted pursuant to division (A)(1) or (2) of 2595  
this section for the original arrest upon which the sentence or 2596  
adjudication is based. If the person or child was not 2597  
fingerprinted for the original arrest upon which the sentence or 2598  
adjudication is based, the court shall order the person or child 2599  
to appear before the sheriff or chief of police within twenty-four 2600  
hours to have the person's or child's fingerprints taken. The 2601  
sheriff or chief of police shall take the person's or child's 2602  
fingerprints, or cause the fingerprints to be taken, according to 2603  
the fingerprint system of identification on the forms furnished by 2604  
the superintendent of the bureau of criminal identification and 2605  
investigation and immediately forward copies of the completed 2606  
forms, any other description that may be required, and the history 2607  
of the offense committed to the bureau to be classified and filed 2608  
and to the clerk of the court. 2609

(4) If a person or child is in the custody of a law 2610  
enforcement agency or a detention facility, as defined in section 2611  
2921.01 of the Revised Code, and the chief law enforcement officer 2612  
or chief administrative officer of the detention facility 2613  
discovers that a warrant has been issued or a bill of information 2614  
has been filed alleging the person or child to have committed an 2615  
offense or act other than the offense or act for which the person 2616

or child is in custody, and the other alleged offense or act is 2617  
one for which fingerprints are to be taken pursuant to division 2618  
(A)(1) of this section, the law enforcement agency or detention 2619  
facility shall take the fingerprints of the person or child, or 2620  
cause the fingerprints to be taken, according to the fingerprint 2621  
system of identification on the forms furnished by the 2622  
superintendent of the bureau of criminal identification and 2623  
investigation and immediately forward copies of the completed 2624  
forms, any other description that may be required, and the history 2625  
of the offense committed to the bureau to be classified and filed 2626  
and to the clerk of the court that issued the warrant or with 2627  
which the bill of information was filed. 2628

(5) If an accused is found not guilty of the offense charged 2629  
or a nolle prosequi is entered in any case, or if any accused 2630  
child under eighteen years of age is found not to be a delinquent 2631  
child for committing an act that would be a felony or an offense 2632  
of violence if committed by an adult or not guilty of the felony 2633  
or offense of violence charged or a nolle prosequi is entered in 2634  
that case, the fingerprints and description shall be given to the 2635  
accused upon the accused's request. 2636

(6) The superintendent shall compare the description received 2637  
with those already on file in the bureau, and, if the 2638  
superintendent finds that the person arrested or taken into 2639  
custody has a criminal record or a record as a delinquent child 2640  
for having committed an act that would be a felony or an offense 2641  
of violence if committed by an adult or is a fugitive from justice 2642  
or wanted by any jurisdiction in this or another state, the United 2643  
States, or a foreign country for any offense, the superintendent 2644  
at once shall inform the arresting officer, the officer taking the 2645  
person into custody, or the chief administrative officer of the 2646  
county, multicounty, municipal, municipal-county, or 2647  
multicounty-municipal jail or workhouse, community-based 2648

correctional facility, halfway house, alternative residential 2649  
facility, or state correctional institution in which the person or 2650  
child is in custody of that fact and give appropriate notice to 2651  
the proper authorities in the jurisdiction in which the person is 2652  
wanted, or, if that jurisdiction is a foreign country, give 2653  
appropriate notice to federal authorities for transmission to the 2654  
foreign country. The names, under which each person whose 2655  
identification is filed is known, shall be alphabetically indexed 2656  
by the superintendent. 2657

(B) ~~This Division (A) of this~~ section does not apply to a 2658  
violin of a city ordinance unless the officers have reason to 2659  
believe that the violator is a past offender or the crime is one 2660  
constituting a misdemeanor on the first offense and a felony on 2661  
subsequent offenses, or unless it is advisable for the purpose of 2662  
subsequent identification. This section does not apply to any 2663  
child under eighteen years of age who was not arrested or 2664  
otherwise taken into custody for committing an act that would be a 2665  
felony or an offense of violence if committed by an adult or upon 2666  
probable cause to believe that a child of that age may have 2667  
committed an act that would be a felony or an offense of violence 2668  
if committed by an adult, except as provided in section 2151.313 2669  
of the Revised Code. 2670

(C)(1) For purposes of division (C) of this section, a law 2671  
enforcement agency shall be considered to have arrested a person 2672  
if any law enforcement officer who is employed by, appointed by, 2673  
or serves that agency arrests the person. As used in division (C) 2674  
of this section: 2675

(a) "Illegal methamphetamine manufacturing laboratory" has 2676  
the same meaning as in section 3745.13 of the Revised Code. 2677

(b) "Methamphetamine or a methamphetamine product" means 2678  
methamphetamine, any salt, isomer, or salt of an isomer of 2679

methamphetamine, or any compound, mixture, preparation, or 2680  
substance containing methamphetamine or any salt, isomer, or salt 2681  
of an isomer of methamphetamine. 2682

(2) Each law enforcement agency that, in any calendar year, 2683  
arrests any person for a violation of section 2925.04 of the 2684  
Revised Code that is based on the manufacture of methamphetamine 2685  
or a methamphetamine product, a violation of section 2925.041 of 2686  
the Revised Code that is based on the possession of chemicals 2687  
sufficient to produce methamphetamine or a methamphetamine 2688  
product, or a violation of any other provision of Chapter 2925. or 2689  
3719. of the Revised Code that is based on the possession of 2690  
chemicals sufficient to produce methamphetamine or a 2691  
methamphetamine product shall prepare an annual report covering 2692  
the calendar year that contains the information specified in 2693  
division (C)(3) of this section relative to all arrests for 2694  
violations of those sections committed under those circumstances 2695  
during that calendar year and shall send the annual report, not 2696  
later than the first day of March in the calendar year following 2697  
the calendar year covered by the report, to the bureau of criminal 2698  
identification and investigation. 2699

The law enforcement agency shall write any annual report 2700  
prepared and filed under this division on the standard forms 2701  
furnished by the superintendent of the bureau of criminal 2702  
identification and investigation pursuant to division (C)(4) of 2703  
this section. The annual report shall be a statistical report, and 2704  
nothing in the report or in the information it contains shall 2705  
identify, or enable the identification of, any person who was 2706  
arrested and whose arrest is included in the information contained 2707  
in the report. The annual report in the possession of the bureau 2708  
and the information it contains are public records for the purpose 2709  
of section 149.43 of the Revised Code. 2710

(3) The annual report prepared and filed by a law enforcement 2711

agency under division (C)(2) of this section shall contain all of 2712  
the following information for the calendar year covered by the 2713  
report: 2714

(a) The total number of arrests made by the agency in that 2715  
calendar year for a violation of section 2925.04 of the Revised 2716  
Code that is based on the manufacture of methamphetamine or a 2717  
methamphetamine product, a violation of section 2925.041 of the 2718  
Revised Code that is based on the possession of chemicals 2719  
sufficient to produce methamphetamine or a methamphetamine 2720  
product, or a violation of any other provision of Chapter 2925. or 2721  
3719. of the Revised Code that is based on the possession of 2722  
chemicals sufficient to produce methamphetamine or a 2723  
methamphetamine product; 2724

(b) The total number of illegal methamphetamine manufacturing 2725  
laboratories at which one or more of the arrests reported under 2726  
division (C)(3)(a) of this section occurred, or that were 2727  
discovered in that calendar year within the territory served by 2728  
the agency but at which none of the arrests reported under 2729  
division (C)(3)(a) of this section occurred. 2730

(4) The superintendent of the bureau of criminal 2731  
identification and investigation shall prepare and furnish to each 2732  
law enforcement agency in this state standard forms for making the 2733  
annual reports required by division (C)(2) of this section. The 2734  
standard forms that the superintendent prepares pursuant to this 2735  
division may be in a tangible format, in an electronic format, or 2736  
in both a tangible format and an electronic format. 2737

(5) The annual report required by division (C)(2) of this 2738  
section is separate from, and in addition to, any report, 2739  
materials, or information required under division (A) of this 2740  
section or under any other provision of sections 109.57 to 109.62 2741  
of the Revised Code. 2742



Sec. 109.79. (A) The Ohio peace officer training commission 2743  
shall establish and conduct a training school for law enforcement 2744  
officers of any political subdivision of the state or of the state 2745  
public defender's office. The school shall be known as the Ohio 2746  
peace officer training academy. No bailiff or deputy bailiff of a 2747  
court of record of this state and no criminal investigator 2748  
employed by the state public defender shall be permitted to attend 2749  
the academy for training unless the employing court of the bailiff 2750  
or deputy bailiff or the state public defender, whichever is 2751  
applicable, has authorized the bailiff, deputy bailiff, or 2752  
investigator to attend the academy. 2753

The Ohio peace officer training commission shall develop the 2754  
training program, which shall include courses in both the civil 2755  
and criminal functions of law enforcement officers, a course in 2756  
crisis intervention with six or more hours of training, and 2757  
training in the handling of missing children and child abuse and 2758  
neglect cases, and shall establish rules governing qualifications 2759  
for admission to the academy. The commission may require 2760  
competitive examinations to determine fitness of prospective 2761  
trainees, so long as the examinations or other criteria for 2762  
admission to the academy are consistent with the provisions of 2763  
Chapter 124. of the Revised Code. 2764

The Ohio peace officer training commission shall determine 2765  
tuition costs which shall be sufficient in the aggregate to pay 2766  
the costs of operating the academy. The costs of acquiring and 2767  
equipping the academy shall be paid from appropriations made by 2768  
the general assembly to the Ohio peace officer training commission 2769  
for that purpose, ~~or~~ from gifts or grants received for that 2770  
purpose, or from fees for goods related to the academy. 2771

The law enforcement officers, during the period of their 2772  
training, shall receive compensation as determined by the 2773

political subdivision that sponsors them or, if the officer is a  
criminal investigator employed by the state public defender, as  
determined by the state public defender. The political subdivision  
may pay the tuition costs of the law enforcement officers they  
sponsor and the state public defender may pay the tuition costs of  
criminal investigators of that office who attend the academy.

If trainee vacancies exist, the academy may train and issue  
certificates of satisfactory completion to peace officers who are  
employed by a campus police department pursuant to section 1713.50  
of the Revised Code, by a qualified nonprofit corporation police  
department pursuant to section 1702.80 of the Revised Code, or by  
a railroad company or who are hospital police officers appointed  
and commissioned by the governor pursuant to sections 4973.17 to  
4973.22 of the Revised Code, provided that no such officer shall  
be trained at the academy unless the officer meets the  
qualifications established for admission to the academy and the  
qualified nonprofit corporation police department, railroad  
company, or hospital or the private college or university that  
established the campus police department prepays the entire cost  
of the training. A qualified nonprofit corporation police  
department, railroad company, or hospital or a private college or  
university that has established a campus police department is not  
entitled to reimbursement from the state for any amount paid for  
the cost of training the railroad company's peace officers or the  
peace officers of the qualified nonprofit corporation police  
department, campus police department, or hospital.

The academy shall permit investigators employed by the state  
medical board to take selected courses that the board determines  
are consistent with its responsibilities for initial and  
continuing training of investigators as required under sections  
4730.26 and 4731.05 of the Revised Code. The board shall pay the  
entire cost of training that investigators receive at the academy.

(B) As used in this section:	2806
(1) "Law enforcement officers" include any undercover drug agent, any bailiff or deputy bailiff of a court of record, and any criminal investigator who is employed by the state public defender.	2807 2808 2809 2810
(2) "Undercover drug agent" means any person who:	2811
(a) Is employed by a county, township, or municipal corporation for the purposes set forth in division (B)(2)(b) of this section but who is not an employee of a county sheriff's department, of a township constable, or of the police department of a municipal corporation or township;	2812 2813 2814 2815 2816
(b) In the course of the person's employment by a county, township, or municipal corporation, investigates and gathers information pertaining to persons who are suspected of violating Chapter 2925. or 3719. of the Revised Code, and generally does not wear a uniform in the performance of the person's duties.	2817 2818 2819 2820 2821
(3) "Crisis intervention training" has the same meaning as in section 109.71 of the Revised Code.	2822 2823
(4) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.	2824 2825
<b>Sec. 109.91.</b> (A) There is hereby established within the office of the attorney general the crime victims assistance office.	2826 2827 2828
(B) There is hereby established the state victims assistance advisory committee. The committee shall consist of a chairperson, to be appointed by the attorney general, <del>four</del> <u>three</u> ex officio members, and fifteen members to be appointed by the attorney general as follows: one member who represents the Ohio victim-witness association; three members who represent local victim assistance programs, including one from a municipally	2829 2830 2831 2832 2833 2834 2835

operated program and one from a county-operated program; one 2836  
member who represents the interests of elderly victims; one member 2837  
who is a board member of any statewide or local organization that 2838  
exists primarily to aid victims of domestic violence, or who is an 2839  
employee of, or counselor for, such an organization; one member 2840  
who is an employee or officer of a county probation department or 2841  
a probation department operated by the department of 2842  
rehabilitation and correction; one member who is a county 2843  
prosecuting attorney; one member who is a city law director; one 2844  
member who is a county sheriff; one member who is a member or 2845  
officer of a township or municipal police department; one member 2846  
who is a court of common pleas judge; one member who is a 2847  
municipal court judge or county court judge; and two members who 2848  
are private citizens and are not government employees. 2849

The committee shall include the following ex officio, 2850  
nonvoting members: ~~the chief justice of the supreme court,~~ the 2851  
attorney general, one member of the senate to be designated by the 2852  
president of the senate, and one member of the house of 2853  
representatives to be designated by the speaker of the house. 2854

Members of the committee shall serve without compensation, 2855  
but shall be reimbursed for travel and other necessary expenses 2856  
that are incurred in the conduct of their official duties as 2857  
members of the committee. The chairperson and members of the 2858  
committee appointed by the attorney general shall serve at the 2859  
pleasure of the attorney general. The ~~chief justice of the supreme~~ 2860  
~~court and the~~ attorney general shall serve on the committee until 2861  
the end of the term of office that qualified ~~them~~ the attorney 2862  
general for membership on the committee. The member of the senate 2863  
and the member of the house of representatives shall serve at the 2864  
pleasure of the president of the senate and the speaker of the 2865  
house of representatives, respectively. 2866

(C) The victims assistance advisory committee shall perform 2867

both of the following duties: 2868

(1) Advise the crime victims assistance office in determining 2869  
crime and delinquency victim service needs, determining crime and 2870  
delinquency victim policies for the state, and improving and 2871  
exercising leadership in the quality of crime and delinquency 2872  
victim programs in the state; 2873

(2) Review and recommend to the crime victims assistance 2874  
office the victim assistance programs that should be considered 2875  
for the receipt of state financial assistance pursuant to section 2876  
109.92 of the Revised Code. The financial assistance allocation 2877  
recommendations of the committee shall be based on the following 2878  
priorities: 2879

(a) Programs in existence on July 1, 1985, shall be given 2880  
first priority; 2881

(b) Programs offering or proposing to offer the broadest 2882  
range of services and referrals to the community served, including 2883  
medical, psychological, financial, educational, vocational, and 2884  
legal services that were not in existence on July 1, 1985, shall 2885  
be given second priority; 2886

(c) Other qualified programs shall be given last priority. 2887

(D) As used in this section and section 109.92 of the Revised 2888  
Code, "victim assistance program" includes, but is not limited to 2889  
a program that provides at least one of the following: 2890

(1) Services to victims of any offense of violence or 2891  
delinquent act that would be an offense of violence if committed 2892  
by an adult; 2893

(2) Financial assistance or property repair services to 2894  
victims of crime or delinquent acts; 2895

(3) Assistance to victims of crime or delinquent acts in 2896  
judicial proceedings; 2897

(4) Assistance to victims of crime or delinquent acts under 2898  
the operation of any political subdivision of the state or a 2899  
branch of the criminal justice system set forth in division 2900  
(B)(1)(a), ~~(2)(b)~~, or ~~(3)(c)~~ of section ~~181.51~~ 5502.61 of the 2901  
Revised Code; 2902

(5) Technical assistance to persons or organizations that 2903  
provide services to victims of crime or delinquent acts under the 2904  
operation of a branch of the criminal justice system set forth in 2905  
~~divisions~~ division (B)(1)(a), ~~(2)(b)~~, and ~~(3)~~ or (c) of section 2906  
~~181.51~~ 5502.61 of the Revised Code. 2907

A victim assistance program does not include the program for 2908  
the reparation of crime victims established pursuant to Chapter 2909  
2743. of the Revised Code. 2910

**Sec. 109.98.** As used in this section, "state retirement 2911  
board" means the public employees retirement board, board of 2912  
trustees of the Ohio police and fire pension fund, school 2913  
employees retirement board, state teachers retirement board, and 2914  
state highway patrol retirement board. 2915

If a member of a state retirement board breaches the member's 2916  
fiduciary duty to the retirement system, the attorney general may 2917  
maintain a civil action against the board member for harm 2918  
resulting from that breach. The Notwithstanding sections 145.10, 2919  
742.09, 3307.13, 3309.13, and 5505.23 of the Revised Code, after 2920  
being informed of an allegation that the entire board has breached 2921  
its fiduciary duty, the state retirement board may retain 2922  
independent legal counsel, including legal counsel provided by the 2923  
board's fiduciary insurance carrier, to advise the board and to 2924  
represent the board. 2925

The attorney general may recover damages or be granted 2926  
injunctive relief, which shall include the enjoinder of specified 2927

activities and the removal of the member from the board. Any 2928  
damages awarded shall be paid to the retirement system. The 2929  
authority to maintain a civil action created by this section is in 2930  
addition to any authority the attorney general possesses under any 2931  
other provision of the Revised Code. 2932

Sec. 109.981. If a voting member of workers' compensation 2933  
oversight commission breaches the member's fiduciary duty to the 2934  
bureau of workers' compensation, the attorney general may maintain 2935  
a civil action against the board member for harm resulting from 2936  
that breach. Notwithstanding section 4121.128 of the Revised Code, 2937  
after being informed of an allegation that the entire oversight 2938  
commission has breached its fiduciary duty, the oversight 2939  
commission may retain independent legal counsel, including legal 2940  
counsel provided by the oversight commission's fiduciary insurance 2941  
carrier, to advise the board and to represent the board. The 2942  
attorney general may recover damages or be granted injunctive 2943  
relief, which shall include the enjoinder of specified activities 2944  
and the removal of the member from the board. Any damages awarded 2945  
shall be paid to the bureau. The authority to maintain a civil 2946  
action created by this section is in addition to any authority the 2947  
attorney general possesses under any other provision of the 2948  
Revised Code. 2949

**Sec. 117.10.** The auditor of state shall audit all public 2950  
offices as provided in this chapter. The auditor of state also may 2951  
audit the accounts of private institutions, associations, boards, 2952  
and corporations receiving public money for their use and may 2953  
require of them annual reports in such form as the auditor of 2954  
state prescribes. 2955

If the auditor of state performs or contracts for the 2956  
performance of an audit, including a special audit, of the public 2957  
employees retirement system, school employees retirement system, 2958

state teachers retirement system, state highway patrol retirement 2959  
system, or Ohio police and fire pension fund, the auditor of state 2960  
shall make a timely report of the results of the audit to the Ohio 2961  
retirement study council. 2962

The auditor of state may audit the accounts of any provider 2963  
as defined in section 5111.06 of the Revised Code, ~~if requested by~~ 2964  
~~the department of job and family services.~~ 2965

If a public office has been audited by an agency of the 2966  
United States government, the auditor of state may, if satisfied 2967  
that the federal audit has been conducted according to principles 2968  
and procedures not contrary to those of the auditor of state, use 2969  
and adopt the federal audit and report in lieu of an audit by the 2970  
auditor of state's own office. 2971

Within thirty days after the creation or dissolution or the 2972  
winding up of the affairs of any public office, that public office 2973  
shall notify the auditor of state in writing that this action has 2974  
occurred. 2975

**Sec. 120.06.** (A)(1) The state public defender, when 2976  
designated by the court or requested by a county public defender 2977  
or joint county public defender, may provide legal representation 2978  
in all courts throughout the state to indigent adults and 2979  
juveniles who are charged with the commission of an offense or act 2980  
for which the penalty or any possible adjudication includes the 2981  
potential loss of liberty. 2982

(2) The state public defender may provide legal 2983  
representation to any indigent person who, while incarcerated in 2984  
any state correctional institution, is charged with a felony 2985  
offense, for which the penalty or any possible adjudication that 2986  
may be imposed by a court upon conviction includes the potential 2987  
loss of liberty. 2988



(3) The state public defender may provide legal representation to any person incarcerated in any correctional institution of the state, in any matter in which the person asserts the person is unlawfully imprisoned or detained.

(4) The state public defender, in any case in which the state public defender has provided legal representation or is requested to do so by a county public defender or joint county public defender, may provide legal representation on appeal.

(5) The state public defender, when designated by the court or requested by a county public defender, joint county public defender, or the director of rehabilitation and correction, shall provide legal representation in parole and probation revocation matters or matters relating to the revocation of community control or post-release control under a community control sanction or post-release control sanction, unless the state public defender finds that the alleged parole or probation violator or alleged violator of a community control sanction or post-release control sanction has the financial capacity to retain the alleged violator's own counsel.

(6) If the state public defender contracts with a county public defender commission, a joint county public defender commission, or a board of county commissioners for the provision of services, under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall provide legal representation in accordance with the contract.

(B) The state public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding pursuant to division (A)(3), (4), or (5) of this section, unless the state public defender first is satisfied that there is arguable merit to the proceeding.

(C) A court may appoint counsel or allow an indigent person

to select the indigent's own personal counsel to assist the state  
public defender as co-counsel when the interests of justice so  
require. When co-counsel is appointed to assist the state public  
defender, the co-counsel shall receive any compensation that the  
court may approve, not to exceed the amounts provided for in  
section 2941.51 of the Revised Code.

(D)(1) When the state public defender is designated by the  
court or requested by a county public defender or joint county  
public defender to provide legal representation for an indigent  
person in any case, other than pursuant to a contract entered into  
under authority of division (C)(7) of section 120.04 of the  
Revised Code, the state public defender shall send to the county  
in which the case is filed ~~an itemized a bill for fifty per cent~~  
~~of~~ detailing the actual cost of the representation that separately  
itemizes legal fees and expenses. The county, upon receipt of an  
itemized bill from the state public defender pursuant to this  
division, shall ~~pay fifty per cent of the actual cost of the legal~~  
~~representation as set forth in the itemized bill.~~ pay the state  
public defender each of the following amounts:

(a) For the amount identified as legal fees in the itemized  
bill, one hundred per cent of the amount identified as legal fees  
less the state reimbursement rate as calculated by the state  
public defender pursuant to section 120.34 of the Revised Code for  
the month the case terminated, as set forth in the itemized bill;

(b) For the amount identified as expenses in the itemized  
bill, one hundred per cent.

(2) Upon payment of the itemized bill under division (D)(1)  
of this section, the county may submit the cost of the expenses,  
excluding legal fees, to the state public defender for  
reimbursement pursuant to section 120.33 of the Revised Code.

(3) When the state public defender provides investigation or

mitigation services to private appointed counsel or to a county or 3051  
joint county public defender as approved by the appointing court, 3052  
other than pursuant to a contract entered into under authority of 3053  
division (C)(7) of section 120.04 of the Revised Code, the state 3054  
public defender shall send to the county in which the case is 3055  
filed a bill itemizing the actual cost of the services provided. 3056  
The county, upon receipt of an itemized bill from the state public 3057  
defender pursuant to this division, shall pay one hundred per cent 3058  
of the amount as set forth in the itemized bill. Upon payment of 3059  
the itemized bill received pursuant to this division, the county 3060  
may submit the cost of the investigation and mitigation services 3061  
to the state public defender for reimbursement pursuant to section 3062  
120.33 of the Revised Code. 3063

(4) There is hereby created in the state treasury the county 3064  
representation fund for the deposit of moneys received from 3065  
counties under this division. All moneys credited to the fund 3066  
shall be used by the state public defender to provide legal 3067  
representation for indigent persons when designated by the court 3068  
or requested by a county or joint county public defender or to 3069  
provide investigation or mitigation services, including 3070  
investigation or mitigation services to private appointed counsel 3071  
or a county or joint county public defender, as approved by the 3072  
court. 3073

(E)(1) Notwithstanding any contrary provision of sections 3074  
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 3075  
that pertains to representation by the attorney general, an 3076  
assistant attorney general, or special counsel of an officer or 3077  
employee, as defined in section 109.36 of the Revised Code, or of 3078  
an entity of state government, the state public defender may elect 3079  
to contract with, and to have the state pay pursuant to division 3080  
(E)(2) of this section for the services of, private legal counsel 3081  
to represent the Ohio public defender commission, the state public 3082

defender, assistant state public defenders, other employees of the 3083  
commission or the state public defender, and attorneys described 3084  
in division (C) of section 120.41 of the Revised Code in a 3085  
malpractice or other civil action or proceeding that arises from 3086  
alleged actions or omissions related to responsibilities derived 3087  
pursuant to this chapter, or in a civil action that is based upon 3088  
alleged violations of the constitution or statutes of the United 3089  
States, including section 1983 of Title 42 of the United States 3090  
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 3091  
arises from alleged actions or omissions related to 3092  
responsibilities derived pursuant to this chapter, if the state 3093  
public defender determines, in good faith, that the defendant in 3094  
the civil action or proceeding did not act manifestly outside the 3095  
scope of the defendant's employment or official responsibilities, 3096  
with malicious purpose, in bad faith, or in a wanton or reckless 3097  
manner. If the state public defender elects not to contract 3098  
pursuant to this division for private legal counsel in a civil 3099  
action or proceeding, then, in accordance with sections 109.02, 3100  
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 3101  
attorney general shall represent or provide for the representation 3102  
of the Ohio public defender commission, the state public defender, 3103  
assistant state public defenders, other employees of the 3104  
commission or the state public defender, or attorneys described in 3105  
division (C) of section 120.41 of the Revised Code in the civil 3106  
action or proceeding. 3107

(2)(a) Subject to division (E)(2)(b) of this section, payment 3108  
from the state treasury for the services of private legal counsel 3109  
with whom the state public defender has contracted pursuant to 3110  
division (E)(1) of this section shall be accomplished only through 3111  
the following procedure: 3112

(i) The private legal counsel shall file with the attorney 3113  
general a copy of the contract; a request for an award of legal 3114

fees, court costs, and expenses earned or incurred in connection 3115  
with the defense of the Ohio public defender commission, the state 3116  
public defender, an assistant state public defender, an employee, 3117  
or an attorney in a specified civil action or proceeding; a 3118  
written itemization of those fees, costs, and expenses, including 3119  
the signature of the state public defender and the state public 3120  
defender's attestation that the fees, costs, and expenses were 3121  
earned or incurred pursuant to division (E)(1) of this section to 3122  
the best of the state public defender's knowledge and information; 3123  
a written statement whether the fees, costs, and expenses are for 3124  
all legal services to be rendered in connection with that defense, 3125  
are only for legal services rendered to the date of the request 3126  
and additional legal services likely will have to be provided in 3127  
connection with that defense, or are for the final legal services 3128  
rendered in connection with that defense; a written statement 3129  
indicating whether the private legal counsel previously submitted 3130  
a request for an award under division (E)(2) of this section in 3131  
connection with that defense and, if so, the date and the amount 3132  
of each award granted; and, if the fees, costs, and expenses are 3133  
for all legal services to be rendered in connection with that 3134  
defense or are for the final legal services rendered in connection 3135  
with that defense, a certified copy of any judgment entry in the 3136  
civil action or proceeding or a signed copy of any settlement 3137  
agreement entered into between the parties to the civil action or 3138  
proceeding. 3139

(ii) Upon receipt of a request for an award of legal fees, 3140  
court costs, and expenses and the requisite supportive 3141  
documentation described in division (E)(2)(a)(i) of this section, 3142  
the attorney general shall review the request and documentation; 3143  
determine whether any of the limitations specified in division 3144  
(E)(2)(b) of this section apply to the request; and, if an award 3145  
of legal fees, court costs, or expenses is permissible after 3146

applying the limitations, prepare a document awarding legal fees, 3147  
court costs, or expenses to the private legal counsel. The 3148  
document shall name the private legal counsel as the recipient of 3149  
the award; specify the total amount of the award as determined by 3150  
the attorney general; itemize the portions of the award that 3151  
represent legal fees, court costs, and expenses; specify any 3152  
limitation applied pursuant to division (E)(2)(b) of this section 3153  
to reduce the amount of the award sought by the private legal 3154  
counsel; state that the award is payable from the state treasury 3155  
pursuant to division (E)(2)(a)(iii) of this section; and be 3156  
approved by the inclusion of the signatures of the attorney 3157  
general, the state public defender, and the private legal counsel. 3158

(iii) The attorney general shall forward a copy of the 3159  
document prepared pursuant to division (E)(2)(a)(ii) of this 3160  
section to the director of budget and management. The award of 3161  
legal fees, court costs, or expenses shall be paid out of the 3162  
state public defender's appropriations, to the extent there is a 3163  
sufficient available balance in those appropriations. If the state 3164  
public defender does not have a sufficient available balance in 3165  
the state public defender's appropriations to pay the entire award 3166  
of legal fees, court costs, or expenses, the director shall make 3167  
application for a transfer of appropriations out of the emergency 3168  
purposes account or any other appropriation for emergencies or 3169  
contingencies in an amount equal to the portion of the award that 3170  
exceeds the sufficient available balance in the state public 3171  
defender's appropriations. A transfer of appropriations out of the 3172  
emergency purposes account or any other appropriation for 3173  
emergencies or contingencies shall be authorized if there are 3174  
sufficient moneys greater than the sum total of then pending 3175  
emergency purposes account requests, or requests for releases from 3176  
the other appropriation. If a transfer of appropriations out of 3177  
the emergency purposes account or other appropriation for 3178

emergencies or contingencies is made to pay an amount equal to the 3179  
portion of the award that exceeds the sufficient available balance 3180  
in the state public defender's appropriations, the director shall 3181  
cause the payment to be made to the private legal counsel. If 3182  
sufficient moneys do not exist in the emergency purposes account 3183  
or other appropriation for emergencies or contingencies to pay an 3184  
amount equal to the portion of the award that exceeds the 3185  
sufficient available balance in the state public defender's 3186  
appropriations, the private legal counsel shall request the 3187  
general assembly to make an appropriation sufficient to pay an 3188  
amount equal to the portion of the award that exceeds the 3189  
sufficient available balance in the state public defender's 3190  
appropriations, and no payment in that amount shall be made until 3191  
the appropriation has been made. The private legal counsel shall 3192  
make the request during the current biennium and during each 3193  
succeeding biennium until a sufficient appropriation is made. 3194

(b) An award of legal fees, court costs, and expenses 3195  
pursuant to division (E) of this section is subject to the 3196  
following limitations: 3197

(i) The maximum award or maximum aggregate of a series of 3198  
awards of legal fees, court costs, and expenses to the private 3199  
legal counsel in connection with the defense of the Ohio public 3200  
defender commission, the state public defender, an assistant state 3201  
public defender, an employee, or an attorney in a specified civil 3202  
action or proceeding shall not exceed fifty thousand dollars. 3203

(ii) The private legal counsel shall not be awarded legal 3204  
fees, court costs, or expenses to the extent the fees, costs, or 3205  
expenses are covered by a policy of malpractice or other 3206  
insurance. 3207

(iii) The private legal counsel shall be awarded legal fees 3208  
and expenses only to the extent that the fees and expenses are 3209

reasonable in light of the legal services rendered by the private 3210  
legal counsel in connection with the defense of the Ohio public 3211  
defender commission, the state public defender, an assistant state 3212  
public defender, an employee, or an attorney in a specified civil 3213  
action or proceeding. 3214

(c) If, pursuant to division (E)(2)(a) of this section, the 3215  
attorney general denies a request for an award of legal fees, 3216  
court costs, or expenses to private legal counsel because of the 3217  
application of a limitation specified in division (E)(2)(b) of 3218  
this section, the attorney general shall notify the private legal 3219  
counsel in writing of the denial and of the limitation applied. 3220

(d) If, pursuant to division (E)(2)(c) of this section, a 3221  
private legal counsel receives a denial of an award notification 3222  
or if a private legal counsel refuses to approve a document under 3223  
division (E)(2)(a)(ii) of this section because of the proposed 3224  
application of a limitation specified in division (E)(2)(b) of 3225  
this section, the private legal counsel may commence a civil 3226  
action against the attorney general in the court of claims to 3227  
prove the private legal counsel's entitlement to the award sought, 3228  
to prove that division (E)(2)(b) of this section does not prohibit 3229  
or otherwise limit the award sought, and to recover a judgment for 3230  
the amount of the award sought. A civil action under division 3231  
(E)(2)(d) of this section shall be commenced no later than two 3232  
years after receipt of a denial of award notification or, if the 3233  
private legal counsel refused to approve a document under division 3234  
(E)(2)(a)(ii) of this section because of the proposed application 3235  
of a limitation specified in division (E)(2)(b) of this section, 3236  
no later than two years after the refusal. Any judgment of the 3237  
court of claims in favor of the private legal counsel shall be 3238  
paid from the state treasury in accordance with division (E)(2)(a) 3239  
of this section. 3240

(F) If a court appoints the office of the state public 3241



defender to represent a petitioner in a postconviction relief 3242  
proceeding under section 2953.21 of the Revised Code, the 3243  
petitioner has received a sentence of death, and the proceeding 3244  
relates to that sentence, all of the attorneys who represent the 3245  
petitioner in the proceeding pursuant to the appointment, whether 3246  
an assistant state public defender, the state public defender, or 3247  
another attorney, shall be certified under Rule 20 of the Rules of 3248  
Superintendence for the Courts of Ohio to represent indigent 3249  
defendants charged with or convicted of an offense for which the 3250  
death penalty can be or has been imposed. 3251

(G) As used in this section: 3252

(1) "Community control sanction" has the same meaning as in 3253  
section 2929.01 of the Revised Code. 3254

(2) "Post-release control sanction" has the same meaning as 3255  
in section 2967.01 of the Revised Code. 3256

Sec. 120.07. There is hereby created in the state treasury 3257  
the civil case filing fee fund to receive all funds deposited in 3258  
the fund pursuant to sections 1901.26, 1907.24, and 2303.201 of 3259  
the Revised Code. All money credited to the fund shall be used by 3260  
the state public defender for the purpose of appointing assistant 3261  
state public defenders and for providing other personnel, 3262  
equipment, and facilities necessary for the operation of the state 3263  
public defender office. 3264

**Sec. 120.13.** (A) The county commissioners in any county may 3265  
establish a county public defender commission. The commission 3266  
shall have five members, three of whom shall be appointed by the 3267  
board of county commissioners, and two by the judge, or the 3268  
presiding judge if there is one, of the court of common pleas of 3269  
the county. At least one member appointed by each of these 3270  
appointing bodies shall be an attorney admitted to the practice of 3271

law in this state. 3272

(B) The board of county commissioners shall select a specific 3273  
day for the county public defender commission to be established 3274  
and on which all members' appointments shall take effect, and 3275  
shall notify the Ohio public defender commission of the date. 3276

(C) Of the initial appointments made to the county public 3277  
defender commission, two appointments by the county commissioners 3278  
and one appointment by the court shall be for a term of two years 3279  
ending two years after the date the commission is established, and 3280  
one appointment by each of the appointing bodies shall be for a 3281  
term ending four years after the date the commission is 3282  
established. Thereafter, terms of office shall be for four years, 3283  
each term ending on the same day of the same month of the year as 3284  
did the term which it succeeds. Each member shall hold office from 3285  
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3286  
the member was appointed. Any member appointed to fill a vacancy 3287  
occurring prior to the expiration of the term for which ~~his~~ the 3288  
member's predecessor was appointed shall hold office for the 3289  
remainder of such term. Any member shall continue in office 3290  
subsequent to the expiration date of ~~his~~ the member's term until 3291  
~~his~~ a successor takes office, or until a period of sixty days has 3292  
elapsed, whichever occurs first. 3293

(D) The members of the commission shall choose as ~~chairman~~ 3294  
chairperson one of the commission members, who shall serve as 3295  
~~chairman~~ chairperson for two years. Meetings shall be held at 3296  
least quarterly and at such other times as called by the ~~chairman~~ 3297  
chairperson or by request of the county public defender. Members 3298  
of the commission may receive an amount fixed by the county 3299  
commissioners, but not in excess of the amounts set for the 3300  
members of the Ohio public defender commission pursuant to section 3301  
124.14 of the Revised Code per diem for every meeting of the board 3302  
they attend, and necessary expenses including mileage for each 3303

mile necessarily traveled. 3304

(E) The county commissioners may terminate the county public 3305  
defender commission at any time if at least ninety days prior to 3306  
termination, the commissioners notify the Ohio public defender 3307  
commission in writing of the termination date. Upon the 3308  
termination date all pending county public defender matters shall 3309  
be transferred to the state public defender, a joint county public 3310  
defender, or appointed counsel. 3311

(F) ~~Fifty per cent of the~~ The cost of representation in all 3312  
matters assumed by the state public defender shall be charged to 3313  
the counties in accordance with division (D) of section 120.06 of 3314  
the Revised Code. 3315

**Sec. 120.23.** (A) The boards of county commissioners in two or 3316  
more adjoining or neighboring counties may form themselves into a 3317  
joint board and proceed to organize a district for the 3318  
establishment of a joint county public defender commission. The 3319  
commission shall have three members from each county, who shall be 3320  
appointed by the board of county commissioners of the county. 3321

(B) The boards shall agree on a specific date for the joint 3322  
county public defender commission to be established, on which date 3323  
the appointments of all members shall take effect. The joint board 3324  
shall notify the Ohio public defender commission of the date. 3325

(C) Of the initial appointments made by each county to the 3326  
joint county public defender commission, one appointment shall be 3327  
for a term of one year ending one year after the date the 3328  
commission is established, one appointment shall be for a term of 3329  
two years ending two years after the date the commission is 3330  
established, and one appointment shall be for a period of three 3331  
years, ending three years after the date the commission is 3332  
established. Thereafter, terms of office shall be for three years, 3333  
each term ending on the same day of the same month of the year as 3334

did the term which it succeeds. Each member shall hold office from 3335  
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3336  
the member was appointed. Any member appointed to fill a vacancy 3337  
occurring prior to the expiration of the term for which ~~his~~ the 3338  
member's predecessor was appointed shall hold office for the 3339  
remainder of the term. Any member shall continue in office 3340  
subsequent to the expiration date of ~~his~~ the member's term until 3341  
~~his~~ a successor takes office, or until a period of sixty days has 3342  
elapsed, whichever occurs first. 3343

(D) The members of the commission shall choose as ~~chairman~~ 3344  
chairperson one of the commission members, who shall serve as 3345  
~~chairman~~ chairperson for two years. Meetings shall be held at 3346  
least quarterly and at such other times as called by the ~~chairman~~ 3347  
chairperson or by request of the joint county public defender. 3348  
Members of the commission may receive an amount fixed by the 3349  
agreement of the boards of commissioners of the counties in the 3350  
district, but not in excess of the amount set for the members of 3351  
the Ohio public defender commission pursuant to section 124.14 of 3352  
the Revised Code per diem for every meeting of the commission they 3353  
attend, and necessary expenses including mileage for each mile 3354  
necessarily traveled. 3355

(E) The agreement of the boards of county commissioners 3356  
establishing the joint county public defender commission shall 3357  
provide for the allocation of the proportion of expenses to be 3358  
paid by each county, which may be based upon population, number of 3359  
cases, or such other factors as the commissioners determine to be 3360  
appropriate. The county commissioners may amend their agreement 3361  
from time to time to provide for a different allocation of the 3362  
proportion of expenses to be paid by each county. 3363

(F) The county auditor of the county, with the greatest 3364  
population is hereby designated as the fiscal officer of a joint 3365  
county public defender district organized under this section. The 3366

county auditors of the several counties composing the joint county 3367  
public defender commission district shall meet at the commission 3368  
office not less than once in each six months, to adjust accounts 3369  
and to transact such other duties in connection with the 3370  
commission as pertain to the business of their office. 3371

(G) Each member of the board of county commissioners who 3372  
meets by appointment to consider the organization of a joint 3373  
county public defender commission shall, upon presentation of 3374  
properly certified accounts, be paid ~~his~~ the member's necessary 3375  
expenses upon a warrant drawn by the county auditor of ~~his~~ the 3376  
member's county. 3377

(H) The board of county commissioners of any county within a 3378  
joint county public defender commission district may withdraw from 3379  
the district. Such withdrawal shall not be effective until at 3380  
least ninety days after the board has notified the Ohio public 3381  
defender commission, the joint county public defender commission 3382  
of the district, and each board of county commissioners in the 3383  
district, in writing of the termination date. The failure of a 3384  
board of county commissioners to approve an annual operating 3385  
budget for the office of the joint county public defender as 3386  
provided in division (C)(1) of section 120.24 of the Revised Code 3387  
constitutes a notice of withdrawal by the county from the 3388  
district, effective on the ninetieth day after commencement of the 3389  
next fiscal year. Upon the termination date, all joint county 3390  
public defender matters relating to the withdrawing county shall 3391  
be transferred to the state public defender, a county public 3392  
defender, or appointed counsel. 3393

(I) ~~Fifty per cent of the~~ The cost of representation in all 3394  
matters assumed by the state public defender shall be charged to 3395  
the counties in accordance with division (D) of section 120.06 of 3396  
the Revised Code. 3397

Members of the joint county public defender commission who 3398

are residents of a county withdrawing from such district are 3399  
deemed to have resigned their positions upon the completion of the 3400  
withdrawal procedure provided by this section. Vacancies thus 3401  
created shall not be filled. 3402

If two or more counties remain within the district after the 3403  
withdrawal, the boards of county commissioners of the remaining 3404  
adjoining or neighboring counties may agree to continue the 3405  
operation of the joint county public defender commission and to 3406  
reallocate the proportionate share of expenses to be paid by each 3407  
participating county. 3408

Sec. 120.36. (A) If a person who is a defendant in a criminal 3409  
case or a party in a case in juvenile court requests or is 3410  
provided a state public defender, a county or joint county public 3411  
defender, or any other counsel appointed by the court, the court 3412  
in which the criminal case is initially filed or the juvenile 3413  
court, whichever is applicable, shall assess, unless the 3414  
application fee is waived or reduced, a non-refundable application 3415  
fee of twenty-five dollars. 3416

The court shall direct the person to pay the application fee 3417  
to the clerk of the court that assessed the fee. The person shall 3418  
pay the application fee at the time the person files an affidavit 3419  
of indigency or a financial disclosure form with the court or 3420  
within seven days of that date. If the person does not pay the 3421  
application fee within that seven-day period, the court shall 3422  
assess the application fee at sentencing or at the final 3423  
disposition of the case. 3424

If a case involving a felony that was initially filed in a 3425  
municipal court or a county court is bound over to the court of 3426  
common pleas and the defendant in the case failed to pay the 3427  
application fee in the municipal court or county court, the court 3428  
of common pleas shall assess the application fee at the initial 3429

appearance of the defendant in the court of common pleas. If a 3430  
case involving an alleged delinquent child is transferred to the 3431  
court of common pleas for prosecution of the involved child as an 3432  
adult, the court of common pleas shall assess the application fee 3433  
at the initial appearance of the child in the court of common 3434  
pleas. 3435

The court shall assess an application fee pursuant to this 3436  
section one time per case. An appeal shall not be considered a 3437  
separate case for the purpose of assessing the application fee. 3438  
The court may waive or reduce the fee upon a finding that the 3439  
person lacks financial resources that are sufficient to pay the 3440  
fee or that payment of the fee would result in an undue hardship. 3441

(B) No court, state public defender, county or joint county 3442  
public defender, or other counsel appointed by the court shall 3443  
deny a person the assistance of counsel solely due to the person's 3444  
failure to pay the application fee assessed pursuant to division 3445  
(A) of this section. A person's present inability, failure, or 3446  
refusal to pay the application fee shall not disqualify that 3447  
person from legal representation. 3448

(C) The application fee assessed pursuant to division (A) of 3449  
this section is separate from and in addition to any other amount 3450  
assessed against a person who is found to be able to contribute 3451  
toward the cost of the person's legal representation pursuant to 3452  
division (D) of section 2941.51 of the Revised Code. 3453

(D) The clerk of the court that assessed the fees shall 3454  
forward all application fees collected pursuant to this section to 3455  
the county treasurer for deposit in the county treasury. The 3456  
county shall retain eighty per cent of the application fees so 3457  
collected to offset the costs of providing legal representation to 3458  
indigent persons. Each month, the county auditor shall remit 3459  
twenty per cent of the application fees so collected to the state 3460

public defender. The state public defender shall deposit the 3461  
remitted fees into the state treasury to the credit of the client 3462  
payment fund created pursuant to division (B)(5) of section 120.04 3463  
of the Revised Code. The state public defender may use that money 3464  
in accordance with that section. 3465

(E) On or before the first day of March of each year, each 3466  
clerk of court shall provide to the state public defender and the 3467  
state auditor a report including all of the following: 3468

(1) The number of persons in the previous calendar year who 3469  
requested or were provided a state public defender, county or 3470  
joint county public defender, or other counsel appointed by the 3471  
court; 3472

(2) The number of persons in the previous calendar year for 3473  
whom the court waived the application fee pursuant to division (A) 3474  
of this section; 3475

(3) The dollar value of the assessed application fees 3476  
pursuant to division (A) of this section in the previous calendar 3477  
year; 3478

(4) The amount of assessed application fees collected in the 3479  
previous calendar year; 3480

(5) The balance of unpaid assessed application fees at the 3481  
open and close of the previous calendar year. 3482

(F) As used in this section: 3483

(1) "Clerk of court" means the clerk of the court of common 3484  
pleas of the county, the clerk of the juvenile court of the 3485  
county, the clerk of a municipal court in the county, the clerk of 3486  
a county-operated municipal court, or the clerk of a county court 3487  
in the county, whichever is applicable. 3488

(2) "County-operated municipal court" has the same meaning as 3489  
in section 1901.03 of the Revised Code. 3490



Sec. 120.52. There is hereby established in the state 3491  
treasury the legal aid fund, which shall be for the charitable 3492  
public purpose of providing financial assistance to legal aid 3493  
societies that provide civil legal services to indigents. The fund 3494  
shall contain all funds credited to it by the treasurer of state 3495  
pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09 3496  
and 4705.10 of the Revised Code and income from investment 3497  
credited to it by the treasurer of state in accordance with this 3498  
section. 3499

The treasurer of state may invest moneys contained in the 3500  
legal aid fund in any manner authorized by the Revised Code for 3501  
the investment of state moneys. However, no such investment shall 3502  
interfere with any apportionment, allocation, or payment of moneys 3503  
in January and July of each calendar year, as required by section 3504  
120.53 of the Revised Code. All income earned as a result of any 3505  
such investment shall be credited to the fund. 3506

The state public defender, through the Ohio legal assistance 3507  
foundation, shall administer the payment of moneys out of the 3508  
fund. Four and one-half per cent of the moneys in the fund shall 3509  
be reserved for the actual, reasonable costs of administering 3510  
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3511  
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that 3512  
are reserved for administrative costs but that are not used for 3513  
actual, reasonable administrative costs shall be set aside for use 3514  
in the manner described in division (A) of section 120.521 of the 3515  
Revised Code. The remainder of the moneys in the legal aid fund 3516  
shall be distributed in accordance with section 120.53 of the 3517  
Revised Code. The Ohio legal assistance foundation shall 3518  
establish, in accordance with Chapter 119. of the Revised Code, 3519  
rules governing the administration of the legal aid fund, 3520  
~~including the program established under sections 4705.09 and~~ 3521

~~4705.10 of the Revised Code regarding interest on interest bearing 3522~~  
~~trust accounts of an attorney, law firm, or legal professional 3523~~  
~~association. 3524~~

**Sec. 120.53.** (A) A legal aid society that operates within the 3525  
state may apply to the Ohio legal assistance foundation for 3526  
financial assistance from the legal aid fund established by 3527  
section 120.52 of the Revised Code to be used for the funding of 3528  
the society during the calendar year following the calendar year 3529  
in which application is made. 3530

(B) An application for financial assistance made under 3531  
division (A) of this section shall be submitted by the first day 3532  
of November of the calendar year preceding the calendar year for 3533  
which financial assistance is desired and shall include all of the 3534  
following: 3535

(1) Evidence that the applicant is incorporated in this state 3536  
as a nonprofit corporation; 3537

(2) A list of the trustees of the applicant; 3538

(3) The proposed budget of the applicant for these funds for 3539  
the following calendar year; 3540

(4) A summary of the services to be offered by the applicant 3541  
in the following calendar year; 3542

(5) A specific description of the territory or constituency 3543  
served by the applicant; 3544

(6) An estimate of the number of persons to be served by the 3545  
applicant during the following calendar year; 3546

(7) A general description of the additional sources of the 3547  
applicant's funding; 3548

(8) The amount of the applicant's total budget for the 3549  
calendar year in which the application is filed that it will 3550

expend in that calendar year for legal services in each of the 3551  
counties it serves; 3552

(9) A specific description of any services, programs, 3553  
training, and legal technical assistance to be delivered by the 3554  
applicant or by another person pursuant to a contract with the 3555  
applicant, including, but not limited to, by private attorneys or 3556  
through reduced fee plans, judicare panels, organized pro bono 3557  
programs, and mediation programs. 3558

(C) The Ohio legal assistance foundation shall determine 3559  
whether each applicant that filed an application for financial 3560  
assistance under division (A) of this section in a calendar year 3561  
is eligible for financial assistance under this section. To be 3562  
eligible for such financial assistance, an applicant shall satisfy 3563  
the criteria for being a legal aid society and shall be in 3564  
compliance with the provisions of sections 120.51 to 120.55 of the 3565  
Revised Code and with the rules and requirements the foundation 3566  
establishes pursuant to section 120.52 of the Revised Code. The 3567  
Ohio legal assistance foundation then, on or before the fifteenth 3568  
day of December of the calendar year in which the application is 3569  
filed, shall notify each such applicant, in writing, whether it is 3570  
eligible for financial assistance under this section, and if it is 3571  
eligible, estimate the amount that will be available for that 3572  
applicant for each six-month distribution period, as determined 3573  
under division (D) of this section. 3574

(D) The Ohio legal assistance foundation shall allocate 3575  
moneys contained in the legal aid fund twice each year for 3576  
distribution to applicants that filed their applications in the 3577  
previous calendar year and were determined to be eligible 3578  
applicants. 3579

All moneys contained in the fund on the first day of January 3580  
of a calendar year shall be allocated, after deduction of the 3581

costs of administering sections 120.51 to 120.55 and sections 3582  
1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the 3583  
Revised Code that are authorized by section 120.52 of the Revised 3584  
Code, according to this section and shall be distributed 3585  
accordingly on the thirty-first day of January of that calendar 3586  
year, and all moneys contained in the fund on the first day of 3587  
July of that calendar year shall be allocated, after deduction of 3588  
the costs of administering those sections that are authorized by 3589  
section 120.52 of the Revised Code, according to this section and 3590  
shall be distributed accordingly on the thirty-first day of July 3591  
of that calendar year. In making the allocations under this 3592  
section, the moneys in the fund that were generated pursuant to 3593  
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 3594  
4705.10 of the Revised Code and all income generated from the 3595  
investment of such moneys shall be apportioned as follows: 3596

(1) After deduction of the amount authorized and used for 3597  
actual, reasonable administrative costs under section 120.52 of 3598  
the Revised Code: 3599

(a) Five per cent of the moneys remaining in the fund, ~~plus~~ 3600  
~~any moneys reserved for administrative costs under that section~~ 3601  
~~that are not used for actual, reasonable administrative costs,~~ 3602  
shall be reserved for use in the manner described in division (A) 3603  
of section 120.521 of the Revised Code or for distribution to 3604  
legal aid societies that provide assistance to special population 3605  
groups of their eligible clients, engage in special projects that 3606  
have a substantial impact on their local service area or on 3607  
significant segments of the state's poverty population, or provide 3608  
legal training or support to other legal aid societies in the 3609  
state; 3610

(b) After deduction of the amount described in division 3611  
(D)(1)(a) of this section, one and three-quarters per cent of the 3612  
moneys remaining in the fund shall be apportioned among entities 3613

that received financial assistance from the legal aid fund prior 3614  
to the effective date of this amendment but that, on and after the 3615  
effective date of this amendment, no longer qualify as a legal aid 3616  
society that is eligible for financial assistance under this 3617  
section. 3618

(c) After deduction of the amounts described in divisions 3619  
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 3620  
remaining in the fund shall be placed in the legal assistance 3621  
foundation fund for use in the manner described in division (A) of 3622  
section 120.521 of the Revised Code. 3623

(2) After deduction of the actual, reasonable administrative 3624  
costs under section 120.52 of the Revised Code and after deduction 3625  
of the amounts identified in ~~division~~ divisions (D)(1)(a) and, 3626  
(b), and (c) of this section, the remaining moneys shall be 3627  
apportioned among the counties that are served by eligible legal 3628  
aid societies that have applied for financial assistance under 3629  
this section so that each such county is apportioned a portion of 3630  
those moneys, based upon the ratio of the number of indigents who 3631  
reside in that county to the total number of indigents who reside 3632  
in all counties of this state that are served by eligible legal 3633  
aid societies that have applied for financial assistance under 3634  
this section. Subject to division (E) of this section, the moneys 3635  
apportioned to a county under this division then shall be 3636  
allocated to the eligible legal aid society that serves the county 3637  
and that has applied for financial assistance under this section. 3638  
For purposes of this division, the source of data identifying the 3639  
number of indigent persons who reside in a county shall be the 3640  
most recent decennial census figures from the United States 3641  
department of commerce, division of census. 3642

(E) If the Ohio legal assistance foundation, in attempting to 3643  
make an allocation of moneys under division (D)(2) of this 3644  
section, determines that a county that has been apportioned money 3645

under that division is served by more than one eligible legal aid 3646  
society that has applied for financial assistance under this 3647  
section, the Ohio legal assistance foundation shall allocate the 3648  
moneys that have been apportioned to that county under division 3649  
(D)(2) of this section among all eligible legal aid societies that 3650  
serve that county and that have applied for financial assistance 3651  
under this section on a pro rata basis, so that each such eligible 3652  
society is allocated a portion based upon the amount of its total 3653  
budget expended in the prior calendar year for legal services in 3654  
that county as compared to the total amount expended in the prior 3655  
calendar year for legal services in that county by all eligible 3656  
legal aidsocieties that serve that county and that have applied 3657  
for financial assistance under this section. 3658

(F) Moneys allocated to eligible applicants under this 3659  
section shall be paid twice annually, on the thirty-first day of 3660  
January and on the thirty-first day of July of the calendar year 3661  
following the calendar year in which the application is filed. 3662

(G)(1) A legal aid society that receives financial assistance 3663  
in any calendar year under this section shall file an annual 3664  
report with the Ohio legal assistance foundation detailing the 3665  
number and types of cases handled, and the amount and types of 3666  
legal training, legal technical assistance, and other service 3667  
provided, by means of that financial assistance. No information 3668  
contained in the report shall identify or enable the 3669  
identification of any person served by the legal aid society or in 3670  
any way breach client confidentiality. 3671

(2) The Ohio legal assistance foundation shall make an annual 3672  
report to the governor, the general assembly, and the supreme 3673  
court on the distribution and use of the legal aid fund. The 3674  
foundation also shall include in the annual report an audited 3675  
financial statement of all gifts, bequests, donations, 3676  
contributions, and other moneys the foundation receives. No 3677

information contained in the report shall identify or enable the 3678  
identification of any person served by a legal aid society, or in 3679  
any way breach confidentiality. 3680

(H) A legal aid society may enter into agreements for the 3681  
provision of services, programs, training, or legal technical 3682  
assistance for the legal aid society or to indigent persons. 3683

**Sec. 121.37.** (A)(1) There is hereby created the Ohio family 3684  
and children first cabinet council. The council shall be composed 3685  
of the superintendent of public instruction and the directors of 3686  
youth services, job and family services, mental health, health, 3687  
alcohol and drug addiction services, mental retardation and 3688  
developmental disabilities, and budget and management. The 3689  
chairperson of the council shall be the governor or the governor's 3690  
designee and shall establish procedures for the council's internal 3691  
control and management. 3692

(2) The purpose of the cabinet council is to help families 3693  
seeking government services. This section shall not be interpreted 3694  
or applied to usurp the role of parents, but solely to streamline 3695  
and coordinate existing government services for families seeking 3696  
assistance for their children. 3697

In seeking to fulfill its purpose, the council may do any of 3698  
the following: 3699

(a) Advise and make recommendations to the governor and 3700  
general assembly regarding the provision of services to children; 3701

(b) Advise and assess local governments on the coordination 3702  
of service delivery to children; 3703

(c) Hold meetings at such times and places as may be 3704  
prescribed by the council's procedures and maintain records of the 3705  
meetings, except that records identifying individual children are 3706  
confidential and shall be disclosed only as provided by law; 3707

- (d) Develop programs and projects, including pilot projects, 3708  
to encourage coordinated efforts at the state and local level to 3709  
improve the state's social service delivery system; 3710
- (e) Enter into contracts with and administer grants to county 3711  
family and children first councils, as well as other county or 3712  
multicounty organizations to plan and coordinate service delivery 3713  
between state agencies and local service providers for families 3714  
and children; 3715
- (f) Enter into contracts with and apply for grants from 3716  
federal agencies or private organizations; 3717
- (g) Enter into interagency agreements to encourage 3718  
coordinated efforts at the state and local level to improve the 3719  
state's social service delivery system. The agreements may include 3720  
provisions regarding the receipt, transfer, and expenditure of 3721  
funds; 3722
- (h) Identify public and private funding sources for services 3723  
provided to alleged or adjudicated unruly children and children 3724  
who are at risk of being alleged or adjudicated unruly children, 3725  
including regulations governing access to and use of the services; 3726
- (i) Collect information provided by local communities 3727  
regarding successful programs for prevention, intervention, and 3728  
treatment of unruly behavior, including evaluations of the 3729  
programs; 3730
- (j) Identify and disseminate publications regarding alleged 3731  
or adjudicated unruly children and children who are at risk of 3732  
being alleged or adjudicated unruly children and regarding 3733  
programs serving those types of children; 3734
- (k) Maintain an inventory of strategic planning facilitators 3735  
for use by government or nonprofit entities that serve alleged or 3736  
adjudicated unruly children or children who are at risk of being 3737



alleged or adjudicated unruly children. 3738

(3) The cabinet council shall provide for the following: 3739

(a) Reviews of service and treatment plans for children for 3740  
which such reviews are requested; 3741

(b) Assistance as the council determines to be necessary to 3742  
meet the needs of children referred by county family and children 3743  
first councils; 3744

(c) Monitoring and supervision of a statewide, comprehensive, 3745  
coordinated, multi-disciplinary, interagency system for infants 3746  
and toddlers with developmental disabilities or delays and their 3747  
families, as established pursuant to federal grants received and 3748  
administered by the department of health for early intervention 3749  
services under the "~~Education of the Handicapped Act Amendments of~~ 3750  
~~1986,~~" ~~100 Stat. 1145 (1986),~~ ~~20 U.S.C.A. 1471~~ Individuals with 3751  
Disabilities Education Act of 2004, 20 U.S.C.A. 1400, as amended. 3752

(B)(1) Each board of county commissioners shall establish a 3753  
county family and children first council. The board may invite any 3754  
local public or private agency or group that funds, advocates, or 3755  
provides services to children and families to have a 3756  
representative become a permanent or temporary member of its 3757  
county council. Each county council must include the following 3758  
individuals: 3759

(a) At least three individuals who are not employed by an 3760  
agency represented on the council and whose families are or have 3761  
received services from an agency represented on the council or 3762  
another county's council. Where possible, the number of members 3763  
representing families shall be equal to twenty per cent of the 3764  
council's membership. 3765

(b) The director of the board of alcohol, drug addiction, and 3766  
mental health services that serves the county, or, in the case of 3767

a county that has a board of alcohol and drug addiction services 3768  
and a community mental health board, the directors of both boards. 3769  
If a board of alcohol, drug addiction, and mental health services 3770  
covers more than one county, the director may designate a person 3771  
to participate on the county's council. 3772

(c) The health commissioner, or the commissioner's designee, 3773  
of the board of health of each city and general health district in 3774  
the county. If the county has two or more health districts, the 3775  
health commissioner membership may be limited to the commissioners 3776  
of the two districts with the largest populations. 3777

(d) The director of the county department of job and family 3778  
services; 3779

(e) The executive director of the ~~county agency responsible~~ 3780  
~~for the administration of~~ public children services ~~pursuant to~~ 3781  
~~section 5153.15 of the Revised Code~~ agency; 3782

(f) The superintendent of the county board of mental 3783  
retardation and developmental disabilities; 3784

(g) The county's juvenile court judge senior in service or 3785  
another judge of the juvenile court designated by the 3786  
administrative judge or, where there is no administrative judge, 3787  
by the judge senior in service; 3788

(h) The superintendent of the city, exempted village, or 3789  
local school district with the largest number of pupils residing 3790  
in the county, as determined by the department of education, which 3791  
shall notify each board of county commissioners of its 3792  
determination at least biennially; 3793

(i) A school superintendent representing all other school 3794  
districts with territory in the county, as designated at a 3795  
biennial meeting of the superintendents of those districts; 3796

(j) A representative of the municipal corporation with the 3797

largest population in the county; 3798

(k) The president of the board of county commissioners, or an individual designated by the board; 3799  
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(l) A representative of the regional office of the department of youth services; 3801  
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(m) A representative of the county's head start agencies, as defined in section ~~3301.31~~ 3301.32 of the Revised Code; 3803  
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(n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986"; 3805  
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(o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families. 3809  
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Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section. 3811  
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The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. The appeals process may be accessed only by a majority vote of the council members who are required to serve on the council. Upon appeal, the cabinet council may order that state funds for services to children and families be redirected to a county's board of county commissioners. 3817  
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(2) A The purpose of the county council is to streamline and coordinate existing government services for families seeking services for their children. In seeking to fulfill its purpose, a 3825  
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county council shall provide for the following: 3828

(a) Referrals to the cabinet council of those children for 3829  
whom the county council cannot provide adequate services; 3830

(b) Development and implementation of a process that annually 3831  
evaluates and prioritizes services, fills service gaps where 3832  
possible, and invents new approaches to achieve better results for 3833  
families and children; 3834

(c) Participation in the development of a countywide, 3835  
comprehensive, coordinated, multi-disciplinary, interagency system 3836  
for infants and toddlers with developmental disabilities or delays 3837  
and their families, as established pursuant to federal grants 3838  
received and administered by the department of health for early 3839  
intervention services under the "Education of the Handicapped Act 3840  
Amendments of 1986"; 3841

(d) Maintenance of an accountability system to monitor the 3842  
county council's progress in achieving results for families and 3843  
children; 3844

(e) Establishment of a mechanism to ensure ongoing input from 3845  
a broad representation of families who are receiving services 3846  
within the county system. 3847

(3)(a) Except as provided in division (B)(3)(b) of this 3848  
section, a county council shall comply with the policies, 3849  
procedures, and activities prescribed by the rules or interagency 3850  
agreements of a state department participating on the cabinet 3851  
council whenever the county council performs a function subject to 3852  
those rules or agreements. 3853

(b) On application of a county council, the cabinet council 3854  
may grant an exemption from any rules or interagency agreements of 3855  
a state department participating on the council if an exemption is 3856  
necessary for the council to implement an alternative program or 3857  
approach for service delivery to families and children. The 3858

application shall describe the proposed program or approach and 3859  
specify the rules or interagency agreements from which an 3860  
exemption is necessary. The cabinet council shall approve or 3861  
disapprove the application in accordance with standards and 3862  
procedures it shall adopt. If an application is approved, the 3863  
exemption is effective only while the program or approach is being 3864  
implemented, including a reasonable period during which the 3865  
program or approach is being evaluated for effectiveness. 3866

(4)(a) Each county council shall designate an administrative 3867  
agent for the council from among the following public entities: 3868  
the board of alcohol, drug addiction, and mental health services, 3869  
including a board of alcohol and drug addiction or a community 3870  
mental health board if the county is served by separate boards; 3871  
the board of county commissioners; any board of health of the 3872  
county's city and general health districts; the county department 3873  
of job and family services; the county agency responsible for the 3874  
administration of children services pursuant to section 5153.15 of 3875  
the Revised Code; the county board of mental retardation and 3876  
developmental disabilities; any of the county's boards of 3877  
education or governing boards of educational service centers; or 3878  
the county's juvenile court. Any of the foregoing public entities, 3879  
other than the board of county commissioners, may decline to serve 3880  
as the council's administrative agent. 3881

A county council's administrative agent shall serve as the 3882  
council's appointing authority for any employees of the council. 3883  
The council shall file an annual budget with its administrative 3884  
agent, with copies filed with the county auditor and with the 3885  
board of county commissioners, unless the board is serving as the 3886  
council's administrative agent. The council's administrative agent 3887  
shall ensure that all expenditures are handled in accordance with 3888  
policies, procedures, and activities prescribed by state 3889  
departments in rules or interagency agreements that are applicable 3890

to the council's functions. 3891

The administrative agent for a county council may do any of 3892  
the following on behalf of the council: 3893

(i) Enter into agreements or administer contracts with public 3894  
or private entities to fulfill specific council business. Such 3895  
agreements and contracts are exempt from the competitive bidding 3896  
requirements of section 307.86 of the Revised Code if they have 3897  
been approved by the county council and they are for the purchase 3898  
of family and child welfare or child protection services or other 3899  
social or job and family services for families and children. The 3900  
approval of the county council is not required to exempt 3901  
agreements or contracts entered into under section 5139.34, 3902  
5139.41, or 5139.43 of the Revised Code from the competitive 3903  
bidding requirements of section 307.86 of the Revised Code. 3904

(ii) As determined by the council, provide financial 3905  
stipends, reimbursements, or both, to family representatives for 3906  
expenses related to council activity; 3907

(iii) Receive by gift, grant, devise, or bequest any moneys, 3908  
lands, or other property for the purposes for which the council is 3909  
established. The agent shall hold, apply, and dispose of the 3910  
moneys, lands, or other property according to the terms of the 3911  
gift, grant, devise, or bequest. Any interest or earnings shall be 3912  
treated in the same manner and are subject to the same terms as 3913  
the gift, grant, devise, or bequest from which it accrues. 3914

(b)(i) If the county council designates the board of county 3915  
commissioners as its administrative agent, the board may, by 3916  
resolution, delegate any of its powers and duties as 3917  
administrative agent to an executive committee the board 3918  
establishes from the membership of the county council. The board 3919  
shall name to the executive committee at least the individuals 3920  
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 3921

section and may appoint the president of the board or another 3922  
individual as the chair of the executive committee. The executive 3923  
committee must include at least one family county council 3924  
representative who does not have a family member employed by an 3925  
agency represented on the council. 3926

(ii) The executive committee may, with the approval of the 3927  
board, hire an executive director to assist the county council in 3928  
administering its powers and duties. The executive director shall 3929  
serve in the unclassified civil service at the pleasure of the 3930  
executive committee. The executive director may, with the approval 3931  
of the executive committee, hire other employees as necessary to 3932  
properly conduct the county council's business. 3933

(iii) The board may require the executive committee to submit 3934  
an annual budget to the board for approval and may amend or repeal 3935  
the resolution that delegated to the executive committee its 3936  
authority as the county council's administrative agent. 3937

(5) Two or more county councils may enter into an agreement 3938  
to administer their county councils jointly by creating a regional 3939  
family and children first council. A regional council possesses 3940  
the same duties and authority possessed by a county council, 3941  
except that the duties and authority apply regionally rather than 3942  
to individual counties. Prior to entering into an agreement to 3943  
create a regional council, the members of each county council to 3944  
be part of the regional council shall meet to determine whether 3945  
all or part of the members of each county council will serve as 3946  
members of the regional council. 3947

(6) A board of county commissioners may approve a resolution 3948  
by a majority vote of the board's members that requires the county 3949  
council to submit a statement to the board each time the council 3950  
proposes to enter into an agreement, adopt a plan, or make a 3951  
decision, other than a decision pursuant to section 121.38 of the 3952  
Revised Code, that requires the expenditure of funds for two or 3953

more families. The statement shall describe the proposed 3954  
agreement, plan, or decision. 3955

Not later than fifteen days after the board receives the 3956  
statement, it shall, by resolution approved by a majority of its 3957  
members, approve or disapprove the agreement, plan, or decision. 3958  
Failure of the board to pass a resolution during that time period 3959  
shall be considered approval of the agreement, plan, or decision. 3960

An agreement, plan, or decision for which a statement is 3961  
required to be submitted to the board shall be implemented only if 3962  
it is approved by the board. 3963

(C) Each county shall develop a county service coordination 3964  
mechanism. The county service coordination mechanism shall serve 3965  
as the guiding document for coordination of services in the 3966  
county. For children who also receive services under the help me 3967  
grow program, the service coordination mechanism shall be 3968  
consistent with rules adopted by the department of health under 3969  
section 3701.61 of the Revised Code. All family service 3970  
coordination plans shall be developed in accordance with the 3971  
county service coordination mechanism. The mechanism shall be 3972  
developed and approved with the participation of the county 3973  
entities representing child welfare; mental retardation and 3974  
developmental disabilities; alcohol, drug addiction, and mental 3975  
health services; health; juvenile judges; education; the county 3976  
family and children first council; and the county early 3977  
intervention collaborative established pursuant to the federal 3978  
early intervention program operated under the "Education of the 3979  
Handicapped Act Amendments of 1986." The county shall establish an 3980  
implementation schedule for the mechanism. The cabinet council may 3981  
monitor the implementation and administration of each county's 3982  
service coordination mechanism. 3983

Each mechanism shall include all of the following: 3984



(1) ~~A procedure for assessing the needs of any child, including a child who is an abused, neglected, dependent, unruly, or delinquent child and under the jurisdiction of the juvenile court or a child whose parent or custodian is voluntarily seeking services an agency, including a juvenile court, or a family voluntarily seeking service coordination, to refer the child and family to the county council for service coordination in accordance with the county service coordination mechanism;~~ 3985  
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(2) A procedure ensuring that a family and all appropriate staff from involved agencies, including a representative from the appropriate school district, are notified of and invited to participate in all family service coordination plan meetings; 3993  
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(3) A procedure that permits a family to initiate a meeting to develop or review the family's service coordination plan and allows the family to invite a family advocate, mentor, or support person of the family's choice to participate in any such meeting; 3997  
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(4) A procedure for ensuring that a family service coordination plan meeting is conducted before a non-emergency out-of-home placement for all multi-need children, or within ten days of a placement for emergency placements of multi-need children. The family service coordination plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment. 4001  
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(5) A procedure for monitoring the progress and tracking the outcomes of each service coordination plan requested in the county including monitoring and tracking children in out-of-home placements to assure continued progress, appropriateness of placement, and continuity of care after discharge from placement with appropriate arrangements for housing, treatment, and education. 4009  
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(6) A procedure for protecting the confidentiality of all 4016  
personal family information disclosed during service coordination 4017  
meetings or contained in the comprehensive family service 4018  
coordination plan. 4019

(7) A procedure for assessing the ~~service~~ needs and strengths 4020  
of the ~~family of~~ any child or family that has been referred to the 4021  
council for service coordination, including a child ~~who is an~~ 4022  
~~abused, neglected, dependent, unruly, or delinquent child and~~ 4023  
~~under the jurisdiction of the juvenile court or a child whose~~ 4024  
parent or custodian is voluntarily seeking services, and for 4025  
ensuring that parents and custodians are afforded the opportunity 4026  
to participate; 4027

~~(3)~~(8) A procedure for development of a ~~comprehensive joint~~ 4028  
family service coordination plan described in division (D) of this 4029  
section; 4030

~~(4)~~(9) A local dispute resolution process to serve as the 4031  
process that must be used first to resolve disputes among the 4032  
agencies represented on the county council concerning the 4033  
provision of services to children, including children who are 4034  
abused, neglected, dependent, unruly, alleged unruly, or 4035  
delinquent children and under the jurisdiction of the juvenile 4036  
court and children whose parents or custodians are voluntarily 4037  
seeking services. The local dispute resolution process shall 4038  
comply with section 121.38 of the Revised Code. ~~The~~ The local 4039  
dispute resolution process shall be used to resolve disputes 4040  
between a child's parents or custodians and the county council 4041  
regarding service coordination. The county council shall inform 4042  
the parents or custodians of their right to use the dispute 4043  
resolution process. Parents or custodians shall use existing local 4044  
agency grievance procedures to address disputes not involving 4045  
service coordination. The dispute resolution process is in 4046  
addition to and does not replace other rights or procedures that 4047

parents or custodians may have under other sections of the Revised Code. 4048  
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The cabinet council shall adopt rules in accordance with 4050  
Chapter 119. of the Revised Code establishing an administrative 4051  
review process to address problems that arise concerning the 4052  
operation of a local dispute resolution process. 4053

Nothing in division (C)(4) of this section shall be 4054  
interpreted as overriding or affecting decisions of a juvenile 4055  
court regarding an out-of-home placement, long-term placement, or 4056  
emergency out-of-home placement. 4057

(D) Each county shall develop a comprehensive ~~joint~~ family 4058  
service coordination plan that does ~~both~~ all of the following: 4059

(1) Designates service responsibilities among the various 4060  
state and local agencies that provide services to children and 4061  
their families, including children who are abused, neglected, 4062  
dependent, unruly, or delinquent children and under the 4063  
jurisdiction of the juvenile court and children whose parents or 4064  
custodians are voluntarily seeking services; 4065

(2) Designates an individual, approved by the family, to 4066  
track the progress of the family service coordination plan, 4067  
schedule reviews as necessary, and facilitate the family service 4068  
coordination plan meeting process; 4069

(3) Ensures that assistance and services to be provided are 4070  
responsive to the strengths and needs of the family, as well as 4071  
the family's culture, race, and ethnic group, by allowing the 4072  
family to offer information and suggestions and participate in 4073  
decisions. Identified assistance and services shall be provided in 4074  
the least restrictive environment possible. 4075

(4) Includes a ~~service coordination~~ process for dealing with 4076  
a child who is alleged to be an unruly child. The ~~service~~ 4077  
~~coordination~~ process shall include methods to divert the child 4078

from the juvenile court system; 4079

(5) Includes timelines for completion of goals specified in 4080  
the plan with regular reviews scheduled to monitor progress toward 4081  
those goals; 4082

(6) Includes a plan for dealing with short-term crisis 4083  
situations and safety concerns. 4084

(E)(1) The ~~service coordination~~ process provided for under 4085  
division (D)~~(2)~~(4) of this section may include, but is not limited 4086  
to, the following: 4087

~~(a) An assessment of the needs and strengths of the child and~~ 4088  
~~the child's family and the services the child and the child's~~ 4089  
~~family need;~~ 4090

~~(b)~~ Designation of the person or agency to conduct the 4091  
assessment of the child and the child's family as described in 4092  
division ~~(E)(1)(a)~~(C)(7) of this section and designation of the 4093  
instrument or instruments to be used to conduct the assessment; 4094

~~(c) Designation of the agency to provide case management~~ 4095  
~~services to the child and to the child's family;~~ 4096

~~(d)~~(b) An emphasis on the personal responsibilities of the 4097  
child and the parental responsibilities of the parents, guardian, 4098  
or custodian of the child; 4099

~~(e)~~(c) Involvement of local law enforcement agencies and 4100  
officials. 4101

(2) The method to divert a child from the juvenile court 4102  
system that must be included in the service coordination process 4103  
may include, but is not limited to, the following: 4104

(a) The preparation of a complaint under section 2151.27 of 4105  
the Revised Code alleging that the child is an unruly child and 4106  
notifying the child and the parents, guardian, or custodian that 4107  
the complaint has been prepared to encourage the child and the 4108

parents, guardian, or custodian to comply with other methods to  
divert the child from the juvenile court system;

(b) Conducting a meeting with the child, the parents,  
guardian, or custodian, and other interested parties to determine  
the appropriate methods to divert the child from the juvenile  
court system;

~~(c) A method for dealing with short term crisis situations  
involving a confrontation between the child and the parents,  
guardian, or custodian;~~

~~(d)~~ A method to provide to the child and the child's family a  
short-term respite from a short-term crisis situation involving a  
confrontation between the child and the parents, guardian, or  
custodian;

~~(e)~~(d) A program to provide a mentor to the child or the  
parents, guardian, or custodian;

~~(f)~~(e) A program to provide parenting education to the  
parents, guardian, or custodian;

~~(g)~~(f) An alternative school program for children who are  
truant from school, repeatedly disruptive in school, or suspended  
or expelled from school;

~~(h)~~(g) Other appropriate measures, including, but not limited  
to, any alternative methods to divert a child from the juvenile  
court system that are identified by the Ohio family and children  
first cabinet council.

(F) Each county may review and revise the service  
coordination process described in division (D)~~(2)~~ of this section  
based on the availability of funds under Title IV-A of the "Social  
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended,  
or to the extent resources are available from any other federal,  
state, or local funds.

Sec. 121.373. There is hereby created in the state treasury 4139  
the family and children first administration fund. The fund shall 4140  
consist of money that the director of budget and management 4141  
transfers from one or more funds of one or more agencies 4142  
represented on the Ohio family and children first cabinet council. 4143  
The director may transfer only money that state or federal law 4144  
permits to be used for the cabinet council's administrative costs. 4145  
Money in the fund shall be used to pay the cabinet council's 4146  
administrative costs. 4147

**Sec. 121.38.** (A) An agency represented on a county family and 4148  
children first council that disagrees with the council's decision 4149  
concerning the services or funding for services a child is to 4150  
receive from agencies represented on the council may initiate the 4151  
local dispute resolution process established in the county service 4152  
coordination mechanism applicable to the council. On completion of 4153  
the process, the decision maker designated in the mechanism shall 4154  
issue a written determination that directs one or more agencies 4155  
represented on the council to provide services or funding for 4156  
services to the child. The determination shall include a plan of 4157  
care governing the manner in which the services or funding are to 4158  
be provided. The decision maker shall base the plan of care on the 4159  
~~comprehensive joint~~ family service coordination plan developed as 4160  
part of the county's service coordination mechanism and on 4161  
evidence presented during the local dispute resolution process. 4162  
The decision maker may require an agency to provide services or 4163  
funding only if the child's condition or needs qualify the child 4164  
for services under the laws governing the agency. 4165

(B) An agency subject to a determination issued pursuant to a 4167  
local dispute resolution process shall immediately comply with the 4168  
determination, unless the agency objects to the determination by 4169

doing one of the following not later than seven days after the  
date the written determination is issued:

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(1) If the child has been alleged or adjudicated to be an  
abused, neglected, dependent, unruly, or delinquent child or a  
juvenile traffic offender, filing in the juvenile court of the  
county having jurisdiction over the child's case a motion  
requesting that the court hold a hearing to determine which  
agencies are to provide services or funding for services to the  
child.

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(2) If the child is not a child described in division (B)(1)  
of this section, filing in the juvenile court of the county served  
by the county council a complaint objecting to the determination.

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The court shall hold a hearing as soon as possible, but not  
later than ninety days after the motion or complaint is filed. At  
least five days before the date on which the court hearing is to  
be held, the court shall send each agency subject to the  
determination written notice by first class mail of the date,  
time, place, and purpose of the court hearing. In the case of a  
motion filed under division (B)(1) of this section, the court may  
conduct the hearing as part of the adjudicatory or dispositional  
hearing concerning the child, if appropriate, and shall provide  
notice as required for those hearings.

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Except in cases in which the hearing is conducted as part of  
the adjudicatory or dispositional hearing, a hearing held pursuant  
to this division shall be limited to a determination of which  
agencies are to provide services or funding for services to the  
child. At the conclusion of the hearing, the court shall issue an  
order directing one or more agencies represented on the county  
council to provide services or funding for services to the child.  
The order shall include a plan of care governing the manner in  
which the services or funding are to be provided. The court shall

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base the plan of care on the ~~comprehensive joint~~ family service 4201  
coordination plan developed as part of the county's service 4202  
coordination plan and on evidence presented during the hearing. An 4203  
agency required by the order to provide services or funding shall 4204  
be a party to any juvenile court proceeding concerning the child. 4205  
The court may require an agency to provide services or funding for 4206  
a child only if the child's condition or needs qualify the child 4207  
for services under the laws governing the agency. 4208

(C) While the local dispute resolution process or court 4209  
proceedings pursuant to this section are pending, each agency 4210  
shall provide services and funding as required by the decision 4211  
made by the county council before dispute resolution was 4212  
initiated. If an agency that provides services or funds during the 4213  
local dispute resolution process or court proceedings is 4214  
determined through the process or proceedings not to be 4215  
responsible for providing them, it shall be reimbursed for the 4216  
costs of providing the services or funding by the agencies 4217  
determined to be responsible for providing them. 4218

Sec. 121.381. A parent or custodian who disagrees with a 4219  
decision rendered by a county family and children first council 4220  
regarding services for a child may initiate the dispute resolution 4221  
process established in the county service coordination mechanism 4222  
pursuant to division (C)(10) of section 121.37 of the Revised 4223  
Code. 4224

Not later than sixty days after the parent or custodian 4225  
initiates the dispute resolution process, the council shall make 4226  
findings regarding the dispute and issue a written determination 4227  
of its findings. 4228

Sec. 121.382. Each agency represented on a county family and 4229  
children first council that is providing services or funding for 4230



services that are the subject of the dispute resolution process 4231  
initiated by a parent or custodian under section 121.381 of the 4232  
Revised Code shall continue to provide those services and the 4233  
funding for those services during the dispute resolution process. 4234

**Sec. 121.403.** (A) The Ohio community service council may do 4235  
any of the following: 4236

(1) Accept monetary gifts or donations; 4237

(2) Sponsor conferences, meetings, or events in furtherance 4238  
of the council's purpose described in section 121.40 of the 4239  
Revised Code and charge fees for participation or involvement in 4240  
the conferences, meetings, or events; 4241

(3) Sell promotional items in furtherance of the council's 4242  
purpose described in section 121.40 of the Revised Code. 4243

(B) All monetary gifts and donations, funds from the sale of 4244  
promotional items, and any fees paid to the council for 4245  
conferences, meetings, or events sponsored by the council shall be 4246  
deposited into the Ohio community service council gifts and 4247  
donations fund, which is hereby created in the state treasury. 4248  
Moneys in the fund may be used only as follows: 4249

(1) To pay operating expenses of the council, including 4250  
payroll, personal services, maintenance, equipment, and subsidy 4251  
payments; 4252

(2) To support council programs promoting volunteerism and 4253  
community service in the state; 4254

(3) As matching funds for federal grants. 4255

**Sec. 122.011.** (A) The department of development shall develop 4256  
and promote plans and programs designed to assure that state 4257  
resources are efficiently used, economic growth is properly 4258

balanced, community growth is developed in an orderly manner, and 4259  
local governments are coordinated with each other and the state, 4260  
and for such purposes may do all of the following: 4261

(1) Serve as a clearinghouse for information, data, and other 4262  
materials that may be helpful or necessary to persons or local 4263  
governments, as provided in section 122.07 of the Revised Code; 4264

(2) Prepare and activate plans for the retention, 4265  
development, expansion, and use of the resources and commerce of 4266  
the state, as provided in section 122.04 of the Revised Code; 4267

(3) Assist and cooperate with federal, state, and local 4268  
governments and agencies of federal, state, and local governments 4269  
in the coordination of programs to carry out the functions and 4270  
duties of the department; 4271

(4) Encourage and foster research and development activities, 4272  
conduct studies related to the solution of community problems, and 4273  
develop recommendations for administrative or legislative actions, 4274  
as provided in section 122.03 of the Revised Code; 4275

(5) Serve as the economic and community development planning 4276  
agency, which shall prepare and recommend plans and programs for 4277  
the orderly growth and development of this state and which shall 4278  
provide planning assistance, as provided in section 122.06 of the 4279  
Revised Code; 4280

(6) Cooperate with and provide technical assistance to state 4281  
departments, political subdivisions, regional and local planning 4282  
commissions, tourist associations, councils of government, 4283  
community development groups, community action agencies, and other 4284  
appropriate organizations for carrying out the functions and 4285  
duties of the department or for the solution of community 4286  
problems; 4287

(7) Coordinate the activities of state agencies that have an 4288  
impact on carrying out the functions and duties of the department; 4289

(8) Encourage and assist the efforts of and cooperate with local governments to develop mutual and cooperative solutions to their common problems that relate to carrying out the purposes of this section;

(9) Study existing structure, operations, and financing of regional or local government and those state activities that involve significant relations with regional or local governmental units, recommend to the governor and to the general assembly such changes in these provisions and activities as will improve the operations of regional or local government, and conduct other studies of legal provisions that affect problems related to carrying out the purposes of this section;

(10) Create and operate a division of community development to develop and administer programs and activities that are authorized by federal statute or the Revised Code;

(11) Until October 15, ~~2005~~ 2007, establish fees and charges, in consultation with the director of agriculture, for purchasing loans from financial institutions and providing loan guarantees under the family farm loan program created under sections 901.80 to 901.83 of the Revised Code;

(12) Provide loan servicing for the loans purchased and loan guarantees provided under section 901.80 of the Revised Code as that section existed prior to October 15, ~~2005~~ 2007;

(13) Until October 15, ~~2005~~ 2007, and upon approval by the controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

(B) The director of development may request the attorney

general to, and the attorney general, in accordance with section 4321  
109.02 of the Revised Code, shall bring a civil action in any 4322  
court of competent jurisdiction. The director may be sued in the 4323  
director's official capacity, in connection with this chapter, in 4324  
accordance with Chapter 2743. of the Revised Code. 4325

Sec. 122.075. (A) As used in this section: 4326

(1) "Alternative fuel" means blended biodiesel or blended 4327  
gasoline. 4328

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 4329  
fuel that is derived from vegetable oils or animal fats, or any 4330  
combination of those reagents, and that meets American society for 4331  
testing and materials specification D6751-03a for biodiesel fuel 4332  
(B100) blend stock distillate fuels. 4333

(3) "Diesel fuel" and "gasoline" have the same meanings as in 4334  
section 5735.01 of the Revised Code. 4335

(4) "Ethanol" has the same meaning as in section 5733.46 of 4336  
the Revised Code. 4337

(5) "Blended biodiesel" means diesel fuel containing at least 4338  
twenty per cent biodiesel by volume. 4339

(6) "Blended gasoline" means gasoline containing at least 4340  
eighty-five per cent ethanol by volume. 4341

(7) "Incremental cost" means either of the following: 4342

(a) The difference in cost between blended gasoline and 4343  
gasoline containing ten per cent or less ethanol at the time that 4344  
the blended gasoline is purchased; 4345

(b) The difference in cost between blended biodiesel and 4346  
diesel fuel containing two per cent or less biodiesel at the time 4347  
that the blended biodiesel is purchased. 4348

(B) For the purpose of improving the air quality in this 4349

state, the director of development shall establish an alternative fuel transportation grant program under which the director may make grants to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling facilities and for the purchase and use of alternative fuel.

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(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of the alternative fuel transportation grant program. The rules shall establish at least all of the following:

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(1) An application form and procedures governing the application process for a grant under the program;

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(2) A procedure for prioritizing the award of grants under the program;

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(3) A requirement that the maximum grant for the purchase and installation of an alternative fuel refueling facility be no more than fifty per cent of the cost of the facility;

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(4) A requirement that the maximum grant for the purchase of alternative fuel be no more than fifty per cent of the incremental cost of the fuel;

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(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program.

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(D) There is hereby created in the state treasury the alternative fuel transportation grant fund. The fund shall consist of money as may be specified by the general assembly from the energy efficiency revolving loan fund created by section 4928.61 of the Revised Code. Money in the fund shall be used to make grants under the alternative fuel transportation grant program and by the director in the administration of that program.

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**Sec. 122.083.** (A) The director of development shall

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administer a shovel ready sites program to provide grants for 4380  
projects to port authorities and development entities approved by 4381  
the director. Grants may be used to pay the costs of any or all of 4382  
the following: 4383

(1) Acquisition of property, including options; 4384

(2) Preparation of sites, including brownfield clean-up 4385  
activities; 4386

(3) Construction of road, water, telecommunication, and 4387  
utility infrastructure; 4388

(4) Payment of professional fees the amount of which shall 4389  
not exceed twenty per cent of the grant amount for a project. 4390

(B) The director shall adopt rules in accordance with Chapter 4391  
119. of the Revised Code that establish procedures and 4392  
requirements necessary for the administration of the program, 4393  
including a requirement that a recipient of a grant enter into an 4394  
agreement with the director governing the use of the grant. 4395

(C) There is hereby created in the state treasury the shovel 4396  
ready sites fund consisting of money appropriated to it. Money in 4397  
the fund shall be used solely for the purposes of this section. 4398

**Sec. 122.12.** As used in this section and in section 122.121 4399  
of the Revised Code: 4400

(A) "Direct costs" means total administrative operations 4401  
spending plus total visitor spending. 4402

(B) "Eligible event" means an event that meets all of the 4403  
following criteria: 4404

(1) It is held for a period not to exceed seven consecutive 4405  
days. 4406

(2) It is either an amateur sporting event not regularly held 4407

in this state or a professional sporting event not affiliated 4408  
exclusively with a franchise of the national football league, 4409  
major league baseball, the national basketball association, the 4410  
national hockey league, or major league soccer. 4411

(3) It is administered or managed by a sports commission or 4412  
convention and visitors bureau domiciled in this state. 4413

(C) "Sports commission" means a nonprofit corporation 4414  
organized under the laws of this state that is entitled to tax 4415  
exempt status under section 501(c)(3), 501(c)(4), or 501(c)(6) of 4416  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 4417  
501, as amended, and whose function is to attract, promote, or 4418  
sponsor sports and athletic events within a municipal corporation, 4419  
township, or county. 4420

(D) "Total administrative operations spending" means the 4421  
total amount of administrative costs related to conducting an 4422  
eligible event by a sports commission or convention and visitors 4423  
bureau as estimated in a grant application submitted under section 4424  
122.121 of the Revised Code. 4425

(E) "Total visitor spending" means the number of attendees of 4426  
an eligible event from outside this state as estimated in a grant 4427  
application submitted under section 122.121 of the Revised Code 4428  
multiplied by the number of days the eligible event is to take 4429  
place and then multiplied by one hundred fifty dollars. 4430

**Sec. 122.121.** (A) The director of development shall approve 4431  
grants in accordance with this section for the purpose of 4432  
providing financial assistance to eligible events from money 4433  
appropriated for that purpose. An applicant for a grant under this 4434  
section shall submit an application to the director on a form and 4435  
in a manner prescribed by the director. An application shall 4436  
include estimates of total administrative operations spending and 4437

the total number of persons from outside this state that are 4438  
expected to attend the eligible event. Not later than thirty days 4439  
after receipt of an application, the director shall approve or 4440  
disapprove the application in accordance with procedures 4441  
established by the director. The director shall not approve an 4442  
application until the applicant has submitted a formal letter of 4443  
commitment from the organizer of the eligible event for which the 4444  
application was submitted. If a grant application is approved, the 4445  
grant money shall be paid directly to the sports commission or 4446  
convention and visitors bureau that applied for the grant. 4447

(B) Grants approved by the director shall comply with all of 4448  
the following requirements: 4449

(1) No one sports commission or convention and visitors 4450  
bureau shall receive more than forty per cent of the total money 4451  
awarded in grants in any given calendar year. 4452

(2) No one eligible event shall receive more than thirty per 4453  
cent of the total money awarded in grants in any given calendar 4454  
year. 4455

(3) A grant for an eligible event shall comprise not more 4456  
than two per cent of the direct costs associated with conducting 4457  
the eligible event or, if the eligible event is or is scheduled to 4458  
be televised nationally, not more than two and one-half per cent 4459  
of the direct costs associated with conducting the eligible event. 4460

(4) Money from a grant awarded under this section shall not 4461  
be spent on costs other than costs associated with marketing, 4462  
eligible event operations, facility costs, and any bid fee or 4463  
financial guarantee that is required to secure the eligible event. 4464

(C) The director may request a sports commission or 4465  
convention and visitors bureau to submit the results of the most 4466  
recent audit of the sports commission or bureau, if available. 4467



(D) Not later than ninety days after an eligible event for 4468  
which a grant has been issued under this section has been 4469  
conducted, the sports commission or convention and visitors bureau 4470  
that received the grant shall submit a report to the director in a 4471  
form and manner prescribed by the director detailing attendance 4472  
statistics, spending receipts, and any other information that is 4473  
determined to be necessary by the director. 4474

**Sec. 122.17.** (A) As used in this section: 4475

(1) "Full-time employee" means an individual who is employed 4476  
for consideration for at least thirty-five hours a week, or who 4477  
renders any other standard of service generally accepted by custom 4478  
or specified by contract as full-time employment. 4479

(2) "New employee" means one of the following: 4480

(a) A full-time employee first employed by a taxpayer in the 4481  
project that is the subject of the agreement after the taxpayer 4482  
enters into a tax credit agreement with the tax credit authority 4483  
under this section; 4484

(b) A full-time employee first employed by a taxpayer in the 4485  
project that is the subject of the tax credit after the tax credit 4486  
authority approves a project for a tax credit under this section 4487  
in a public meeting, as long as the taxpayer enters into the tax 4488  
credit agreement prepared by the department of development after 4489  
such meeting within sixty days after receiving the agreement from 4490  
the department. If the taxpayer fails to enter into the agreement 4491  
within sixty days, "new employee" has the same meaning as under 4492  
division (A)(2)(a) of this section. 4493

Under division (A)(2)(a) or (b) of this section, if the tax 4494  
credit authority determines it appropriate, "new employee" also 4495  
may include an employee re-hired or called back from lay-off to 4496  
work in a new facility or on a new product or service established 4497

or produced by the taxpayer after entering into the agreement 4498  
under this section or after the tax credit authority approves the 4499  
tax credit in a public meeting. Except as otherwise provided in 4500  
this paragraph, "new employee" does not include any employee of 4501  
the taxpayer who was previously employed in this state by a 4502  
related member of the taxpayer and whose employment was shifted to 4503  
the taxpayer after the taxpayer entered into the tax credit 4504  
agreement or after the tax credit authority approved the credit in 4505  
a public meeting, or any employee of the taxpayer for which the 4506  
taxpayer has been granted a certificate under division (B) of 4507  
section 5709.66 of the Revised Code. However, if the taxpayer is 4508  
engaged in the enrichment and commercialization of uranium or 4509  
uranium products or is engaged in research and development 4510  
activities related thereto and if the tax credit authority 4511  
determines it appropriate, "new employee" may include an employee 4512  
of the taxpayer who was previously employed in this state by a 4513  
related member of the taxpayer and whose employment was shifted to 4514  
the taxpayer after the taxpayer entered into the tax credit 4515  
agreement or after the tax credit authority approved the credit in 4516  
a public meeting. "New employee" does not include an employee of 4517  
the taxpayer who is employed in an employment position that was 4518  
relocated to a project from other operations of the taxpayer in 4519  
this state or from operations of a related member of the taxpayer 4520  
in this state. In addition, "new employee" does not include a 4521  
child, grandchild, parent, or spouse, other than a spouse who is 4522  
legally separated from the individual, of any individual who is an 4523  
employee of the taxpayer and who has a direct or indirect 4524  
ownership interest of at least five per cent in the profits, 4525  
capital, or value of the taxpayer. Such ownership interest shall 4526  
be determined in accordance with section 1563 of the Internal 4527  
Revenue Code and regulations prescribed thereunder. 4528

(3) "New income tax revenue" means the total amount withheld 4529

under section 5747.06 of the Revised Code by the taxpayer during 4530  
the taxable year, or during the calendar year that includes the 4531  
tax period, from the compensation of new employees for the tax 4532  
levied under Chapter 5747. of the Revised Code. 4533

(4) "Related member" has the same meaning as under division 4534  
(A)(6) of section 5733.042 of the Revised Code without regard to 4535  
division (B) of that section. 4536

(B) The tax credit authority may make grants under this 4537  
section to foster job creation in this state. Such a grant shall 4538  
take the form of a refundable credit allowed against the tax 4539  
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 4540  
under Chapter 5751. of the Revised Code. The credit shall be 4541  
claimed for the taxable years or tax periods specified in the 4542  
taxpayer's agreement with the tax credit authority under division 4543  
(D) of this section. The credit shall be claimed ~~after the~~ 4544  
~~allowance of all other credits provided by Chapter 5733. or 5747.~~ 4545  
in the order required under section 5733.98, 5747.98, or 5751.98 4546  
of the Revised Code. The amount of the credit available for a 4547  
taxable year or for a calendar year that includes a tax period 4548  
equals the new income tax revenue for ~~the taxable that~~ year 4549  
multiplied by the percentage specified in the agreement with the 4550  
tax credit authority. Any credit granted under this section 4551  
against the tax imposed by section 5733.06 or 5747.02 of the 4552  
Revised Code, to the extent not fully utilized against such tax 4553  
for taxable years ending prior to 2008, shall automatically be 4554  
converted without any action taken by the tax credit authority to 4555  
a credit against the tax levied under Chapter 5751. of the Revised 4556  
Code for tax periods beginning on or after July 1, 2008, provided 4557  
that the person to whom the credit was granted is subject to such 4558  
tax. The converted credit shall apply to those calendar years in 4559  
which the remaining taxable years specified in the agreement end. 4560

(C) A taxpayer or potential taxpayer who proposes a project 4561

to create new jobs in this state may apply to the tax credit 4562  
authority to enter into an agreement for a tax credit under this 4563  
section. The director of development shall prescribe the form of 4564  
the application. After receipt of an application, the authority 4565  
may enter into an agreement with the taxpayer for a credit under 4566  
this section if it determines all of the following: 4567

(1) The taxpayer's project will create new jobs in this 4568  
state; 4569

(2) The taxpayer's project is economically sound and will 4570  
benefit the people of this state by increasing opportunities for 4571  
employment and strengthening the economy of this state; 4572

(3) Receiving the tax credit is a major factor in the 4573  
taxpayer's decision to go forward with the project. 4574

(D) An agreement under this section shall include all of the 4575  
following: 4576

(1) A detailed description of the project that is the subject 4577  
of the agreement; 4578

(2) The term of the tax credit, which shall not exceed 4579  
fifteen years, and the first taxable year, or first calendar year 4580  
that includes a tax period, for which the credit may be claimed; 4581

(3) A requirement that the taxpayer shall maintain operations 4582  
at the project location for at least twice the number of years as 4583  
the term of the tax credit; 4584

(4) The percentage, as determined by the tax credit 4585  
authority, of new income tax revenue that will be allowed as the 4586  
amount of the credit for each taxable year or for each calendar 4587  
year that includes a tax period; 4588

(5) A specific method for determining how many new employees 4589  
are employed during a taxable year or during a calendar year that 4590  
includes a tax period; 4591

(6) A requirement that the taxpayer annually shall report to 4592  
the director of development the number of new employees, the new 4593  
income tax revenue withheld in connection with the new employees, 4594  
and any other information the director needs to perform the 4595  
director's duties under this section; 4596

(7) A requirement that the director of development annually 4597  
shall verify the amounts reported under division (D)(6) of this 4598  
section, and after doing so shall issue a certificate to the 4599  
taxpayer stating that the amounts have been verified; 4600

(8)(a) A provision requiring that the taxpayer, except as 4601  
otherwise provided in division (D)(8)(b) of this section, shall 4602  
not relocate employment positions from elsewhere in this state to 4603  
the project site that is the subject of the agreement for the 4604  
lesser of five years from the date the agreement is entered into 4605  
or the number of years the taxpayer is entitled to claim the tax 4606  
credit. 4607

(b) The taxpayer may relocate employment positions from 4608  
elsewhere in this state to the project site that is the subject of 4609  
the agreement if the director of development determines both of 4610  
the following: 4611

(i) That the site from which the employment positions would 4612  
be relocated is inadequate to meet market and industry conditions, 4613  
expansion plans, consolidation plans, or other business 4614  
considerations affecting the taxpayer; 4615

(ii) That the legislative authority of the county, township, 4616  
or municipal corporation from which the employment positions would 4617  
be relocated has been notified of the relocation. 4618

For purposes of this section, the movement of an employment 4619  
position from one political subdivision to another political 4620  
subdivision shall be considered a relocation of an employment 4621  
position, but the transfer of an individual employee from one 4622

political subdivision to another political subdivision shall not  
be considered a relocation of an employment position as long as  
the individual's employment position in the first political  
subdivision is refilled.

(E) If a taxpayer fails to meet or comply with any condition  
or requirement set forth in a tax credit agreement, the tax credit  
authority may amend the agreement to reduce the percentage or term  
of the tax credit. The reduction of the percentage or term shall  
take effect in the taxable year immediately following the taxable  
year in which the authority amends the agreement or in the first  
tax period beginning in the calendar year immediately following  
the calendar year in which the authority amends the agreement. If  
the taxpayer relocates employment positions in violation of the  
provision required under division (D)(8)(a) of this section, the  
taxpayer shall not claim the tax credit under section 5733.0610 of  
the Revised Code for any tax years following the calendar year in  
which the relocation occurs, or shall not claim the tax credit  
under section 5725.32, 5729.032, or 5747.058 of the Revised Code  
for the taxable year in which the relocation occurs and any  
subsequent taxable years, and shall not claim the tax credit under  
division (A) of section 5751.50 of the Revised Code for any tax  
period in the calendar year in which the relocation occurs and any  
subsequent tax periods.

(F) Projects that consist solely of point-of-final-purchase  
retail facilities are not eligible for a tax credit under this  
section. If a project consists of both point-of-final-purchase  
retail facilities and nonretail facilities, only the portion of  
the project consisting of the nonretail facilities is eligible for  
a tax credit and only the new income tax revenue from new  
employees of the nonretail facilities shall be considered when  
computing the amount of the tax credit. If a warehouse facility is  
part of a point-of-final-purchase retail facility and supplies

only that facility, the warehouse facility is not eligible for a 4655  
tax credit. Catalog distribution centers are not considered 4656  
point-of-final-purchase retail facilities for the purposes of this 4657  
division, and are eligible for tax credits under this section. 4658

(G) Financial statements and other information submitted to 4659  
the department of development or the tax credit authority by an 4660  
applicant or recipient of a tax credit under this section, and any 4661  
information taken for any purpose from such statements or 4662  
information, are not public records subject to section 149.43 of 4663  
the Revised Code. However, the chairperson of the authority may 4664  
make use of the statements and other information for purposes of 4665  
issuing public reports or in connection with court proceedings 4666  
concerning tax credit agreements under this section. Upon the 4667  
request of the tax commissioner or, if the applicant or recipient 4668  
is an insurance company, upon the request of the superintendent of 4669  
insurance, the chairperson of the authority shall provide to the 4670  
commissioner or superintendent any statement or information 4671  
submitted by an applicant or recipient of a tax credit in 4672  
connection with the credit. The commissioner or superintendent 4673  
shall preserve the confidentiality of the statement or 4674  
information. 4675

(H) A taxpayer claiming a credit under this section shall 4676  
submit to the tax commissioner or, if the taxpayer is an insurance 4677  
company, to the superintendent of insurance, a copy of the 4678  
director of development's certificate of verification under 4679  
division (D)(7) of this section for the taxable year or for the 4680  
calendar year that includes the tax period. However, failure to 4681  
submit a copy of the certificate does not invalidate a claim for a 4682  
credit. 4683

(I) The director of development, after consultation with the 4684  
tax commissioner and the superintendent of insurance and in 4685  
accordance with Chapter 119. of the Revised Code, shall adopt 4686

rules necessary to implement this section. The rules may provide 4687  
for recipients of tax credits under this section to be charged 4688  
fees to cover administrative costs of the tax credit program. At 4689  
the time the director gives public notice under division (A) of 4690  
section 119.03 of the Revised Code of the adoption of the rules, 4691  
the director shall submit copies of the proposed rules to the 4692  
chairpersons of the standing committees on economic development in 4693  
the senate and the house of representatives. 4694

(J) For the purposes of this section, a taxpayer may include 4695  
a partnership, a corporation that has made an election under 4696  
subchapter S of chapter one of subtitle A of the Internal Revenue 4697  
Code, or any other business entity through which income flows as a 4698  
distributive share to its owners. A credit received under this 4699  
section by a partnership, S-corporation, or other such business 4700  
entity shall be apportioned among the persons to whom the income 4701  
or profit of the partnership, S-corporation, or other entity is 4702  
distributed, in the same proportions as those in which the income 4703  
or profit is distributed. 4704

(K) If the director of development determines that a taxpayer 4705  
who has received a credit under this section is not complying with 4706  
the requirement under division (D)(3) of this section, the 4707  
director shall notify the tax credit authority of the 4708  
noncompliance. After receiving such a notice, and after giving the 4709  
taxpayer an opportunity to explain the noncompliance, the tax 4710  
credit authority may require the taxpayer to refund to this state 4711  
a portion of the credit in accordance with the following: 4712

(1) If the taxpayer maintained operations at the project 4713  
location for at least one and one-half times the number of years 4714  
of the term of the tax credit, an amount not exceeding twenty-five 4715  
per cent of the sum of any previously allowed credits under this 4716  
section; 4717

(2) If the taxpayer maintained operations at the project 4718



location for at least the number of years of the term of the tax 4719  
credit, an amount not exceeding fifty per cent of the sum of any 4720  
previously allowed credits under this section; 4721

(3) If the taxpayer maintained operations at the project 4722  
location for less than the number of years of the term of the tax 4723  
credit, an amount not exceeding one hundred per cent of the sum of 4724  
any previously allowed credits under this section. 4725

In determining the portion of the tax credit to be refunded 4726  
to this state, the tax credit authority shall consider the effect 4727  
of market conditions on the taxpayer's project and whether the 4728  
taxpayer continues to maintain other operations in this state. 4729  
After making the determination, the authority shall certify the 4730  
amount to be refunded to the tax commissioner or superintendent of 4731  
insurance, as appropriate. ~~The~~ If the amount is certified to the 4732  
commissioner, the commissioner shall make an assessment for that 4733  
amount against the taxpayer under Chapter 5733. ~~or, 5747., or~~ 4734  
5751. of the Revised Code. If the amount is certified to the 4735  
superintendent, the superintendent shall make an assessment for 4736  
that amount against the taxpayer under Chapter 5725. or 5729. of 4737  
the Revised Code. The time limitations on assessments under 4738  
~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not 4739  
apply to an assessment under this division, but the commissioner 4740  
or superintendent, as appropriate, shall make the assessment 4741  
within one year after the date the authority certifies to the 4742  
commissioner or superintendent the amount to be refunded. 4743

(L) On or before the thirty-first day of March each year, the 4744  
director of development shall submit a report to the governor, the 4745  
president of the senate, and the speaker of the house of 4746  
representatives on the tax credit program under this section. The 4747  
report shall include information on the number of agreements that 4748  
were entered into under this section during the preceding calendar 4749  
year, a description of the project that is the subject of each 4750

such agreement, and an update on the status of projects under  
agreements entered into before the preceding calendar year.

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~~During the fifth year of the tax credit program, the director  
of development in conjunction with the director of budget and  
management shall conduct an evaluation of it. The evaluation shall  
include assessments of the effectiveness of the program in  
creating new jobs in this state and of the revenue impact of the  
program, and may include a review of the practices and experiences  
of other states with similar programs. The director of development  
shall submit a report on the evaluation to the governor, the  
president of the senate, and the speaker of the house of  
representatives on or before January 1, 1998.~~

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(M) There is hereby created the tax credit authority, which  
consists of the director of development and four other members  
appointed as follows: the governor, the president of the senate,  
and the speaker of the house of representatives each shall appoint  
one member who shall be a specialist in economic development; the  
governor also shall appoint a member who is a specialist in  
taxation. Of the initial appointees, the members appointed by the  
governor shall serve a term of two years; the members appointed by  
the president of the senate and the speaker of the house of  
representatives shall serve a term of four years. Thereafter,  
terms of office shall be for four years. Initial appointments to  
the authority shall be made within thirty days after January 13,  
1993. Each member shall serve on the authority until the end of  
the term for which the member was appointed. Vacancies shall be  
filled in the same manner provided for original appointments. Any  
member appointed to fill a vacancy occurring prior to the  
expiration of the term for which the member's predecessor was  
appointed shall hold office for the remainder of that term.  
Members may be reappointed to the authority. Members of the  
authority shall receive their necessary and actual expenses while

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engaged in the business of the authority. The director of  
development shall serve as chairperson of the authority, and the  
members annually shall elect a vice-chairperson from among  
themselves. Three members of the authority constitute a quorum to  
transact and vote on the business of the authority. The majority  
vote of the membership of the authority is necessary to approve  
any such business, including the election of the vice-chairperson.

The director of development may appoint a professional  
employee of the department of development to serve as the  
director's substitute at a meeting of the authority. The director  
shall make the appointment in writing. In the absence of the  
director from a meeting of the authority, the appointed substitute  
shall serve as chairperson. In the absence of both the director  
and the director's substitute from a meeting, the vice-chairperson  
shall serve as chairperson.

(N) For purposes of the credits granted by this section  
against the taxes imposed under sections 5725.18 and 5729.03 of  
the Revised Code, "taxable year" means the period covered by the  
taxpayer's annual report.

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

(1) "Capital investment project" means a plan of investment  
at a project site for the acquisition, construction, renovation,  
or repair of buildings, machinery, or equipment, or for  
capitalized costs of basic research and new product development  
determined in accordance with generally accepted accounting  
principles, but does not include any of the following:

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

(b) Project costs paid before January 1, 2002, ~~or after~~  
~~December 31, 2006;~~

(c) Payments made to a related member as defined in section 4813  
5733.042 of the Revised Code or to an elected consolidated 4814  
taxpayer or a combined taxpayer as defined in section 5751.01 of 4815  
the Revised Code. 4816

(2) "Eligible business" means a business with Ohio operations 4817  
satisfying all of the following: 4818

(a) Employed an average of at least one thousand employees in 4819  
full-time employment positions at a project site during each of 4820  
the twelve months preceding the application for a tax credit under 4821  
this section; and 4822

(b) On or after January 1, 2002, has made payments for the 4823  
capital investment project of either of the following: 4824

(i) At least two hundred million dollars in the aggregate at 4825  
the project site during a period of three consecutive calendar 4826  
years including the calendar year that includes a day of the 4827  
taxpayer's taxable year or tax period with respect to which the 4828  
credit is granted; 4829

(ii) If the average wage of all full-time employment 4830  
positions at the project site is greater than four hundred per 4831  
cent of the federal minimum wage, at least one hundred million 4832  
dollars in the aggregate at the project site during a period of 4833  
three consecutive calendar years including the calendar year that 4834  
includes a day of the taxpayer's taxable year or tax period with 4835  
respect to which the credit is granted. 4836

(c) Is engaged at the project site primarily as a 4837  
manufacturer or is providing significant corporate administrative 4838  
functions; 4839

(d) Has had a capital investment project reviewed and 4840  
approved by the tax credit authority as provided in divisions (C), 4841  
(D), and (E) of this section. 4842

(3) "Full-time employment position" means a position of 4843  
employment for consideration for at least thirty-five hours a week 4844  
that has been filled for at least one hundred eighty days 4845  
immediately preceding the filing of an application under this 4846  
section and for at least one hundred eighty days during each 4847  
taxable year or each calendar year that includes a tax period with 4848  
respect to which the credit is granted. 4849

(4) "Manufacturer" has the same meaning as in section 4850  
5739.011 of the Revised Code. 4851

(5) "Project site" means an integrated complex of facilities 4852  
in this state, as specified by the tax credit authority under this 4853  
section, within a fifteen-mile radius where a taxpayer is 4854  
primarily operating as an eligible business. 4855

(6) "Applicable corporation" means a corporation satisfying 4856  
all of the following: 4857

(a)(i) For the entire taxable year immediately preceding the 4858  
tax year, the corporation develops software applications primarily 4859  
to provide telecommunication billing and information services 4860  
through outsourcing or licensing to domestic or international 4861  
customers. 4862

(ii) Sales and licensing of software generated at least six 4863  
hundred million dollars in revenue during the taxable year 4864  
immediately preceding the tax year the corporation is first 4865  
entitled to claim the credit provided under division (B) of this 4866  
section. 4867

(b) For the entire taxable year immediately preceding the tax 4868  
year, the corporation or one or more of its related members 4869  
provides customer or employee care and technical support for 4870  
clients through one or more contact centers within this state, and 4871  
the corporation and its related members together have a daily 4872  
average, based on a ~~three hundred sixty five day~~ 4873

three-hundred-sixty-five-day year, of at least five hundred 4874  
thousand successful customer contacts through one or more of their 4875  
contact centers, wherever located. 4876

(c) The corporation is eligible for the credit under division 4877  
(B) of this section for the tax year. 4878

(7) "Related member" has the same meaning as in section 4879  
5733.042 of the Revised Code as that section existed on the 4880  
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 4881  
general assembly, September 29, 1997. 4882

(8) "Successful customer contact" means a contact with an end 4883  
user via telephone, including interactive voice recognition or 4884  
similar means, where the contact culminates in a conversation or 4885  
connection other than a busy signal or equipment busy. 4886

(9) "Telecommunications" means all forms of 4887  
telecommunications service as defined in section 5739.01 of the 4888  
Revised Code, and includes services in wireless, wireline, cable, 4889  
broadband, internet protocol, and satellite. 4890

(10)(a) "Applicable difference" means the difference between 4891  
the tax for the tax year under Chapter 5733. of the Revised Code 4892  
applying the law in effect for that tax year, and the tax for that 4893  
tax year if section 5733.042 of the Revised Code applied as that 4894  
section existed on the effective date of its amendment by Am. Sub. 4895  
H.B. 215 of the 122nd general assembly, September 29, 1997, 4896  
subject to division (A)(10)(b) of this section. 4897

(b) If the tax rate set forth in division (B) of section 4898  
5733.06 of the Revised Code for the tax year is less than eight 4899  
and one-half per cent, the tax calculated under division 4900  
(A)(10)(a) of this section shall be computed by substituting a tax 4901  
rate of eight and one-half per cent for the rate set forth in 4902  
division (B) of section 5733.06 of the Revised Code for the tax 4903  
year. 4904

(c) If the resulting difference is negative, the applicable 4905  
tax difference for the tax year shall be zero. 4906

(B) The tax credit authority created under section 122.17 of 4907  
the Revised Code may grant tax credits under this section for the 4908  
purpose of fostering job retention in this state. Upon application 4909  
by an eligible business and upon consideration of the 4910  
recommendation of the director of budget and management, tax 4911  
commissioner, and director of development under division (C) of 4912  
this section, the tax credit authority may grant to an eligible 4913  
business a nonrefundable credit against the tax imposed by section 4914  
5733.06 or 5747.02 or levied under Chapter 5751. of the Revised 4915  
Code for a period up to fifteen taxable years and against the tax 4916  
levied by Chapter 5751. of the Revised Code for a period of up to 4917  
fifteen calendar years. The credit shall be in an amount not 4918  
exceeding seventy-five per cent of the Ohio income tax withheld 4919  
from the employees of the eligible business occupying full-time 4920  
employment positions at the project site during the calendar year 4921  
that includes the last day of such business' taxable year or tax 4922  
period with respect to which the credit is granted. The amount of 4923  
the credit shall not be based on the Ohio income tax withheld from 4924  
full-time employees for a calendar year prior to the calendar year 4925  
in which the minimum investment requirement referred to in 4926  
division (A)(2)(b) of this section is completed. The credit shall 4927  
be claimed only for the taxable years or tax periods specified in 4928  
the eligible business' agreement with the tax credit authority 4929  
under division (E) of this section, but in no event shall the 4930  
credit be claimed for a taxable year or tax period terminating 4931  
before the date specified in the agreement. Any credit granted 4932  
under this section against the tax imposed by section 5733.06 or 4933  
5747.02 of the Revised Code, to the extent not fully utilized 4934  
against such tax for taxable years ending prior to 2008, shall 4935  
automatically be converted without any action taken by the tax 4936

credit authority to a credit against the tax levied under Chapter 4937  
5751. of the Revised Code for tax periods beginning on or after 4938  
July 1, 2008, provided that the person to whom the credit was 4939  
granted is subject to such tax. The converted credit shall apply 4940  
to those calendar years in which the remaining taxable years 4941  
specified in the agreement end. 4942

The credit computed under this division is in addition to any 4943  
credit allowed under division (M) of this section which the tax 4944  
credit authority may also include in the agreement. 4945

Any unused portion of a tax credit may be carried forward for 4946  
not more than three additional years after the year for which the 4947  
credit is granted. 4948

(C) A taxpayer that proposes a capital investment project to 4949  
retain jobs in this state may apply to the tax credit authority to 4950  
enter into an agreement for a tax credit under this section. The 4951  
director of development shall prescribe the form of the 4952  
application. After receipt of an application, the authority shall 4953  
forward copies of the application to the director of budget and 4954  
management, the tax commissioner, and the director of development, 4955  
each of whom shall review the application to determine the 4956  
economic impact the proposed project would have on the state and 4957  
the affected political subdivisions and shall submit a summary of 4958  
their determinations and recommendations to the authority. ~~The 4959~~  
~~authority shall make no agreements under this section after June 4960~~  
~~30, 2007. 4961~~

(D) Upon review of the determinations and recommendations 4962  
described in division (C) of this section, the tax credit 4963  
authority may enter into an agreement with the taxpayer for a 4964  
credit under this section if the authority determines all of the 4965  
following: 4966

(1) The taxpayer's capital investment project will result in 4967



the retention of full-time employment positions in this state. 4968

(2) The taxpayer is economically sound and has the ability to 4969  
complete the proposed capital investment project. 4970

(3) The taxpayer intends to and has the ability to maintain 4971  
operations at the project site for at least twice the term of the 4972  
credit. 4973

(4) Receiving the credit is a major factor in the taxpayer's 4974  
decision to begin, continue with, or complete the project. 4975

(5) The political subdivisions in which the project is 4976  
located have agreed to provide substantial financial support to 4977  
the project. 4978

(E) An agreement under this section shall include all of the 4979  
following: 4980

(1) A detailed description of the project that is the subject 4981  
of the agreement, including the amount of the investment, the 4982  
period over which the investment has been or is being made, and 4983  
the number of full-time employment positions at the project site. 4984

(2) The method of calculating the number of full-time 4985  
employment positions as specified in division (A)(3) of this 4986  
section. 4987

(3) The term and percentage of the tax credit, and the first 4988  
year for which the credit may be claimed. 4989

(4) A requirement that the taxpayer maintain operations at 4990  
the project site for at least twice the number of years as the 4991  
term of the credit. 4992

(5) A requirement that the taxpayer retain a specified number 4993  
of full-time employment positions at the project site and within 4994  
this state for the term of the credit, including a requirement 4995  
that the taxpayer continue to employ at least one thousand 4996  
employees in full-time employment positions at the project site 4997

during the entire term of any agreement, subject to division 4998  
(E)(7) of this section. 4999

(6) A requirement that the taxpayer annually report to the 5000  
director of development the number of full-time employment 5001  
positions subject to the credit, the amount of tax withheld from 5002  
employees in those positions, the amount of the payments made for 5003  
the capital investment project, and any other information the 5004  
director needs to perform the director's duties under this 5005  
section. 5006

(7) A requirement that the director of development annually 5007  
review the annual reports of the taxpayer to verify the 5008  
information reported under division (E)(6) of this section and 5009  
compliance with the agreement. Upon verification, the director 5010  
shall issue a certificate to the taxpayer stating that the 5011  
information has been verified and identifying the amount of the 5012  
credit for the taxable year. Unless otherwise specified by the tax 5013  
credit authority in a resolution and included as part of the 5014  
agreement, the director shall not issue a certificate for any year 5015  
in which the total number of filled full-time employment positions 5016  
for each day of the calendar year divided by three hundred 5017  
sixty-five is less than ninety per cent of the full-time 5018  
employment positions specified in division (E)(5) of this section. 5019  
In determining the number of full-time employment positions, no 5020  
position shall be counted that is filled by an employee who is 5021  
included in the calculation of a tax credit under section 122.17 5022  
of the Revised Code. 5023

(8)(a) A provision requiring that the taxpayer, except as 5024  
otherwise provided in division (E)(8)(b) of this section, shall 5025  
not relocate employment positions from elsewhere in this state to 5026  
the project site that is the subject of the agreement for the 5027  
lesser of five years from the date the agreement is entered into 5028  
or the number of years the taxpayer is entitled to claim the 5029

credit. 5030

(b) The taxpayer may relocate employment positions from 5031  
elsewhere in this state to the project site that is the subject of 5032  
the agreement if the director of development determines both of 5033  
the following: 5034

(i) That the site from which the employment positions would 5035  
be relocated is inadequate to meet market and industry conditions, 5036  
expansion plans, consolidation plans, or other business 5037  
considerations affecting the taxpayer; 5038

(ii) That the legislative authority of the county, township, 5039  
or municipal corporation from which the employment positions would 5040  
be relocated has been notified of the relocation. 5041

For purposes of this section, the movement of an employment 5042  
position from one political subdivision to another political 5043  
subdivision shall be considered a relocation of an employment 5044  
position unless the movement is confined to the project site. The 5045  
transfer of an individual employee from one political subdivision 5046  
to another political subdivision shall not be considered a 5047  
relocation of an employment position as long as the individual's 5048  
employment position in the first political subdivision is 5049  
refilled. 5050

(9) A waiver by the taxpayer of any limitations periods 5051  
relating to assessments or adjustments resulting from the 5052  
taxpayer's failure to comply with the agreement. 5053

(F) If a taxpayer fails to meet or comply with any condition 5054  
or requirement set forth in a tax credit agreement, the tax credit 5055  
authority may amend the agreement to reduce the percentage or term 5056  
of the credit. The reduction of the percentage or term shall take 5057  
effect in the taxable year immediately following the taxable year 5058  
in which the authority amends the agreement or in the first tax 5059  
period beginning in the calendar year immediately following the 5060

calendar year in which the authority amends the agreement. If the 5061  
taxpayer relocates employment positions in violation of the 5062  
provision required under division (D)(8)(a) of this section, the 5063  
taxpayer shall not claim the tax credit under section 5733.0610 of 5064  
the Revised Code for any tax years following the calendar year in 5065  
which the relocation occurs, ~~or~~ shall not claim the tax credit 5066  
under section 5747.058 of the Revised Code for the taxable year in 5067  
which the relocation occurs and any subsequent taxable years, and 5068  
shall not claim the tax credit under division (A) of section 5069  
5751.50 of the Revised Code for the tax period in which the 5070  
relocation occurs and any subsequent tax periods. 5071

(G) Financial statements and other information submitted to 5072  
the department of development or the tax credit authority by an 5073  
applicant for or recipient of a tax credit under this section, and 5074  
any information taken for any purpose from such statements or 5075  
information, are not public records subject to section 149.43 of 5076  
the Revised Code. However, the chairperson of the authority may 5077  
make use of the statements and other information for purposes of 5078  
issuing public reports or in connection with court proceedings 5079  
concerning tax credit agreements under this section. Upon the 5080  
request of the tax commissioner, the chairperson of the authority 5081  
shall provide to the commissioner any statement or other 5082  
information submitted by an applicant for or recipient of a tax 5083  
credit in connection with the credit. The commissioner shall 5084  
preserve the confidentiality of the statement or other 5085  
information. 5086

(H) A taxpayer claiming a tax credit under this section shall 5087  
submit to the tax commissioner a copy of the director of 5088  
development's certificate of verification under division (E)(7) of 5089  
this section for the taxable year or for the calendar year that 5090  
includes the tax period. However, failure to submit a copy of the 5091  
certificate does not invalidate a claim for a credit. 5092

(I) For the purposes of this section, a taxpayer may include 5093  
a partnership, a corporation that has made an election under 5094  
subchapter S of chapter one of subtitle A of the Internal Revenue 5095  
Code, or any other business entity through which income flows as a 5096  
distributive share to its owners. A tax credit received under this 5097  
section by a partnership, S-corporation, or other such business 5098  
entity shall be apportioned among the persons to whom the income 5099  
or profit of the partnership, S-corporation, or other entity is 5100  
distributed, in the same proportions as those in which the income 5101  
or profit is distributed. 5102

(J) If the director of development determines that a taxpayer 5103  
that received a tax credit under this section is not complying 5104  
with the requirement under division (E)(4) of this section, the 5105  
director shall notify the tax credit authority of the 5106  
noncompliance. After receiving such a notice, and after giving the 5107  
taxpayer an opportunity to explain the noncompliance, the 5108  
authority may terminate the agreement and require the taxpayer to 5109  
refund to the state all or a portion of the credit claimed in 5110  
previous years, as follows: 5111

(1) If the taxpayer maintained operations at the project site 5112  
for less than the term of the credit, the amount required to be 5113  
refunded shall not exceed the amount of any tax credits previously 5114  
allowed and received under this section. 5115

(2) If the taxpayer maintained operations at the project site 5116  
longer than the term of the credit but less than one and one-half 5117  
times the term of the credit, the amount required to be refunded 5118  
shall not exceed fifty per cent of the sum of any tax credits 5119  
previously allowed and received under this section. 5120

(3) If the taxpayer maintained operations at the project site 5121  
for at least one and one-half times the term of the credit but 5122  
less than twice the term of the credit, the amount required to be 5123

refunded shall not exceed twenty-five per cent of the sum of any 5124  
tax credits previously allowed and received under this section. 5125

In determining the portion of the credit to be refunded to 5126  
this state, the authority shall consider the effect of market 5127  
conditions on the taxpayer's project and whether the taxpayer 5128  
continues to maintain other operations in this state. After making 5129  
the determination, the authority shall certify the amount to be 5130  
refunded to the tax commissioner. The commissioner shall make an 5131  
assessment for that amount against the taxpayer under Chapter 5132  
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 5133  
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 5134  
~~Revised Code~~ those chapters do not apply to an assessment under 5135  
this division, but the commissioner shall make the assessment 5136  
within one year after the date the authority certifies to the 5137  
commissioner the amount to be refunded. 5138

If the director of development determines that a taxpayer 5139  
that received a tax credit under this section has reduced the 5140  
number of employees agreed to under division (E)(5) of this 5141  
section by more than ten per cent, the director shall notify the 5142  
tax credit authority of the noncompliance. After receiving such 5143  
notice, and after providing the taxpayer an opportunity to explain 5144  
the noncompliance, the authority may amend the agreement to reduce 5145  
the percentage or term of the tax credit. The reduction in the 5146  
percentage or term shall take effect in the taxable year, or in 5147  
the calendar year that includes the tax period, in which the 5148  
authority amends the agreement. 5149

(K) The director of development, after consultation with the 5150  
tax commissioner and in accordance with Chapter 119. of the 5151  
Revised Code, shall adopt rules necessary to implement this 5152  
section. The rules may provide for recipients of tax credits under 5153  
this section to be charged fees to cover administrative costs of 5154  
the tax credit program. At the time the director gives public 5155

notice under division (A) of section 119.03 of the Revised Code of 5156  
the adoption of the rules, the director shall submit copies of the 5157  
proposed rules to the chairpersons of the standing committees on 5158  
economic development in the senate and the house of 5159  
representatives. 5160

(L) On or before the thirty-first day of March of each year, 5161  
the director of development shall submit a report to the governor, 5162  
the president of the senate, and the speaker of the house of 5163  
representatives on the tax credit program under this section. The 5164  
report shall include information on the number of agreements that 5165  
were entered into under this section during the preceding calendar 5166  
year, a description of the project that is the subject of each 5167  
such agreement, and an update on the status of projects under 5168  
agreements entered into before the preceding calendar year. 5169

(M)(1) A nonrefundable credit shall be allowed to an 5170  
applicable corporation and its related members in an amount equal 5171  
to the applicable difference. The credit is in addition to the 5172  
credit granted to the corporation or related members under 5173  
division (B) of this section. The credit is subject to divisions 5174  
(B) to (E) and division (J) of this section. 5175

(2) A person qualifying as an applicable corporation under 5176  
this section for a tax year does not necessarily qualify as an 5177  
applicable corporation for any other tax year. No person is 5178  
entitled to the credit allowed under division (M) of this section 5179  
for the tax year immediately following the taxable year during 5180  
which the person fails to meet the requirements in divisions 5181  
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 5182  
to the credit allowed under division (M) of this section for any 5183  
tax year for which the person is not eligible for the credit 5184  
provided under division (B) of this section. 5185

**Sec. 122.172.** (A) As used in this section, "tax liability" 5186

means the tax owed under section 5733.06 or 5747.02 of the Revised Code after allowance of all nonrefundable credits and prior to the allowance of all refundable credits. The tax owed under section 5733.06 of the Revised Code shall take into account any adjustments to such tax required by division (G) of section 5733.01 of the Revised Code that apply prior to allowance of refundable credits.

(B)(1) The director of development shall administer the manufacturing equipment grant program to provide grants for new manufacturing machinery and equipment qualifying for the grant under section 122.173 of the Revised Code. Except as provided in division (C) of this section, the grants apply to the taxes imposed by sections 5733.06 and 5747.02 of the Revised Code for taxable years ending on or after July 1, 2005.

(2) To claim a grant, a taxpayer satisfying the requirements of section 122.173 of the Revised Code shall complete a grant request form, as prescribed by the director in consultation with the tax commissioner, and shall file the form with the tax return for the taxable year for which the grant is claimed. In no event shall the grant reduce a taxpayer's tax liability below the minimum tax owed for the taxable year. The grant request form shall provide the information required to allow the grant for the taxable year and is subject to audit by the director and the commissioner. Any portion of the grant in excess of the taxpayer's tax liability shall not be refundable but may be carried forward as provided in section 122.173 of the Revised Code. Upon the director's request, the commissioner shall provide completed grant request forms filed under this section to the director in a mutually agreed upon format.

(C) If a taxpayer is required to repay any credit allowed under section 5733.33 or 5747.31 of the Revised Code for a taxable



year ending prior to July 1, 2005, for a reason not specified in 5218  
Chapter 5733. or 5747. of the Revised Code, a grant shall be 5219  
available for that taxable year under section 122.173 of the 5220  
Revised Code to the extent provided in that section. 5221

(D) Any tax liability under section 5733.06 or 5747.02 of the 5222  
Revised Code that is underpaid as the result of an improper claim 5223  
for a grant under this section may be assessed by the tax 5224  
commissioner in the manner provided by section 5733.11 or 5747.11 5225  
of the Revised Code. 5226

**Sec. 122.173.** (A) As used in this section: 5227

(1) "Manufacturing machinery and equipment" means engines and 5228  
machinery, and tools and implements, of every kind used, or 5229  
designed to be used, in refining and manufacturing. "Manufacturing 5230  
machinery and equipment" does not include property acquired after 5231  
December 31, 1999, that is used: 5232

(a) For the transmission and distribution of electricity; 5233

(b) For the generation of electricity, if fifty per cent or 5234  
more of the electricity that the property generates is consumed, 5235  
during the one-hundred-twenty-month period commencing with the 5236  
date the property is placed in service, by persons that are not 5237  
related members to the person who generates the electricity. 5238

(2) "New manufacturing machinery and equipment" means 5239  
manufacturing machinery and equipment, the original use in this 5240  
state of which commences with the taxpayer or with a partnership 5241  
of which the taxpayer is a partner. "New manufacturing machinery 5242  
and equipment" does not include property acquired after December 5243  
31, 1999, that is used: 5244

(a) For the transmission and distribution of electricity; 5245

(b) For the generation of electricity, if fifty per cent or 5246  
more of the electricity that the property generates is consumed, 5247

during the one-hundred-twenty-month period commencing with the 5248  
date the property is placed in service, by persons that are not 5249  
related members to the person who generates the electricity. 5250

(3)(a) "Purchase" has the same meaning as in section 5251  
179(d)(2) of the Internal Revenue Code. 5252

(b) For purposes of this section, any property that is not 5253  
manufactured or assembled primarily by the taxpayer is considered 5254  
purchased at the time the agreement to acquire the property 5255  
becomes binding. Any property that is manufactured or assembled 5256  
primarily by the taxpayer is considered purchased at the time the 5257  
taxpayer places the property in service in the county for which 5258  
the taxpayer will calculate the county excess amount. 5259

(c) Notwithstanding section 179(d) of the Internal Revenue 5260  
Code, a taxpayer's direct or indirect acquisition of new 5261  
manufacturing machinery and equipment is not purchased on or after 5262  
July 1, 1995, if the taxpayer, or a person whose relationship to 5263  
the taxpayer is described in subparagraphs (A), (B), or (C) of 5264  
section 179(d)(2) of the Internal Revenue Code, had directly or 5265  
indirectly entered into a binding agreement to acquire the 5266  
property at any time prior to July 1, 1995. 5267

(4) "Qualifying period" means the period that begins July 1, 5268  
1995, and ends June 30, 2005. 5269

(5) "County average new manufacturing machinery and equipment 5270  
investment" means either of the following: 5271

(a) The average annual cost of new manufacturing machinery 5272  
and equipment purchased for use in the county during baseline 5273  
years, in the case of a taxpayer that was in existence for more 5274  
than one year during baseline years. 5275

(b) Zero, in the case of a taxpayer that was not in existence 5276  
for more than one year during baseline years. 5277

(6) "Partnership" includes a limited liability company formed 5278  
under Chapter 1705. of the Revised Code or under the laws of any 5279  
other state, provided that the company is not classified for 5280  
federal income tax purposes as an association taxable as a 5281  
corporation. 5282

(7) "Partner" includes a member of a limited liability 5283  
company formed under Chapter 1705. of the Revised Code or under 5284  
the laws of any other state, provided that the company is not 5285  
classified for federal income tax purposes as an association 5286  
taxable as a corporation. 5287

(8) "Distressed area" means either a municipal corporation 5288  
that has a population of at least fifty thousand or a county that 5289  
meets two of the following criteria of economic distress, or a 5290  
municipal corporation the majority of the population of which is 5291  
situated in such a county: 5292

(a) Its average rate of unemployment, during the most recent 5293  
five-year period for which data are available, is equal to at 5294  
least one hundred twenty-five per cent of the average rate of 5295  
unemployment for the United States for the same period; 5296

(b) It has a per capita income equal to or below eighty per 5297  
cent of the median county per capita income of the United States 5298  
as determined by the most recently available figures from the 5299  
United States census bureau; 5300

(c)(i) In the case of a municipal corporation, at least 5301  
twenty per cent of the residents have a total income for the most 5302  
recent census year that is below the official poverty line; 5303

(ii) In the case of a county, in intercensal years, the 5304  
county has a ratio of transfer payment income to total county 5305  
income equal to or greater than twenty-five per cent. 5306

(9) "Eligible area" means a distressed area, a labor surplus 5307

area, an inner city area, or a situational distress area. 5308

(10) "Inner city area" means, in a municipal corporation that 5309  
has a population of at least one hundred thousand and does not 5310  
meet the criteria of a labor surplus area or a distressed area, 5311  
targeted investment areas established by the municipal corporation 5312  
within its boundaries that are comprised of the most recent census 5313  
block tracts that individually have at least twenty per cent of 5314  
their population at or below the state poverty level or other 5315  
census block tracts contiguous to such census block tracts. 5316

(11) "Labor surplus area" means an area designated as a labor 5317  
surplus area by the United States department of labor. 5318

(12) "Official poverty line" has the same meaning as in 5319  
division (A) of section 3923.51 of the Revised Code. 5320

(13) "Situational distress area" means a county or a 5321  
municipal corporation that has experienced or is experiencing a 5322  
closing or downsizing of a major employer that will adversely 5323  
affect the county's or municipal corporation's economy. In order 5324  
to be designated as a situational distress area, for a period not 5325  
to exceed thirty-six months, the county or municipal corporation 5326  
may petition the director of development. The petition shall 5327  
include written documentation that demonstrates all of the 5328  
following adverse effects on the local economy: 5329

(a) The number of jobs lost by the closing or downsizing; 5330

(b) The impact that the job loss has on the county's or 5331  
municipal corporation's unemployment rate as measured by the state 5332  
director of job and family services; 5333

(c) The annual payroll associated with the job loss; 5334

(d) The amount of state and local taxes associated with the 5335  
job loss; 5336

(e) The impact that the closing or downsizing has on 5337

<u>suppliers located in the county or municipal corporation.</u>	5338
<u>(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.</u>	5339
<u>(15) "Baseline years" means:</u>	5340
<u>(a) Calendar years 1992, 1993, and 1994, with regard to a grant claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;</u>	5341
<u>(b) Calendar years 1993, 1994, and 1995, with regard to a grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;</u>	5342
<u>(c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;</u>	5343
<u>(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;</u>	5344
<u>(e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;</u>	5345
<u>(f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;</u>	5346
<u>(g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;</u>	5347
<u>(h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.</u>	5348
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(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 5367  
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(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. 5369  
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(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code. 5371  
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(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006. The taxpayer need not be a manufacturer. 5373  
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(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year. 5380  
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As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased. 5387  
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(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment 5390  
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among counties within this state for the primary purpose of 5398  
qualifying for the grant. 5399

(C)(1) Except as otherwise provided in division (C)(2) and 5400  
division (I) of this section, the grant amount is equal to seven 5401  
and one-half per cent of the excess of the cost of the new 5402  
manufacturing machinery and equipment purchased during the 5403  
calendar year for use in a county over the county average new 5404  
manufacturing machinery and equipment investment for that county. 5405

(2) Subject to division (I) of this section, as used in 5406  
division (C)(2) of this section, "county excess" means the 5407  
taxpayer's excess cost for a county as computed under division 5408  
(C)(1) of this section. 5409

Subject to division (I) of this section, a taxpayer with a 5410  
county excess, whose purchases included purchases for use in any 5411  
eligible area in the county, the grant amount is equal to thirteen 5412  
and one-half per cent of the cost of the new manufacturing 5413  
machinery and equipment purchased during the calendar year for use 5414  
in the eligible areas in the county, provided that the cost 5415  
subject to the thirteen and one-half per cent rate shall not 5416  
exceed the county excess. If the county excess is greater than the 5417  
cost of the new manufacturing machinery and equipment purchased 5418  
during the calendar year for use in eligible areas in the county, 5419  
the grant amount also shall include an amount equal to seven and 5420  
one-half per cent of the amount of the difference. 5421

(3) If a taxpayer is allowed a grant for purchases of new 5422  
manufacturing machinery and equipment in more than one county or 5423  
eligible area, it shall aggregate the amount of those grants each 5424  
year. 5425

(4) Except as provided in division (J) of this section, the 5426  
taxpayer shall claim one-seventh of the grant amount for the 5427  
taxable year ending in the calendar year in which the new 5428

manufacturing machinery and equipment is purchased for use in the 5429  
county by the taxpayer or partnership. One-seventh of the taxpayer 5430  
grant amount is allowed for each of the six ensuing taxable years. 5431  
Except for carried-forward amounts, the taxpayer is not allowed 5432  
any grant amount remaining if the new manufacturing machinery and 5433  
equipment is sold by the taxpayer or partnership or is transferred 5434  
by the taxpayer or partnership out of the county before the end of 5435  
the seven-year period unless, at the time of the sale or transfer, 5436  
the new manufacturing machinery and equipment has been fully 5437  
depreciated for federal income tax purposes. 5438

(5)(a) A taxpayer that acquires manufacturing machinery and 5439  
equipment as a result of a merger with the taxpayer with whom 5440  
commenced the original use in this state of the manufacturing 5441  
machinery and equipment, or with a taxpayer that was a partner in 5442  
a partnership with whom commenced the original use in this state 5443  
of the manufacturing machinery and equipment, is entitled to any 5444  
remaining or carried-forward grant amounts to which the taxpayer 5445  
was entitled. 5446

(b) A taxpayer that enters into an agreement under division 5447  
(C)(3) of section 5709.62 of the Revised Code and that acquires 5448  
manufacturing machinery or equipment as a result of purchasing a 5449  
large manufacturing facility, as defined in section 5709.61 of the 5450  
Revised Code, from another taxpayer with whom commenced the 5451  
original use in this state of the manufacturing machinery or 5452  
equipment, and that operates the large manufacturing facility so 5453  
purchased, is entitled to any remaining or carried-forward grant 5454  
amounts to which the other taxpayer who sold the facility would 5455  
have been entitled under this section had the other taxpayer not 5456  
sold the manufacturing facility or equipment. 5457

(c) New manufacturing machinery and equipment is not 5458  
considered sold if a pass-through entity transfers to another 5459  
pass-through entity substantially all of its assets as part of a 5460



plan of reorganization under which substantially all gain and loss 5461  
is not recognized by the pass-through entity that is transferring 5462  
the new manufacturing machinery and equipment to the transferee 5463  
and under which the transferee's basis in the new manufacturing 5464  
machinery and equipment is determined, in whole or in part, by 5465  
reference to the basis of the pass-through entity that transferred 5466  
the new manufacturing machinery and equipment to the transferee. 5467

(d) Division (C)(5) of this section applies only if the 5468  
acquiring taxpayer or transferee does not sell the new 5469  
manufacturing machinery and equipment or transfer the new 5470  
manufacturing machinery and equipment out of the county before the 5471  
end of the seven-year period to which division (C)(4) of this 5472  
section refers. 5473

(e) Division (C)(5)(b) of this section applies only to the 5474  
extent that the taxpayer that sold the manufacturing machinery or 5475  
equipment, upon request, timely provides to the tax commissioner 5476  
any information that the tax commissioner considers to be 5477  
necessary to ascertain any remaining or carried-forward amounts to 5478  
which the taxpayer that sold the facility would have been entitled 5479  
under this section had the taxpayer not sold the manufacturing 5480  
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 5481  
this section shall be construed to allow a taxpayer to claim any 5482  
grant amount with respect to the acquired manufacturing machinery 5483  
or equipment that is greater than the amount that would have been 5484  
available to the other taxpayer that sold the manufacturing 5485  
machinery or equipment had the other taxpayer not sold the 5486  
manufacturing machinery or equipment. 5487

(D) The taxpayer shall claim the grant allowed by this 5488  
section in the manner provided by section 122.172 of the Revised 5489  
Code. Any portion of the grant in excess of the taxpayer's tax 5490  
liability for the taxable year shall not be refundable but may be 5491  
carried forward for the next three consecutive taxable years. 5492

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the grant shall file, with the director of development, a notice of intent to claim the grant on a form prescribed by the director of development. The director of development shall inform the tax commissioner of the notice of intent to claim the grant. No grant may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005, but a notice filed on or before such date under division (E) of section 5733.33 of the Revised Code of the intent to claim the credit under that section or section 5747.31 of the Revised Code also shall be considered a notice of the intent to claim a grant under this section.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax grant for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the grant under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H)(1) of this section shall not apply after the 5524  
twenty-fourth month following the last day of the period described 5525  
in divisions (A)(1)(b) and (2)(b) of this section. 5526

(I) Notwithstanding any other provision of this section to 5527  
the contrary, in the case of a qualifying controlled group, the 5528  
grant available under this section to a taxpayer or taxpayers in 5529  
the qualifying controlled group shall be computed as if all 5530  
corporations in the group were a single corporation. The grant 5531  
shall be allocated to such a taxpayer or taxpayers in the group in 5532  
any amount elected for the taxable year by the group. The election 5533  
shall be revocable and amendable during the period described in 5534  
division (B) of section 5733.12 of the Revised Code. 5535

This division applies to all purchases of new manufacturing 5536  
machinery and equipment made on or after January 1, 2001, and to 5537  
all baseline years used to compute any grant attributable to such 5538  
purchases; provided, that this division may be applied solely at 5539  
the election of the qualifying controlled group with respect to 5540  
all purchases of new manufacturing machinery and equipment made 5541  
before that date, and to all baseline years used to compute any 5542  
grant attributable to such purchases. The qualifying controlled 5543  
group at any time may elect to apply this division to purchases 5544  
made prior to January 1, 2001, subject to the following: 5545

(1) The election is irrevocable; 5546

(2) The election need not accompany a timely filed report, 5547  
but the election may accompany a subsequently filed but timely 5548  
application for refund, a subsequently filed but timely amended 5549  
report, or a subsequently filed but timely petition for 5550  
reassessment. 5551

(J) Except as provided in division (B) of section 122.172 of 5552  
the Revised Code, no grant under this section may be claimed for 5553  
any taxable year for which a credit is allowed under section 5554

5733.33 or 5747.31 of the Revised Code. If the tax imposed by 5555  
section 5733.06 of the Revised Code for which a grant is allowed 5556  
under this section has been prorated under division (G)(2) of 5557  
section 5733.01 of the Revised Code, the grant shall be prorated 5558  
by the same percentage as the tax. 5559

**Sec. 122.18.** (A) As used in this section: 5560

(1) "Facility" means all real property and interests in real 5561  
property owned by a landlord and leased to a tenant pursuant to a 5562  
project that is the subject of an agreement under this section<sup>+</sup>. 5563

(2) "Full-time employee" has the same meaning as under 5564  
section 122.17 of the Revised Code<sup>+</sup>. 5565

(3) "Landlord" means a county or municipal corporation, or a 5566  
corporate entity that is an instrumentality of a county or 5567  
municipal corporation and that is not subject to the tax imposed 5568  
by section 5733.06 or 5747.02 of the Revised Code<sup>+</sup>. 5569

(4) "New employee" means a full-time employee first employed 5570  
by, or under or pursuant to a contract with, the tenant in the 5571  
project that is the subject of the agreement after a landlord 5572  
enters into an agreement with the tax credit authority under this 5573  
section<sup>+</sup>. 5574

(5) "New income tax revenue" means the total amount withheld 5575  
under section 5747.06 of the Revised Code by the tenant or tenants 5576  
at a facility during a year from the compensation of new employees 5577  
for the tax levied under Chapter 5747. of the Revised Code<sup>+</sup>. 5578

(6) "Retained income tax revenue" means the total amount 5579  
withheld under section 5747.06 of the Revised Code from employees 5580  
retained at an existing facility recommended for closure to the 5581  
base realignment and closure commission in the United States 5582  
department of defense. 5583

(7) "Tenant" means the United States, any department, agency, 5584

or instrumentality of the United States, or any person under 5585  
contract with the United States or any department, agency, or 5586  
instrumentality of the United States. 5587

(B) The tax credit authority may enter into an agreement with 5588  
a landlord under which an annual payment equal to the new income 5589  
tax revenue or retained income tax revenue, as applicable, or the 5590  
amount called for under division (D)(3) or (4) of this section 5591  
shall be made to the landlord from moneys of this state that were 5592  
not raised by taxation, and shall be credited by the landlord to 5593  
the rental owing from the tenant to the landlord for a facility. 5594

(C) A landlord that proposes a project to create new jobs in 5595  
this state or retain jobs in this state within a municipal 5596  
corporation at an existing facility recommended for closure to the 5597  
base realignment and closure commission in the United States 5598  
department of defense may apply to the tax credit authority to 5599  
enter into an agreement for annual payments under this section. 5600  
The director of development shall prescribe the form of the 5601  
application. After receipt of an application, the authority may 5602  
enter into an agreement with the landlord for annual payments 5603  
under this section if it determines all of the following: 5604

(1) The project will create new jobs in this state+ or retain 5605  
jobs within a municipal corporation at a facility recommended for 5606  
closure to the base realignment and closure commission in the 5607  
United States department of defense. 5608

(2) The project is economically sound and will benefit the 5609  
people of this state by increasing opportunities for employment 5610  
and strengthening the economy of this state+. 5611

(3) Receiving the annual payments will be a major factor in 5612  
the decision of the landlord and tenant to go forward with the 5613  
project. 5614

(D) An agreement with a landlord for annual payments shall 5615

- include all of the following: 5616
- (1) A description of the project that is the subject of the 5617  
agreement; 5618
- (2) The term of the agreement, which shall not exceed twenty 5619  
years; 5620
- (3) Based on the estimated new income tax revenue or retained 5621  
income tax revenue, as applicable, to be derived from the facility 5622  
at the time the agreement is entered into, provision for a 5623  
guaranteed payment to the landlord commencing with the issuance by 5624  
the landlord of any bonds or other forms of financing for the 5625  
construction of the facility and continuing for the term approved 5626  
by the authority; 5627
- (4) Provision for offsets to this state of the annual payment 5628  
in years in which such annual payment is greater than the 5629  
guaranteed payment of amounts previously paid by this state to the 5630  
landlord in excess of the new income tax revenue or retained 5631  
income tax revenue, as applicable, by reason of the guaranteed 5632  
payment; 5633
- (5) A specific method for determining how many new employees 5634  
are employed during a year; 5635
- (6) A requirement that the landlord annually shall obtain 5636  
from the tenant and report to the director of development the 5637  
number of new employees, and the new income tax revenue withheld 5638  
in connection with the new employees, or the number of retained 5639  
employees and the retained income tax revenue withheld in 5640  
connection with the retained employees, as applicable, and any 5641  
other information the director needs to perform the director's 5642  
duties under this section; 5643
- (7) A requirement that the director of development annually 5644  
shall verify the amounts reported under division (D)(6) of this 5645

section, and after doing so shall issue a certificate to the 5646  
landlord stating that the amounts have been verified. 5647

(E) The director of development, in accordance with Chapter 5648  
119. of the Revised Code, shall adopt rules necessary to implement 5649  
this section. 5650

**Sec. 122.40.** (A) There is hereby created the development 5651  
financing advisory council to assist in carrying out the programs 5652  
created pursuant to sections 122.39 to 122.62 and Chapter 166. of 5653  
the Revised Code. 5654

(B) The council shall consist of seven members appointed by 5655  
the governor, with the advice and consent of the senate, who are 5656  
selected for their knowledge of and experience in economic 5657  
development financing, one member of the senate appointed by the 5658  
president of the senate, one member of the house of 5659  
representatives appointed by the speaker of the house of 5660  
representatives, and the director of development or the director's 5661  
designee. With respect to the council: 5662

(1) No more than four members of the council appointed by the 5663  
governor shall be members of the same political party. 5664

(2) Each member shall hold office from the date of the 5665  
member's appointment until the end of the term for which the 5666  
member was appointed. 5667

(3) The terms of office for the seven members appointed by 5668  
the governor shall be for five years commencing on the first day 5669  
of January and ending on the thirty-first day of December. The 5670  
seven members appointed by the governor who are serving terms of 5671  
office of seven years on ~~the effective date of this amendment~~ 5672  
December 30, 2004, shall continue to serve those terms, but their 5673  
successors in office, including the filling of a vacancy occurring 5674  
prior to the expiration of those terms, shall be appointed for 5675

terms of five years in accordance with this division. 5676

(4) Any member of the council is eligible for reappointment. 5677

(5) As a term of a member of the council appointed by the 5678  
governor expires, the governor shall appoint a successor with the 5679  
advice and consent of the senate. 5680

(6) Except as otherwise provided in division (B)(3) of this 5681  
section, any member appointed to fill a vacancy occurring prior to 5682  
the expiration of the term for which the member's predecessor was 5683  
appointed shall hold office for the remainder of the predecessor's 5684  
term. 5685

(7) Any member shall continue in office subsequent to the 5686  
expiration date of the member's term until the member's successor 5687  
takes office, or until a period of sixty days has elapsed, 5688  
whichever occurs first. 5689

(8) Before entering upon duties as a member of the council, 5690  
each member shall take an oath provided by Section 7 of Article 5691  
XV, Ohio Constitution. 5692

(9) The governor may, at any time, remove any nonlegislative 5693  
member pursuant to section 3.04 of the Revised Code. 5694

(10) Members of the council, notwithstanding section 101.26 5695  
of the Revised Code with respect to members who are members of the 5696  
general assembly, shall receive their necessary and actual 5697  
expenses while engaged in the business of the council and shall be 5698  
paid at the per diem rate of step 1, pay range 31, of section 5699  
124.15 of the Revised Code. 5700

(11) ~~Four~~ Six members of the council constitute a quorum and 5701  
the affirmative vote of six members is necessary for any action 5702  
taken by the council. 5703

(12) In the event of the absence of a member appointed by the 5704  
president of the senate or by the speaker of the house of 5705



representatives, the following persons may serve in the member's  
absence: the president of the senate or the speaker of the house,  
as the case may be, or a member of the senate or of the house of  
representatives, of the same political party as the development  
financing advisory council member, designated by the president of  
the senate or the speaker of the house.

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

(2) All interest payable on the moneys in the program reserve  
account shall be added to the moneys and held as an additional  
loss reserve. The director may require that a portion or all of  
the accrued interest so held in the account be released to the  
department. If the director causes a release of accrued interest,  
the director shall deposit the released amount into the capital  
access loan program fund created in section 122.601 of the Revised  
Code. The director shall not require the release of that accrued  
interest more than twice in a fiscal year.

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

eligible business all or part of the amount that the participating 5737  
financial institution is required to deposit into the account 5738  
under this division in any manner agreed to by the participating 5739  
financial institution and the eligible business. 5740

(C) For each capital access loan made by a participating 5741  
financial institution, the participating financial institution 5742  
shall certify to the director, within a period specified by the 5743  
director, that the participating financial institution has made 5744  
the loan. The certification shall include the amount of the loan, 5745  
the amount of the fee received from the eligible business, the 5746  
amount of its own funds that the participating financial 5747  
institution deposited into its program reserve account to reflect 5748  
that fee, and any other information specified by the director. 5749

(D) ~~On~~ Upon receipt of each of the first three certifications 5750  
from a participating financial institution made under division (C) 5751  
of this section and subject to section 122.602 of the Revised 5752  
Code, the director shall disburse to the participating financial 5753  
institution from the capital access loan program fund an amount 5754  
equal to fifty per cent of the principal amount of the particular 5755  
capital access loan for deposit into the participating financial 5756  
institution's program reserve account. Thereafter, upon receipt of 5757  
a certification from that participating financial institution made 5758  
under division (C) of this section and subject to section 122.602 5759  
of the Revised Code, the director shall disburse to the 5760  
participating financial institution from the capital access loan 5761  
program fund an amount equal to ten per cent of the principal 5762  
amount of the particular capital access loan for deposit into the 5763  
participating financial institution's program reserve account. The 5764  
disbursement of moneys from the fund to a participating financial 5765  
institution does not require approval from the controlling board. 5766

(E) If the amount in a program reserve account exceeds an 5767  
amount equal to thirty-three per cent of a participating financial 5768

institution's outstanding capital access loans, the department may 5769  
cause the withdrawal of the excess amount and the deposit of the 5770  
withdrawn amount into the capital access loan program fund. 5771

(F)(1) The department may cause the withdrawal of the total 5772  
amount in a participating financial institution's program reserve 5773  
account if any of the following applies: 5774

(a) The financial institution is no longer eligible to 5775  
participate in the program. 5776

(b) The participation agreement expires without renewal by 5777  
the department or the financial institution. 5778

(c) The financial institution has no outstanding capital 5779  
access loans. 5780

(d) The financial institution has not made a capital access 5781  
loan within the preceding twenty-four months. 5782

(2) If the department causes a withdrawal under division 5783  
(F)(1) of this section, the department shall deposit the withdrawn 5784  
amount into the capital access loan program fund. 5785

**Sec. 122.71.** As used in sections 122.71 to 122.83 of the 5786  
Revised Code: 5787

(A) "Financial institution" means any banking corporation, 5788  
trust company, insurance company, savings and loan association, 5789  
building and loan association, or corporation, partnership, 5790  
federal lending agency, foundation, or other institution engaged 5791  
in lending or investing funds for industrial or business purposes. 5792

(B) "Project" means any real or personal property connected 5793  
with or being a part of an industrial, distribution, commercial, 5794  
or research facility to be acquired, constructed, reconstructed, 5795  
enlarged, improved, furnished, or equipped, or any combination 5796  
thereof, with the aid provided under sections 122.71 to 122.83 of 5797

the Revised Code, for industrial, commercial, distribution, and 5798  
research development of the state. 5799

(C) "Mortgage" means the lien imposed on a project by a 5800  
mortgage on real property, or by financing statements on personal 5801  
property, or a combination of a mortgage and financing statements 5802  
when a project consists of both real and personal property. 5803

(D) "Mortgagor" means the principal user of a project or the 5804  
person, corporation, partnership, or association unconditionally 5805  
guaranteeing performance by the principal user of its obligations 5806  
under the mortgage. 5807

(E)(1) "Minority business enterprise" means an individual who 5808  
is a United States citizen and owns and controls a business, or a 5809  
partnership, corporation, or joint venture of any kind that is 5810  
owned and controlled by United States citizens, which citizen or 5811  
citizens are residents of this state and are members of one of the 5812  
following economically disadvantaged groups: Blacks or African 5813  
Americans, American Indians, Hispanics or Latinos, and ~~Oriental~~ 5814  
Asians. 5815

(2) "Owned and controlled" means that at least fifty-one per 5816  
cent of the business, including corporate stock if a corporation, 5817  
is owned by persons who belong to one or more of the groups set 5818  
forth in division (E)(1) of this section, and that those owners 5819  
have control over the management and day-to-day operations of the 5820  
business and an interest in the capital, assets, and profits and 5821  
losses of the business proportionate to their percentage of 5822  
ownership. In order to qualify as a minority business enterprise, 5823  
a business shall have been owned and controlled by those persons 5824  
at least one year prior to being awarded a contract pursuant to 5825  
this section. 5826

(F) "Community improvement corporation" means a corporation 5827  
organized under Chapter 1724. of the Revised Code. 5828

(G) "Ohio development corporation" means a corporation 5829  
organized under Chapter 1726. of the Revised Code. 5830

(H) "Minority contractors business assistance organization" 5831  
means an entity engaged in the provision of management and 5832  
technical business assistance to minority business enterprise 5833  
entrepreneurs. 5834

(I) "Minority business supplier development council" means a 5835  
nonprofit organization established as an affiliate of the national 5836  
minority supplier development council. 5837

(J) "Regional economic development entity" means an entity 5838  
that is under contract with the director of development to 5839  
administer a loan program under this chapter in a particular area 5840  
of the state. 5841

**Sec. 122.72.** (A) There is hereby created the minority 5842  
development financing advisory board to assist in carrying out the 5843  
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 5844  
the Revised Code. 5845

(B) The board shall consist of ~~seven~~ ten members. The 5846  
director of development or the director's designee shall be a 5847  
voting member on the board. Seven members shall be appointed by 5848  
the governor with the advice and consent of the senate and 5849  
selected because of their knowledge of and experience in 5850  
industrial, business, and commercial financing, suretyship, 5851  
construction, and their understanding of the problems of minority 5852  
business enterprises; one member also shall be a member of the 5853  
senate and appointed by the president of the senate, and one 5854  
member also shall be a member of the house of representatives and 5855  
appointed by the speaker of the house of representatives. With 5856  
respect to the board, all of the following apply: 5857

(1) Not more than four of the members of the board appointed 5858

by the governor shall be of the same political party. 5859

(2) Each member shall hold office from the date of the 5860  
member's appointment until the end of the term for which the 5861  
member was appointed. 5862

(3) The terms of office for the seven members appointed by 5863  
the governor shall be for seven years, commencing on the first day 5864  
of October and ending on the thirtieth day of September of the 5865  
seventh year, except that of the original seven members, three 5866  
shall be appointed for three years and two shall be appointed for 5867  
five years. 5868

(4) Any member of the board is eligible for reappointment. 5869

(5) Any member appointed to fill a vacancy occurring prior to 5870  
the expiration of the term for which ~~his~~ the member's predecessor 5871  
was appointed shall hold office for the remainder of ~~his~~ the 5872  
predecessor's term. 5873

(6) Any member shall continue in office subsequent to the 5874  
expiration date of ~~his~~ the member's term until ~~his~~ the member's 5875  
successor takes office, or until a period of sixty days has 5876  
elapsed, whichever occurs first. 5877

(7) Before entering upon ~~his~~ official duties as a member of 5878  
the board, each member shall take an oath as provided by Section 7 5879  
of Article XV, Ohio Constitution. 5880

(8) The governor may, at any time, remove any member 5881  
appointed by ~~him~~ the governor pursuant to section 3.04 of the 5882  
Revised Code. 5883

(9) Notwithstanding section 101.26 of the Revised Code, 5884  
members shall receive their necessary and actual expenses while 5885  
engaged in the business of the board and shall be paid at the per 5886  
diem rate of step 1 of pay range 31 of section 124.15 of the 5887  
Revised Code. 5888

(10) ~~Five~~ Six members of the board constitute a quorum and 5889  
the affirmative vote of ~~five~~ six members is necessary for any 5890  
action taken by the board. 5891

(11) In the event of the absence of a member appointed by the 5892  
president of the senate or by the speaker of the house of 5893  
representatives, either of the following persons may serve in the 5894  
member's absence: 5895

(a) The president of the senate or the speaker of the house 5896  
of representatives, whoever appointed the absent member; 5897

(b) A member of the senate or of the house of representatives 5898  
of the same political party as the absent member, as designated by 5899  
the president of the senate or the speaker of the house of 5900  
representatives, whoever appointed the absent member. 5901

(12) The board shall annually elect one of its members as 5902  
~~chairman~~ chairperson and another as ~~vice-chairman~~ 5903  
vice-chairperson. 5904

**Sec. 122.73.** (A) The minority development financing advisory 5905  
board and the director of development are invested with the powers 5906  
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the 5907  
Revised Code, in order to promote the welfare of the people of the 5908  
state by encouraging the establishment and expansion of minority 5909  
business enterprises<sub>7i</sub> to stabilize the economy<sub>7i</sub> to provide 5910  
employment<sub>7i</sub> to assist in the development within the state of 5911  
industrial, commercial, distribution, and research activities 5912  
required for the people of the state, and for their gainful 5913  
employment<sub>7i</sub> or otherwise to create or preserve jobs and 5914  
employment opportunities, or improve the economic welfare of the 5915  
people of the state. It is hereby determined that the 5916  
accomplishment of those purposes is essential so that the people 5917  
of the state may maintain their present high standards of living 5918

in comparison with the people of other states and so that 5919  
opportunities for employment and for favorable markets for the 5920  
products of the state's natural resources, agriculture, and 5921  
manufacturing shall be improved ~~and~~. It further is determined that 5922  
it is necessary for the state to establish the programs authorized 5923  
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 5924  
establish the minority development financing advisory board, and 5925  
to invest it and the director of development with the powers and 5926  
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 5927  
Code. 5928

(B) The minority development financing advisory board shall 5929  
do all of the following: 5930

(1) Make recommendations to the director as to applications 5931  
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 5932  
Revised Code. The board may revise its recommendations to reflect 5933  
any changes in the proposed assistance made by the director. 5934

(2) Advise the director in the administration of sections 5935  
122.71 to ~~122.89~~ 122.90 of the Revised Code. 5936

(3) Adopt bylaws to govern the conduct of the business of the 5937  
board. 5938

**Sec. 122.74.** (A)(1) The director of development shall do all 5939  
of the following: 5940

~~(1)~~(a) Receive applications for assistance under sections 5941  
122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 5942  
but subject to division (A)(2) of this section, forward them to 5943  
the minority development financing advisory board together with 5944  
necessary supporting information; 5945

~~(2)~~(b) Receive the recommendations of the board and make a 5946  
final determination whether to approve the application for 5947  
assistance; 5948



~~(3)~~(c) Receive recommendations from a regional economic development entity for loans made under section 122.76 of the Revised Code and make a final determination, notwithstanding divisions (A)(1) and (2) of this section, whether to approve the proposed loan; 5949  
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(d) Transmit the director's determinations to approve assistance to the controlling board together with any information the controlling board requires for its review and decision as to whether to approve the assistance. 5954  
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(2) The director is not required to submit any determination, data, terms, or any other application materials or information to the minority development financing advisory board when provision of the assistance has been recommended to the director by a regional economic development entity. 5958  
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(B) The director may do all of the following: 5963

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80 ~~and~~, 122.88, and 122.90 of the Revised Code; 5964  
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(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. 5971  
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(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper; 5975  
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(4) Make and enter into all contracts and agreements 5980  
necessary or incidental to the performance of the director's 5981  
duties and the exercise of the director's powers under sections 5982  
122.71 to ~~122.89~~ 122.90 of the Revised Code; 5983

(5) Maintain, protect, repair, improve, and insure any 5984  
property that the director has acquired and dispose of it by sale, 5985  
exchange, or lease for the consideration and on the terms and in 5986  
the manner as the director considers proper, but the director 5987  
shall not operate any such property as a business except as the 5988  
lessor of it; 5989

(6)(a) When the cost of any contract for the maintenance, 5990  
protection, repair, or improvement of any property held by the 5991  
director, other than compensation for personal services, involves 5992  
an expenditure of more than fifty thousand dollars, the director 5993  
shall make a written contract with the lowest responsive and 5994  
responsible bidder in accordance with section 9.312 of the Revised 5995  
Code after advertisement for not less than two consecutive weeks 5996  
in a newspaper of general circulation in the county where such 5997  
contract, or some substantial part of it, is to be performed, and 5998  
in such other publications as the director determines, which 5999  
notice shall state the general character of the work and the 6000  
general character of the materials to be furnished, the place 6001  
where plans and specifications therefor may be examined, and the 6002  
time and place of receiving bids. 6003

(b) Each bid for a contract for the construction, demolition, 6004  
alteration, repair, or reconstruction of an improvement shall 6005  
contain the full name of every person interested in it and meet 6006  
the requirements of section 153.54 of the Revised Code. 6007

(c) Each bid for a contract, except as provided in division 6008  
(B)(6)(b) of this section, shall contain the full name of every 6009  
person interested in it and shall be accompanied by bond or 6010

certified check on a solvent bank, in such amount as the director  
considers sufficient, that if the bid is accepted a contract will  
be entered into and the performance of the proposal secured.

(d) The director may reject any and all bids.

(e) A bond with good and sufficient surety, approved by the  
director, shall be required of every contractor awarded a contract  
except as provided in division (B)(6)(b) of this section, in an  
amount equal to at least fifty per cent of the contract price,  
conditioned upon faithful performance of the contract.

(7) Employ or contract with financial consultants,  
appraisers, consulting engineers, superintendents, managers,  
construction and accounting experts, attorneys, and other  
employees and agents as are necessary in the director's judgment  
and fix their compensation;

(8) Receive and accept grants, gifts, and contributions of  
money, property, labor, and other things of value to be held,  
used, and applied only for the purpose for which ~~such~~ the grants,  
gifts, and contributions are made, from individuals, private and  
public corporations, from the United States or any agency thereof,  
from the state or any agency thereof, and from any political  
subdivision of the state, and may agree to repay any contribution  
of money or to return any property contributed or the value  
thereof at such times, in ~~such~~ amounts, and on ~~such~~ terms and  
conditions, excluding the payment of interest, as the director  
determines at the time ~~such~~ the contribution is made, and may  
evidence ~~such~~ the obligations by notes, bonds, or other written  
instruments;

(9) Establish with the treasurer of state the funds provided  
in sections 122.80 and 122.88 of the Revised Code in addition to  
such funds as the director determines are necessary or proper;

(10) Adopt rules under Chapter 119. of the Revised Code

necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the Revised Code. 6042  
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(11) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. 6044  
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(C)(1) All expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code shall be payable solely from revenues or other receipts or income of the director, from grants, gifts, and contributions, or funds established in accordance with such sections. Such sections do not authorize the director to incur indebtedness or to impose liability on the state or any political subdivision of the state. 6047  
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(2) Financial statements and other data submitted to the director by any corporation, partnership, or person in connection with financial assistance provided under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection. 6056  
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**Sec. 122.75.** The director of development shall, for the minority business development loan program ~~and~~, the minority business bonding program, and the minority business bond guarantee program under sections 122.87 to ~~122.89~~ 122.90 of the Revised Code, do all of the following: 6062  
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(A) Hire employees, consultants, and agents and fix their compensation; 6067  
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(B) Adopt bylaws and rules for the regulation of the business of the minority development financing advisory board; 6069  
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(C) Receive and accept grants, gifts, and contributions of 6071

money, property, labor, and other things of value, to be held, 6072  
used, and applied only for the purpose for which the grants, 6073  
gifts, and contributions are made, from individuals, private and 6074  
public corporations, the United States or any agency of the United 6075  
States, the state or any agency of the state, and any political 6076  
subdivision of the state. The director may agree to repay any 6077  
contribution of money or to return any property contributed or its 6078  
value at such times, in ~~such~~ amounts, and on ~~such~~ terms and 6079  
conditions, excluding the payment of interest, as the director 6080  
determines at the time the contribution is made. The director may 6081  
evidence the obligations by written contracts, subject to section 6082  
122.76 of the Revised Code; provided, that the director shall not 6083  
thereby incur indebtedness of or impose liability upon the state 6084  
or any political subdivision. 6085

(D) Establish funds with the treasurer of state in addition 6086  
to the minority business bonding fund created under section 122.88 6087  
of the Revised Code; 6088

(E) Invest money in the funds the director establishes 6089  
pursuant to division (D) of this section that is in excess of 6090  
current needs, in notes, bonds, or other obligations that are 6091  
direct obligations of or are guaranteed by the United States, or 6092  
in certificates of deposit or withdrawable accounts of banks, 6093  
trust companies, ~~and~~ or savings and loan associations organized 6094  
under the laws of this state or the United States, and may credit 6095  
the income or sell the investments at the director's discretion; 6096

(F) Acquire any property of any kind or character in 6097  
accordance with sections 122.71 to 122.83 of the Revised Code, by 6098  
purchase, purchase at foreclosure, or exchange on terms and in a 6099  
manner the director considers proper; 6100

(G)(1) Maintain, protect, repair, improve, and insure any 6101  
property the director has acquired and dispose of it by sale, 6102

exchange, or lease for the consideration and on terms and in a  
manner the director considers proper. The director may not operate  
any property as a business except as a lessor of the property.  
When the cost of any contract for the maintenance, protection,  
repair, or improvement of any property of the advisory board  
connected with the minority business development loan program,  
other than compensation for personal services, involves an  
expenditure of more than one thousand dollars, the director shall  
enter into a written contract with the lowest and best bidder  
after advertisement for not less than four consecutive weeks in a  
newspaper of general circulation in the county where the contract,  
or some substantial part of it, is to be performed, and in other  
publications as the director determines. The notice shall state  
the general character of the work and the general character of the  
materials to be furnished, the place where plans and  
specifications for the work and materials may be examined, and the  
time and place of receiving bids.

(2) Each bid for a contract for the construction, demolition,  
alteration, repair, or reconstruction of an improvement shall  
contain the full name of every person interested in it and meet  
the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract, except as provided in division  
(G)(2) of this section, shall contain the full name of every  
person interested in it and shall be accompanied by a bond or  
certified check on a solvent bank, in the amount of ten per cent  
of the bid, that if the bid is accepted a contract will be entered  
into and the performance of its proposal secured. The director may  
reject any or all bids. A bond with good and sufficient surety,  
approved by the director, shall be required of all contractors in  
an amount equal to at least one hundred per cent of the contract  
price, conditioned upon faithful performance of the contract.

(H) Expend money appropriated to the department of

development by the general assembly for the purposes of sections 6135  
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code; 6136

(I) Do all acts and things necessary or proper to carry out 6137  
the powers expressly granted and the duties imposed in sections 6138  
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code. 6139

**Sec. 122.751.** The minority development financing advisory 6140  
board or a regional economic development entity shall only 6141  
consider an application for a loan from any applicant after a 6142  
certification by the equal employment opportunity coordinator of 6143  
the department of administrative services under division (B)(1) of 6144  
section 123.151 of the Revised Code that the applicant is a 6145  
minority business enterprise, or after a certification by the 6146  
minority business supplier development council that the applicant 6147  
is a minority business, and that the applicant satisfies all 6148  
criteria regarding eligibility for assistance pursuant to section 6149  
122.76 of the Revised Code. 6150

**Sec. 122.76.** (A) The director of development, with 6151  
controlling board approval, may lend funds to minority business 6152  
enterprises and to community improvement corporations, Ohio 6153  
development corporations, minority contractors business assistance 6154  
organizations, and minority business supplier development councils 6155  
for the purpose of loaning funds to minority business enterprises 6156  
and for the purpose of procuring or improving real or personal 6157  
property, or both, for the establishment, location, or expansion 6158  
of industrial, distribution, commercial, or research facilities in 6159  
the state, if the director determines, in the director's sole 6160  
discretion, that all of the following apply: 6161

(1) The project is economically sound and will benefit the 6162  
people of the state by increasing opportunities for employment, by 6163  
strengthening the economy of the state, or expanding minority 6164

business enterprises. 6165

(2) The proposed minority business enterprise borrower is 6166  
unable to finance the proposed project through ordinary financial 6167  
channels at comparable terms. 6168

(3) The value of the project is or, upon completion, will be 6169  
at least equal to the total amount of the money expended in the 6170  
procurement or improvement of the project, and one or more 6171  
financial institutions or other governmental entities have loaned 6172  
not less than thirty per cent of that amount. 6173

(4) The amount to be loaned by the director will not exceed 6174  
sixty per cent of the total amount expended in the procurement or 6175  
improvement of the project. 6176

(5) The amount to be loaned by the director will be 6177  
adequately secured by a first or second mortgage upon the project 6178  
or by mortgages, leases, liens, assignments, or pledges on or of 6179  
other property or contracts as the director requires, and such 6180  
mortgage will not be subordinate to any other liens or mortgages 6181  
except the liens securing loans or investments made by financial 6182  
institutions referred to in division (A)(3) of this section, and 6183  
the liens securing loans previously made by any financial 6184  
institution in connection with the procurement or expansion of all 6185  
or part of a project. 6186

(B) Any proposed minority business enterprise borrower 6187  
submitting an application for assistance under this section shall 6188  
not have defaulted on a previous loan from the director, and no 6189  
full or limited partner, major shareholder, or holder of an equity 6190  
interest of the proposed minority business enterprise borrower 6191  
shall have defaulted on a loan from the director. 6192

(C) The proposed minority business enterprise borrower shall 6193  
demonstrate to the satisfaction of the director that it is able to 6194  
successfully compete in the private sector if it obtains the 6195



necessary financial, technical, or managerial support and that  
support is available through the director, the minority business  
development office of the department of development, or other  
identified and acceptable sources. In determining whether a  
minority business enterprise borrower will be able to successfully  
compete, the director may give consideration to such factors as  
the successful completion of or participation in courses of study,  
recognized by the board of regents as providing financial,  
technical, or managerial skills related to the operation of the  
business, by the economically disadvantaged individual, owner, or  
partner, and the prior success of the individual, owner, or  
partner in personal, career, or business activities, as well as to  
other factors identified by the director.

(D) The director shall not lend funds for the purpose of  
procuring or improving motor vehicles, ~~power driven vehicles,~~  
~~office equipment, raw materials, small tools, supplies,~~  
~~inventories,~~ or accounts receivable.

**Sec. 122.77.** (A) The director of development with controlling  
board approval may make loan guarantees to small businesses and  
corporations for the purpose of guaranteeing loans made to small  
businesses by financial institutions for the purpose of procuring  
or improving real or personal property, or both, for the  
establishment, location, or expansion of industrial, distribution,  
commercial, or research facilities in the state, if the director  
determines, in ~~his~~ the director's sole discretion, that all of the  
following apply:

(1) The project is economically sound and will benefit the  
people of the state by increasing opportunities for employment, by  
strengthening the economy of the state, or expanding minority  
business enterprises+.

(2) The proposed small business borrower is unable to finance

the proposed project through ordinary financial channels at 6227  
comparable terms+. 6228

(3) The value of the project is, or upon completion of it 6229  
will be, at least equal to the total amount of the money expended 6230  
in the procurement or improvement of the project and of which 6231  
amount one or more financial institutions or other governmental 6232  
entities have loaned not less than thirty per cent+. 6233

(4) The amount to be guaranteed by the director will not 6234  
exceed ~~fifty~~ eighty per cent of the total amount expended in the 6235  
procurement or improvement of the project+. 6236

(5) The amount to be guaranteed by the director will be 6237  
adequately secured by a first or second mortgage upon the project, 6238  
or by mortgages, leases, liens, assignments, or pledges on or of 6239  
other property or contracts as the director shall require and that 6240  
such mortgage will not be subordinate to any other liens or 6241  
mortgages except the liens securing loans or investments made by 6242  
financial institutions referred to in division (A)(3) of this 6243  
section, and the liens securing loans previously made by any 6244  
financial institution in connection with the procurement or 6245  
expansion of all or part of a project. 6246

(B) The proposed small business borrower shall not have 6247  
defaulted on a previous loan or guarantee from the director, and 6248  
no full or limited partner, or major shareholder, or holder of any 6249  
equity interest of the proposed minority business enterprise 6250  
borrower shall have defaulted on a loan or guarantee from the 6251  
director. 6252

(C) The proposed small business borrower shall demonstrate to 6253  
the satisfaction of the director that it is able to successfully 6254  
compete in the private sector if it obtains the necessary 6255  
financial, technical, or managerial support and that support is 6256  
available through the director, the minority business development 6257

office of the department of development, or other identified and 6258  
acceptable sources. In determining whether a small business 6259  
borrower will be able to successfully compete, the director may 6260  
give consideration to such factors as the successful completion of 6261  
or participation in courses of study, recognized by the board of 6262  
regents as providing financial, technical, or managerial skills 6263  
related to the operation of the business, by the economically 6264  
disadvantaged individual, owner, or partner, and the prior success 6265  
of the individual, owner, or partner in personal, career, or 6266  
business activities, as well as to other factors identified by the 6267  
director. 6268

(D) The director shall not guarantee funds for the purpose of 6269  
procuring or improving motor vehicles, ~~power driven vehicles,~~ 6270  
~~office equipment, raw materials, small tools, supplies,~~ 6271  
~~inventories,~~ or accounts receivable. 6272

**Sec. 122.78.** Fees, charges, rates of interest, times of 6273  
payment of interest and principal, and other terms, conditions, 6274  
and provisions of the loans and guarantees made by the director of 6275  
development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 6276  
Revised Code shall be such as the director determines to be 6277  
appropriate and in furtherance of the purpose for which the loans 6278  
and guarantees are made, but the mortgage lien securing any money 6279  
loaned or guaranteed by the director may be subordinate to the 6280  
mortgage lien securing any money loaned or invested by a financial 6281  
institution, but shall be superior to that securing any money 6282  
loaned or expended by any other corporation or person. The funds 6283  
used in making these loans or guarantees shall be disbursed upon 6284  
order of the director. 6285

**Sec. 122.79.** The exercise of the powers granted by sections 6286  
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all 6287

respects for the benefit of the people of the state, for the 6288  
increase of their commerce and prosperity, for the increase and 6289  
expansion of minority business enterprises, and for the 6290  
improvement of conditions of employment, and will constitute the 6291  
performance of essential governmental functions; therefore, the 6292  
director of development shall not be required to pay any taxes 6293  
upon any property or assets held by ~~him~~ the director, or upon any 6294  
property acquired or used by ~~him~~ the director under sections 6295  
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 6296  
from it, provided that this exemption shall not apply to any 6297  
property held by the director while it is in the possession of a 6298  
private person, partnership, or corporation and used for private 6299  
purposes for profit, in which case such tax liability shall accrue 6300  
to ~~such~~ the private person, partnership, or corporation. 6301

**Sec. 122.82.** All moneys, funds, properties, and assets 6302  
acquired by the director of development shall be held by ~~him~~ the 6303  
director in trust to carry out ~~his~~ the director's powers and 6304  
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 6305  
122.90 of the Revised Code, and shall at no time be part of other 6306  
public funds. 6307

**Sec. 122.83.** Any person who intentionally misrepresents that 6308  
person's self as owning, controlling, operating, or participating 6309  
in a minority business enterprise for the purpose of obtaining 6310  
funds, contracts, subcontracts, services, or any other benefits 6311  
under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 6312  
Revised Code is guilty of theft by deception, pursuant to section 6313  
2913.02 of the Revised Code. 6314

**Sec. 122.95.** As used in sections 122.95 to 122.952 of the 6315  
Revised Code: 6316

(A) "Commercial or industrial areas" means areas ~~established~~ 6317

~~by a state, county, municipal, or other zoned either commercial or industrial by the local zoning authority as being most appropriate for business, commerce, industry, or trade or an area not zoned by state or local law, regulation, or ordinance, but in which there is located one or more commercial or industrial activities.~~ 6318  
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(B) "Eligible county" means any of the following: 6323

(1) A county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 U.S.C. App. 403; 6324  
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(2) A county that is a "distressed area" as defined in section 122.16 of the Revised Code; 6327  
6328

(3) A county that within the previous calendar year has had a population of less than one hundred thousand according to the most recent federal decennial census and in which three hundred fifty or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee; 6329  
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~~(4) A county that has a population of one hundred thousand or more according to the most recent federal decennial census and in which one thousand or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee job loss numbering two hundred or more of which one hundred or more are manufacturing-related as reported in the notices prepared by the department of job and family services pursuant to the "Worker Adjustment and Retraining Notification Act," 102 Stat. 890 (1988), 29 U.S.C. 2101 et seq., as amended.~~ 6336  
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**Sec. 122.951.** (A) If the director of development determines 6347

that a grant from the industrial site improvement fund ~~will~~ may 6348  
create new jobs or preserve existing jobs and employment 6349  
opportunities in an eligible county, the director may grant up to 6350  
~~one million~~ five hundred thousand dollars from the fund to the 6351  
eligible county for the purpose of acquiring commercial or 6352  
industrial land or buildings and making improvements to commercial 6353  
or industrial areas within the eligible county, including, but not 6354  
limited to: 6355

(1) Expanding, remodeling, renovating, and modernizing 6356  
buildings, structures, and other improvements; 6357

(2) Remediating environmentally contaminated property on 6358  
which hazardous substances exist under conditions that have caused 6359  
or would cause the property to be identified as contaminated by 6360  
the Ohio or United States environmental protection agency; and 6361

(3) Infrastructure improvements, including, but not limited 6362  
to, site preparation, including building demolition and removal; 6363  
streets, roads, bridges, and traffic control devices; parking lots 6364  
and facilities; water and sewer lines and treatment plants; gas, 6365  
electric, and telecommunications, including broadband, hook-ups; 6366  
and water and railway access improvements. 6367

A grant awarded under this section shall provide not more 6368  
than seventy-five per cent of the estimated total cost of the 6369  
project for which an application is submitted under this section. 6370  
In addition, not more than ten per cent of the amount of the grant 6371  
shall be used to pay the costs of professional services related to 6372  
the project. 6373

(B) An eligible county may apply to the director for a grant 6374  
under this section in the form and manner prescribed by the 6375  
director. The eligible county shall include on the application all 6376  
information required by the director. The application shall 6377  
require the eligible county to provide a detailed description of 6378

how the eligible county would use a grant to improve commercial or  
industrial areas within the eligible county, and to specify how a  
grant will lead to the creation of new jobs or the preservation of  
existing jobs and employment opportunities in the eligible county.  
The eligible county shall specify in the application the amount of  
the grant for which the eligible county is applying.

(C) An eligible county that receives a grant under this  
section is not eligible for any additional grants from the  
industrial site improvement fund in the fiscal year in which the  
grant is received and in the subsequent fiscal year.

(D) An eligible county may designate a port authority,  
community improvement corporation as defined in section 122.71 of  
the Revised Code, or other economic development entity that is  
located in the county to apply for a grant under this section. If  
a port authority, community improvement corporation, or other  
economic development entity is so designated, references to an  
eligible county in this section include references to the  
authority, corporation, or other entity.

**Sec. 123.01.** (A) The department of administrative services,  
in addition to those powers enumerated in Chapters 124. and 125.  
of the Revised Code and provided elsewhere by law, shall exercise  
the following powers:

(1) To prepare, or contract to be prepared, by licensed  
engineers or architects, surveys, general and detailed plans,  
specifications, bills of materials, and estimates of cost for any  
projects, improvements, or public buildings to be constructed by  
state agencies that may be authorized by legislative  
appropriations or any other funds made available therefor,  
provided that the construction of the projects, improvements, or  
public buildings is a statutory duty of the department. This  
section does not require the independent employment of an

architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

(2) To have general supervision over the construction of any projects, improvements, or public buildings constructed for a state agency and over the inspection of materials previous to their incorporation into those projects, improvements, or buildings;

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment.

These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, and the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) To prepare and suggest comprehensive plans for the



development of grounds and buildings under the control of a state agency; 6442  
6443

(5) To acquire, by purchase, gift, devise, lease, or grant, 6444  
all real estate required by a state agency, in the exercise of 6445  
which power the department may exercise the power of eminent 6446  
domain, in the manner provided by sections 163.01 to 163.22 of the 6447  
Revised Code; 6448

(6) To make and provide all plans, specifications, and models 6449  
for the construction and perfection of all systems of sewerage, 6450  
drainage, and plumbing for the state in connection with buildings 6451  
and grounds under the control of a state agency; 6452

(7) To erect, supervise, and maintain all public monuments 6453  
and memorials erected by the state, except where the supervision 6454  
and maintenance is otherwise provided by law; 6455

(8) To procure, by lease, storage accommodations for a state 6456  
agency; 6457

(9) To lease or grant easements or licenses for unproductive 6458  
and unused lands or other property under the control of a state 6459  
agency. Such leases, easements, or licenses shall be granted for a 6460  
period not to exceed fifteen years and shall be executed for the 6461  
state by the director of administrative services and the governor 6462  
and shall be approved as to form by the attorney general, provided 6463  
that leases, easements, or licenses may be granted to any county, 6464  
township, municipal corporation, port authority, water or sewer 6465  
district, school district, library district, health district, park 6466  
district, soil and water conservation district, conservancy 6467  
district, or other political subdivision or taxing district, or 6468  
any agency of the United States government, for the exclusive use 6469  
of that agency, political subdivision, or taxing district, without 6470  
any right of sublease or assignment, for a period not to exceed 6471  
fifteen years, and provided that the director shall grant leases, 6472

easements, or licenses of university land for periods not to  
exceed twenty-five years for purposes approved by the respective  
university's board of trustees wherein the uses are compatible  
with the uses and needs of the university and may grant leases of  
university land for periods not to exceed forty years for purposes  
approved by the respective university's board of trustees pursuant  
to section 123.77 of the Revised Code.

(10) To lease office space in buildings for the use of a  
state agency;

(11) To have general supervision and care of the storerooms,  
offices, and buildings leased for the use of a state agency;

(12) To exercise general custodial care of all real property  
of the state;

(13) To assign and group together state offices in any city  
in the state and to establish, in cooperation with the state  
agencies involved, rules governing space requirements for office  
or storage use;

(14) To lease for a period not to exceed forty years,  
pursuant to a contract providing for the construction thereof  
under a lease-purchase plan, buildings, structures, and other  
improvements for any public purpose, and, in conjunction  
therewith, to grant leases, easements, or licenses for lands under  
the control of a state agency for a period not to exceed forty  
years. The lease-purchase plan shall provide that at the end of  
the lease period, the buildings, structures, and related  
improvements, together with the land on which they are situated,  
shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is  
to be so leased by a state agency, the department shall retain  
either basic plans, specifications, bills of materials, and  
estimates of cost with sufficient detail to afford bidders all

needed information or, alternatively, all of the following plans, 6504  
details, bills of materials, and specifications: 6505

(i) Full and accurate plans suitable for the use of mechanics 6506  
and other builders in the improvement; 6507

(ii) Details to scale and full sized, so drawn and 6508  
represented as to be easily understood; 6509

(iii) Accurate bills showing the exact quantity of different 6510  
kinds of material necessary to the construction; 6511

(iv) Definite and complete specifications of the work to be 6512  
performed, together with such directions as will enable a 6513  
competent mechanic or other builder to carry them out and afford 6514  
bidders all needed information; 6515

(v) A full and accurate estimate of each item of expense and 6516  
of the aggregate cost thereof. 6517

(b) The department shall give public notice, in such 6518  
newspaper, in such form, and with such phraseology as the director 6519  
of administrative services prescribes, published once each week 6520  
for four consecutive weeks, of the time when and place where bids 6521  
will be received for entering into an agreement to lease to a 6522  
state agency a building, structure, or other improvement. The last 6523  
publication shall be at least eight days preceding the day for 6524  
opening the bids. The bids shall contain the terms upon which the 6525  
builder would propose to lease the building, structure, or other 6526  
improvement to the state agency. The form of the bid approved by 6527  
the department shall be used, and a bid is invalid and shall not 6528  
be considered unless that form is used without change, alteration, 6529  
or addition. Before submitting bids pursuant to this section, any 6530  
builder shall comply with Chapter 153. of the Revised Code. 6531

(c) On the day and at the place named for receiving bids for 6532  
entering into lease agreements with a state agency, the director 6533

of administrative services shall open the bids and shall publicly  
proceed immediately to tabulate the bids upon duplicate sheets. No  
lease agreement shall be entered into until the bureau of workers'  
compensation has certified that the person to be awarded the lease  
agreement has complied with Chapter 4123. of the Revised Code,  
until, if the builder submitting the lowest and best bid is a  
foreign corporation, the secretary of state has certified that the  
corporation is authorized to do business in this state, until, if  
the builder submitting the lowest and best bid is a person  
nonresident of this state, the person has filed with the secretary  
of state a power of attorney designating the secretary of state as  
its agent for the purpose of accepting service of summons in any  
action brought under Chapter 4123. of the Revised Code, and until  
the agreement is submitted to the attorney general and the  
attorney general's approval is certified thereon. Within thirty  
days after the day on which the bids are received, the department  
shall investigate the bids received and shall determine that the  
bureau and the secretary of state have made the certifications  
required by this section of the builder who has submitted the  
lowest and best bid. Within ten days of the completion of the  
investigation of the bids, the department shall award the lease  
agreement to the builder who has submitted the lowest and best bid  
and who has been certified by the bureau and secretary of state as  
required by this section. If bidding for the lease agreement has  
been conducted upon the basis of basic plans, specifications,  
bills of materials, and estimates of costs, upon the award to the  
builder the department, or the builder with the approval of the  
department, shall appoint an architect or engineer licensed in  
this state to prepare such further detailed plans, specifications,  
and bills of materials as are required to construct the building,  
structure, or improvement. The department shall adopt such rules  
as are necessary to give effect to this section. The department  
may reject any bid. Where there is reason to believe there is

collusion or combination among bidders, the bids of those 6567  
concerned therein shall be rejected. 6568

(15) To acquire by purchase, gift, devise, or grant and to 6569  
transfer, lease, or otherwise dispose of all real property 6570  
required to assist in the development of a conversion facility as 6571  
defined in section 5709.30 of the Revised Code as that section 6572  
existed before its repeal by Amended Substitute House Bill 95 of 6573  
the 125th general assembly; 6574

(16) To lease for a period not to exceed forty years, 6575  
notwithstanding any other division of this section, the 6576  
state-owned property located at 408-450 East Town Street, 6577  
Columbus, Ohio, formerly the state school for the deaf, to a 6578  
developer in accordance with this section. "Developer," as used in 6579  
this section, has the same meaning as in section 123.77 of the 6580  
Revised Code. 6581

Such a lease shall be for the purpose of development of the 6582  
land for use by senior citizens by constructing, altering, 6583  
renovating, repairing, expanding, and improving the site as it 6584  
existed on June 25, 1982. A developer desiring to lease the land 6585  
shall prepare for submission to the department a plan for 6586  
development. Plans shall include provisions for roads, sewers, 6587  
water lines, waste disposal, water supply, and similar matters to 6588  
meet the requirements of state and local laws. The plans shall 6589  
also include provision for protection of the property by insurance 6590  
or otherwise, and plans for financing the development, and shall 6591  
set forth details of the developer's financial responsibility. 6592

The department may employ, as employees or consultants, 6593  
persons needed to assist in reviewing the development plans. Those 6594  
persons may include attorneys, financial experts, engineers, and 6595  
other necessary experts. The department shall review the 6596  
development plans and may enter into a lease if it finds all of 6597

the following: 6598

(a) The best interests of the state will be promoted by 6599  
entering into a lease with the developer; 6600

(b) The development plans are satisfactory; 6601

(c) The developer has established the developer's financial 6602  
responsibility and satisfactory plans for financing the 6603  
development. 6604

The lease shall contain a provision that construction or 6605  
renovation of the buildings, roads, structures, and other 6606  
necessary facilities shall begin within one year after the date of 6607  
the lease and shall proceed according to a schedule agreed to 6608  
between the department and the developer or the lease will be 6609  
terminated. The lease shall contain such conditions and 6610  
stipulations as the director considers necessary to preserve the 6611  
best interest of the state. Moneys received by the state pursuant 6612  
to this lease shall be paid into the general revenue fund. The 6613  
lease shall provide that at the end of the lease period the 6614  
buildings, structures, and related improvements shall become the 6615  
property of the state without cost. 6616

(17) To lease to any person any tract of land owned by the 6617  
state and under the control of the department, or any part of such 6618  
a tract, for the purpose of drilling for or the pooling of oil or 6619  
gas. Such a lease shall be granted for a period not exceeding 6620  
forty years, with the full power to contract for, determine the 6621  
conditions governing, and specify the amount the state shall 6622  
receive for the purposes specified in the lease, and shall be 6623  
prepared as in other cases. 6624

(18) To manage the use of space owned and controlled by the 6625  
department, including space in property under the jurisdiction of 6626  
the Ohio building authority, by doing all of the following: 6627

- (a) Biennially implementing, by state agency location, a census of agency employees assigned space; 6628  
6629
- (b) Periodically in the discretion of the director of administrative services: 6630  
6631
- (i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department; 6632  
6633  
6634  
6635
- (ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics. 6636  
6637  
6638
- (iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings; 6639  
6640
- (iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus. 6641  
6642
- (c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility. 6643  
6644  
6645  
6646
- (B) This section and section 125.02 of the Revised Code shall not interfere with any of the following: 6647  
6648
- (1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories; 6649  
6650  
6651  
6652  
6653
- (2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the 6654  
6655  
6656  
6657

department of transportation, or the purchase of real property for 6658  
garage sites or division or resident district offices, or in 6659  
preparing plans and specifications for and constructing such 6660  
buildings as the director may require in the administration of the 6661  
department; 6662

(3) The power of the director of public safety and the 6663  
registrar of motor vehicles to purchase or lease real property and 6664  
buildings to be used solely as locations to which a deputy 6665  
registrar is assigned pursuant to division (B) of section 4507.011 6666  
of the Revised Code and from which the deputy registrar is to 6667  
conduct the deputy registrar's business, the power of the director 6668  
of public safety to purchase or lease real property and buildings 6669  
to be used as locations for division or district offices as 6670  
required in the maintenance of operations of the department of 6671  
public safety, and the power of the superintendent of the state 6672  
highway patrol in the purchase or leasing of real property and 6673  
buildings needed by the patrol, to negotiate the sale of real 6674  
property owned by the patrol, to rent or lease real property owned 6675  
or leased by the patrol, and to make or cause to be made repairs 6676  
to all property owned or under the control of the patrol; 6677

(4) The power of the division of liquor control in the 6678  
leasing or purchasing of retail outlets and warehouse facilities 6679  
for the use of the division; 6680

(5) The power of the director of development to enter into 6681  
leases of real property, buildings, and office space to be used 6682  
solely as locations for the state's foreign offices to carry out 6683  
the purposes of section 122.05 of the Revised Code; 6684

(6) The power of the director of environmental protection to 6685  
enter into environmental covenants, to grant and accept easements, 6686  
or to sell property pursuant to division (G) of section 3745.01 of 6687  
the Revised Code. 6688



(C) Purchases for, and the custody and repair of, buildings 6689  
under the management and control of the capitol square review and 6690  
advisory board, the rehabilitation services commission, the bureau 6691  
of workers' compensation, or the departments of public safety, job 6692  
and family services, mental health, mental retardation and 6693  
developmental disabilities, and rehabilitation and correction, and 6694  
buildings of educational and benevolent institutions under the 6695  
management and control of boards of trustees, are not subject to 6696  
the control and jurisdiction of the department of administrative 6697  
services. 6698

(D) Any instrument by which real property is acquired 6699  
pursuant to this section shall identify the agency of the state 6700  
that has the use and benefit of the real property as specified in 6701  
section 5301.012 of the Revised Code. 6702

**Sec. 123.152.** (A) As used in this section, "EDGE business 6703  
enterprise" means a sole proprietorship, association, partnership, 6704  
corporation, limited liability corporation, or joint venture 6705  
certified as a participant in the encouraging diversity, growth, 6706  
and equity program by the director of administrative services 6707  
under this section of the Revised Code. 6708

(B) The director of administrative services shall establish a 6709  
business assistance program known as the encouraging diversity, 6710  
growth, and equity program and shall adopt rules in accordance 6711  
with Chapter 119. of the Revised Code to administer the program 6712  
~~and~~ that do all of the following: 6713

(1) Establish procedures by which a sole proprietorship, 6714  
association, partnership, corporation, limited liability 6715  
corporation, or joint venture may apply for certification as an 6716  
EDGE business enterprise; 6717

(2) ~~Establish~~ Except as provided in division (B)(14) of this 6718

section, establish agency procurement goals for contracting with 6719  
EDGE business enterprises in the award of contracts under Chapters 6720  
123., 125., and 153. of the Revised Code based on the availability 6721  
of eligible program participants by region or geographic area, as 6722  
determined by the director, and by standard industrial code or 6723  
equivalent code classification. 6724

(a) Goals established under division (B)(2) of this section 6725  
shall be based on a percentage level of participation and a 6726  
percentage of contractor availability. 6727

(b) Goals established under division (B)(2) of this section 6728  
shall be applied at the contract level, relative to an overall 6729  
dollar goal for each state agency, in accordance with the 6730  
following certification categories: construction, architecture, 6731  
and engineering; professional services; goods and services; and 6732  
information technology services. 6733

(3) Establish a system of certifying EDGE business 6734  
enterprises based on a requirement that the business owner or 6735  
owners show both social and economic disadvantage based on the 6736  
following, as determined to be sufficient by the director: 6737

(a) Relative wealth of the business seeking certification as 6738  
well as the personal wealth of the owner or owners of the 6739  
business; 6740

(b) Social disadvantage based on any of the following: 6741

(i) A rebuttable presumption when the business owner or 6742  
owners demonstrate membership in a racial minority group or show 6743  
personal disadvantage due to color, ethnic origin, gender, 6744  
physical disability, long-term residence in an environment 6745  
isolated from the mainstream of American society, location in an 6746  
area of high unemployment; 6747

(ii) Some other demonstration of personal disadvantage not 6748  
common to other small businesses; 6749

(iii) By business location in a qualified census tract.	6750
(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.	6751 6752 6753 6754
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	6755 6756 6757
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	6758 6759 6760 6761
(6) Establish a point system <u>or comparable system</u> to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	6762 6763 6764 6765
(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;	6766 6767 6768
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	6769 6770
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	6771 6772 6773
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	6774 6775 6776
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	6777 6778 6779

(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities commission created in section 3318.30 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.

~~(C) Not later than December 31, 2003, the director of administrative services shall prepare a detailed report to the governor outlining and evaluating the progress made in implementing the Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.~~

**Sec. 123.17.** (A) As used in this section, "institution of higher education" means a state university or college, as defined in section 3345.12 of the Revised Code, or a state community college.

(B) ~~The~~ Not later than December 30, 2005, the state architect 6810  
shall establish a local administration competency certification 6811  
program to certify institutions of higher education to administer 6812  
capital facilities projects pursuant to section 3345.51 of the 6813  
Revised Code without the supervision, control, or approval of the 6814  
department of administrative services. The program shall offer 6815  
instruction in the administration of capital facilities projects 6816  
for employees of institutions of higher education who are 6817  
responsible for such administration and who are selected by their 6818  
employing institutions to participate in the program. 6819

(C) The program shall provide instruction about the 6820  
provisions of Chapters 9., 123., and 153. of the Revised Code and 6821  
any rules or policies adopted by the department regarding the 6822  
planning, design, and construction of capital facilities, 6823  
including all of the following: 6824

- (1) The planning, design, and construction process; 6825
- (2) Contract requirements; 6826
- (3) Construction management; 6827
- (4) Project management. 6828

(D) The state architect shall award local administration 6829  
competency certification to any institution of higher education if 6830  
all of the following apply: 6831

(1) The institution applied for certification on a form and 6832  
in a manner prescribed by the state architect. 6833

(2) The state architect determines that a sufficient number 6834  
of the institution's employees, representing a sufficient number 6835  
of employee classifications, responsible for the administration of 6836  
capital facilities projects ~~has~~ have successfully completed the 6837  
certification program to ensure that any capital facilities 6838  
project undertaken by the institution will be administered 6839

successfully and in accordance with all provisions of the Revised 6840  
Code, and the board of trustees of the institution provides 6841  
written assurance to the state architect that the institution will 6842  
select new employees to participate in the certification program 6843  
as necessary to compensate for employee turnover. 6844

(3) The state architect determines that the employees of the 6845  
institution enrolled in the program demonstrate successful 6846  
completion of the competency certification training and a 6847  
satisfactory level of knowledge of and competency in the 6848  
requirements for administering capital facilities projects. 6849

(4) The institution pays the fee prescribed by division 6850  
~~(E)~~(F) of this section. 6851

(5) The board of trustees of the institution provides written 6852  
assurance to the state architect that the institution will conduct 6853  
biennial audits of the institution's administration of capital 6854  
facilities projects in accordance with division (C) of section 6855  
3345.51 of the Revised Code. 6856

(6) The board of trustees of the institution agrees in 6857  
writing to indemnify and hold harmless the state and the 6858  
department for any claim of injury, loss, or damage that results 6859  
from the institution's administration of a capital facilities 6860  
project. 6861

(E) Local administration competency certification granted 6862  
under this section shall remain in effect for as long as the Ohio 6863  
board of regents determines that both of the following apply: 6864

(1) The institution of higher education maintains a 6865  
sufficient number of employees responsible for the administration 6866  
of capital facilities projects who have successfully completed the 6867  
certification program and have demonstrated a satisfactory level 6868  
of knowledge of and competency in the requirements for 6869  
administering capital facilities projects; 6870

(2) The institution is performing the biennial audits 6871  
prescribed in division (C) of section 3345.51 of the Revised Code. 6872

If the board of regents determines that an institution of 6873  
higher education has failed to comply with the conditions of 6874  
division (E)(1) or (2) of this section, the board shall notify the 6875  
state architect of that fact. Upon such notification, the state 6876  
architect shall revoke the institution's certification and shall 6877  
notify the board of trustees of the institution in writing of the 6878  
revocation. 6879

(F) The state architect shall establish, subject to the 6880  
approval of the director of budget and management, the amount of 6881  
the fee required to be paid by any institution of higher education 6882  
that seeks certification under this section. The amount of the 6883  
fees shall be set to cover the costs to implement this section, 6884  
including the costs for materials and the competency certification 6885  
training sessions. Any fees received under this section shall be 6886  
paid into the state treasury to the credit of the state 6887  
architect's fund established under section 123.10 of the Revised 6888  
Code. 6889

~~(F)~~(G) Nothing in this section shall prohibit an institution 6890  
that administers a capital facilities project under section 6891  
3345.51 of the Revised Code from requesting guidance or other 6892  
services from the department of administrative services. 6893

**Sec. 124.01.** ~~As~~ Except as otherwise provided in this chapter, 6894  
as used in Chapter 124. of the Revised Code this chapter: 6895

(A) "Civil service" includes all offices and positions of 6896  
trust or employment in the service of the state and in the service 6897  
of the counties, cities, city health districts, general health 6898  
districts, and city school districts ~~thereof~~ of the state. 6899

(B) "State service" includes all ~~such~~ offices and positions 6900

in the service of the state, and the counties, and general health 6901  
districts thereof, ~~except~~ of the state. "State service" does not 6902  
include offices and positions in the service of the cities, city 6903  
health districts, and city school districts of the state. 6904

(C) "Classified service" means the competitive classified 6905  
civil service of the state, the several counties, cities, city 6906  
health districts, general health districts, and city school 6907  
districts ~~thereof~~ of the state, and civil service townships. 6908

(D) "Appointing authority" means the officer, commission, 6909  
board, or body having the power of appointment to, or removal 6910  
from, positions in any office, department, commission, board, or 6911  
institution. 6912

(E) "Commission" means the municipal civil service commission 6913  
of any city, except that, when in reference to the commission that 6914  
serves a city school district, "commission" means the civil 6915  
service commission determined under section 124.011 of the Revised 6916  
Code. 6917

(F) "Employee" means any person holding a position subject to 6918  
appointment, removal, promotion, or reduction by an appointing 6919  
officer. 6920

(G) "Civil service township" means any township with a 6921  
population of ten thousand or more persons residing within the 6922  
township and outside any municipal corporation, which has a police 6923  
or fire department of ten or more full-time paid employees, and 6924  
which has a civil service commission established under division 6925  
(B) of section 124.40 of the Revised Code. 6926

(H) "Flexible hours employee" means an employee who may work 6927  
more or less than eight hours on any given day so long as ~~he~~ the 6928  
employee works forty hours in the same week. 6929

(I) "Classification series" means any group of classification 6930  
titles that have the identical name but different numerical 6931



designations, or identical titles except for designated levels of supervision, except for those classification series established by the director of administrative services in accordance with division (A) of section 124.14 of the Revised Code.

(J) "Classification change" means a change in an employee's classification in the job classification plan.

(K) "Service of the state" or "civil service of the state" includes all offices and positions of trust or employment with the government of the state. "Service of the state" and "civil service of the state" do not include offices and positions of trust or employment with state-supported colleges and universities, counties, cities, city health districts, city school districts, general health districts, and civil service townships of the state.

**Sec. 124.02.** The director of administrative services, with regard to offices and positions of trust or employment in the service of the state, and the state personnel board of review shall exercise all functions, powers, and duties that formerly were by law devolved upon, vested in, and imposed upon the state civil service commission and, the offices of commissioners and members of that commission, and upon their employees, agents, and representatives.

Whenever in any law or rule of this state or any political subdivision, "state civil service commission," "commission," "commissioner," or "member," meaning the state civil service commission or the offices of commissioners or members of ~~said that~~ that commission, is used, ~~such terms~~ the term shall be construed as referring to the department of administrative services, the director of administrative services, the state personnel board of review, or the members of the state personnel board of review, as this chapter may require.

**Sec. 124.04.** In addition to those powers enumerated in 6963  
Chapters 123. and 125. of the Revised Code and as provided 6964  
elsewhere by law, the powers, duties, and functions of the 6965  
department of administrative services not specifically vested in 6966  
and assigned to, or to be performed by, the state personnel board 6967  
of review are hereby vested in and assigned to, and shall be 6968  
performed by, the director of administrative services. These 6969  
powers, duties, and functions shall include, but shall not be 6970  
limited to, the following powers, duties, and functions: 6971

(A) To prepare, conduct, and grade all competitive 6972  
examinations for positions in the classified ~~state~~ civil service 6973  
of the state; 6974

(B) To prepare, conduct, and grade all noncompetitive 6975  
examinations for positions in the classified ~~state~~ civil service 6976  
of the state; 6977

(C) To prepare eligible lists containing the names of persons 6978  
qualified for appointment to positions in the classified ~~state~~ 6979  
civil service of the state; 6980

(D) To prepare or amend, in accordance with section 124.14 of 6981  
the Revised Code, specifications descriptive of duties, 6982  
responsibilities, requirements, and desirable qualifications of 6983  
the various classifications of positions in the ~~state~~ service of 6984  
the state; 6985

(E) To allocate and reallocate, upon the motion of the 6986  
director or upon request of an appointing authority and in 6987  
accordance with section 124.14 of the Revised Code, any position, 6988  
office, or employment in the ~~state~~ service of the state to the 6989  
appropriate classification on the basis of the duties, 6990  
responsibilities, requirements, and qualifications of that 6991  
position, office, or employment; 6992

(F) To develop and conduct personnel recruitment services for positions in the <del>state</del> service <u>of the state</u> ;	6993 6994
(G) To conduct research on specifications, classifications, and salaries of positions in the <del>state</del> service <u>of the state</u> ;	6995 6996
(H) To develop and conduct personnel training programs in cooperation with appointing authorities <u>of positions in the service of the state</u> ;	6997 6998 6999
(I) To include periodically in communications sent to state employees both of the following:	7000 7001
(1) Information developed under section 2108.15 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code;	7002 7003 7004
(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.	7005 7006 7007
(J) To enter into agreements with universities and colleges for in-service training of personnel <del>in the civil service</del> <u>as authorized by law</u> ;	7008 7009 7010
(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;	7011 7012 7013 7014 7015
(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the <del>state</del> classified <u>civil service of the state</u> and assignment or reassignment of employees in the <del>state</del> classified <u>civil service of the state</u> to specific position classifications;	7016 7017 7018 7019 7020 7021 7022

(M) To delegate any of the powers, functions, or duties 7023  
granted or assigned to the director under this chapter to any 7024  
other state agency of this state as the director considers 7025  
necessary; 7026

~~(N) To delegate any of the powers, functions, or duties 7027  
granted or assigned to the director under this chapter to any 7028  
political subdivision with the concurrence of the legislative 7029  
authority of the political subdivision. 7030~~

**Sec. 124.07.** (A) The director of administrative services 7031  
shall appoint ~~such~~ examiners, inspectors, clerks, and other 7032  
assistants as ~~are~~ necessary to carry out sections 124.01 to 124.64 7033  
of the Revised Code. The director may designate persons in or out 7034  
of the ~~official~~ service of the state to serve as examiners or 7035  
assistants under the director's direction. An examiner or 7036  
assistant shall receive ~~such~~ the compensation for each day 7037  
actually and necessarily spent in the discharge of duties as an 7038  
examiner or assistant ~~as is determined by that~~ the director 7039  
determines; provided, ~~that,~~ if ~~any such the~~ examiner or assistant 7040  
is in the ~~official~~ service of the state ~~or any political~~ 7041  
~~subdivision of the state,~~ it shall be a part of the examiner's or 7042  
assistant's official duties to render ~~such~~ those services in 7043  
connection with ~~such~~ an examination without extra compensation. 7044

(B)(1) Each state agency and each state-supported college ~~and~~ 7045  
or university shall pay the cost of the services and facilities 7046  
furnished to it by the department of administrative services that 7047  
are necessary to provide and maintain payroll services as 7048  
prescribed in section 125.21 of the Revised Code and state merit 7049  
standards as prescribed in sections 124.01 to 124.64 of the 7050  
Revised Code for the agency, or state-supported college, or 7051  
university. If a municipal corporation chooses to use the services 7052  
and facilities furnished by the department that are necessary to 7053

provide and maintain the standards so prescribed, the municipal 7054  
corporation shall pay the cost of the services and facilities that 7055  
the department furnishes to it. ~~Such~~ 7056

Subject to division (B)(2) of this section, the charges 7057  
against a state agency, a state-supported college or university, 7058  
or a municipal corporation shall be computed on a reasonable cost 7059  
basis in accordance with procedures prescribed by the director of 7060  
budget and management. ~~Any~~ 7061

(2) The department shall biennially report to the governor, 7062  
the speaker of the house of representatives, and the president of 7063  
the senate regarding the components of the formula that the 7064  
department uses to determine the amounts it charges each state 7065  
agency and state-supported college or university under division 7066  
(B)(1) of this section. The formula shall require that the charges 7067  
that a state agency or a state-supported college or university 7068  
must pay shall decrease as the percentage of the employees of that 7069  
state agency or state-supported college or university who are in 7070  
the unclassified civil services increases. Before calculating and 7071  
assessing the amount of the charges that a state agency in which 7072  
all of the employees are in the unclassified civil service must 7073  
pay, the department shall negotiate the amount with that state 7074  
agency. 7075

(3) Any moneys the department of administrative services 7076  
receives from ~~any such~~ a state agency, a state-supported college, 7077  
or university, or a municipal corporation ~~which~~ under this 7078  
division that are in excess of the amount necessary to pay the 7079  
cost of furnishing ~~such~~ the department's services and facilities 7080  
during any fiscal year shall be either refunded to or credited for 7081  
the ensuing fiscal year to the state agency, the state-supported 7082  
college, or university, or the municipal corporation ~~that~~ 7083  
~~contributed the excess moneys.~~ 7084

(C) The director of administrative services may enter into an 7085

agreement with any municipal corporation or other political 7086  
subdivision to furnish services and facilities of the department 7087  
~~of administrative services~~ in the administration of ~~its a~~ merit 7088  
program or other functions related to human resources. ~~Such~~ The 7089  
agreement shall provide that the department shall be reimbursed 7090  
for the reasonable costs of ~~such~~ those services and facilities as 7091  
determined by the director. 7092

(D) All moneys received by the department ~~of administrative~~ 7093  
~~services~~ as reimbursement for payroll ~~and~~, merit program, ~~or other~~ 7094  
human resources services performed and facilities furnished under 7095  
this section shall be paid into the state treasury to the credit 7096  
of the human resources services fund, which is hereby created. 7097

(E) In counties of the state in which are located cities 7098  
having municipal civil service commissions, the director of of 7099  
administrative services may designate the municipal civil service 7100  
commission of the largest city within ~~such~~ the county as the 7101  
director's agent for the purpose of carrying out ~~such~~ the 7102  
provisions of sections 124.01 to 124.64 of the Revised Code, 7103  
within ~~such counties~~ the county, ~~as that~~ the director designates. 7104  
Each municipal civil service commission designated as an agent of 7105  
the director shall render to the director, at the end of each 7106  
month, ~~render~~ an itemized statement ~~to the director~~ of the cost 7107  
incurred by ~~such~~ the commission for work done as the agent of the 7108  
director, and the director ~~shall~~, after approving ~~such~~ that 7109  
statement, shall pay the total amount of it to the treasurer of 7110  
~~such~~ the municipal corporation in the same manner as other 7111  
expenses of the department of administrative services. 7112

(F) The director, ~~of administrative services and the~~ 7113  
examiners, inspectors, clerks, and assistants referred to in this 7114  
section shall receive, in addition to their salaries, ~~receive~~ 7115  
reimbursement for ~~such~~ necessary traveling and other expenses ~~as~~ 7116  
~~are~~ incurred in the actual discharge of their official duties. The 7117

director may also incur the necessary expenses for stationery, 7118  
printing, and other supplies incident to the business of the 7119  
department ~~of administrative services.~~ 7120

**Sec. 124.09.** The director of administrative services shall do 7121  
all of the following: 7122

(A) Prescribe, amend, and enforce administrative rules for 7123  
the purpose of carrying out the functions, powers, and duties 7124  
vested in and imposed upon the director by this chapter. Except in 7125  
the case of rules adopted pursuant to section 124.14 of the 7126  
Revised Code, the prescription, amendment, and enforcement of 7127  
rules under this division are subject to approval, disapproval, or 7128  
modification by the state personnel board of review. 7129

(B) Keep records of the director's proceedings and records of 7130  
all applications for examinations and all examinations conducted 7131  
by the director. All ~~such~~ of those records, except examinations 7132  
and recommendations of former employers, shall be open to public 7133  
inspection under reasonable regulations; provided the governor, or 7134  
any person designated by the governor, may, for the purpose of 7135  
investigation, have free access to all ~~such~~ of those records, 7136  
whenever the governor has reason to believe that this chapter, or 7137  
the administrative rules of the director prescribed under ~~such~~ 7138  
~~sections~~ this chapter, are being violated. 7139

(C) Prepare, continue, and keep in the office of the 7140  
department a complete roster of all persons in the classified 7141  
civil service ~~who are paid directly by warrant of the auditor~~ of 7142  
the state. This roster shall be open to public inspection at all 7143  
reasonable hours. It shall show in reference to each of those 7144  
persons, the person's name, address, date of appointment to or 7145  
employment in the classified civil service of the state, and 7146  
salary or compensation, the title of the place or office that the 7147  
person holds, the nature of the duties of that place or office, 7148

and, in case of the person's removal or resignation, the date of 7149  
the termination of that service. 7150

(D) Approve the establishment of all new positions in the 7151  
civil service of the state and the reestablishment of abolished 7152  
positions. 7153

(E) Require the abolishment of any position in the civil 7154  
service of the state that is not filled after a period of twelve 7155  
months unless it is determined that the position is seasonal in 7156  
nature or that the vacancy is otherwise justified. 7157

(F) Make investigations concerning all matters touching the 7158  
enforcement and effect of this chapter and the administrative 7159  
rules of the director prescribed under this chapter. In the course 7160  
of ~~such~~ those investigations, the director or the director's 7161  
deputy may administer oaths and affirmations and take testimony 7162  
relative to any matter which the director has authority to 7163  
investigate. 7164

(G) Have the power to subpoena and require the attendance and 7165  
testimony of witnesses and the production of books, papers, public 7166  
records, and other documentary evidence pertinent to the 7167  
investigations, inquiries, or hearings on any matter which the 7168  
director has authority to investigate, inquire into, or hear, and 7169  
to examine them in relation to any matter which the director has 7170  
authority to investigate, inquire into, or hear. Fees shall be 7171  
allowed to witnesses, and on their certificate, duly audited, 7172  
shall be paid by the treasurer of state, or in the case of 7173  
municipal or civil service township civil service commissions, by 7174  
the county treasurer, for attendance and traveling, as is provided 7175  
in section 2335.06 of the Revised Code for witnesses in courts of 7176  
record. ~~All~~ 7177

All officers in the civil service of the state or in the 7178  
civil service of any of the political subdivisions ~~thereof~~ of the 7179



state and their deputies, clerks, and employees shall attend and 7180  
testify when summoned to do so by the director or the state 7181  
personnel board of review. Depositions of witnesses may be taken 7182  
by the director or the board, or any member ~~thereof~~ of the board, 7183  
in the manner prescribed by law for like depositions in civil 7184  
actions in the courts of common pleas. In case any person, in 7185  
disobedience to any subpoena issued by the director ~~or~~, the board, 7186  
~~or~~ any member ~~thereof~~ of the board, or the chief examiner, fails 7187  
or refuses to attend and testify to any matter regarding which the 7188  
person may be lawfully interrogated, or produce any documentary 7189  
evidence pertinent to any investigation, inquiry, or hearing, the 7190  
court of common pleas of any county, or any judge ~~thereof~~ of the 7191  
court of common pleas of any county, where ~~such~~ the disobedience, 7192  
failure, or refusal occurs, upon application of the director ~~or~~, 7193  
the board, ~~or~~ any member ~~thereof~~ of the board, ~~or~~ a municipal or 7194  
civil service township civil service commission, ~~or~~ any 7195  
commissioner ~~thereof~~ of such a commission, or their chief 7196  
examiner, shall compel obedience by attachment proceedings for 7197  
contempt as in the case of disobedience of the requirements of a 7198  
subpoena issued from ~~such courts~~ the court or a refusal to testify 7199  
~~therein~~ in the court. 7200

(H) Make a report to the governor, on or before the first day 7201  
of January of each year, showing the director's actions, the rules 7202  
and all exceptions ~~thereto~~ to the rules in force, and any 7203  
recommendations for the more effectual accomplishment of the 7204  
purposes of this chapter. The director shall also furnish any 7205  
special reports to the governor whenever the governor requests 7206  
them. ~~Such~~ The reports shall be printed for public distribution 7207  
under the same regulations as are the reports of other state 7208  
officers, boards, or commissions. 7209

**Sec. 124.11.** The civil service of the state and the civil 7210  
service of the several counties, cities, civil service townships, 7211

city health districts, general health districts, and city school 7212  
districts ~~thereof~~ of the state shall be divided into the 7213  
unclassified service and the classified service. 7214

(A) The unclassified service shall comprise the following 7215  
positions, which shall not be included in the classified service, 7216  
and which shall be exempt from all examinations required by this 7217  
chapter: 7218

(1) All officers elected by popular vote or persons appointed 7219  
to fill vacancies in ~~such~~ those offices; 7220

(2) All election officers as defined in section 3501.01 of 7221  
the Revised Code; 7222

(3) The members of all boards and commissions, and heads of 7223  
principal departments, boards, and commissions appointed by the 7224  
governor or by and with the governor's consent; and the members of 7225  
all boards and commissions and all heads of departments appointed 7226  
by the mayor, or, if there is no mayor, such other similar chief 7227  
appointing authority of any city or city school district; ~~except.~~ 7228  
Except as otherwise provided in division (A)(17) or (C) of this 7229  
section, this chapter does not exempt the chiefs of police 7230  
departments and chiefs of fire departments of cities or civil 7231  
service townships from the competitive classified service. 7232

(4) The members of county or district licensing boards or 7233  
commissions and boards of revision, and deputy county auditors; 7234

(5) All officers and employees elected or appointed by either 7235  
or both branches of the general assembly, and ~~such~~ employees of 7236  
the city legislative authority ~~as are~~ engaged in legislative 7237  
duties; 7238

(6) All commissioned, warrant, and noncommissioned officers 7239  
and enlisted persons in the Ohio organized militia, including 7240  
military appointees in the adjutant general's department; 7241

(7)(a) All presidents, business managers, administrative 7242  
officers, superintendents, assistant superintendents, principals, 7243  
deans, assistant deans, instructors, teachers, and such employees 7244  
as are engaged in educational or research duties connected with 7245  
the public school system, colleges, and universities, as 7246  
determined by the governing body of the public school system, 7247  
colleges, and universities; 7248

(b) The library staff of any library in the state supported 7249  
wholly or in part at public expense. 7250

(8) Four clerical and administrative support employees for 7251  
each of the elective state officers<sup>+</sup>, and three clerical and 7252  
administrative support employees for other elective officers and 7253  
each of the principal appointive executive officers, boards, or 7254  
commissions, except for civil service commissions, that are 7255  
authorized to appoint such clerical and administrative support 7256  
employees<sup>+</sup>. In the case of a county employee designated as such a 7257  
clerical or administrative support employee, the employee shall 7258  
receive notification of the unclassified service designation in 7259  
writing, and a copy of the notification shall be kept in the 7260  
employee's personnel file. 7261

(9) The deputies and assistants of state agencies authorized 7262  
to act for and on behalf of the agency, or holding a fiduciary or 7263  
administrative relation to that agency and those persons employed 7264  
by and directly responsible to elected county officials or a 7265  
county administrator and holding a fiduciary or administrative 7266  
relationship to such elected county officials or county 7267  
administrator, and the employees of such county officials whose 7268  
fitness would be impracticable to determine by competitive 7269  
examination, provided that division (A)(9) of this section shall 7270  
not affect those persons in county employment in the classified 7271  
service as of September 19, 1961. Nothing in division (A)(9) of 7272  
this section applies to any position in a county department of job 7273

and family services created pursuant to Chapter 329. of the 7274  
Revised Code. 7275

(10) Bailiffs, constables, official stenographers, and 7276  
commissioners of courts of record, deputies of clerks of the 7277  
courts of common pleas who supervise, or who handle public moneys 7278  
or secured documents, and such officers and employees of courts of 7279  
record and such deputies of clerks of the courts of common pleas 7280  
as the director of administrative services finds it impracticable 7281  
to determine their fitness by competitive examination; 7282

(11) Assistants to the attorney general, special counsel 7283  
appointed or employed by the attorney general, assistants to 7284  
county prosecuting attorneys, and assistants to city directors of 7285  
law; 7286

(12) Such teachers and employees in the agricultural 7287  
experiment stations; such students in normal schools, colleges, 7288  
and universities of the state who are employed by the state or a 7289  
political subdivision of the state in student or intern 7290  
classifications; and such unskilled labor positions as the 7291  
director of administrative services or any municipal civil service 7292  
commission may find it impracticable to include in the competitive 7293  
classified service; provided such exemptions shall be by order of 7294  
the commission or the director, duly entered on the record of the 7295  
commission or the director with the reasons for each such 7296  
exemption; 7297

(13) Any physician or dentist who is a full-time employee of 7298  
the department of mental health or the department of mental 7299  
retardation and developmental disabilities or of an institution 7300  
under the jurisdiction of either department; and physicians who 7301  
are in residency programs at the institutions; 7302

(14) Up to twenty positions at each institution under the 7303  
jurisdiction of the department of mental health or the department 7304

of mental retardation and developmental disabilities that the  
department director determines to be primarily administrative or  
managerial; and up to fifteen positions in any division of either  
department, excluding administrative assistants to the director  
and division chiefs, which are within the immediate staff of a  
division chief and which the director determines to be primarily  
and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state,  
or its counties or cities, as physicians or nurses who are duly  
licensed to practice their respective professions under the laws  
of ~~Ohio~~ this state, or medical assistants, in mental or chronic  
disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service  
townships appointed by boards of township trustees under section  
505.38 or 505.49 of the Revised Code;

(18) Executive directors, deputy directors, and program  
directors employed by boards of alcohol, drug addiction, and  
mental health services under Chapter 340. of the Revised Code, and  
secretaries of the executive directors, deputy directors, and  
program directors;

(19) Superintendents, and management employees as defined in  
section 5126.20 of the Revised Code, of county boards of mental  
retardation and developmental disabilities;

(20) Physicians, nurses, and other employees of a county  
hospital who are appointed pursuant to sections 339.03 and 339.06  
of the Revised Code;

(21) The executive director of the state medical board, who  
is appointed pursuant to division (B) of section 4731.05 of the  
Revised Code;

(22) County directors of job and family services as provided 7335  
in section 329.02 of the Revised Code and administrators appointed 7336  
under section 329.021 of the Revised Code; 7337

(23) A director of economic development who is hired pursuant 7338  
to division (A) of section 307.07 of the Revised Code; 7339

(24) Chiefs of construction and compliance, of operations and 7340  
maintenance, and of licensing and certification in the division of 7341  
industrial compliance in the department of commerce; 7342

(25) The executive director of a county transit system 7343  
appointed under division (A) of section 306.04 of the Revised 7344  
Code; 7345

(26) Up to five positions at each of the administrative 7346  
departments listed in section 121.02 of the Revised Code and at 7347  
the department of taxation, department of the adjutant general, 7348  
department of education, Ohio board of regents, bureau of workers' 7349  
compensation, industrial commission, state lottery commission, and 7350  
public utilities commission of Ohio that the head of that 7351  
administrative department or of that other state agency determines 7352  
to be involved in policy development and implementation. The head 7353  
of the administrative department or other state agency shall set 7354  
the compensation for employees in these positions at a rate that 7355  
is not less than the minimum compensation specified in pay range 7356  
41 but not more than the maximum compensation specified in pay 7357  
range 44 of salary schedule E-2 in section 124.152 of the Revised 7358  
Code. The authority to establish positions in the unclassified 7359  
service under division (A)(26) of this section is in addition to 7360  
and does not limit any other authority that an administrative 7361  
department or state agency has under the Revised Code to establish 7362  
positions, appoint employees, or set compensation. 7363

(27) Employees of the department of agriculture employed 7364  
under section 901.09 of the Revised Code; 7365

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive external interim, intermittent, or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts ~~thereof~~ of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire ~~departments~~ department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts ~~thereof~~ of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service

commission, all positions in a civil service township police or 7397  
fire ~~departments~~ department having ten or more full-time paid 7398  
employees, for which it is practicable to determine the merit and 7399  
fitness of applicants by competitive examinations. Appointments 7400  
shall be made to, or employment shall be given in, all positions 7401  
in the competitive class that are not filled by promotion, 7402  
reinstatement, transfer, or reduction, as provided in this 7403  
chapter, and the rules of the director of administrative services, 7404  
by appointment from those certified to the appointing officer in 7405  
accordance with this chapter. 7406

(2) The unskilled labor class shall include ordinary 7407  
unskilled laborers. Vacancies in the labor class shall be filled 7408  
by appointment from lists of applicants registered by the director 7409  
or a commission, as applicable. The director or the commission, by 7410  
rule, shall require an applicant for registration in the labor 7411  
class to furnish ~~such~~ evidence or take ~~such~~ tests as the director 7412  
or commission considers proper with respect to age, residence, 7413  
physical condition, ability to labor, honesty, sobriety, industry, 7414  
capacity, and experience in the work or employment for which 7415  
application is made. Laborers who fulfill the requirements shall 7416  
be placed on the eligible list for the kind of labor or employment 7417  
sought, and preference shall be given in employment in accordance 7418  
with the rating received from ~~such~~ that evidence or in ~~such~~ those 7419  
tests. Upon the request of an appointing officer, stating the kind 7420  
of labor needed, the pay and probable length of employment, and 7421  
the number to be employed, the director or commission shall 7422  
certify from the highest on the list double the number to be 7423  
employed; from this number, the appointing officer shall appoint 7424  
the number actually needed for the particular work. If more than 7425  
one applicant receives the same rating, priority in time of 7426  
application shall determine the order in which their names shall 7427  
be certified for appointment. 7428



(C) A municipal or civil service township civil service 7429  
commission may place volunteer firefighters who are paid on a 7430  
fee-for-service basis in either the classified or the unclassified 7431  
civil service. 7432

(D) This division does not apply to persons in the 7433  
unclassified service who have the right to resume positions in the 7434  
classified service under sections 4121.121, 5119.071, 5120.07, 7435  
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 7436  
Revised Code. 7437

An appointing authority whose employees are paid directly by 7438  
warrant of the auditor of state may appoint a person who holds a 7439  
certified position in the classified service within the appointing 7440  
authority's agency to a position in the unclassified service 7441  
within that agency. A person appointed pursuant to this division 7442  
to a position in the unclassified service shall retain the right 7443  
to resume the position and status held by the person in the 7444  
classified service immediately prior to the person's appointment 7445  
to the position in the unclassified service, regardless of the 7446  
number of positions the person held in the unclassified service. 7447  
Reinstatement to a position in the classified service shall be to 7448  
a position substantially equal to that position in the classified 7449  
service ~~held previously, as certified by the director of~~ 7450  
~~administrative services held.~~ If the position the person 7451  
previously held in the classified service has been placed in the 7452  
unclassified service or is otherwise unavailable, the person shall 7453  
be appointed to a position in the classified service within the 7454  
appointing authority's agency that ~~the director of administrative~~ 7455  
~~services certifies~~ is certified as comparable in compensation to 7456  
the position the person previously held in the classified service. 7457  
Service in the position in the unclassified service shall be 7458  
counted as service in the position in the classified service held 7459  
by the person immediately prior to the person's appointment to the 7460

position in the unclassified service. When a person is reinstated 7461  
to a position in the classified service as provided in this 7462  
division, the person is entitled to all rights, status, and 7463  
benefits accruing to the position in the classified service during 7464  
the person's time of service in the position in the unclassified 7465  
service. 7466

**Sec. 124.133.** The director of administrative services may 7467  
establish, by rule adopted under Chapter 119. of the Revised Code, 7468  
an experimental program to be implemented on a limited basis only 7469  
which grants to employees in the service of the state vacation 7470  
leave, sick leave, disability leave, personal leave, life 7471  
insurance, or medical insurance benefits that differ from these 7472  
benefits as granted by sections 124.13, 124.134, 124.382, 124.385, 7473  
124.386, 124.81, and 124.82 of the Revised Code. However, this 7474  
program shall not reduce the number of hours of vacation leave, 7475  
sick leave, or personal leave which an employee has accrued as of 7476  
the effective date of the rule. 7477

**Sec. 124.14.** (A)(1) The director of administrative services 7478  
shall establish, and may modify or repeal, by rule, a job 7479  
classification plan for all ~~positions, offices, and employments~~ 7480  
~~the salaries of which are paid in whole or in part by~~ positions in 7481  
the civil service of the state. The director shall group jobs 7482  
within a classification so that the positions are similar enough 7483  
in duties and responsibilities to be described by the same title, 7484  
to have the same pay assigned with equity, and to have the same 7485  
qualifications for selection applied. The director shall, by rule, 7486  
assign a classification title to each classification within the 7487  
classification plan. However, the director shall consider in 7488  
establishing classifications, including classifications with 7489  
parenthetical titles, and assigning pay ranges such factors as 7490  
duties performed only on one shift, special skills in short supply 7491

in the labor market, recruitment problems, separation rates, 7492  
comparative salary rates, the amount of training required, and 7493  
other conditions affecting employment. The director shall describe 7494  
the duties and responsibilities of ~~the class and~~ positions in each 7495  
classification, establish the qualifications for being employed in 7496  
~~that~~ each position in the classification, and ~~shall~~ file with the 7497  
secretary of state a copy of specifications for all of the 7498  
classifications. The director shall file new, additional, or 7499  
revised specifications with the secretary of state before ~~being~~ 7500  
they are used. 7501

The director shall, by rule, assign each classification, 7502  
either on a statewide basis or in particular counties or state 7503  
institutions, to a pay range established under section 124.15 or 7504  
section 124.152 of the Revised Code. The director may assign a 7505  
classification to a pay range on a temporary basis for a period of 7506  
time designated in the rule. The director may establish, by rule 7507  
adopted under Chapter 119. of the Revised Code, experimental 7508  
classification plans for some or all employees ~~paid directly by~~ 7509  
~~warrant of the auditor~~ in the service of the state. The rule shall 7510  
include specifications for each classification within ~~the~~ such a 7511  
plan and shall specifically address compensation ranges, and 7512  
methods for advancing within the ranges, for the classifications, 7513  
which may be assigned to pay ranges other than the pay ranges 7514  
established under section 124.15 or 124.152 of the Revised Code. 7515

(2) The director may reassign to a proper classification 7516  
those positions that have been assigned to an improper 7517  
classification. If the compensation of an employee in such a 7518  
reassigned position exceeds the maximum rate of pay for the 7519  
employee's new classification, the employee shall be placed in pay 7520  
step X and shall not receive an increase in compensation until the 7521  
maximum rate of pay for that classification exceeds the employee's 7522  
compensation. 7523

(3) The director may reassign an exempt employee, as defined 7524  
in section 124.152 of the Revised Code, to a bargaining unit 7525  
classification if the director determines that the bargaining unit 7526  
classification is the proper classification for that employee. 7527  
Notwithstanding Chapter 4117. of the Revised Code or instruments 7528  
and contracts negotiated under it, ~~such~~ these placements are ~~at~~ in 7529  
the director's discretion. 7530

(4) The director shall, by rule, assign related 7531  
classifications, which form a career progression, to a 7532  
classification series. The director shall, by rule, assign each 7533  
classification in the classification plan a five-digit number, the 7534  
first four digits of which shall denote the classification series 7535  
to which the classification is assigned. When a career progression 7536  
encompasses more than ten classifications, the director shall, by 7537  
rule, identify the additional classifications belonging to a 7538  
classification series. ~~Such~~ The additional classifications shall 7539  
be part of the classification series, notwithstanding the fact 7540  
that the first four digits of the number assigned to the 7541  
additional classifications do not correspond to the first four 7542  
digits of the numbers assigned to other classifications in the 7543  
classification series. 7544

~~(5) The director shall adopt rules in accordance with Chapter 7545  
119. of the Revised Code for the establishment of a classification 7546  
plan for county agencies that elect not to use the services and 7547  
facilities of a county personnel department. The rules shall 7548  
include a methodology for the establishment of titles unique to 7549  
county agencies, the use of state classification titles and 7550  
classification specifications for common positions, the criteria 7551  
for a county to meet in establishing its own classification plan, 7552  
and the establishment of what constitutes a classification series 7553  
for county agencies. 7554~~

(B) Division (A) of this section and sections 124.15 and 7555

124.152 of the Revised Code do not apply to the following persons, 7556  
positions, offices, and employments: 7557

(1) Elected officials; 7558

(2) Legislative employees, employees of the legislative 7559  
service commission, employees in the office of the governor, 7560  
employees who are in the unclassified civil service and exempt 7561  
from collective bargaining coverage in the office of the secretary 7562  
of state, auditor of state, treasurer of state, and attorney 7563  
general, and employees of the supreme court; 7564

(3) Employees of a county children services board that 7565  
establishes compensation rates under section 5153.12 of the 7566  
Revised Code; 7567

(4) Any position for which the authority to determine 7568  
compensation is given by law to another individual or entity; 7569

(5) Employees of the bureau of workers' compensation whose 7570  
compensation the administrator of workers' compensation 7571  
establishes under division (B) of section 4121.121 of the Revised 7572  
Code. 7573

(C) The director of administrative services may employ a 7574  
consulting agency to aid and assist the director in carrying out 7575  
this section. 7576

(D)(1) When the director of administrative services proposes 7577  
to modify a classification or the assignment of classes to 7578  
appropriate pay ranges, the director shall send written notice of 7579  
the proposed rule to the appointing authorities of the affected 7580  
employees thirty days before the hearing on the proposed rule. The 7581  
appointing authorities shall notify the affected employees 7582  
regarding the proposed rule. The director shall also send ~~such~~ 7583  
those appointing authorities notice of any final rule ~~which~~ that 7584  
is adopted within ten days after adoption. 7585

(2) When the director proposes to reclassify any employee so 7586  
that the employee is adversely affected, the director shall give 7587  
to the employee affected and to the employee's appointing 7588  
authority a written notice setting forth the proposed new 7589  
classification, pay range, and salary. Upon the request of any 7590  
classified employee who is not serving in a probationary period, 7591  
the director shall perform a job audit to review the 7592  
classification of the employee's position to determine whether the 7593  
position is properly classified. The director shall give to the 7594  
employee affected and to the employee's appointing authority a 7595  
written notice of the director's determination whether or not to 7596  
reclassify the position or to reassign the employee to another 7597  
classification. An employee or appointing authority desiring a 7598  
hearing shall file a written request for the hearing with the 7599  
state personnel board of review within thirty days after receiving 7600  
the notice. The board shall set the matter for a hearing and 7601  
notify the employee and appointing authority of the time and place 7602  
of the hearing. The employee, the appointing authority, or any 7603  
authorized representative of the employee who wishes to submit 7604  
facts for the consideration of the board shall be afforded 7605  
reasonable opportunity to do so. After the hearing, the board 7606  
shall consider anew the reclassification and may order the 7607  
reclassification of the employee and require the director to 7608  
assign the employee to ~~such~~ the appropriate classification as the 7609  
facts and evidence warrant. As provided in division (A) of section 7610  
124.03 of the Revised Code, the board may determine the most 7611  
appropriate classification for the position of any employee coming 7612  
before the board, with or without a job audit. The board shall 7613  
disallow any reclassification or reassignment classification of 7614  
any employee when it finds that changes have been made in the 7615  
duties and responsibilities of any particular employee for 7616  
political, religious, or other unjust reasons. 7617

(E)(1) Employees of each county department of job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of job and family services of that county, if the employee is eligible for the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) ~~The provisions of division~~ Division (E)(1) of this section ~~do~~ does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F) With respect to officers and employees of state-supported colleges and universities and except for the powers and duties of the state personnel board of review set forth in section 124.03 of

the Revised Code, the powers, duties, and functions of the  
department of administrative services and of the director of  
administrative services concerning offices and positions in the  
service of the state specified in this chapter are hereby vested  
in and assigned to the boards of trustees of those colleges and  
universities, or those officers to whom the boards ~~of trustees~~  
have delegated ~~these~~ those powers, duties, and functions, subject  
to a periodic audit and review by the director. In exercising the  
powers, duties, and functions ~~of the director~~, the boards ~~of~~  
~~trustees~~ or the officers to whom ~~these~~ the powers, duties, and  
functions were delegated need not establish a job classification  
plan for unclassified employees and may proceed under section  
111.15 of the Revised Code when exercising ~~the director's~~  
rule-making authority. The adoption, amendment, rescission, and  
enforcement of rules under this division is not subject to  
approval, disapproval, or modification by the state personnel  
board of review. Nothing in this division shall be construed to  
limit the right of any classified employee who possesses the right  
of appeal to the state personnel board of review to continue to  
possess that right of appeal.

Upon the director's determination or finding of the misuse by  
the board ~~of trustees of~~ or a designated officer of a  
state-supported college or university of the authority granted  
under this division, the director shall order and direct the  
personnel functions of that state-supported college or university  
until sections 124.01 to 124.64 of the Revised Code have been  
fully complied with.

(G)(1) With respect to officers and employees of counties and  
except for the powers and duties of the state personnel board of  
review, authority and responsibility for the classification of  
positions in the civil service of the counties and for the  
administration of other functions under this chapter related to



the civil service of the counties, including, but not limited to, examinations, resignations, appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements, shall be vested in and assigned to each elected official, board, agency, or other appointing authority of the county, subject to division (G)(2) of this section. No rule adopted by the director of administrative services shall apply to officers and employees of counties. Nothing in division (G)(1) of this section shall be construed to limit the right of any classified employee who possesses the right to appeal to the state personnel board of review to continue to possess that right of appeal.

(2)(a) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, authority and functions responsibility specified in division (G)(1) of this section and the powers, duties, and functions specified in Chapter 325. of the Revised Code, except for the powers, duties, and functions of the state personnel board of review. The powers, duties, and functions of the board shall not be construed as having been modified or diminished in any manner by division (G)(1) or (3) of this section, with respect to the classified employees for whom a board of county commissioners is the appointing authority or co-appointing authority. As

(b) As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)~~(1)~~(2) of this section.

~~(2) Each board of county commissioners may, by a resolution adopted by a majority of its members, designate the county personnel department of the county to exercise the powers, duties, and functions of the department of administrative services and the director of administrative services specified in sections 124.01~~

to 124.64 and Chapter 325. of the Revised Code, except for the 7713  
powers and duties of the state personnel board of review, which 7714  
powers and duties shall not be construed as having been modified 7715  
or diminished in any manner by division (G)(2) of this section, 7716  
with respect to the employees for whom the board of county 7717  
commissioners is the appointing authority or co appointing 7718  
authority. Upon certification of a copy of the resolution by the 7719  
board to the director, these powers, duties, and functions are 7720  
vested in and assigned to the county personnel department with 7721  
respect to the employees for whom the board of county 7722  
commissioners is the appointing authority or co appointing 7723  
authority. The certification to the director shall be provided not 7724  
later than one hundred twenty days before the first day of July of 7725  
an odd numbered year, and, following the certification, the 7726  
powers, duties, and functions specified in sections 124.01 to 7727  
124.64 and Chapter 325. of the Revised Code shall be vested in and 7728  
assigned to the county personnel department on that first day of 7729  
July. Nothing in division (G)(2) of this section shall be 7730  
construed to limit the right of any employee who possesses the 7731  
right of appeal to the state personnel board of review to continue 7732  
to possess that right of appeal. 7733

(3)(a) A county personnel department may adopt rules, which 7734  
shall provide for public notice and comment, to implement the 7735  
authority and responsibility referred to in division (G)(1) of 7736  
this section and the powers, duties, and functions specified in 7737  
Chapter 325. of the Revised Code. 7738

(b) Any board of county commissioners ~~that has established a~~ 7739  
~~county personnel department~~ may contract with the department of 7740  
administrative services, another political subdivision, or an 7741  
appropriate public or private entity to provide competitive 7742  
testing services or other appropriate services. 7743

~~(3)~~(4) After the county personnel department of a county has 7744

assumed the ~~powers, duties, authority~~ and functions of the 7745  
department of administrative services and the director as 7746  
~~described responsibility referred to~~ in division (G)~~(2)(1)~~ of this 7747  
section and the powers, duties, and functions specified in Chapter 7748  
325. of the Revised Code, any elected official, board, agency, or 7749  
other appointing authority of that county may, upon notification 7750  
to the ~~director~~ department, elect to use the services ~~and~~ 7751  
~~facilities~~ of the county ~~personnel~~ department. Upon receipt of the 7752  
~~acceptance by the director of such~~ notification, the county 7753  
~~personnel~~ department shall exercise the ~~powers, duties, authority~~ 7754  
~~and functions of the department of administrative services and the~~ 7755  
~~director as described responsibility referred to~~ in division 7756  
(G)~~(2)(1)~~ of this section and the powers, duties, and functions 7757  
specified in Chapter 325. of the Revised Code with respect to the 7758  
classified employees of that elected official, board, agency, or 7759  
other appointing authority. ~~The notification to the director shall~~ 7760  
~~be provided not later than one hundred twenty days before the~~ 7761  
~~first day of July of an odd numbered year, and, following the~~ 7762  
~~notification, the powers, duties, and functions specified in~~ 7763  
~~sections 124.01 to 124.64 and Chapter 325. of the Revised Code~~ 7764  
~~with respect to the employees of that elected official, board,~~ 7765  
~~agency, or other appointing authority shall be vested in and~~ 7766  
~~assigned to the county personnel department on that first day of~~ 7767  
~~July. Except for those employees under the jurisdiction of the~~ 7768  
~~county personnel department, the director shall continue to~~ 7769  
~~exercise these powers, duties, and functions with respect to~~ 7770  
~~employees of the county.~~ 7771

An elected official, board, agency, or other appointing 7772  
authority may cease to use the services of the county personnel 7773  
department upon notification to the department. 7774

~~(4)(5)~~ Each board of county commissioners that has 7775  
established a county personnel department may, by a resolution 7776

adopted by a majority of its members, disband the county personnel 7777  
department and return to the department of administrative services 7778  
for the administration of sections 124.01 to 124.64 and Chapter 7779  
325. of the Revised Code. The board shall, not later than one 7780  
hundred twenty days before the first day of July of an 7781  
odd numbered year, send the director a certified copy of the 7782  
resolution disbanding the county personnel department. All powers, 7783  
duties, and functions previously vested in and assigned to the 7784  
county personnel department shall return to the director on that 7785  
first day of July. 7786

Any board of county commissioners that does not create or 7787  
that disbands a county personnel department, and elected 7788  
officials, boards, agencies or other appointing authorities that 7789  
elect not to use the services of a county personnel department, 7790  
may adopt policies to implement the authority and responsibility 7791  
referred to in division (G)(1) of this section and the powers, 7792  
duties, and functions specified Chapter 325. of the Revised Code. 7793

~~(5) Any elected official, board, agency, or appointing 7794~~  
~~authority of a county may return to the department of 7795~~  
~~administrative services for the administration of sections 124.01 7796~~  
~~to 124.64 and Chapter 325. of the Revised Code. The elected 7797~~  
~~official, board, agency, or appointing authority shall, not later 7798~~  
~~than one hundred twenty days before the first day of July of an 7799~~  
~~odd numbered year, send the director a certified copy of the 7800~~  
~~resolution that states its decision. All powers, duties, and 7801~~  
~~functions previously vested in and assigned to the county 7802~~  
~~personnel department with respect to the employees of that elected 7803~~  
~~official, board, agency, or appointing authority shall return to 7804~~  
~~the director on that first day of July. 7805~~

~~(6) The director, by rule adopted in accordance with Chapter 7806~~  
~~119. of the Revised Code, shall prescribe criteria and procedures 7807~~  
~~for granting to each county personnel department the powers, 7808~~

~~duties, and functions of the department of administrative services 7809  
and the director as described in division (G)(2) of this section 7810  
with respect to the employees of an elected official, board, 7811  
agency, or other appointing authority or co-appointing authority. 7812  
The rules shall cover the following criteria and procedures: 7813~~

~~(a) The notification to the department of administrative 7814  
services that an elected official, board, agency, or other 7815  
appointing authority of a county has elected to use the services 7816  
and facilities of the county personnel department; 7817~~

~~(b) A requirement that each county personnel department, in 7818  
carrying out its duties, adhere to merit system principles with 7819  
regard to employees of county departments of job and family 7820  
services, child support enforcement agencies, and public child 7821  
welfare agencies so that there is no threatened loss of federal 7822  
funding for these agencies, and a requirement that the county be 7823  
financially liable to the state for any loss of federal funds due 7824  
to the action or inaction of the county personnel department. The 7825  
costs associated with audits conducted to monitor compliance with 7826  
division (G)(6)(b) of this section shall be borne equally by the 7827  
department of administrative services and the county. 7828~~

~~(c) The termination of services and facilities rendered by 7829  
the department of administrative services, to include rate 7830  
adjustments, time periods for termination, and other related 7831  
matters; 7832~~

~~(d) Authorization for the director of administrative services 7833  
to conduct periodic audits and reviews of county personnel 7834  
departments to guarantee the uniform application of this granting 7835  
of the director's powers, duties, and functions. The costs of the 7836  
audits and reviews shall be borne equally by the department of 7837  
administrative services and the county for which the services were 7838  
performed. 7839~~

~~(e) The dissemination of audit findings under division 7840  
(G)(5)(d) of this section, any appeals process relating to adverse 7841  
findings by the department, and the methods whereby the county 7842  
personnel program will revert to the authority of the director of 7843  
administrative services due to misuse or nonuniform application of 7844  
the authority granted to the county under division (G)(2) or (3) 7845  
of this section. 7846~~

(H) With respect to officers and employees of general health 7847  
districts, and except for the powers and duties of the state 7848  
personnel board of review set forth in section 124.03 of the 7849  
Revised Code, the powers, duties, and functions of the department 7850  
of administrative services and of the director of administrative 7851  
services concerning offices and positions in the service of the 7852  
state specified in this chapter are hereby vested in and assigned 7853  
to the boards of health of the general health districts or those 7854  
officers to whom the boards have delegated those powers, duties, 7855  
and functions. Nothing in this division shall be construed to 7856  
limit the right of any classified employee who possesses the right 7857  
to appeal to the state personnel board of review to continue to 7858  
possess that right of appeal. 7859

(I) The director of administrative services shall establish 7860  
the rate and method of compensation for all employees who are paid 7861  
directly by warrant of the auditor in the service of the state and 7862  
who are serving in positions which that the director has 7863  
determined impracticable to include in the state job 7864  
classification plan. This division does not apply to elected 7865  
officials, legislative employees, employees of the legislative 7866  
service commission, employees who are in the unclassified civil 7867  
service and exempt from collective bargaining coverage in the 7868  
office of the secretary of state, auditor of state, treasurer of 7869  
state, and attorney general, employees of the courts, employees of 7870  
the bureau of workers' compensation whose compensation the 7871

administrator of workers' compensation establishes under division 7872  
(B) of section 4121.121 of the Revised Code, or employees of an 7873  
appointing authority authorized by law to fix the compensation of 7874  
those employees. 7875

~~(I)~~(J) The director of administrative services shall set the 7876  
rate of compensation for all intermittent, interim, seasonal, 7877  
temporary, emergency, and casual employees who are in the service 7878  
of the state and who are not considered public employees under 7879  
section 4117.01 of the Revised Code. ~~Such~~ Those employees are not 7880  
entitled to receive employee benefits. This rate of compensation 7881  
shall be equitable in terms of the rate of employees serving in 7882  
the same or similar classifications. This division does not apply 7883  
to elected officials, legislative employees, employees of the 7884  
legislative service commission, employees who are in the 7885  
unclassified civil service and exempt from collective bargaining 7886  
coverage in the office of the secretary of state, auditor of 7887  
state, treasurer of state, and attorney general, employees of the 7888  
courts, employees of the bureau of workers' compensation whose 7889  
compensation the administrator establishes under division (B) of 7890  
section 4121.121 of the Revised Code, or employees of an 7891  
appointing authority authorized by law to fix the compensation of 7892  
those employees. 7893

**Sec. 124.15.** (A) Board and commission members appointed prior 7894  
to July 1, 1991, shall be paid a salary or wage in accordance with 7895  
the following schedules of rates: 7896

Schedule B 7897

Pay Ranges and Step Values 7898

Range	Step 1	Step 2	Step 3	Step 4	7899
23 Hourly	5.72	5.91	6.10	6.31	7900
Annually	11897.60	12292.80	12688.00	13124.80	7901
	Step 5	Step 6			7902

	Hourly	6.52	6.75			7903
	Annually	13561.60	14040.00			7904
		Step 1	Step 2	Step 3	Step 4	7905
24	Hourly	6.00	6.20	6.41	6.63	7906
	Annually	12480.00	12896.00	13332.80	13790.40	7907
		Step 5	Step 6			7908
	Hourly	6.87	7.10			7909
	Annually	14289.60	14768.00			7910
		Step 1	Step 2	Step 3	Step 4	7911
25	Hourly	6.31	6.52	6.75	6.99	7912
	Annually	13124.80	13561.60	14040.00	14539.20	7913
		Step 5	Step 6			7914
	Hourly	7.23	7.41			7915
	Annually	15038.40	15412.80			7916
		Step 1	Step 2	Step 3	Step 4	7917
26	Hourly	6.63	6.87	7.10	7.32	7918
	Annually	13790.40	14289.60	14768.00	15225.60	7919
		Step 5	Step 6			7920
	Hourly	7.53	7.77			7921
	Annually	15662.40	16161.60			7922
		Step 1	Step 2	Step 3	Step 4	7923
27	Hourly	6.99	7.23	7.41	7.64	7924
	Annually	14534.20	15038.40	15412.80	15891.20	7925
		Step 5	Step 6	Step 7		7926
	Hourly	7.88	8.15	8.46		7927
	Annually	16390.40	16952.00	17596.80		7928
		Step 1	Step 2	Step 3	Step 4	7929
28	Hourly	7.41	7.64	7.88	8.15	7930
	Annually	15412.80	15891.20	16390.40	16952.00	7931
		Step 5	Step 6	Step 7		7932
	Hourly	8.46	8.79	9.15		7933
	Annually	17596.80	18283.20	19032.00		7934
		Step 1	Step 2	Step 3	Step 4	7935



29	Hourly	7.88	8.15	8.46	8.79	7936
	Annually	16390.40	16952.00	17596.80	18283.20	7937
	Step 5		Step 6	Step 7		7938
	Hourly	9.15	9.58	10.01		7939
	Annually	19032.00	19926.40	20820.80		7940
	Step 1		Step 2	Step 3	Step 4	7941
30	Hourly	8.46	8.79	9.15	9.58	7942
	Annually	17596.80	18283.20	19032.00	19926.40	7943
	Step 5		Step 6	Step 7		7944
	Hourly	10.01	10.46	10.99		7945
	Annually	20820.80	21756.80	22859.20		7946
	Step 1		Step 2	Step 3	Step 4	7947
31	Hourly	9.15	9.58	10.01	10.46	7948
	Annually	19032.00	19962.40	20820.80	21756.80	7949
	Step 5		Step 6	Step 7		7950
	Hourly	10.99	11.52	12.09		7951
	Annually	22859.20	23961.60	25147.20		7952
	Step 1		Step 2	Step 3	Step 4	7953
32	Hourly	10.01	10.46	10.99	11.52	7954
	Annually	20820.80	21756.80	22859.20	23961.60	7955
	Step 5		Step 6	Step 7	Step 8	7956
	Hourly	12.09	12.68	13.29	13.94	7957
	Annually	25147.20	26374.40	27643.20	28995.20	7958
	Step 1		Step 2	Step 3	Step 4	7959
33	Hourly	10.99	11.52	12.09	12.68	7960
	Annually	22859.20	23961.60	25147.20	26374.40	7961
	Step 5		Step 6	Step 7	Step 8	7962
	Hourly	13.29	13.94	14.63	15.35	7963
	Annually	27643.20	28995.20	30430.40	31928.00	7964
	Step 1		Step 2	Step 3	Step 4	7965
34	Hourly	12.09	12.68	13.29	13.94	7966
	Annually	25147.20	26374.40	27643.20	28995.20	7967
	Step 5		Step 6	Step 7	Step 8	7968

	Hourly	14.63	15.35	16.11	16.91	7969
	Annually	30430.40	31928.00	33508.80	35172.80	7970
		Step 1	Step 2	Step 3	Step 4	7971
35	Hourly	13.29	13.94	14.63	15.35	7972
	Annually	27643.20	28995.20	30430.40	31928.00	7973
		Step 5	Step 6	Step 7	Step 8	7974
	Hourly	16.11	16.91	17.73	18.62	7975
	Annually	33508.80	35172.80	36878.40	38729.60	7976
		Step 1	Step 2	Step 3	Step 4	7977
36	Hourly	14.63	15.35	16.11	16.91	7978
	Annually	30430.40	31928.00	33508.80	35172.80	7979
		Step 5	Step 6	Step 7	Step 8	7980
	Hourly	17.73	18.62	19.54	20.51	7981
	Annually	36878.40	38729.60	40643.20	42660.80	7982

Schedule C 7983

Pay Range and Values 7984

Range	Minimum	Maximum	
41 Hourly	10.44	15.72	7986
Annually	21715.20	32697.60	7987
42 Hourly	11.51	17.35	7988
Annually	23940.80	36088.00	7989
43 Hourly	12.68	19.12	7990
Annually	26374.40	39769.60	7991
44 Hourly	13.99	20.87	7992
Annually	29099.20	43409.60	7993
45 Hourly	15.44	22.80	7994
Annually	32115.20	47424.00	7995
46 Hourly	17.01	24.90	7996
Annually	35380.80	51792.00	7997
47 Hourly	18.75	27.18	7998
Annually	39000.00	56534.40	7999
48 Hourly	20.67	29.69	8000
Annually	42993.60	61755.20	8001

49 Hourly	22.80	32.06	8002
Annually	47424.00	66684.80	8003

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 8004  
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(C) Part-time employees in the service of the state shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 8006  
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them. 8010  
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The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover ~~state~~ employees in the service of the state and determine whether certain benefits or payments provided to ~~state~~ the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division 8026  
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(B)(2) or (4) of section 124.14 of the Revised Code. On completing 8034  
the review, the director of administrative services, with the 8035  
approval of the director of budget and management, may provide to 8036  
some or all of these employees any payment or benefit, except for 8037  
salary, contained in such a collective bargaining agreement even 8038  
if it is similar to a payment or benefit already provided by law 8039  
to some or all of these employees. Any payment or benefit so 8040  
provided shall not exceed the highest level for that payment or 8041  
benefit specified in such a collective bargaining agreement. The 8042  
director of administrative services shall not provide, and the 8043  
director of budget and management shall not approve, any payment 8044  
or benefit to such an employee under this division unless the 8045  
payment or benefit is provided pursuant to a collective bargaining 8046  
agreement to a state employee who is in a position with similar 8047  
duties as, is supervised by, or is employed by the same appointing 8048  
authority as, the employee to whom the benefit or payment is to be 8049  
provided. 8050

As used in this division, "payment or benefit already 8051  
provided by law" includes, but is not limited to, bereavement, 8052  
personal, vacation, administrative, and sick leave, disability 8053  
benefits, holiday pay, and pay supplements provided under the 8054  
Revised Code, but does not include wages or salary. 8055

(E) New employees paid in accordance with schedule B of 8056  
division (A) of this section or schedule E-1 of section 124.152 of 8057  
the Revised Code shall be employed at the minimum rate established 8058  
for the range unless otherwise provided. Employees with 8059  
qualifications that are beyond the minimum normally required for 8060  
the position and that are determined by the director to be 8061  
exceptional may be employed in, or may be transferred or promoted 8062  
to, a position at an advanced step of the range. Further, in time 8063  
of a serious labor market condition when it is relatively 8064  
impossible to recruit employees at the minimum rate for a 8065

particular classification, the entrance rate may be set at an  
advanced step in the range by the director of administrative  
services. This rate may be limited to geographical regions of the  
state. Appointments made to an advanced step under the provision  
regarding exceptional qualifications shall not affect the step  
assignment of employees already serving. However, anytime the  
hiring rate of an entire classification is advanced to a higher  
step, all incumbents of that classification being paid at a step  
lower than that being used for hiring, shall be advanced beginning  
at the start of the first pay period thereafter to the new hiring  
rate, and any time accrued at the lower step will be used to  
calculate advancement to a succeeding step. If the hiring rate of  
a classification is increased for only a geographical region of  
the state, only incumbents who work in that geographical region  
shall be advanced to a higher step. When an employee in the  
unclassified service changes from one state position to another or  
is appointed to a position in the classified service, or if an  
employee in the classified service is appointed to a position in  
the unclassified service, the employee's salary or wage in the new  
position shall be determined in the same manner as if the employee  
were an employee in the classified service. When an employee in  
the unclassified service who is not eligible for step increases is  
appointed to a classification in the classified service under  
which step increases are provided, future step increases shall be  
based on the date on which the employee last received a pay  
increase. If the employee has not received an increase during the  
previous year, the date of the appointment to the classified  
service shall be used to determine the employee's annual step  
advancement eligibility date. In reassigning any employee to a  
classification resulting in a pay range increase or to a new pay  
range as a result of a promotion, an increase pay range  
adjustment, or other classification change resulting in a pay  
range increase, the director shall assign such employee to the

step in the new pay range that will provide an increase of 8099  
approximately four per cent if the new pay range can accommodate 8100  
the increase. When an employee is being assigned to a 8101  
classification or new pay range as the result of a class plan 8102  
change, if the employee has completed a probationary period, the 8103  
employee shall be placed in a step no lower than step two of the 8104  
new pay range. If the employee has not completed a probationary 8105  
period, the employee may be placed in step one of the new pay 8106  
range. Such new salary or wage shall become effective on such date 8107  
as the director determines. 8108

(F) If employment conditions and the urgency of the work 8109  
require such action, the director of administrative services may, 8110  
upon the application of a department head, authorize payment at 8111  
any rate established within the range for the class of work, for 8112  
work of a casual or intermittent nature or on a project basis. 8113  
Payment at such rates shall not be made to the same individual for 8114  
more than three calendar months in any one calendar year. Any such 8115  
action shall be subject to the approval of the director of budget 8116  
and management as to the availability of funds. This section and 8117  
sections 124.14 and 124.152 of the Revised Code do not repeal any 8118  
authority of any department or public official to contract with or 8119  
fix the compensation of professional persons who may be employed 8120  
temporarily for work of a casual nature or for work on a project 8121  
basis. 8122

(G)(1) Except as provided in division (G)(2) of this section, 8123  
each state employee paid in accordance with schedule B of this 8124  
section or schedule E-1 of section 124.152 of the Revised Code 8125  
shall be eligible for advancement to succeeding steps in the range 8126  
for the employee's class or grade according to the schedule 8127  
established in this division. Beginning on the first day of the 8128  
pay period within which the employee completes the prescribed 8129  
probationary period in the employee's classification with the 8130

state, each employee shall receive an automatic salary adjustment 8131  
equivalent to the next higher step within the pay range for the 8132  
employee's class or grade. 8133

Each employee paid in accordance with schedule E-1 of section 8134  
124.152 of the Revised Code shall be eligible to advance to the 8135  
next higher step until the employee reaches the top step in the 8136  
range for the employee's class or grade, if the employee has 8137  
maintained satisfactory performance in accordance with criteria 8138  
established by the employee's appointing authority. Those step 8139  
advancements shall not occur more frequently than once in any 8140  
twelve-month period. 8141

When an employee is promoted or reassigned to a higher pay 8142  
range, the employee's step indicator shall return to "0" or be 8143  
adjusted to account for a probationary period, as appropriate. 8144  
Step advancement shall not be affected by demotion. A promoted 8145  
employee shall advance to the next higher step of the pay range on 8146  
the first day of the pay period in which the required probationary 8147  
period is completed. Step advancement shall become effective at 8148  
the beginning of the pay period within which the employee attains 8149  
the necessary length of service. Time spent on authorized leave of 8150  
absence shall be counted for this purpose. 8151

If determined to be in the best interest of the state 8152  
service, the director of administrative services may, either 8153  
statewide or in selected agencies, adjust the dates on which 8154  
annual step advancements are received by employees paid in 8155  
accordance with schedule E-1 of section 124.152 of the Revised 8156  
Code. 8157

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of 8158  
this section, there shall be a moratorium on step advancements 8159  
under division (G)(1) of this section from the pay period 8160  
beginning June 29, 2003, through the pay period ending June 25, 8161

2005. Step advancements shall resume with the pay period beginning 8162  
June 26, 2005. Upon the resumption of step advancements, there 8163  
shall be no retroactive step advancements for the period the 8164  
moratorium was in effect. The moratorium shall not affect an 8165  
employee's performance evaluation schedule. 8166

(ii) During the moratorium under division (G)(2)(a)(i) of 8167  
this section, an employee who is hired or promoted and serves a 8168  
probationary period in the employee's new position shall advance 8169  
to the next step in the employee's pay range upon successful 8170  
completion of the employee's probationary period. Thereafter, the 8171  
employee is subject to the moratorium. 8172

(b) The moratorium under division (G)(2)(a)(i) of this 8173  
section shall apply to the employees of the secretary of state, 8174  
the auditor of state, the treasurer of state, and the attorney 8175  
general, who are subject to this section unless the secretary of 8176  
state, the auditor of state, the treasurer of state, or the 8177  
attorney general decides to exempt the office's employees from the 8178  
moratorium and so notifies the director of administrative services 8179  
in writing on or before July 1, 2003. 8180

(H) Employees in appointive managerial or professional 8181  
positions paid in accordance with schedule C of this section or 8182  
schedule E-2 of section 124.152 of the Revised Code may be 8183  
appointed at any rate within the appropriate pay range. This rate 8184  
of pay may be adjusted higher or lower within the respective pay 8185  
range at any time the appointing authority so desires as long as 8186  
the adjustment is based on the employee's ability to successfully 8187  
administer those duties assigned to the employee. Salary 8188  
adjustments shall not be made more frequently than once in any 8189  
six-month period under this provision to incumbents holding the 8190  
same position and classification. 8191

(I) When an employee is assigned to duty outside this state, 8192



the employee may be compensated, upon request of the department 8193  
head and with the approval of the director of administrative 8194  
services, at a rate not to exceed fifty per cent in excess of the 8195  
employee's current base rate for the period of time spent on that 8196  
duty. 8197

(J) Unless compensation for members of a board or commission 8198  
is otherwise specifically provided by law, the director of 8199  
administrative services shall establish the rate and method of 8200  
payment for members of boards and commissions pursuant to the pay 8201  
schedules listed in section 124.152 of the Revised Code. 8202

(K) Regular full-time employees in positions assigned to 8203  
classes within the instruction and education administration series 8204  
under the rules of the director of administrative services, except 8205  
certificated employees on the instructional staff of the state 8206  
school for the blind or the state school for the deaf, whose 8207  
positions are scheduled to work on the basis of an academic year 8208  
rather than a full calendar year, shall be paid according to the 8209  
pay range assigned by such rules but only during those pay periods 8210  
included in the academic year of the school where the employee is 8211  
located. 8212

(1) Part-time or substitute teachers or those whose period of 8213  
employment is other than the full academic year shall be 8214  
compensated for the actual time worked at the rate established by 8215  
this section. 8216

(2) Employees governed by this division are exempt from 8217  
sections 124.13 and 124.19 of the Revised Code. 8218

(3) Length of service for the purpose of determining 8219  
eligibility for step advancements as provided by division (G) of 8220  
this section and for the purpose of determining eligibility for 8221  
longevity pay supplements as provided by division (E) of section 8222  
124.181 of the Revised Code shall be computed on the basis of one 8223

full year of service for the completion of each academic year. 8224

(L) The superintendent of the state school for the deaf and 8225  
the superintendent of the state school for the blind shall, 8226  
subject to the approval of the superintendent of public 8227  
instruction, carry out both of the following: 8228

(1) Annually, between the first day of April and the last day 8229  
of June, establish for the ensuing fiscal year a schedule of 8230  
hourly rates for the compensation of each certificated employee on 8231  
the instructional staff of that superintendent's respective school 8232  
constructed as follows: 8233

(a) Determine for each level of training, experience, and 8234  
other professional qualification for which an hourly rate is set 8235  
forth in the current schedule, the per cent that rate is of the 8236  
rate set forth in such schedule for a teacher with a bachelor's 8237  
degree and no experience. If there is more than one such rate for 8238  
such a teacher, the lowest rate shall be used to make the 8239  
computation. 8240

(b) Determine which six city, local, and exempted village 8241  
school districts with territory in Franklin county have in effect 8242  
on, or have adopted by, the first day of April for the school year 8243  
that begins on the ensuing first day of July, teacher salary 8244  
schedules with the highest minimum salaries for a teacher with a 8245  
bachelor's degree and no experience; 8246

(c) Divide the sum of such six highest minimum salaries by 8247  
ten thousand five hundred sixty; 8248

(d) Multiply each per cent determined in division (L)(1)(a) 8249  
of this section by the quotient obtained in division (L)(1)(c) of 8250  
this section; 8251

(e) One hundred five per cent of each product thus obtained 8252  
shall be the hourly rate for the corresponding level of training, 8253

experience, or other professional qualification in the schedule 8254  
for the ensuing fiscal year. 8255

(2) Annually, assign each certificated employee on the 8256  
instructional staff of the superintendent's respective school to 8257  
an hourly rate on the schedule that is commensurate with the 8258  
employee's training, experience, and other professional 8259  
qualifications. 8260

If an employee is employed on the basis of an academic year, 8261  
the employee's annual salary shall be calculated by multiplying 8262  
the employee's assigned hourly rate times one thousand seven 8263  
hundred sixty. If an employee is not employed on the basis of an 8264  
academic year, the employee's annual salary shall be calculated in 8265  
accordance with the following formula: 8266

(a) Multiply the number of days the employee is required to 8267  
work pursuant to the employee's contract by eight; 8268

(b) Multiply the product of division (L)(2)(a) of this 8269  
section by the employee's assigned hourly rate. 8270

Each employee shall be paid an annual salary in biweekly 8271  
installments. The amount of each installment shall be calculated 8272  
by dividing the employee's annual salary by the number of biweekly 8273  
installments to be paid during the year. 8274

Sections 124.13 and 124.19 of the Revised Code do not apply 8275  
to an employee who is paid under this division. 8276

As used in this division, "academic year" means the number of 8277  
days in each school year that the schools are required to be open 8278  
for instruction with pupils in attendance. Upon completing an 8279  
academic year, an employee paid under this division shall be 8280  
deemed to have completed one year of service. An employee paid 8281  
under this division is eligible to receive a pay supplement under 8282  
division (L)(1), (2), or (3) of section 124.181 of the Revised 8283

Code for which the employee qualifies, but is not eligible to  
receive a pay supplement under division (L)(4) or (5) of that  
section. An employee paid under this division is eligible to  
receive a pay supplement under division (L)(6) of section 124.181  
of the Revised Code for which the employee qualifies, except that  
the supplement is not limited to a maximum of five per cent of the  
employee's regular base salary in a calendar year.

(M) Division (A) of this section does not apply to "exempt  
employees," as defined in section 124.152 of the Revised Code, who  
are paid under that section.

Notwithstanding any other provisions of this chapter, when an  
employee transfers between bargaining units or transfers out of or  
into a bargaining unit, the director of administrative services  
shall establish the employee's compensation and adjust the maximum  
leave accrual schedule as the director deems equitable.

**Sec. 124.20.** The director of administrative services, with  
the approval of the state personnel board of review, shall adopt  
rules:

(A) For the classification of ~~officers, offices and~~  
~~positions, and employments,~~ in the civil service of the state ~~and~~  
~~the several counties thereof;~~

(B) For appointment, promotions, transfers, layoffs,  
suspensions, reductions, reinstatements, and removals ~~therein in~~  
and examinations and registrations for offices and positions in  
the civil service of the state. ~~Except as otherwise provided in~~  
~~this division, appointing~~ Appointing authorities with officers or  
employees in the civil service of the state shall submit personnel  
action information to the department of administrative services as  
the director requires. ~~County boards of mental retardation and~~  
~~developmental disabilities shall be required to submit personnel~~

~~action forms to the department of administrative services only 8314  
when an employee is hired by a board, when a disciplinary action 8315  
appealable pursuant to this chapter is taken by a board, or when 8316  
the board terminates the employment of an employee for any reason. 8317  
Any submittals required by this section shall be made to the 8318  
county personnel department with jurisdiction in the matter, if 8319  
one has been established. 8320~~

(C) For maintaining and keeping records of the efficiency of 8321  
officers and employees in the civil service of the state in 8322  
accordance with sections 124.01 to 124.64 of the Revised Code. 8323

Due notice of the contents of ~~such~~ these rules and of all 8324  
changes ~~therein~~ in the rules shall be given to appointing 8325  
authorities affected by ~~such~~ the rules, and ~~such~~ the rules shall 8326  
also be printed for public distribution. 8327

**Sec. 124.23.** (A) All applicants for positions and places in 8328  
the classified service shall be subject to examination, except for 8329  
applicants for positions as professional or certified service and 8330  
paraprofessional employees of county boards of mental retardation 8331  
and developmental disabilities, who shall be hired in the manner 8332  
provided in section 124.241 of the Revised Code. 8333

(B) Any examination administered under this section shall be 8334  
public, and be open to all citizens of the United States and those 8335  
persons who have legally declared their intentions of becoming 8336  
United States citizens, within certain limitations ~~to be~~ 8337  
~~determined by the director of administrative services,~~ as to 8338  
citizenship, age, experience, education, health, habit, and moral 8339  
character; ~~provided any, which shall be determined by the director~~ 8340  
of administrative services when the examination is for an office 8341  
or position in the service of the state. Any soldier, sailor, 8342  
marine, coast guarder, member of the auxiliary corps as 8343  
established by congress, member of the army nurse corps or navy 8344

nurse corps, or red cross nurse who has served in the army, navy, 8345  
or hospital service of the United States, and such other military 8346  
service as is designated by congress, including World War I, World 8347  
War II, or during the period beginning May 1, 1949, and lasting so 8348  
long as the armed forces of the United States are engaged in armed 8349  
conflict or occupation duty, or the selective service or similar 8350  
conscriptive acts are in effect in the United States, whichever is 8351  
the later date, who has been honorably discharged ~~therefrom~~ or 8352  
transferred to the reserve with evidence of satisfactory service, 8353  
and who is a resident of Ohio, this state may file ~~with the~~ 8354  
~~director of administrative services~~ a certificate of service or 8355  
honorable discharge, ~~whereupon~~ and, upon that filing, the person 8356  
shall receive additional credit of twenty per cent of the person's 8357  
total grade given in the regular examination in which the person 8358  
receives a passing grade; that filing shall be with the director  
of administrative services in the case of offices or positions in  
the service of the state. ~~Such~~ 8361

An examination may include an evaluation of such factors as 8362  
education, training, capacity, knowledge, manual dexterity, and 8363  
physical or psychological fitness. ~~Examinations~~ An examination 8364  
shall consist of one or more tests in any combination. Tests may 8365  
be written, oral, physical, demonstration of skill, or an 8366  
evaluation of training and experiences and shall be designed to 8367  
fairly test the relative capacity of the persons examined to 8368  
discharge the particular duties of the position for which 8369  
appointment is sought. ~~Where~~ If minimum or maximum requirements 8370  
are established for any examination, they shall be specified in 8371  
the examination announcement. 8372

(C) The director of administrative services shall have 8373  
control of all examinations for offices or positions in the 8374  
service of the state, except as otherwise provided in sections 8375  
124.01 to 124.64 of the Revised Code. ~~No~~ 8376

(D) No questions in any examination shall relate to political 8377  
or religious opinions or affiliations. No credit for seniority, 8378  
efficiency, or any other reason shall be added to an applicant's 8379  
examination grade unless the applicant achieves at least the 8380  
minimum passing grade on the examination without counting ~~such~~ 8381  
that extra credit. 8382

(E) Except as otherwise provided in sections 124.01 to 124.64 8383  
of the Revised Code, the director of administrative services shall 8384  
give reasonable notice of the time, place, and general scope of 8385  
every competitive examination for appointment to a an office or 8386  
position in the classified civil service of the state. The 8387  
director ~~of administrative services~~ shall send written, printed, 8388  
or electronic notices of every examination ~~of~~ to be conducted in 8389  
the ~~state~~ classified civil service of the state to each agency of 8390  
the type the director of job and family services specifies and, in 8391  
the case of a county in which no such agency is located, to the 8392  
clerk of the court of common pleas of that county and to the clerk 8393  
of each city ~~of~~ located within that county. ~~Such~~ Those notices, 8394  
promptly upon receipt, shall be posted in conspicuous public 8395  
places in the designated agencies and the courthouse, and city 8396  
hall of the cities, of the counties in which no such agency is 8397  
located. ~~Such~~ The notices shall be posted in a conspicuous place 8398  
in the office of the director ~~of administrative services~~ for at 8399  
least two weeks ~~before~~ preceding any examination involved. In case 8400  
of examinations limited by the director ~~of administrative services~~ 8401  
to a district, county, city, or department, the director ~~of~~ 8402  
~~administrative services~~ shall provide by rule for adequate 8403  
publicity of ~~such examinations~~ an examination in the district, 8404  
county, city, or department within which competition is permitted. 8405

**Sec. 124.231.** (A)(1) As used in this section, "legally blind 8406  
person" means any person who qualifies as being blind under any 8407

Ohio or federal statute, or any rule adopted ~~thereunder~~ under any 8408  
Ohio or federal statute. As used in this section, "legally deaf 8409  
person" means any person who qualifies as being deaf under any 8410  
Ohio or federal statute, or any rule adopted ~~thereunder~~ under any 8411  
Ohio or federal statute. 8412

~~(B)~~(2) The director of administrative services shall, 8413  
whenever practicable, arrange for special examinations to be 8414  
administered to legally blind or legally deaf persons applying for 8415  
original appointments in the classified civil service of the state 8416  
to ensure that the abilities of ~~such~~ the applicants are properly 8417  
assessed and that ~~such~~ the applicants are not subject to 8418  
discrimination because they are legally blind or legally deaf 8419  
persons. 8420

~~(C)~~(3) The director may administer equitable programs for the 8421  
employment of legally blind persons and legally deaf persons in 8422  
the classified civil service of the state. 8423

(B) Nothing in this section shall be construed to prohibit 8424  
the appointment of a legally blind or legally deaf person to a 8425  
position in the classified service under the procedures otherwise 8426  
provided in this chapter. 8427

**Sec. 124.241.** As used in this section, "professional 8428  
employee" has the same meaning as in section 5126.20 of the 8429  
Revised Code, and "registered service employee" means a service 8430  
employee, as defined in section 5126.20 of the Revised Code, who 8431  
is registered under section 5126.25 of the Revised Code. 8432

County boards of mental retardation and developmental 8433  
disabilities may hire professional employees and registered 8434  
service employees in the classified service on the basis of the 8435  
candidates' qualifications rather than on the basis of the results 8436  
of an examination ~~administered by the director of administrative~~ 8437  
~~services pursuant to section 124.23 of the Revised Code.~~ 8438



**Sec. 124.25.** The director of administrative services shall 8439  
require persons applying for an examination for original 8440  
appointment to office or position in the service of the state to 8441  
file with the director, within reasonable time prior to the 8442  
examination, a formal application, in which the applicant shall 8443  
state the applicant's name, address, and ~~such~~ any other 8444  
information as may reasonably be required concerning the 8445  
applicant's education and experience. No inquiry shall be made as 8446  
to religious or political affiliations or as to racial or ethnic 8447  
origin of the applicant, except as necessary to gather equal 8448  
employment opportunity or other statistics that, when compiled, 8449  
will not identify any specific individual. 8450

Blank forms for applications shall be furnished by the 8451  
director without charge to any person requesting ~~the same~~ an 8452  
application. The director may require in connection with ~~such~~ an 8453  
application ~~such~~ a certificate of persons having knowledge of the 8454  
applicant as the good of the service demands. The director may 8455  
refuse to appoint or examine an applicant, or, after an 8456  
examination, refuse to certify the applicant as eligible, who is 8457  
found to lack any of the established preliminary requirements for 8458  
the examination, who is addicted to the habitual use of 8459  
intoxicating liquors or drugs to excess, who has a pattern of poor 8460  
work habits and performance with previous employers, who has been 8461  
convicted of a felony, who has been guilty of infamous or 8462  
notoriously disgraceful conduct, who has been dismissed from 8463  
either branch of the civil service for delinquency or misconduct, 8464  
or who has made false statements of any material fact, or 8465  
practiced, or attempted to practice, any deception or fraud in the 8466  
application or examination, in establishing eligibility, or in 8467  
securing an appointment. 8468

**Sec. 124.26.** (A) Except as provided in ~~divisions~~ division (B) 8469

and ~~(C)~~ of this section, from the returns of the examinations for 8470  
offices or positions in the service of the state, the director of 8471  
administrative services shall prepare an eligible list of the 8472  
persons whose general average standing upon examinations for ~~such~~ 8473  
the grade or class is not less than the minimum fixed by the rules 8474  
of the director, and who are otherwise eligible; ~~and such.~~ Those 8475  
persons shall take rank upon the eligible list as candidates in 8476  
the order of their relative excellence as determined by the 8477  
examination without reference to priority of the time of 8478  
examination. ~~In the event~~ If two or more applicants receive the 8479  
same mark in an open competitive examination, priority in the time 8480  
of filing the application with the director shall determine the 8481  
order in which their names shall be placed on the eligible list; 8482  
~~provided,~~ except that applicants eligible for veteran's preference 8483  
under section 124.23 of the Revised Code shall receive priority in 8484  
rank on the eligible list over nonveterans on the list with a 8485  
rating equal to that of the veteran. Ties among veterans shall be 8486  
decided by priority of filing the application. ~~In the event of~~ If 8487  
two or more applicants ~~receiving~~ receive the same mark on a 8488  
promotional examination, seniority shall determine the order in 8489  
which their names shall be placed on the eligible list. The term 8490  
of eligibility of each list shall be fixed by the director at not 8491  
less than one ~~nor~~ or more than two years. ~~When~~ 8492

When an eligible list is reduced to ten names or less, a new 8493  
list may be prepared. The director may consolidate two or more 8494  
eligible lists of the same kind by the rearranging of eligibles 8495  
named ~~therein~~ in the lists, according to their grades. 8496

(B) A person serving as a provisional employee who passes an 8497  
examination for an office or position in the service of the state, 8498  
given for the department in which ~~he~~ the person is employed, for 8499  
the class or grade in which the person holds the office or 8500  
position shall be appointed as a certified employee in the office 8501

or position before the director of administrative services 8502  
prepares an eligible list. 8503

**Sec. 124.27.** (A) The head of a department, office, or 8504  
institution, in which a position in the classified civil service 8505  
of the state is to be filled, shall notify the director of 8506  
administrative services of the fact, and the director shall, 8507  
except as otherwise provided in this section and sections 124.30 8508  
and 124.31 of the Revised Code, certify to the appointing 8509  
authority the names and addresses of the ten candidates standing 8510  
highest on the eligible list for the class or grade to which the 8511  
position belongs; ~~provided, except~~ that the director may certify 8512  
less than ten names if ten names are not available. When less than 8513  
ten names are certified to an appointing authority, appointment 8514  
from that list shall not be mandatory. When a position in the 8515  
classified service in the department of mental health or the 8516  
department of mental retardation and developmental disabilities is 8517  
to be filled, the director of administrative services shall make 8518  
such certification to the appointing authority within seven 8519  
working days of the date the eligible list is requested. 8520

(B) ~~The~~ An appointing authority shall notify the director of 8521  
administrative services of ~~such a~~ position in the classified civil 8522  
service of the state to be filled, and the appointing authority 8523  
shall fill ~~such the vacant~~ position by appointment of one of the 8524  
ten persons certified by the director. If more than one position 8525  
is to be filled, the director ~~of administrative services~~ may 8526  
certify a group of names from the eligible list and the appointing 8527  
authority shall appoint in the following manner: ~~Beginning~~ 8528  
beginning at the top of the list, each time a selection is made it 8529  
must be from one of the first ten candidates remaining on the list 8530  
who is willing to accept consideration for the position. If an 8531  
eligible list becomes exhausted, and until a new list can be 8532  
created, or when no eligible list for ~~such a~~ position exists, 8533

names may be certified from eligible lists most appropriate for 8534  
the group or class in which the position to be filled is 8535  
classified. A person who is certified from an eligible list more 8536  
than three times to the same appointing authority for the same or 8537  
similar positions, may be omitted from future certification to 8538  
~~such that~~ appointing authority, provided that certification for a 8539  
temporary appointment shall not be counted as one of ~~such those~~ 8540  
certifications. Every soldier, sailor, marine, coast guarder, 8541  
member of the auxiliary corps as established by congress, member 8542  
of the army nurse corps, or navy nurse corps, or red cross nurse 8543  
who has served in the army, navy, or hospital service of the 8544  
United States, and such other military service as is designated by 8545  
congress in the war with Spain, including the Philippine 8546  
insurrection and the Chinese relief expedition, or from April 21, 8547  
1898, to July 4, 1902, World War I, World War II, or during the 8548  
period beginning May 1, 1949, and lasting so long as the armed 8549  
forces of the United States are engaged in armed conflict or 8550  
occupation duty, or the selective service or similar conscriptive 8551  
acts are in effect in the United States, whichever is the later 8552  
date, who has been honorably discharged or separated under 8553  
honorable conditions ~~therefrom~~, who is a resident of this state, 8554  
and whose name is on the eligible list for a position, shall be 8555  
entitled to preference in an original appointment to 8556  
~~any such a~~ competitive position in the civil service of the state 8557  
~~and the civil divisions thereof~~, over all persons eligible for 8558  
~~such appointments~~ the appointment and standing on the list 8559  
~~therefor~~ for the appointment, with a rating equal to that of ~~each~~ 8560  
~~such person~~ the veteran. Appointments to all positions in the 8561  
classified civil service of the state, that are not filled by 8562  
promotion, transfer, or reduction, as provided in sections 124.01 8563  
to 124.64 of the Revised Code and the rules of the director 8564  
prescribed under those sections, shall be made only from those 8565  
persons whose names are certified to the appointing authority, and 8566

no employment, except as provided in those sections, shall be 8567  
otherwise given in the classified civil service of ~~this~~ the state 8568  
~~or any political subdivision of the state.~~ 8569

(C) All original and promotional appointments, including 8570  
provisional appointments made pursuant to section 124.30 of the 8571  
Revised Code, shall be for a probationary period, not less than 8572  
sixty days ~~nor~~ or more than one year, to be fixed by the 8573  
appropriate rules ~~of the director~~, except as provided in section 8574  
124.231 of the Revised Code, or except original appointments to a 8575  
police department as a police officer, or to a fire department as 8576  
a firefighter which shall be for a probationary period of one 8577  
year, ~~and no.~~ No appointment or promotion is final until the 8578  
appointee has satisfactorily served the probationary period. 8579  
Service as a provisional employee in the same or similar class 8580  
shall be included in the probationary period. If the service of 8581  
the probationary employee is unsatisfactory, the employee may be 8582  
removed or reduced at any time during the probationary period. If 8583  
the appointing authority's decision is to remove the appointee, 8584  
the appointing authority's communication to the director or 8585  
commission shall indicate the reason for that decision. A 8586  
probationary employee duly removed or reduced in position for 8587  
unsatisfactory service does not have the right to appeal the 8588  
removal or reduction under section 124.34 of the Revised Code. 8589

**Sec. 124.29.** Any person who, at the time of holding an office 8590  
or position in the public service, enters the uniformed services, 8591  
as defined in section 5903.01 of the Revised Code, is entitled to 8592  
reinstatement in accordance with the "Uniformed Services 8593  
Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 8594  
38 U.S.C.A. 4301 to 4333. 8595

The director of administrative services shall adopt rules in 8596  
accordance with Chapter 119. of the Revised Code for the 8597

implementation of this section with regard to the reinstatement of 8598  
persons in the service of the state. 8599

**Sec. 124.30.** (A) Positions in the classified civil service of of 8600  
the state may be filled without competition as follows: 8601

(1) Whenever there are urgent reasons for filling a vacancy 8602  
in any position in the classified civil service of the state and 8603  
the director of administrative services is unable to certify to 8604  
the appointing authority, upon ~~requisition by the latter~~ its 8605  
request, a list of persons eligible for appointment to ~~such~~ the 8606  
position after a competitive examination, the appointing authority 8607  
may nominate a person to the director for noncompetitive 8608  
examination, and if ~~such~~ the nominee is certified by the director 8609  
as qualified after ~~such~~ the noncompetitive examination, the 8610  
nominee may be appointed provisionally to fill ~~such~~ the vacancy 8611  
until a selection and appointment can be made after competitive 8612  
examination; ~~but such.~~ However, the provisional appointment shall 8613  
continue in force only until a regular appointment can be made 8614  
from eligible lists prepared by the director, and ~~such~~ the 8615  
eligible lists shall be prepared within six months, provided that 8616  
an examination for the position must be held within the six-month 8617  
period from the date of ~~such~~ the provisional appointment. In the 8618  
case of provisional appointees in ~~county departments of job and~~ 8619  
~~family services and in~~ the department of job and family services 8620  
and department of health, if the salary is paid in whole or in 8621  
part from federal funds, ~~such~~ the eligible lists shall be prepared 8622  
within six months, provided that an examination for the position 8623  
must be held within the six-month period from the date of ~~such~~ the 8624  
provisional appointment. In case of an emergency, an appointment 8625  
may be made without regard to the rules of sections 124.01 to 8626  
124.64 of the Revised Code, but in no case to continue longer than 8627  
thirty days, and in no case shall successive appointments be made. 8628

Interim or temporary appointments, made necessary by reason of 8629  
sickness, disability, or other approved leave of absence of 8630  
regular officers or employees shall continue only during ~~such the~~ 8631  
period of sickness, disability, or other approved leave of 8632  
absence, subject to rules ~~to be provided for by~~ of the director. 8633

(2) In case of a vacancy in a position in the classified 8634  
civil service of the state where peculiar and exceptional 8635  
qualifications of a scientific, managerial, professional, or 8636  
educational character are required, and upon satisfactory evidence 8637  
that for specified reasons competition in ~~such this~~ special case 8638  
is impracticable and that the position can best be filled by a 8639  
selection of some designated person of high and recognized 8640  
attainments in ~~such those~~ qualities, the director may suspend the 8641  
provisions of sections 124.01 to 124.64 of the Revised Code, 8642  
~~requiring that require~~ competition in ~~such this special~~ case, but 8643  
no suspension shall be general in its application, ~~and all. All~~ 8644  
such cases of suspension shall be reported in the annual report of 8645  
the director with the reasons for ~~the~~ each suspension. The 8646  
director shall suspend the provisions when the director of job and 8647  
family services provides ~~the director~~ certification under section 8648  
5101.051 of the Revised Code that a position with the department 8649  
of job and family services can best be filled if the provisions 8650  
are suspended. 8651

(3) ~~Where~~ If the services to be rendered by an appointee are 8652  
for a temporary period, not to exceed six months, and the need of 8653  
~~such the~~ service is important and urgent, the appointing authority 8654  
may select for ~~such~~ temporary service any person on the proper 8655  
list of those eligible for permanent appointment. Successive 8656  
temporary appointments to the same position shall not be made 8657  
under this division. The acceptance or refusal by an eligible 8658  
person of a temporary appointment shall not affect the person's 8659  
standing on the ~~register~~ eligible list for permanent ~~employment~~. 8660

appointment, nor shall the period of temporary service be counted 8661  
as a part of the probationary service in case of subsequent 8662  
appointment to a permanent position. 8663

(B) Persons who receive external interim, temporary, or 8664  
intermittent appointments are in the unclassified civil service 8665  
and serve at the pleasure of their appointing authority. Interim 8666  
appointments shall be made only to fill a vacancy that results 8667  
from an employee's temporary absence, but shall not be made to 8668  
fill a vacancy that results because an employee receives an 8669  
interim appointment. 8670

**Sec. 124.31.** (A) Vacancies in positions in the classified 8671  
service shall be filled insofar as practicable by promotions. ~~The~~ 8672  
In the case of a vacancy in a position in the classified civil 8673  
service of the state, the director of administrative services 8674  
shall provide in the director's rules for keeping a record of 8675  
efficiency for each employee in the classified civil service of 8676  
the state, and for making promotions in the classified civil 8677  
service of the state on the basis of merit, to be ascertained ~~as~~ 8678  
~~far~~ insofar as practicable by promotional examinations, by conduct 8679  
and capacity in office, and by seniority in service, ~~and~~. The 8680  
director shall provide that vacancies in positions in the 8681  
classified civil service of the state shall be filled by promotion 8682  
in all cases where, in the judgment of the director, it is for the 8683  
best interest of the service. 8684

(B) All examinations for promotions shall be competitive and 8685  
may be conducted in the same manner as examinations described in 8686  
section 124.23 of the Revised Code. In promotional examinations, 8687  
seniority in service shall be added to the examination grade, but 8688  
no credit for seniority or any other reason shall be added to an 8689  
examination grade unless the applicant achieves at least the 8690  
minimum passing score on the examination without counting ~~such~~ 8691



that extra credit. Credit for seniority shall equal, for the first 8692  
four years of service, one per cent of the total grade attainable 8693  
in the promotion examination, and, for each of the fifth through 8694  
fourteenth years of service, six-tenths per cent of the total 8695  
grade attainable. 8696

In all cases of vacancies in positions in the classified 8697  
civil service of the state, where vacancies are to be filled by 8698  
promotion, the director of administrative services shall certify 8699  
to the appointing authority only the names of the three persons 8700  
having the highest rating on the eligible list. The method of 8701  
examination for promotions, the manner of giving notice ~~thereof~~ of 8702  
an examination, and the rules governing the same shall be in 8703  
general the same as those provided for original examinations, 8704  
except as otherwise provided in sections 124.01 to 124.64 of the 8705  
Revised Code. 8706

**Sec. 124.311.** (A) Following any classification change within 8707  
a classification series, a certified employee in the classified 8708  
civil service of the state retains certification. When an employee 8709  
receives a classification change to a classification outside the 8710  
series in which ~~he~~ the employee is certified, unless exception is 8711  
made by rules adopted under division (B) of this section, the 8712  
employee does not retain certified status. 8713

If an employee is in a provisional status following a 8714  
classification change due to the operation of this section and is 8715  
displaced within two years of receiving the change for any reason 8716  
other than those listed in section 124.32, 124.321, 124.322, 8717  
124.323, 124.324, 124.325, 124.326, 124.327, 124.34, or 124.62 of 8718  
the Revised Code, the employee shall be returned as a certified 8719  
employee to the classification held immediately prior to the 8720  
classification change, provided ~~he~~ the employee was certified in 8721  
that classification. If the former classification is not or cannot 8722

be used by the appointing authority in the agency in which the 8723  
employee received the classification change, the director of 8724  
administrative services shall designate a classification with 8725  
comparable duties and the same pay range as the classification 8726  
~~which~~ that was held immediately prior to the change and in which 8727  
the employee was certified. If a similar classification cannot be 8728  
designated, the employee retains certification in the 8729  
classification in which ~~he~~ the employee was certified immediately 8730  
prior to the classification change, and ~~he~~ the employee shall be 8731  
treated as a laid-off employee under sections 124.321 to 124.327 8732  
of the Revised Code. If an employee receives a classification 8733  
change subsequent to being placed in a provisional status, the 8734  
employee is not eligible to be returned to the classification in 8735  
which ~~he~~ the employee was certified prior to any classification 8736  
change. 8737

If an employee is in a provisional status due to the 8738  
application of this section and is displaced under section 124.32, 8739  
124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 8740  
124.34, or 124.62 of the Revised Code, the employee has no right 8741  
under this section to return to the classification held prior to 8742  
the classification change, except that if an employee receives a 8743  
probationary reduction or voluntary demotion to a classification 8744  
in which ~~he~~ the employee was certified prior to the classification 8745  
change within two years after the change, the employee shall be 8746  
returned as a certified employee to the prior classification in 8747  
which ~~he~~ the employee was certified. 8748

Whenever the director or the general assembly changes the 8749  
state classification plan, an employee shall retain certification 8750  
in the same or similar classification held immediately prior to 8751  
the change in the classification plan, provided ~~he~~ the employee 8752  
was certified under the former plan. 8753

Whenever the position held by a classified employee is 8754

reclassified as a result of a job audit outside the classification 8755  
series in which ~~he~~ the employee is certified, the employee shall 8756  
be treated as having received a classification change under this 8757  
section and be given credit for the time ~~he~~ the employee performed 8758  
the duties of the new classification for purposes of a 8759  
probationary period under section 124.27 of the Revised Code. 8760

The employee may, however, choose not to accept the 8761  
reclassified position, in which case ~~he~~ the employee shall retain 8762  
~~his~~ the certification in the classification for which ~~he~~ the 8763  
employee was certified, and the appointing authority shall assign 8764  
the employee to a position with that classification or abolish the 8765  
former position. 8766

(B) The director of administrative services shall make rules 8767  
in accordance with Chapter 119. of the Revised Code implementing 8768  
division (A) of this section with regard to the state 8769  
classification plan and employees in the service of the state. The 8770  
rules shall provide: 8771

(1) Specific criteria for retention of certification 8772  
following a classification change from one classification to 8773  
another outside the classification series-; 8774

(2) For the publication of a list of classifications with the 8775  
same or similar duties in which the employee will retain 8776  
certification following certain classification changes and in 8777  
which displacement rights apply-; 8778

(3) For an employee who is displaced within a two-year period 8779  
following a classification change to return to the former position 8780  
in which ~~he~~ the employee was certified, as specified in division 8781  
(A) of this section. 8782

**Sec. 124.32.** (A) With the consent of the director of 8783  
administrative services, a person holding an office or position in 8784

the classified civil service of the state may be transferred to a 8785  
similar office or position in another office, department, or 8786  
institution having the same pay and similar duties; but no 8787  
transfer shall be made ~~from~~ as follows: 8788

(1) From an office or position in one class to an office or 8789  
position in another class, ~~nor shall a person be transferred to;~~ 8790

(2) To an office or position for original entrance to which 8791  
there is required by sections 124.01 to 124.64 of the Revised 8792  
Code, or the rules adopted pursuant to ~~such~~ those sections, an 8793  
examination involving essential tests or qualifications or 8794  
carrying a salary different from or higher than those required for 8795  
original entrance to an office or position held by ~~such~~ the 8796  
person. 8797

(B) Any person holding an office or position ~~under~~ in the 8798  
classified civil service of the state who has been separated from 8799  
the service without delinquency or misconduct on the person's part 8800  
may, with the consent of the director, be reinstated within one 8801  
year from the date of ~~such~~ that separation to a vacancy in the 8802  
same or similar office or position in the same department; 8803  
~~provided. But, if such that~~ separation is due to injury or 8804  
physical disability, ~~such~~ the person shall be reinstated ~~to~~ in the 8805  
same office held or in a similar position to that held at the time 8806  
of separation, within thirty days after written application for 8807  
reinstatement and after passing a physical examination made by a 8808  
licensed physician, a physician assistant, a clinical nurse 8809  
specialist, a certified nurse practitioner, or a certified 8810  
nurse-midwife showing that the person has recovered from ~~such~~ the 8811  
injury or physical disability, provided ~~further~~ that ~~such~~ the 8812  
application for reinstatement ~~be~~ is filed within three years from 8813  
the date of separation, ~~and further provided~~ that ~~such~~ the 8814  
application ~~shall~~ is not ~~be~~ filed after the date of service 8815  
eligibility retirement. The physician, physician assistant, 8816

clinical nurse specialist, certified nurse practitioner, or 8817  
certified nurse-midwife shall be designated by the appointing 8818  
authority and shall complete any written documentation of the 8819  
physical examination. 8820

**Sec. 124.321.** (A) Whenever it becomes necessary for an 8821  
appointing authority to reduce its work force, the appointing 8822  
authority shall lay off employees or abolish their positions in 8823  
accordance with sections 124.321 to 124.327 of the Revised Code 8824  
and, in the case of employees in the service of the state, 8825  
pursuant to the rules of the director of administrative services. 8826

(B) (1) Employees may be laid off as a result of a lack of 8827  
funds within an appointing authority. For appointing authorities 8828  
~~which~~ that employ persons whose salary or wage is paid by warrant 8829  
of the auditor of state, the director of budget and management 8830  
shall be responsible for determining whether a lack of funds 8831  
exists. For ~~all other~~ appointing authorities ~~which~~ that employ 8832  
persons whose salary or wage is paid other than by warrant of the 8833  
auditor of state, the appointing authority ~~shall~~ itself shall 8834  
determine whether a lack of funds exists ~~and shall file a~~ 8835  
~~statement of rationale and supporting documentation with the~~ 8836  
~~director of administrative services prior to sending the layoff~~ 8837  
~~notice.~~ 8838

A (2) As used in this division, a "lack of funds" means an 8839  
appointing authority has a current or projected deficiency of 8840  
funding to maintain current, or to sustain projected, levels of 8841  
staffing and operations. This section does not require any 8842  
transfer of money between funds in order to offset a deficiency or 8843  
projected deficiency of federal funding for a program. 8844

(3) The director of budget and management shall ~~promulgate~~ 8845  
adopt rules, under Chapter 119. of the Revised Code, for agencies 8846  
whose employees are paid by warrant of the auditor of state, for 8847

determining whether a lack of funds exists. 8848

(C)(1) Employees may be laid off as a result of lack of work 8849  
within an appointing authority. For appointing authorities whose 8850  
employees are paid by warrant of the auditor of state, the 8851  
director of administrative services shall determine whether a lack 8852  
of work exists. All other appointing authorities shall themselves 8853  
determine whether a lack of work exists ~~and shall file a statement~~ 8854  
~~of rationale and supporting documentation with the director of~~ 8855  
~~administrative services prior to sending the notice of layoff.~~ 8856

A (2) As used in this division, a "lack of work, ~~for purposes~~ 8857  
~~of layoff,~~" means an appointing authority has a current or 8858  
projected temporary decrease in the workload, expected to last 8859  
less than one year, ~~which~~ that requires a reduction of current or 8860  
projected staffing levels. The determination of a lack of work 8861  
shall indicate the current or projected temporary decrease in the 8862  
workload of an appointing authority and whether the current or 8863  
projected staffing levels of the appointing authority will be 8864  
excessive. 8865

(D)(1) Employees may be laid off as a result of abolishment 8866  
of positions. ~~Abolishment~~ As used in this division, "abolishment" 8867  
means the ~~permanent~~ deletion of a position or positions from the 8868  
organization or structure of an appointing authority ~~due to lack~~ 8869  
~~of continued need for the position. An~~ 8870

For purposes of this division, an appointing authority may 8871  
abolish positions for any one or any combination of the following 8872  
reasons: as a result of a reorganization for the efficient 8873  
operation of the appointing authority, for reasons of economy, or 8874  
for lack of work. ~~The determination of the need to abolish~~ 8875  
~~positions shall indicate the lack of continued need for positions~~ 8876  
~~within an appointing authority~~ 8877

(2)(a) Reasons of economy permitting an appointing authority 8878

to abolish a position and to lay off the holder of that position 8879  
under this division shall be determined at the time the appointing 8880  
authority proposes to abolish the position. The reasons of economy 8881  
shall be based on the appointing authority's estimated amount of 8882  
savings with respect to salary, benefits, and other matters 8883  
associated with the abolishment of the position, except that the 8884  
reasons of economy associated with the position's abolishment 8885  
instead may be based on the appointing authority's estimated 8886  
amount of savings with respect to salary and benefits only, if: 8887

(i) Either the appointing authority's operating appropriation 8888  
has been reduced by an executive or legislative action, or the 8889  
appointing authority has a current or projected deficiency in 8890  
funding to maintain current or projected levels of staffing and 8891  
operations; and 8892

(ii) In the case of an appointing authority that is 8893  
abolishing a position in the service of the state, it files a 8894  
notice of the position's abolishment with the director of 8895  
administrative services within one year of the occurrence of the 8896  
applicable circumstance described in division (D)(2)(a)(i) of this 8897  
section. 8898

(b) The following principles apply when a circumstance 8899  
described in division (D)(2)(a)(i) of this section would serve to 8900  
authorize an appointing authority to abolish a position and to lay 8901  
off the holder of the position under this division based on the 8902  
appointing authority's estimated amount of savings with respect to 8903  
salary and benefits only: 8904

(i) The position's abolishment shall be done in good faith 8905  
and not as a subterfuge for discipline. 8906

(ii) If a circumstance affects a specific program only, the 8907  
appointing authority only may abolish a position within that 8908  
program. 8909

(iii) If a circumstance does not affect a specific program 8910  
only, the appointing authority may identify a position that it 8911  
considers appropriate for abolishment based on the reasons of 8912  
economy. Appointing authorities 8913

(3) Each appointing authority shall themselves determine 8914  
itself whether any position should be abolished and, if the 8915  
appointing authority is abolishing any position in the service of 8916  
the state, shall file a statement of rationale and supporting 8917  
documentation with the director of administrative services prior 8918  
to sending the notice of abolishment. ~~If~~ 8919

If an abolishment results in a reduction of the work force, 8920  
the appointing authority shall follow the procedures for laying 8921  
off employees, subject to the following modifications: 8922

~~(1)~~(a) The employee whose position has been abolished shall 8923  
have the right to fill an available vacancy within the employee's 8924  
classification~~+~~. 8925

~~(2)~~(b) If the employee whose position has been abolished has 8926  
more retention points than any other employee serving in the same 8927  
classification, ~~then~~ the employee with the fewest retention points 8928  
shall be displaced~~+~~. 8929

~~(3)~~(c) If the employee whose position has been abolished has 8930  
the fewest retention points in the classification, the employee 8931  
shall have the right to fill an available vacancy in a lower 8932  
classification in the classification series~~+~~. 8933

~~(4)~~(d) If the employee whose position has been abolished has 8934  
the fewest retention points in the classification, the employee 8935  
shall displace the employee with the fewest retention points in 8936  
the next or successively lower classification in the 8937  
classification series. 8938

(E) ~~The~~ With regard to reductions in the work force in the 8939



service of the state, the director of administrative services 8940  
shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised 8941  
Code, for the determination of lack of work within an appointing 8942  
authority, for the abolishment of positions by an appointing 8943  
authority, and for the implementation of this section. 8944

**Sec. 124.322.** Whenever a reduction in the work force is 8945  
necessary, the appointing authority of an agency shall decide in 8946  
which classification or classifications the layoff or layoffs will 8947  
occur and the number of employees to be laid off within each 8948  
affected classification. The director of administrative services 8949  
shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised 8950  
Code, establishing a method for determining layoff procedures and 8951  
an order of layoff and the displacement and recall of laid-off 8952  
~~state and county~~ employees in the service of the state. The order 8953  
shall be based in part on length of service and, may include 8954  
efficiency in service, appointment type, or ~~such~~ other factors the 8955  
director considers appropriate. If the director establishes 8956  
relative efficiency as a criterion to be used in determining order 8957  
of layoff for ~~state and county~~ employees in the service of the 8958  
state, credit for efficiency may be other than ten per cent of 8959  
total retention points. 8960

**Sec. 124.323.** (A) Employees shall be laid off in the order 8961  
set forth in this section within the primary appointment 8962  
categories of part-time, seasonal, and full-time, and other 8963  
appointment categories ~~as,~~ which, in the case of employees in the 8964  
service of the state, shall be established by the director of 8965  
administrative services. 8966

(B) Whenever a reduction in force is necessary within each of 8967  
the primary appointment categories, first seasonal, then part-time 8968  
permanent, and then full-time permanent employees shall be laid 8969  
off in the following order: 8970

(1) Employees serving provisionally who have not completed their probationary period after appointment;	8971 8972
(2) Employees serving provisionally who have satisfactorily completed their probationary period after appointment;	8973 8974
(3) Employees appointed from certified eligible lists or who are certified and who have not completed their probationary period after appointment;	8975 8976 8977
(4) Employees appointed from certified eligible lists or who are certified and who have successfully completed their probationary period after appointment.	8978 8979 8980
<b>Sec. 124.324.</b> (A) A laid-off employee has the right to displace the employee with the fewest retention points in the classification from which the employee was laid off or in a lower or equivalent classification, in the following order:	8981 8982 8983 8984
(1) Within the classification from which the employee was laid off;	8985 8986
(2) Within the classification series from which the employee was laid off;	8987 8988
(3) Within a classification which has the same or similar duties as the classification from which the employee was laid off <del>7</del> . <u>In the case of employees in the service of the state, this shall be</u> in accordance with the list published by the director <u>of administrative services</u> under division (B)(2) of section 124.311 of the Revised Code <del>7</del> .	8989 8990 8991 8992 8993 8994
(4) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off.	8995 8996 8997
Divisions (A)(3) and (4) of this section shall not apply to employees of cities, city health districts, and counties, except	8998 8999

for employees of county departments of job and family services. 9000

A laid-off employee in the classified service has the right 9001  
to displace an employee with the fewest retention points in the 9002  
classification that the laid-off employee held immediately prior 9003  
to holding the classification from which the employee was laid 9004  
off, if the laid-off employee was certified in the former 9005  
classification. If a position in that classification does not 9006  
exist, then the employee may displace employees in the 9007  
classification that the employee next previously held, and so on, 9008  
subject to the same provisions. The employee may not displace 9009  
employees in a classification if the employee does not meet the 9010  
minimum qualifications of the classification, or if the employee 9011  
held the classification more than five years prior to the date on 9012  
which the employee was laid off, except that failure to meet 9013  
minimum qualifications shall not prevent the employee from 9014  
displacing employees in the classification that the employee next 9015  
previously held within that five-year period. 9016

If, after exercising displacement rights, an employee is 9017  
subject to further layoff action, the employee's displacement 9018  
rights shall be in accordance with the classification from which 9019  
the employee was first laid off. 9020

The director shall verify the calculation of the retention 9021  
points of all employees in the service of the state in an affected 9022  
classification in accordance with section 124.325 of the Revised 9023  
Code. 9024

(B) Following the order of layoff, an employee laid off in 9025  
the classified civil service shall displace another employee 9026  
within the same appointing authority or independent institution 9027  
and layoff jurisdiction in the following manner: 9028

(1) Each laid-off employee possessing more retention points 9029  
shall displace the employee with the fewest retention points in 9030

the next lower classification or successively lower classification 9031  
in the same classification series; except that a laid-off 9032  
provisional employee shall not have the right to displace a 9033  
certified employee; 9034

(2) Any employee displaced by an employee possessing more 9035  
retention points shall displace the employee with the fewest 9036  
retention points in the next lower classification or successively 9037  
lower classification in the same classification series; except 9038  
that a displaced provisional employee shall not displace a 9039  
certified employee. This process shall continue, if necessary, 9040  
until the employee with the fewest retention points in the lowest 9041  
classification of the classification series of the same appointing 9042  
authority or independent institution has been reached and, if 9043  
necessary, laid off. 9044

(C) Employees shall notify the appointing authority of their 9045  
intention to exercise their displacement rights, within five days 9046  
after receiving notice of layoff. 9047

(D) No employee shall displace an employee for whose position 9048  
or classification there exists special minimum qualifications, as 9049  
established by a position description, by classification 9050  
specifications, or by bona fide occupational qualification, unless 9051  
the employee desiring to displace another employee possesses the 9052  
requisite minimum qualifications for the position or 9053  
classification. 9054

(E) If an employee exercising displacement rights must 9055  
displace an employee in another county within the same layoff 9056  
district, the displacement shall not be construed to be a 9057  
transfer. 9058

(F) The director of administrative services shall ~~promulgate~~ 9059  
adopt rules, under Chapter 119. of the Revised Code, for the 9060  
implementation of this section with regard to employees in the 9061

service of the state. 9062

**Sec. 124.325.** (A) Retention points to reflect the length of 9063  
continuous service and efficiency in service for all employees in 9064  
the service of the state affected by a layoff shall be verified by 9065  
the director of administrative services. 9066

(B) An employee's length of continuous service will be 9067  
carried from one layoff jurisdiction to another so long as no 9068  
break in service occurs between ~~such~~ transfers or appointments. 9069

(C) Retention points for efficiency in service shall be 9070  
determined by averaging the employee's latest two annual 9071  
performance evaluations. An employee with less than two years of 9072  
service will have the latest performance evaluation used. Any 9073  
employees with less than one year of service will have their final 9074  
probationary evaluation used. 9075

(D) Should two or more employees have an identical number of 9076  
retention points, employees having the shortest period of 9077  
continuous service shall be laid off first. 9078

(E)(1) As used in this division, "affected employee" means a 9079  
city employee who becomes a county employee, or a county employee 9080  
who becomes a city employee, as the result of any of the 9081  
following: 9082

(a) The merger of a city and a county office; 9083

(b) The merger of city and county functions or duties; 9084

(c) The transfer of functions or duties between a city and 9085  
county. 9086

(2) For purposes of this section, the new employer of any 9087  
affected employee shall treat the employee's prior service with 9088  
~~such a~~ former employer as if it had been served with the new 9089  
employer. 9090

(F) The director of administrative services shall ~~promulgate~~ 9091  
adopt rules, in accordance with Chapter 119. of the Revised Code, 9092  
to establish a system for the assignment of retention points for 9093  
each employee in the service of the state in a classification 9094  
affected by a layoff and for determining, in those instances where 9095  
employees have identical retention points, which employee shall be 9096  
laid off first. 9097

**Sec. 124.33.** An employee holding a position in the classified 9098  
civil service of the state may be temporarily transferred from ~~his~~ 9099  
the employee's original position to a similar position, for a 9100  
period not to exceed thirty days, or for a longer period not to 9101  
exceed ninety days if agreed to by the employee and employer. 9102

No employee shall be temporarily transferred more than once 9104  
during any six-month period without the approval of the director 9105  
of administrative services, who, by rule, shall set guidelines ~~in~~ 9106  
~~his rules and regulations~~ concerning procedures to be followed by 9107  
all appointing authorities when making a temporary transfer and 9108  
list those classifications where the nature of the employment is 9109  
such that systematic changes in the location of an employee's work 9110  
assignments are necessary for the efficient operation of an 9111  
office, department, or institution. 9112

If the director approves a second temporary transfer within 9113  
any six-month period and the employee objects to the transfer 9114  
because ~~he~~ the employee does not hold a position listed in the 9115  
director's rules ~~and regulations~~ as one requiring systematic 9116  
changes in the employee's work assignment or because it is not 9117  
necessary for the efficient operation of the office, department, 9118  
or institution, the employee may appeal such transfer to the state 9119  
personnel board of review. If the board finds that the position 9120  
held by the employee is not by its nature subject to systematic 9121

changes or that a temporary transfer is not necessary for the 9122  
efficient operation of the office, department, or institution, it 9123  
shall not approve the transfer. If the board finds that the 9124  
temporary transfer is necessary for the efficient operation of the 9125  
office, department, or institution or that the position is by its 9126  
nature subject to systematic changes, it shall approve the 9127  
transfer. 9128

Any employee who is temporarily transferred from ~~his~~ the 9129  
employee's original position to a similar position in excess of 9130  
twenty miles from ~~his~~ the employee's place of residence shall be 9131  
reimbursed, by the appointing authority requesting the transfer, 9132  
for all actual and necessary expenses incurred during ~~such~~ the 9133  
temporary transfer. 9134

An appointing authority may, with the approval of the 9135  
director of administrative services, permanently transfer an 9136  
employee in the classified civil service of the state from ~~his~~ the 9137  
employee's original position to a similar position in another 9138  
office, department, or institution. For purposes of this section, 9139  
a permanent transfer is any transfer in excess of thirty days 9140  
unless the employee and the employer agree to a longer period not 9141  
to exceed ninety days. The appointing authority requesting the 9142  
permanent transfer shall notify the employee and the director in 9143  
writing of the request to transfer. If the director determines 9144  
that the transfer is not necessary for the efficient operation of 9145  
the office, department, or institution, ~~he~~ the director shall not 9146  
approve the transfer and shall notify the appointing authority and 9147  
the employee in writing that transfer is not approved. If ~~he~~ the 9148  
director finds that the transfer is necessary for the efficient 9149  
operation of the office, department, or institution, ~~he~~ the 9150  
director shall notify the appointing authority and the employee 9151  
involved in the request for transfer, in writing, that the 9152  
transfer is approved, including in such notification a statement 9153

whether the transfer will require a permanent change of residence 9154  
for the employee. 9155

If the employee consents to the transfer and is in agreement 9156  
with the director's statement concerning a permanent change of 9157  
residence, the appointing authority of the office, department, or 9158  
institution receiving the employee shall reimburse ~~such~~ the 9159  
employee for ~~his~~ actual and necessary travel and living expenses 9160  
or, if the move requires a permanent change of residence, ~~his~~ 9161  
actual and necessary expenses of moving to ~~his~~ the new location 9162  
and a per diem allowance not to exceed thirty days for living 9163  
expenses until ~~his~~ the employee's residence can be moved to the 9164  
new location. 9165

If the employee does not wish to be transferred or ~~he~~ feels 9166  
that the director's decision regarding the need for a permanent 9167  
change of residence has been unfair, ~~he~~ the employee may, within 9168  
ten days after receipt of ~~such~~ the notice, appeal the transfer to 9169  
the state personnel board of review, but pending determination of 9170  
~~such~~ the appeal shall not refuse ~~such~~ the transfer. 9171

In such an appeal, the appointing authority of the office, 9172  
department, or institution receiving the employee shall be 9173  
required to show that the permanent transfer is necessary for the 9174  
efficient operation of the office, department, or institution. If 9175  
the state personnel board of review finds that the transfer is 9176  
necessary for the efficient operation of the office, department, 9177  
or institution, and the employee is transferred, the appointing 9178  
authority of the office, department, or institution receiving the 9179  
employee shall reimburse ~~such~~ the employee for the actual and 9180  
necessary expenses of moving to ~~his~~ the new location and shall pay 9181  
the employee a per diem allowance not to exceed thirty days for 9182  
living expenses until ~~his~~ the employee's residence can be moved to 9183  
the new location. 9184

If the state personnel board of review finds that the 9185



transfer is not necessary for the efficient operation of the 9186  
office, department, or institution, and if the employee has moved 9187  
to the new location pending ~~his~~ the appeal, the appointing 9188  
authority of the receiving office, department, or institution 9189  
shall pay the actual and necessary expenses of the employee of 9190  
moving to the new location and actual and necessary expenses for 9191  
returning the employee to ~~his~~ the employee's previous location. 9192

**Sec. 124.34.** (A) The tenure of every officer or employee in 9193  
the classified service of the state and the counties, civil 9194  
service townships, cities, city health districts, general health 9195  
districts, and city school districts of the state, holding a 9196  
position under this chapter, shall be during good behavior and 9197  
efficient service. No ~~such~~ officer or employee shall be reduced in 9198  
pay or position, fined, suspended, or removed, except as provided 9199  
in section 124.32 of the Revised Code, and for incompetency, 9200  
inefficiency, dishonesty, drunkenness, immoral conduct, 9201  
insubordination, discourteous treatment of the public, neglect of 9202  
duty, violation of this chapter or the rules of the director of 9203  
administrative services or the commission, any other failure of 9204  
good behavior, any other acts of misfeasance, malfeasance, or 9205  
nonfeasance in office, or conviction of a felony. ~~An~~ 9206

An appointing authority may require an employee who is 9207  
suspended to report to work to serve the suspension. An employee 9208  
serving a suspension in this manner shall continue to be 9209  
compensated at the employee's regular rate of pay for hours 9210  
worked. ~~Such~~ The disciplinary action shall be recorded in the 9211  
employee's personnel file in the same manner as other disciplinary 9212  
actions and has the same effect as a suspension without pay for 9213  
the purpose of recording disciplinary actions. 9214

A finding by the appropriate ethics commission, based upon a 9215  
preponderance of the evidence, that the facts alleged in a 9216

complaint under section 102.06 of the Revised Code constitute a 9217  
violation of Chapter 102., section 2921.42, or section 2921.43 of 9218  
the Revised Code may constitute grounds for dismissal. Failure to 9219  
file a statement or falsely filing a statement required by section 9220  
102.02 of the Revised Code may also constitute grounds for 9221  
dismissal. The tenure of an employee in the career professional 9222  
service of the department of transportation is subject to section 9223  
5501.20 of the Revised Code. 9224

Conviction of a felony is a separate basis for reducing in 9225  
pay or position, suspending, or removing an officer or employee, 9226  
even if the officer or employee has already been reduced in pay or 9227  
position, suspended, or removed for the same conduct that is the 9228  
basis of the felony. An officer or employee may not appeal to the 9229  
state personnel board of review or the commission any disciplinary 9230  
action taken by an appointing authority as a result of the 9231  
officer's or employee's conviction of a felony. If an officer or 9232  
employee removed under this section is reinstated as a result of 9233  
an appeal of the removal, any conviction of a felony that occurs 9234  
during the pendency of the appeal is a basis for further 9235  
disciplinary action under this section upon the officer's or 9236  
employee's reinstatement. 9237

A person convicted of a felony immediately forfeits the 9238  
person's status as a classified employee in any public employment 9239  
on and after the date of the conviction for the felony. If an 9240  
officer or employee is removed under this section as a result of 9241  
being convicted of a felony or is subsequently convicted of a 9242  
felony that involves the same conduct that was the basis for the 9243  
removal, the officer or employee is barred from receiving any 9244  
compensation after the removal notwithstanding any modification or 9245  
disaffirmance of the removal, unless the conviction for the felony 9246  
is subsequently reversed or annulled. 9247

Any person removed for conviction of a felony is entitled to 9248

a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, ~~such~~ the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, suspension of more than three working days, fine in excess of three days' pay, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. The order shall be filed with the director of administrative services, in the case of an employee in the service of the state, and the state personnel board of review<sub>7</sub> or the commission<sub>7</sub> as may be appropriate.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as

otherwise provided in this section, may file an appeal of the  
order in writing with the state personnel board of review or the  
commission. For purposes of this section, the date on which an  
order is served is the date of hand delivery of the order or the  
date of delivery of the order by certified United States mail,  
whichever occurs first. If ~~such~~ an appeal is filed, the board or  
commission shall forthwith notify the appointing authority and  
shall hear, or appoint a trial board to hear, the appeal within  
thirty days from and after its filing with the board or  
commission, and it may affirm, disaffirm, or modify the judgment  
of the appointing authority.

In cases of removal or reduction in pay for disciplinary  
reasons, either the appointing authority or the officer or  
employee may appeal from the decision of the state personnel board  
of review or the commission to the court of common pleas of the  
county in which the employee resides in accordance with the  
procedure provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or  
a fine, demotion, or removal, of a chief of police ~~or~~ a chief of  
a fire department, or any member of the police or fire department  
of a city or civil service township, the appointing authority  
shall furnish ~~such~~ the chief or member ~~of a department~~ with a copy  
of the order of suspension, fine, demotion, or removal, which  
order shall state the reasons for the action. The order shall be  
filed with the municipal or civil service township civil service  
commission. Within ten days following the filing of the order,  
~~such~~ the chief or member ~~of a department~~ may file an appeal, in  
writing, with the ~~municipal or civil service township civil~~  
~~service~~ commission. If ~~such~~ an appeal is filed, the commission  
shall forthwith notify the appointing authority and shall hear, or  
appoint a trial board to hear, the appeal within thirty days from  
and after its filing with the commission, and it may affirm,

disaffirm, or modify the judgment of the appointing authority. An 9311  
appeal on questions of law and fact may be had from the decision 9312  
of the ~~municipal or civil service township civil service~~ 9313  
commission to the court of common pleas in the county in which 9314  
~~such~~ the city or civil service township is situated. ~~Such~~ The 9315  
appeal shall be taken within thirty days from the finding of the 9316  
commission. 9317

(D) A violation of division (A)(7) of section 2907.03 of the 9318  
Revised Code is grounds for termination of employment of a 9319  
nonteaching employee under this section. 9320

**Sec. 124.328.** A classified employee may appeal a layoff, or a 9321  
displacement ~~which~~ that is the result of a layoff, to the state 9322  
personnel board of review. The appeal shall be filed or 9323  
~~post-marked~~ postmarked no later than ten days after receipt of the 9324  
layoff notice ~~of layoff~~ or after the date the employee is 9325  
displaced. In cases involving the laying off of classified 9326  
employees, the affected employee or appointing authority may 9327  
appeal the decision of the state personnel board of review to the 9328  
court of common pleas court. ~~The appeal from the state personnel~~ 9329  
~~board of review shall be made~~ in accordance with section 119.12 of 9330  
the Revised Code. 9331

**Sec. 125.041.** Nothing in sections 125.02, 125.03 to 125.08, 9332  
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 9333  
Revised Code shall be construed as limiting the attorney general, 9334  
auditor of state, secretary of state, or treasurer of state in any 9335  
of the following: 9336

(A) Purchases for less than the dollar amounts for the 9337  
purchase of supplies or services determined pursuant to division 9338  
(D) of section 125.05 of the Revised Code; 9339

(B) Purchases that equal or exceed the dollar amounts for the 9340

purchase of supplies or services determined pursuant to division	9341
(D) of section 125.05 of the Revised Code with the approval of the	9342
controlling board, if that approval is required by section 127.16	9343
of the Revised Code;	9344
(C) The final determination of the nature or quantity making	9345
any purchase of supplies or services to be purchased pursuant to	9346
section 125.06 of the Revised Code;	9347
(D) The final determination and disposal of excess and	9348
surplus supplies;	9349
(E) The inventory of state property;	9350
(F) The purchase of printing;	9351
(G) <u>The Activities related to information technology</u>	9352
<u>development and use;</u>	9353
<u>(H) The fleet management program.</u>	9354
<b>Sec. 125.05.</b> Except as provided in division (E) of this	9355
section, no state agency shall purchase any supplies or services	9356
except as provided in divisions (A) to (C) of this section.	9357
(A) Subject to division (D) of this section, a state agency	9358
may, without competitive selection, make any purchase of services	9359
that cost fifty thousand dollars or less or any purchase of	9360
supplies that cost twenty-five thousand dollars or less. The	9361
agency may make the purchase directly or may make the purchase	9362
from or through the department of administrative services,	9363
whichever the agency determines. The department shall establish	9364
written procedures to assist state agencies when they make direct	9365
purchases. If the agency makes the purchase directly, it shall	9366
make the purchase by a term contract whenever possible.	9367
(B) Subject to division (D) of this section, a state agency	9368
wanting to purchase services that cost more than fifty thousand	9369

dollars or supplies that cost more than twenty-five thousand 9370  
dollars shall, unless otherwise authorized by law, make the 9371  
purchase from or through the department. The department shall make 9372  
the purchase by competitive selection under section 125.07 of the 9373  
Revised Code. If the director of administrative services 9374  
determines that it is not possible or not advantageous to the 9375  
state for the department to make the purchase, the department 9376  
shall grant the agency a release and permit under section 125.06 9377  
of the Revised Code to make the purchase. Section 127.16 of the 9378  
Revised Code does not apply to purchases the department makes 9379  
under this section. 9380

(C) An agency that has been granted a release and permit to 9381  
make a purchase may make the purchase without competitive 9382  
selection if after making the purchase the cumulative purchase 9383  
threshold as computed under division (F) of section 127.16 of the 9384  
Revised Code would: 9385

(1) Be exceeded and the controlling board approves the 9386  
purchase; 9387

(2) Not be exceeded and the department of administrative 9388  
services approves the purchase. 9389

(D) Not later than January 31, 1997, the amounts specified in 9390  
divisions (A) and (B) of this section and, not later than the 9391  
thirty-first day of January of each second year thereafter, any 9392  
amounts computed by adjustments made under this division, shall be 9393  
increased or decreased by the average percentage increase or 9394  
decrease in the consumer price index prepared by the United States 9395  
bureau of labor statistics (U.S. City Average for Urban Wage 9396  
Earners and Clerical Workers: "All Items 1982-1984=100") for the 9397  
twenty-four calendar month period prior to the immediately 9398  
preceding first day of January over the immediately preceding 9399  
twenty-four calendar month period, as reported by the bureau. The 9400

director of administrative services shall make this determination 9401  
and adjust the appropriate amounts accordingly. 9402

(E) If the eTech Ohio ~~SchoolNet~~ commission, the department of 9403  
education, or the Ohio education computer network determines that 9404  
it can purchase software services or supplies for specified school 9405  
districts at a price less than the price for which the districts 9406  
could purchase the same software services or supplies for 9407  
themselves, the ~~office~~ commission, department, or network shall 9408  
certify that fact to the department of administrative services 9409  
and, acting as an agent for the specified school districts, shall 9410  
make that purchase without following the provisions in divisions 9411  
(A) to (D) of this section. 9412

**Sec. 125.09.** (A) Pursuant to section 125.07 of the Revised 9413  
Code, the department of administrative services may prescribe ~~such~~ 9414  
the conditions under which competitive sealed bids will be 9415  
received and the terms of the proposed purchase as it considers 9416  
necessary; provided~~7~~, that all ~~such~~ of the conditions and terms 9417  
shall be reasonable and shall not unreasonably restrict 9418  
competition, and that bidders may bid upon all or any item of the 9419  
supplies or services listed in ~~such~~ the notice. Those bidders 9420  
claiming the preference for United States and Ohio products 9421  
outlined in this chapter shall designate in their bids either that 9422  
the product to be supplied is an Ohio product or that, under the 9423  
rules established by the director of administrative services, they 9424  
qualify as having a significant Ohio economic presence. 9425

(B) The department of administrative services may require 9426  
that each bidder provide sufficient information about the energy 9427  
efficiency or energy usage of the bidder's product or service. 9428

(C) The director of administrative services ~~shall~~, by rule 9429  
adopted pursuant to Chapter 119. of the Revised Code, shall 9430  
prescribe criteria and procedures for use by all state agencies in 9431



giving preference to United States and Ohio products as required 9432  
by division (B) of section 125.11 of the Revised Code. The rules 9433  
shall extend to the following: 9434

(1) Criteria for determining that a product is produced or 9435  
mined in the United States rather than in another country or 9436  
territory; 9437

(2) Criteria for determining that a product is produced or 9438  
mined in ~~Ohio~~ this state; 9439

(3) Information to be submitted by bidders as to the nature 9440  
of a product and the location where it is produced or mined; 9441

(4)(a) Criteria and procedures to be used by the director to 9442  
qualify bidders located in states bordering ~~Ohio~~ this state who 9443  
might otherwise be excluded from being awarded a contract by 9444  
operation of this section and section 125.11 of the Revised Code. 9445  
The criteria and procedures shall recognize the level and 9446  
regularity of interstate commerce between ~~Ohio~~ this state and the 9447  
border states and, except as provided in divisions (C)(4)(b) and 9448  
(c) of this section, provide that the non-Ohio businesses may 9449  
qualify for the award of a contract as long as they are located in 9450  
a state that imposes no greater restrictions than are contained in 9451  
this section and section 125.11 of the Revised Code upon persons 9452  
located in ~~Ohio~~ this state who are selling products or services to 9453  
agencies of that state. ~~The~~ 9454

(b) The criteria and procedures shall ~~also~~ provide that, in 9455  
the case of a contract for state printing, a non-Ohio business 9456  
shall not bid on a contract for state printing in this state if 9457  
the business is located in a state that excludes Ohio businesses 9458  
from bidding on state printing contracts in that state. 9459

(c) The criteria and procedures shall provide that, in the 9460  
case of a contract for furniture, preference shall be given to 9461  
bidders whose furniture is produced in this state, but that 9462

bidders whose furniture is produced in states bordering this state 9463  
may qualify for the award of a contract if compliance with this 9464  
requirement would result in the state agency involved paying an 9465  
excessive price for the furniture or acquiring disproportionately 9466  
inferior furniture. 9467

(5) Criteria and procedures to be used to qualify bidders 9468  
whose manufactured products, except for mined products, are 9469  
produced in other states or in North America, but the bidders have 9470  
a significant Ohio economic presence in terms of the number of 9471  
employees or capital investment a bidder has in this state. 9472  
Bidders with a significant Ohio economic presence shall qualify 9473  
for award of a contract on the same basis as if their products 9474  
were produced in this state. 9475

(6) Criteria and procedures for the director to grant waivers 9476  
of the requirements of division (B) of section 125.11 of the 9477  
Revised Code on a contract-by-contract basis ~~where~~ if compliance 9478  
with those requirements would result in the state agency involved 9479  
paying an excessive price for the product or acquiring a 9480  
disproportionately inferior product; 9481

(7) ~~Such other~~ Other requirements or procedures reasonably 9482  
necessary to implement the system of preferences established 9483  
pursuant to division (B) of section 125.11 of the Revised Code. 9484

(D) In adopting the rules required under ~~this~~ division (C) of 9485  
this section, the director ~~shall~~ of administrative services, to 9486  
the maximum extent possible, shall conform to the requirements of 9487  
the federal "Buy America Act," 47 Stat. 1520, (1933), 41 U.S.C.A. 9488  
10a-10d, as amended, and to the regulations adopted ~~thereunder~~ 9489  
under that act. 9490

**Sec. 125.11.** (A) Subject to division (B) of this section, 9491  
contracts awarded pursuant to a reverse auction under section 9492

125.072 of the Revised Code or pursuant to competitive sealed 9493  
bidding, including contracts awarded under section 125.081 of the 9494  
Revised Code, shall be awarded to the lowest responsive and 9495  
responsible bidder on each item in accordance with section 9.312 9496  
of the Revised Code. When the contract is for meat products as 9497  
defined in section 918.01 of the Revised Code or poultry products 9498  
as defined in section 918.21 of the Revised Code, only those bids 9499  
received from vendors offering products from establishments on the 9500  
current list of meat and poultry vendors established and 9501  
maintained by the director of administrative services under 9502  
section 125.17 of the Revised Code shall be eligible for 9503  
acceptance. The department of administrative services may accept 9504  
or reject any or all bids in whole or by items, except that when 9505  
the contract is for services or products available from a 9506  
qualified nonprofit agency pursuant to sections 125.60 to 125.6012 9507  
or 4115.31 to 4115.35 of the Revised Code, the contract shall be 9508  
awarded to that agency. 9509

(B) Prior to awarding a contract under division (A) of this 9510  
section, the department of administrative services or the state 9511  
agency responsible for evaluating a contract for the purchase of 9512  
products shall evaluate the bids received according to the 9513  
criteria and procedures established pursuant to divisions (C)(1) 9514  
and (2) of section 125.09 of the Revised Code for determining if a 9515  
product is produced or mined in the United States and if a product 9516  
is produced or mined in this state. The department or other state 9517  
agency shall first remove bids that offer products that have not 9518  
been or that will not be produced or mined in the United States. 9519  
From among the remaining bids, the department or other state 9520  
agency shall select the lowest responsive and responsible bid, in 9521  
accordance with section 9.312 of the Revised Code, from among the 9522  
bids that offer products that have been produced or mined in this 9523  
state where sufficient competition can be generated within this 9524

state to ensure that compliance with these requirements will not  
result in an excessive price for the product or acquiring a  
disproportionately inferior product. If there are two or more  
qualified bids that offer products that have been produced or  
mined in this state, it shall be deemed that there is sufficient  
competition to prevent an excessive price for the product or the  
acquiring of a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for  
which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the  
purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in  
the form of a model act for use by counties, townships, municipal  
corporations, or any other political subdivision described in  
division (B) of section 125.04 of the Revised Code, a system of  
preferences for products mined and produced in this state and in  
the United States and for Ohio-based contractors. The model act  
shall reflect substantial equivalence to the system of preferences  
in purchasing and public improvement contracting procedures under  
which the state operates pursuant to this chapter and section  
153.012 of the Revised Code. To the maximum extent possible,  
consistent with the Ohio system of preferences in purchasing and  
public improvement contracting procedures, the model act shall  
incorporate all of the requirements of the federal "Buy America  
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and  
the rules adopted under that act.

Before and during the development and promulgation of the  
model act, the director shall consult with appropriate statewide  
organizations representing counties, townships, and municipal  
corporations so as to identify the special requirements and  
concerns these political subdivisions have in their purchasing and

public improvement contracting procedures. The director shall 9556  
promulgate the model act by rule adopted pursuant to Chapter 119. 9557  
of the Revised Code and shall revise the act as necessary to 9558  
reflect changes in this chapter or section 153.012 of the Revised 9559  
Code. 9560

The director shall make available copies of the model act, 9561  
supporting information, and technical assistance to any township, 9562  
county, or municipal corporation wishing to incorporate the 9563  
provisions of the act into its purchasing or public improvement 9564  
contracting procedure. 9565

Sec. 125.18. (A) There is hereby established the office of 9566  
information technology in the department of administrative 9567  
services. The office shall be under the supervision of a chief 9568  
information officer to be appointed by the governor and subject to 9569  
removal at the pleasure of the governor. The chief information 9570  
officer shall serve as the director of the office. 9571

(B) The director of the office of information technology 9572  
shall advise the governor regarding the superintendence and 9573  
implementation of statewide information technology policy. 9574

(C) The director of the office of information technology 9575  
shall lead, oversee, and direct state agency activities related to 9576  
information technology development and use. In that regard, the 9577  
director shall do all of the following: 9578

(1) Coordinate and superintend statewide efforts to promote 9579  
common use and development of technology by multiple state 9580  
agencies. The office of information technology relatedly shall 9581  
establish policies and standards that govern and direct state 9582  
agency participation in statewide programs and initiatives. 9583

(2) Establish policies and standards for the acquisition and 9584  
use of information technology by state agencies, including, but 9585

not limited to, hardware, software, technology services, and 9586  
security, with which state agencies shall comply; 9587

(3) Establish criteria and review processes to identify state 9588  
agency information technology projects that require alignment or 9589  
oversight. As appropriate, the office of information technology 9590  
shall provide the governor and the director of budget and 9591  
management with notice and advice regarding the appropriate 9592  
allocation of resources for those projects. The director of the 9593  
office of information technology may require state agencies to 9594  
provide, and may prescribe the form and manner by which they must 9595  
provide, information to fulfill the director's alignment and 9596  
oversight role. 9597

(D) The office of information technology may make contracts 9598  
for, operate, and superintend technology services for state 9599  
agencies in accordance with this chapter. 9600

(E) The office of information technology may establish 9601  
cooperative agreements with federal and local government agencies 9602  
and state agencies that are not under the authority of the 9603  
governor for the provision of technology services and the 9604  
development of technology projects. 9605

(F) As used in this section, "state agency" means every 9606  
organized body, office, or agency established by the laws of the 9607  
state for the exercise of any function of state government, other 9608  
than any state-supported institution of higher education, the 9609  
office of the auditor of state, treasurer of state, secretary of 9610  
state, or attorney general, the public employees retirement 9611  
system, the Ohio police and fire pension fund, the state teachers 9612  
retirement system, the school employees retirement system, the 9613  
state highway patrol retirement system, the general assembly or 9614  
any legislative agency, or the courts or any judicial agency. 9615

Sec. 125.25. (A) The director of administrative services may 9616  
debar a vendor from consideration for contract awards upon a 9617  
finding based upon a reasonable belief that the vendor has done 9618  
any of the following: 9619

(1) Abused the selection process by repeatedly withdrawing 9620  
bids or proposals before purchase orders or contracts are issued 9621  
or failing to accept orders based upon firm bids; 9622

(2) Failed to substantially perform a contract according to 9623  
its terms, conditions, and specifications within specified time 9624  
limits; 9625

(3) Failed to cooperate in monitoring contract performance by 9626  
refusing to provide information or documents required in a 9627  
contract, failed to respond to complaints to the vendor, or 9628  
accumulated repeated justified complaints regarding performance of 9629  
a contract; 9630

(4) Attempted to influence a public employee to breach 9631  
ethical conduct standards or to influence a contract award; 9632

(5) Colluded to restrain competition by any means; 9633

(6) Been convicted of a criminal offense related to the 9634  
application for or performance of any public or private contract, 9635  
including, but not limited to, embezzlement, theft, forgery, 9636  
bribery, falsification or destruction of records, receiving stolen 9637  
property, and any other offense that directly reflects on the 9638  
vendor's business integrity; 9639

(7) Been convicted under state or federal antitrust laws; 9640

(8) Deliberately or willfully submitted false or misleading 9641  
information in connection with the application for or performance 9642  
of a public contract; 9643

(9) Violated any other responsible business practice or 9644

performed in an unsatisfactory manner as determined by the 9645  
director; 9646

(10) Through the default of a contract or through other means 9647  
had a determination of unresolved finding for recovery by the 9648  
auditor of state under section 9.24 of the Revised Code; 9649

(11) Acted in such a manner as to be debarred from 9650  
participating in a contract with any governmental agency. 9651

(B) When the director reasonably believes that grounds for 9652  
debarment exist, the director shall send the vendor a notice of 9653  
proposed debarment indicating the grounds for the proposed 9654  
debarment and the procedure for requesting a hearing on the 9655  
proposed debarment. The hearing shall be conducted in accordance 9656  
with Chapter 119. of the Revised Code. If the vendor does not 9657  
respond with a request for a hearing in the manner specified in 9658  
Chapter 119. of the Revised Code, the director shall issue the 9659  
debarment decision without a hearing and shall notify the vendor 9660  
of the decision by certified mail, return receipt requested. 9661

(C) The director shall determine the length of the debarment 9662  
period and may rescind the debarment at any time upon notification 9663  
to the vendor. During the period of debarment, the vendor is not 9664  
eligible to participate in any state contract. After the debarment 9665  
period expires, the vendor shall be eligible to be awarded 9666  
contracts by state agencies. (D) The director, through the office 9667  
of information technology and the office of procurement services, 9668  
shall maintain a list of all vendors currently debarred under this 9669  
section. 9670

**Sec. 125.60.** As used in sections 125.60 to 125.6012 of the 9671  
Revised Code: 9672

(A) "Community rehabilitation program" means an agency that: 9673

(1) Is organized under the laws of the United States or this 9674



state such that no part of its net income inures to the benefit of 9675  
any shareholder or other individual; 9676

(2) Is certified as a sheltered workshop, if applicable, by 9677  
the wage and hour division of the United States department of 9678  
labor; 9679

(3) Is registered and in good standing with the secretary of 9680  
state as a domestic nonprofit or not-for-profit corporation; 9681

(4) Complies with applicable occupational health and safety 9682  
standards required by the laws of the United States or of this 9683  
state; 9684

(5) Operates in the interest of persons with work-limiting 9685  
disabilities, provides vocational or other employment-related 9686  
training to persons with work-limiting disabilities, and employs 9687  
persons with work-limiting disabilities in the manufacture of 9688  
products or the provision of services; 9689

(6) Is a nonprofit corporation for federal tax purposes. 9690

(B) "Government ordering office" means any of the following: 9691

(1) Any state agency, including the general assembly, the 9692  
supreme court, and the office of a state elected official, or any 9693  
state authority, board, bureau, commission, institution, or 9694  
instrumentality that is funded in total or in part by state money; 9695

(2) A county, township, or village. 9696

(C) "Person with a work-limiting disability" means an 9697  
individual who has a disability as defined in the "Americans with 9698  
Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101, and 9699  
who: 9700

(1) Because of that disability is substantially limited in 9701  
the type or quantity of work the individual can perform or is 9702  
prevented from working regularly; 9703

(2) Meets criteria established by the office of procurement 9704  
from community rehabilitation programs. 9705

Sec. 125.601. (A) Not later than July 1, 2007, the director 9706  
of administrative services shall establish the office of 9707  
procurement from community rehabilitation programs within the 9708  
department of administrative services. The director shall 9709  
designate an employee of the department to serve as administrator 9710  
of the office. 9711

(B) Not later than July 1, 2007, the director shall abolish 9712  
the state committee for the purchase of products and services 9713  
provided by persons with severe disabilities in accordance with 9714  
section 4115.36 of the Revised Code. 9715

Sec. 125.602. (A) The department of mental retardation and 9716  
developmental disabilities, the department of mental health, the 9717  
department of job and family services, the rehabilitation services 9718  
commission, and any other state or governmental agency or 9719  
community rehabilitation program responsible for the provision of 9720  
rehabilitation and vocational educational services to persons with 9721  
work-limiting disabilities may, through written agreement, 9722  
cooperate in providing resources to the department of 9723  
administrative services for the operation of the office of 9724  
procurement from community rehabilitation programs. These 9725  
resources may include, but are not limited to, leadership and 9726  
assistance in dealing with the societal aspects of meeting the 9727  
needs of persons with work-limiting disabilities. 9728

(B) The office and all governmental entities that administer 9729  
socioeconomic programs may enter into contractual agreements, 9730  
cooperative working relationships, or other arrangements that are 9731  
necessary for effective coordination and realization of the 9732  
objectives of these entities. 9733

Sec. 125.603. (A) The office of procurement from community rehabilitation programs shall do the following in addition to other duties specified in sections 125.60 to 125.6012 of the Revised Code: 9734  
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(1) Establish, maintain, and periodically update a procurement list of approved supplies and services available from qualified nonprofit agencies; 9738  
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(2) Monitor the procurement practices of government ordering offices to ensure compliance with sections 125.60 to 125.6012 of the Revised Code; 9741  
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(3) In cooperation with qualified nonprofit agencies, government ordering offices, the department of mental retardation and developmental disabilities, the department of mental health, the department of job and family services, and the rehabilitation services commission, develop and recommend to the director of administrative services rules the director shall adopt in accordance with Chapter 119. of the Revised Code for the effective and efficient administration of sections 125.60 to 125.6012 of the Revised Code; 9744  
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(4) Prepare a report of its activities by the last day of December of each year. The report shall be posted electronically on the office's web site. 9753  
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(B) The office of procurement from community rehabilitation programs may enter into contractual agreements and establish pilot programs to further the objectives of sections 125.60 to 125.6012 of the Revised Code. 9756  
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Sec. 125.604. A community rehabilitation program may apply to the office of procurement from community rehabilitation programs to be certified as qualified to provide its supplies and services for procurement by government ordering offices. The office shall 9760  
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prescribe the form of the application. If the office is satisfied 9764  
the program is qualified, it shall certify the program as a 9765  
qualified nonprofit agency for the purposes of sections 125.60 to 9766  
125.6012 of the Revised Code. 9767

**Sec. 125.605.** The office of procurement from community 9768  
rehabilitation programs may certify any entity to serve as an 9769  
approved agent of a qualified nonprofit agency for the purposes of 9770  
sections 125.60 to 125.6012 of the Revised Code. The office shall 9771  
prescribe procedures under which an entity can apply and be 9772  
considered for such certification. An approved agent may do any of 9773  
the following: 9774

(A) Contract with the office of procurement from community 9775  
rehabilitation programs to provide centralized business 9776  
facilitation or other assistance to qualified nonprofit agencies. 9777  
The office shall consult with qualified nonprofit agencies before 9778  
agreeing to such a contract. 9779

(B) Act as a distributor of supplies and services registered 9780  
on the procurement list maintained by the office under section 9781  
125.603 of the Revised Code; 9782

(C) Provide marketing, administrative, and other services 9783  
related to sales. 9784

**Sec. 125.606.** Prior to purchases by government ordering 9785  
offices, the office of procurement from community rehabilitation 9786  
programs shall attempt to establish for each item on the 9787  
procurement list a fair market price that is representative of the 9788  
range of prices that a government ordering office would expect to 9789  
pay to purchase the item in the marketplace. When establishing a 9790  
fair market price for an item, the office of procurement from 9791  
community rehabilitation programs shall consider the costs of 9792  
doing business with respect to that item, including sales, 9793

marketing, and research and development costs and agent fees. If 9794  
the office of procurement from community rehabilitation programs 9795  
cannot establish a fair market price for a particular supply or 9796  
service, the government ordering office shall attempt to establish 9797  
the fair market price pursuant to division (B) of section 125.607 9798  
of the Revised Code for each purchase of such supply or service. 9799

Sec. 125.607. (A) Before purchasing any supply or service, a 9800  
governmental ordering office shall determine whether the supply or 9801  
service is on the procurement list maintained by the office of 9802  
procurement from community rehabilitation programs. If the supply 9803  
or service is on the list at an established fair market price, the 9804  
government ordering office shall purchase it from the qualified 9805  
nonprofit agency or approved agent at that price. 9806

(B) If the supply or service is on the procurement list but a 9807  
fair market price has not been established, the government 9808  
ordering office shall attempt to negotiate an agreement with one 9809  
or more of the listed qualified nonprofit agencies or approved 9810  
agents. The office of procurement from community rehabilitation 9811  
programs may accept as fair market price an agreement negotiated 9812  
between the government ordering office and a qualified nonprofit 9813  
agency or approved agent. 9814

(C) If an agreement is not successfully negotiated, the 9815  
office may establish a fair market price, or it may release a 9816  
government ordering office from the requirements of this section. 9817

(D) A purchase under divisions (A) to (C) of this section is 9818  
not subject to any competitive selection or competitive bidding 9819  
requirements, notwithstanding any other provision of law. 9820

(E) The department of administrative services has the 9821  
authority to structure or regulate competition among qualified 9822  
nonprofit agencies for the overall benefit of the program. 9823

Sec. 125.608. All government ordering offices purchasing 9824  
supplies and services from qualified non-profit agencies or their 9825  
approved agents shall reimburse the department of administrative 9826  
services a reasonable sum to cover the department's costs of 9827  
administering sections 125.60 to 125.6012 of the Revised Code. The 9828  
department may bill administrative costs to government ordering 9829  
offices directly, or allow qualified non-profit agencies or 9830  
approved agents to collect and remit department administrative 9831  
fees, at the department's discretion. Any department 9832  
administrative fees collected and remitted by qualified nonprofit 9833  
agencies or their approved agents shall be considered allowable 9834  
expenses in addition to the fair market price approved under 9835  
section 125.606 or 125.607 of the Revised Code. The money so paid 9836  
shall be deposited in the state treasury to the credit of the 9837  
general services fund created under section 125.15 of the Revised 9838  
Code. 9839

Sec. 125.609. The office of procurement from community 9840  
rehabilitation programs, on its own or pursuant to a request from 9841  
a government ordering office, may release a government ordering 9842  
office from compliance with sections 125.60 to 125.6012 of the 9843  
Revised Code. If the office determines that compliance is not 9844  
possible or not advantageous, or if conditions prescribed in rules 9845  
as may be adopted under section 125.603 of the Revised Code for 9846  
granting a release are met, the office may grant a release. The 9847  
release shall be in writing, and shall specify the supplies or 9848  
services to which it applies, the period of time during which it 9849  
is effective, and the reason for which it is granted. 9850

Sec. 125.6010. Section 125.607 of the Revised Code does not 9851  
apply to the purchase of a product or service available from a 9852  
state agency, state instrumentality, or political subdivision 9853

under any law in effect on July 1, 2005.

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Sec. 125.6011. (A) Nothing in sections 125.60 to 125.6012 of the Revised Code shall be construed to prohibit the purchase of a supply or service from a qualified nonprofit agency by a political subdivision that is not a government ordering office.

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(B) Purchases made under this section by a political subdivision, as defined in section 125.04 of the Revised Code, are exempt from any competitive selection procedures otherwise required by law. Purchases under this section shall be made from qualified nonprofit agencies or their approved agents.

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(C) A political subdivision, as defined in section 125.04 of the Revised Code, may not purchase under division (C) of that section a supply or service on the procurement list established under section 125.603 of the Revised Code.

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Sec. 125.6012. A government ordering office and qualified nonprofit agency shall provide the necessary information and documentation requested by the office of procurement from community rehabilitation programs to enable the office to effectively administer sections 125.60 to 125.6012 of the Revised Code.

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Sec. 125.831. As used in sections 125.831 to 125.833 of the Revised Code:

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(A) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, but does not include such an officer, agent, or employee if that duty and authority is location specific.

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(B)(1) "Motor vehicle" means any automobile, car minivan, 9883  
cargo van, passenger van, sport utility vehicle, or pickup truck 9884  
with a gross vehicle weight of under twelve thousand pounds. 9885

(2) "Motor vehicle" does not include, except for the purposes 9886  
of division (C) of section 125.832 of the Revised Code, any 9887  
vehicle described in division (B)(1) of this section that is used 9888  
by a law enforcement officer and law enforcement agency or any 9889  
vehicle that is so described and that is equipped with specialized 9890  
equipment that is not normally found in such a vehicle and that is 9891  
used to carry out a state agency's specific and specialized duties 9892  
and responsibilities. 9893

(C) "Specialized equipment" does not include standard mobile 9894  
radios with no capabilities other than voice communication, 9895  
exterior and interior lights, or roof-mounted caution lights. 9896

(D) "State agency" means every organized body, office, board, 9897  
authority, commission, or agency established by the laws of the 9898  
state for the exercise of any governmental or quasi-governmental 9899  
function of state government regardless of the funding source for 9900  
that entity, other than any ~~state-supported~~ state institution of 9901  
higher education, the office of the governor, lieutenant governor, 9902  
auditor of state, treasurer of state, secretary of state, or 9903  
attorney general, the general assembly or any legislative agency, 9904  
~~or~~ the courts or any judicial agency, the state highway patrol, or 9905  
any state retirement system or retirement program established by 9906  
or referenced in the Revised Code. 9907

(E) "State institution of higher education" has the same 9908  
meaning as in section 3345.011 of the Revised Code. 9909

**Sec. 125.832.** (A) The department of administrative services 9910  
is granted exclusive authority over the acquisition and management 9911  
of all motor vehicles used by state agencies. In carrying out this 9912



authority, the department shall do both of the following: 9913

(1) Approve the purchase or lease of each motor vehicle for 9914  
use by a state agency. The department shall decide if a motor 9915  
vehicle shall be leased or purchased for that use. 9916

Except as otherwise provided in division (A)(1) of this 9917  
section, on and after July 1, 2005, each state agency shall 9918  
acquire all passenger motor vehicles under the department's master 9919  
leasing program. If the department determines that acquisition 9920  
under that program is not the most economical method and if the 9921  
department and the state agency acquiring the passenger motor 9922  
vehicle can provide economic justification for doing so, the 9923  
department may approve the purchase, rather than the lease, of a 9924  
passenger motor vehicle for the acquiring state agency. 9925

(2) Direct and approve all funds that are expended for the 9926  
purchase, lease, repair, maintenance, registration, insuring, and 9927  
other costs related to the possession and operation of motor 9928  
vehicles for the use of state agencies. 9929

(B) The director of administrative services shall establish 9930  
and operate a fleet management program. The director shall operate 9931  
the program for purposes including, but not limited to, 9932  
cost-effective acquisition, maintenance, management, analysis, and 9933  
disposal of all motor vehicles owned or leased by the state. All 9934  
state agencies shall comply with statewide fleet management 9935  
policies and procedures established by the director for the 9936  
program, including, but not limited to, motor vehicle assignments, 9937  
additions of motor vehicles to fleets or motor vehicle 9938  
replacements, motor vehicle fueling, and motor vehicle repairs. 9939

(C) The director shall establish and maintain a fleet 9940  
reporting system and shall require state agencies to submit to the 9941  
department information relative to state motor vehicles, including 9942  
motor vehicles described in division (B)(2) of section 125.831 of 9943

the Revised Code, to be used in operating the fleet management 9944  
program. State agencies shall provide to the department fleet data 9945  
and other information, including, but not limited to, mileage and 9946  
costs. The data and other information shall be submitted in 9947  
formats and in a manner determined by the department. 9948

(D) All state agency purchases or leases of motor vehicles 9949  
are subject to the prior approval of the director under division 9950  
(A)(1) of this section. 9951

(E) State agencies that utilize state motor vehicles or pay 9952  
mileage reimbursements to employees shall provide a fleet plan to 9953  
the department as directed by the department. 9954

(F)(1) The fleets of state agencies that consist of one 9955  
hundred or less vehicles on July 1, 2004, shall be managed by the 9956  
department's fleet management program on a time schedule 9957  
determined by the department, unless the state agency has received 9958  
delegated authority as described in division (G) of this section. 9959

(2) The fleets of state agencies that consist of greater than 9960  
one hundred motor vehicles, but less than five hundred motor 9961  
vehicles, on July 1, 2005, also shall be managed by the 9962  
department's fleet management program on a time schedule 9963  
determined by the department, unless the state agency has received 9964  
delegated authority as described in division (G) of this section. 9965

(G)(1) The department may delegate any or all of its duties 9966  
regarding fleet management to a state agency, if the state agency 9967  
demonstrates to the satisfaction of the department both of the 9968  
following: 9969

(a) Capabilities to institute and manage a fleet management 9970  
program, including, but not limited to, the presence of a 9971  
certified fleet manager; 9972

(b) Fleet management performance, as demonstrated by fleet 9973  
data and other information submitted pursuant to annual reporting 9974

requirements and any other criteria the department considers 9975  
necessary in evaluating the performance. 9976

(2) The department may determine that a state agency is not 9977  
in compliance with this section and direct that the agency's fleet 9978  
management duties be transferred to the department. 9979

(H) The proceeds derived from the disposition of any motor 9980  
vehicles under this section shall be paid to whichever of the 9981  
following applies: 9982

(1) The fund that originally provided moneys for the purchase 9983  
or lease of the motor vehicles; 9984

(2) If the motor vehicles were originally purchased with 9985  
moneys derived from the general revenue fund, the proceeds shall 9986  
be deposited, in the director's discretion, into the state 9987  
treasury ~~for~~ to the credit of either the fleet management fund 9988  
created by section 125.83 of the Revised Code or the investment 9989  
recovery fund created by section 125.14 of the Revised Code. 9990

(I)(1) The department shall create and maintain a certified 9991  
fleet manager program. 9992

(2) State agencies that have received delegated authority as 9993  
described in division (G) of this section shall have a certified 9994  
fleet manager. 9995

(J) The department annually shall prepare and submit a 9996  
statewide fleet report to the governor, the speaker of the house 9997  
of representatives, and the president of the senate. The report 9998  
shall be submitted not later than the thirty-first day of January 9999  
following the end of each fiscal year. It may include, but is not 10000  
limited to, the numbers and types of motor vehicles, their 10001  
mileage, miles per gallon, and cost per mile, mileage 10002  
reimbursements, accident and insurance data, and information 10003  
regarding compliance by state agencies having delegated authority 10004

under division (G) of this section with applicable fleet 10005  
management requirements. 10006

(K) The director shall adopt rules for implementing the fleet 10007  
management program that are consistent with recognized best 10008  
practices. The program shall be supported by reasonable fee 10009  
charges for the services provided. The director shall collect 10010  
these fees and deposit them into the state treasury to the credit 10011  
for the fleet management fund created by section 125.83 of the 10012  
Revised Code. The setting and collection of fees under this 10013  
division is not subject to any restriction imposed by law upon the 10014  
director's or the department's authority to set or collect fees. 10015

(L) The director also shall adopt rules that prohibit, except 10016  
in very limited circumstances, the exclusive assignment of 10017  
state-owned, leased, or pooled motor vehicles to state employees 10018  
and that prohibit the reimbursement under section 126.31 of the 10019  
Revised Code of state employees who use their own motor vehicles 10020  
for any mileage they incur above an amount that the department 10021  
shall determine annually unless reimbursement for the excess 10022  
mileage is approved by the department in accordance with standards 10023  
for that approval the director shall establish in those rules. 10024  
~~Beginning on the effective date of this section September 26,~~ 10025  
2003, no such state-owned, leased, or pooled motor vehicle shall 10026  
be personally assigned as any form of compensation or benefit of 10027  
state employment, and no ~~such~~ state-owned, leased, or pooled motor 10028  
vehicle shall be assigned to an employee solely for commuting to 10029  
and from home and work. 10030

(M) The director shall do both of the following: 10031

(1) Implement to the greatest extent possible the 10032  
recommendations from the 2002 report entitled "Administrative 10033  
Analysis of the Ohio Fleet Management Program" in connection with 10034  
the authority granted to the department by this section; 10035

- (2) Attempt to reduce the number of passenger vehicles used 10036  
by state agencies during the fiscal years ending on June 30, 2004, 10037  
and June 30, 2005. 10038
- (N) Each state agency shall reimburse the department for all 10039  
costs incurred in the assignment of motor vehicles to the state 10040  
agency. 10041
- (O) The director shall do all of the following in managing 10042  
the fleet management program: 10043
- (1) Determine how motor vehicles will be maintained, insured, 10044  
operated, financed, and licensed; 10045
- (2) Pursuant to the formula in division (O)(3) of this 10046  
section, annually establish the minimum number of business miles 10047  
per year an employee of a state agency must drive in order to 10048  
qualify for approval by the department to receive a motor vehicle 10049  
for business use; 10050
- (3) Establish the minimum number of business miles per year 10051  
at an amount that results when the annual motor vehicle cost is 10052  
divided by the amount that is the reimbursement rate per mile 10053  
minus the amount that is the sum of the fuel cost, the operating 10054  
cost, and the insurance cost. As used in this division: 10055
- (a) "Annual motor vehicle cost" means the price of a motor 10056  
vehicle divided by the number of years an average motor vehicle is 10057  
used. 10058
- (b) "Fuel cost" means the average price per gallon of motor 10059  
fuel divided by the miles per gallon fuel efficiency of a motor 10060  
vehicle. 10061
- (c) "Insurance cost" means the cost of insuring a motor 10062  
vehicle per year divided by the number of miles an average motor 10063  
vehicle is driven per year. 10064
- (d) "Operating cost" means the maintenance cost of a motor 10065

vehicle per year divided by the product resulting when the number  
of miles an average motor vehicle is driven per year is multiplied  
by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per  
mile rate for travel expenses as provided by rule of the director  
of budget and management adopted under division (B) of section  
126.31 of the Revised Code.

(P)(1) Not later than the fifteenth day of September of each  
year, each state institution of higher education shall report to  
the Ohio board of regents on all of the following topics relating  
to motor vehicles that the institution acquires and manages:

(a) The methods it uses to track the motor vehicles;

(b) Whether or not it uses a fuel card program to purchase  
fuel for, or to pay for the maintenance of, the motor vehicles;

(c) Whether or not it makes bulk purchases of fuel for the  
motor vehicles.

(2) Assuming it does not use the fleet management tracking,  
fuel card program, and bulk fuel purchases tools and services that  
the department of administrative services provides, the report of  
a state institution of higher education required by division  
(P)(1) of this section also shall include both of the following:

(a) An analysis of the amount the institution would save, if  
any, if it were to use the fleet management tracking, fuel card  
program, and bulk fuel purchases tools and services that the  
department provides instead of the fleet management system the  
institution regularly uses;

(b) A rationale for either continuing with the fleet  
management system that the institution regularly uses or changing  
to the use of those tools and services that the department  
provides.

(3) The board shall certify to the department within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the board determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the board next certifies institutions under division (P)(3) of this section.

**Sec. 126.25.** The accounting and budgeting services provided by the director of budget and management shall be supported by user charges. The director shall determine a rate that is sufficient to defray the expense of those services and the manner by which those charges shall be collected. All money collected from user charges shall be deposited in the state treasury to the credit of the ~~state~~ accounting and budgeting fund, which is hereby created. Rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code and miscellaneous payments that reimburse expenses paid from the ~~state~~ accounting and budgeting fund may be deposited into the ~~state~~ accounting and budgeting fund and used to support accounting and budgeting services.

**Sec. 127.16.** (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly,

shall: 10126

(1) Make any purchase from a particular supplier, that would 10127  
amount to fifty thousand dollars or more when combined with both 10128  
the amount of all disbursements to the supplier during the fiscal 10129  
year for purchases made by the agency and the amount of all 10130  
outstanding encumbrances for purchases made by the agency from the 10131  
supplier, unless the purchase is made by competitive selection or 10132  
with the approval of the controlling board; 10133

(2) Lease real estate from a particular supplier, if the 10134  
lease would amount to seventy-five thousand dollars or more when 10135  
combined with both the amount of all disbursements to the supplier 10136  
during the fiscal year for real estate leases made by the agency 10137  
and the amount of all outstanding encumbrances for real estate 10138  
leases made by the agency from the supplier, unless the lease is 10139  
made by competitive selection or with the approval of the 10140  
controlling board. 10141

(C) Any person who authorizes a purchase in violation of 10142  
division (B) of this section shall be liable to the state for any 10143  
state funds spent on the purchase, and the attorney general shall 10144  
collect the amount from the person. 10145

(D) Nothing in division (B) of this section shall be 10146  
construed as: 10147

(1) A limitation upon the authority of the director of 10148  
transportation as granted in sections 5501.17, 5517.02, and 10149  
5525.14 of the Revised Code; 10150

(2) Applying to medicaid provider agreements under Chapter 10151  
5111. of the Revised Code ~~or payments or provider agreements under~~ 10152  
~~the disability medical assistance program established under~~ 10153  
~~Chapter 5115. of the Revised Code;~~ 10154

(3) Applying to the purchase of examinations from a sole 10155



supplier by a state licensing board under Title XLVII of the Revised Code; 10156  
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(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair; 10158  
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(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code; 10167  
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(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate. 10171  
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(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code; 10179  
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(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security 10182  
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administration;	10187
(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;	10188 10189 10190 10191
(10) Applying to any agency of the legislative branch of the state government;	10192 10193
(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;	10194 10195 10196
(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;	10197 10198 10199 10200
(13) Applying to dues or fees paid for membership in an organization or association;	10201 10202
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	10203 10204
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	10205 10206 10207 10208
(16) Applying to purchases of tickets for passenger air transportation;	10209 10210
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	10211 10212 10213
(18) Applying to the judicial branch of state government;	10214
(19) Applying to purchases of liquor for resale by the	10215

division of liquor control;	10216
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	10217 10218 10219
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	10220 10221 10222 10223
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	10224 10225 10226
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	10227 10228
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	10229 10230 10231 10232
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections <u>125.60 to 125.6012 or</u> 4115.31 to 4115.35 of the Revised Code;	10233 10234 10235
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	10236 10237 10238 10239 10240
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;	10241 10242 10243
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section	10244 10245

5119.101 of the Revised Code;	10246
(29) Applying to contracts entered into with persons by the	10247
director of commerce for unclaimed funds collection and remittance	10248
efforts as provided in division (F) of section 169.03 of the	10249
Revised Code. The director shall keep an itemized accounting of	10250
unclaimed funds collected by those persons and amounts paid to	10251
them for their services.	10252
(30) Applying to purchases made by a state institution of	10253
higher education in accordance with the terms of a contract	10254
between the vendor and an inter-university purchasing group	10255
comprised of purchasing officers of state institutions of higher	10256
education;	10257
(31) Applying to the department of job and family services'	10258
purchases of health assistance services under the children's	10259
health insurance program part I provided for under section 5101.50	10260
of the Revised Code or the children's health insurance program	10261
part II provided for under section 5101.51 of the Revised Code;	10262
(32) Applying to payments by the attorney general from the	10263
reparations fund to hospitals and other emergency medical	10264
facilities for performing medical examinations to collect physical	10265
evidence pursuant to section 2907.28 of the Revised Code;	10266
(33) Applying to contracts with a contracting authority or	10267
administrative receiver under division <del>(G)(2)</del> (B) of section	10268
<del>5126.055</del> <u>5126.056</u> of the Revised Code;	10269
(34) Applying to reimbursements paid to the United States	10270
department of veterans affairs for pharmaceutical and patient	10271
supply purchases made on behalf of the Ohio veterans' home agency;	10272
(35) Applying to agreements the department of job and family	10273
services enters into with terminal distributors of dangerous drugs	10274
under section 5110.12 of the Revised Code.	10275

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

**Sec. 131.02.** (A) Whenever any amount is payable to the state, the officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. ~~If~~ Except as otherwise provided in this division, if the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. In the case of an amount payable by a student enrolled in a state institution of higher education, the

amount shall be certified within the later of forty-five days 10306  
after the amount is due or the tenth day after the beginning of 10307  
the next academic semester, quarter, or other session following 10308  
the session for which the payment is payable. The attorney general 10309  
may assess the collection cost to the amount certified in such 10310  
manner and amount as prescribed by the attorney general. 10311

For the purposes of this section, a payment is due at the 10312  
time provided in divisions (A)(1) to (9) of this section. If more 10313  
than one division applies to a payment, the payment is due at the 10314  
earliest of the applicable times. 10315

(1) If a law, including an administrative rule, of this state 10316  
prescribes the time a payment is required to be made or reported, 10317  
when the payment is required by that law to be paid or reported. 10318

(2) If the payment is for services rendered, when the 10319  
rendering of the services is completed. 10320

(3) If the payment is reimbursement for a loss, when the loss 10321  
is incurred. 10322

(4) In the case of a fine or penalty for which a law or 10323  
administrative rule does not prescribe a time for payment, when 10324  
the fine or penalty is first assessed. 10325

(5) If the payment arises from a legal finding, judgment, or 10326  
adjudication order, when the finding, judgment, or order is 10327  
rendered or issued. 10328

(6) If the payment arises from an overpayment of money by the 10329  
state to another person, when the overpayment is discovered. 10330

(7) The date on which the amount for which an individual is 10331  
personally liable under section 5735.35, section 5739.33, or 10332  
division (G) of section 5747.07 of the Revised Code is determined. 10333

(8) Upon proof of claim being filed in a bankruptcy case. 10334

(9) Any other appropriate time determined by the officer, 10335

employee, or agent responsible for administering the law under 10336  
which the amount is payable on the basis of statutory requirements 10337  
or ordinary business processes of the state agency to which the 10338  
payment is owed. 10339

(B)(1) The attorney general shall give immediate notice by 10340  
mail or otherwise to the party indebted of the nature and amount 10341  
of the indebtedness. 10342

(2) If the amount payable to this state arises from a tax 10343  
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 10344  
Code, the notice also shall specify all of the following: 10345

(a) The assessment or case number; 10346

(b) The tax pursuant to which the assessment is made; 10347

(c) The reason for the liability, including, if applicable, 10348  
that a penalty or interest is due; 10349

(d) An explanation of how and when interest will be added to 10350  
the amount assessed; 10351

(e) That the attorney general and tax commissioner, acting 10352  
together, have the authority, but are not required, to compromise 10353  
the claim and accept payment over a reasonable time, if such 10354  
actions are in the best interest of the state. 10355

(C) The attorney general shall collect the claim or secure a 10356  
judgment and issue an execution for its collection. 10357

(D) Each claim shall bear interest, from the day on which the 10358  
claim became due, at the rate per annum required by section 10359  
5703.47 of the Revised Code. 10360

(E) The attorney general and the chief officer of the agency 10361  
reporting a claim, acting together, may do any of the following if 10362  
such action is in the best interests of the state: 10363

(1) Compromise the claim; 10364

(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim. 10365  
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(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options. 10369  
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(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following: 10372  
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(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection; 10377  
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(b) Cancel the claim or cause it to be cancelled. 10379

(2) The attorney general shall cancel or cause to be cancelled an unsatisfied claim on the date that is forty years after the date the claim is certified. 10380  
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**Sec. 131.23.** The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions: 10383  
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(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement. 10389  
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(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the 10393  
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fiscal officer under oath, which shall contain the following facts	10395
of such subdivision:	10396
(1) The total bonded indebtedness;	10397
(2) The aggregate amount of notes payable or outstanding	10398
accounts of the subdivision, incurred prior to the commencement of	10399
the current fiscal year, which shall include all evidences of	10400
indebtedness issued by the subdivision except notes issued in	10401
anticipation of bond issues and the indebtedness of any	10402
nontax-supported public utility;	10403
(3) Except in the case of school districts, the aggregate	10404
current year's requirement for disability financial assistance <del>and</del>	10405
<del>disability medical assistance</del> provided under Chapter 5115. of the	10406
Revised Code that the subdivision is unable to finance except by	10407
the issue of bonds;	10408
(4) The indebtedness outstanding through the issuance of any	10409
bonds or notes pledged or obligated to be paid by any delinquent	10410
taxes;	10411
(5) The total of any other indebtedness;	10412
(6) The net amount of delinquent taxes unpledged to pay any	10413
bonds, notes, or certificates, including delinquent assessments on	10414
improvements on which the bonds have been paid;	10415
(7) The budget requirements for the fiscal year for bond and	10416
note retirement;	10417
(8) The estimated revenue for the fiscal year.	10418
(C) The certificate and statement provided for in divisions	10419
(A) and (B) of this section shall be forwarded to the tax	10420
commissioner together with a request for authority to issue bonds	10421
of such subdivision in an amount not to exceed seventy per cent of	10422
the net unobligated delinquent taxes and assessments due and owing	10423
to such subdivision, as set forth in division (B)(6) of this	10424

section. 10425

(D) No subdivision may issue bonds under this section in 10426  
excess of a sufficient amount to pay the indebtedness of the 10427  
subdivision as shown by division (B)(2) of this section and, 10428  
except in the case of school districts, to provide funds for 10429  
disability financial assistance ~~and disability medical assistance~~, 10430  
as shown by division (B)(3) of this section. 10431

(E) The tax commissioner shall grant to such subdivision 10432  
authority requested by such subdivision as restricted by divisions 10433  
(C) and (D) of this section and shall make a record of the 10434  
certificate, statement, and grant in a record book devoted solely 10435  
to such recording and which shall be open to inspection by the 10436  
public. 10437

(F) The commissioner shall immediately upon issuing the 10438  
authority provided in division (E) of this section notify the 10439  
proper authority having charge of the retirement of bonds of such 10440  
subdivision by forwarding a copy of such grant of authority and of 10441  
the statement provided for in division (B) of this section. 10442

(G) Upon receipt of authority, the subdivision shall proceed 10443  
according to law to issue the amount of bonds authorized by the 10444  
commissioner, and authorized by the taxing authority, provided the 10445  
taxing authority of that subdivision may by resolution submit to 10446  
the electors of that subdivision the question of issuing such 10447  
bonds. Such resolution shall make the declarations and statements 10448  
required by section 133.18 of the Revised Code. The county auditor 10449  
and taxing authority shall thereupon proceed as set forth in 10450  
divisions (C) and (D) of such section. The election on the 10451  
question of issuing such bonds shall be held under divisions (E), 10452  
(F), and (G) of such section, except that publication of the 10453  
notice of such election shall be made on four separate days prior 10454  
to such election in one or more newspapers of general circulation 10455

in the subdivisions. Such bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient in amount to pay the debt charges on all such bonds issued under this section.

(I) This section is for the sole purpose of assisting the various subdivisions in paying their unsecured indebtedness, and providing funds for disability financial assistance ~~and disability medical assistance~~. The bonds issued under authority of this section shall not be used for any other purpose and any exchange for other purposes, or the use of the money derived from the sale of such bonds by the subdivision for any other purpose, is misapplication of funds.

(J) The bonds authorized by this section shall be redeemable or payable in not to exceed ten years from date of issue and shall not be subject to or considered in calculating the net indebtedness of the subdivision. The budget commission of the county in which the subdivision is located shall annually allocate such portion of the then delinquent levy due such subdivision which is unpledged for other purposes to the payment of debt charges on the bonds issued under authority of this section.

(K) The issue of bonds under this section shall be governed

by Chapter 133. of the Revised Code, respecting the terms used, 10487  
forms, manner of sale, and redemption except as otherwise provided 10488  
in this section. 10489

The board of county commissioners of any county may issue 10490  
bonds authorized by this section and distribute the proceeds of 10491  
such bond issues to any or all of the cities and townships of such 10492  
counties, according to their relative needs for disability 10493  
financial assistance ~~and disability medical assistance~~ as 10494  
determined by such county. 10495

All sections of the Revised Code inconsistent with or 10496  
prohibiting the exercise of the authority conferred by this 10497  
section are inoperative respecting bonds issued under this 10498  
section. 10499

Sec. 131.51. In any civil action that is brought before any 10500  
court of competent jurisdiction and in which the state is a party, 10501  
prior to entering into a consent agreement in which the state must 10502  
perform any action that requires additional appropriations or an 10503  
increase in appropriations, the state official who represents the 10504  
state as a party in the action shall obtain the approval of the 10505  
consent agreement by the controlling board. In no case shall a 10506  
consent agreement bind the general assembly to appropriate funding 10507  
unless the general assembly is a party to the action and the 10508  
consent agreement. 10509

As used in this section, "state" has the same meaning as in 10510  
section 2743.01 of the Revised Code. 10511

**Sec. 133.09.** (A) Unless it is a township that has adopted a 10512  
limited home rule government under Chapter 504. of the Revised 10513  
Code, a township shall not incur net indebtedness that exceeds an 10514  
amount equal to five per cent of its tax valuation and, except as 10515  
specifically authorized by section 505.262 of the Revised Code or 10516

other laws, shall not incur any net indebtedness unless authorized 10517  
by vote of the electors. 10518

(B) A township that has adopted a limited home rule 10519  
government under Chapter 504. of the Revised Code shall not incur 10520  
net indebtedness that exceeds an amount equal to ten and one-half 10521  
per cent of its tax valuation, or incur without a vote of the 10522  
electors net indebtedness that exceeds an amount equal to five and 10523  
one-half per cent of that tax valuation. In calculating the net 10524  
indebtedness of a township that has adopted a limited home rule 10525  
government, none of the following securities shall be considered: 10526

(1) Self-supporting securities issued for any purpose; 10527

(2) Securities issued for the purpose of purchasing, 10528  
constructing, improving, or extending water or sanitary or surface 10529  
and storm water sewerage systems or facilities, or a combination 10530  
of those systems or facilities, to the extent that an agreement 10531  
entered into with another subdivision requires the other 10532  
subdivision to pay to the township amounts equivalent to debt 10533  
charges on the securities; 10534

(3) Securities that are not general obligations of the 10535  
township; 10536

(4) Voted securities issued for the purposes of redevelopment 10537  
to the extent that their principal amount does not exceed an 10538  
amount equal to two per cent of the tax valuation of the township; 10539

(5) Securities issued for the purpose of acquiring or 10540  
constructing roads, highways, bridges, or viaducts, or for the 10541  
purpose of acquiring or making other highway permanent 10542  
improvements, to the extent that the resolution of the board of 10543  
township trustees authorizing the issuance of the securities 10544  
includes a covenant to appropriate from money distributed to the 10545  
township under Chapter 4501., 4503., 4504., or 5735. of the 10546  
Revised Code a sufficient amount to cover debt charges on and 10547

financing costs relating to the securities as they become due; 10548

(6) Securities issued for energy conservation measures under 10549  
section 505.264 of the Revised Code. 10550

(C) In calculating the net indebtedness of any township, no 10551  
obligation incurred under division (B) of section 513.17 or under 10552  
section 505.261, 505.264, 505.265, 505.267, or 505.37 of the 10553  
Revised Code, or in connection with a project undertaken pursuant 10554  
to section 5540.032 of the Revised Code, shall be considered. 10555

**Sec. 140.01.** As used in this chapter: 10556

(A) "Hospital agency" means any public hospital agency or any 10557  
nonprofit hospital agency. 10558

(B) "Public hospital agency" means any county, board of 10559  
county hospital trustees established pursuant to section 339.02 of 10560  
the Revised Code, county hospital commission established pursuant 10561  
to section 339.14 of the Revised Code, municipal corporation, new 10562  
community authority organized under Chapter 349. of the Revised 10563  
Code, joint township hospital district, state or municipal 10564  
university or college operating or authorized to operate a 10565  
hospital facility, or the state. 10566

(C) "Nonprofit hospital agency" means a corporation or 10567  
association not for profit, no part of the net earnings of which 10568  
inures or may lawfully inure to the benefit of any private 10569  
shareholder or individual, that has authority to own or operate a 10570  
hospital facility or provides or is to provide services to one or 10571  
more other hospital agencies. 10572

(D) "Governing body" means, in the case of a county, the 10573  
board of county commissioners or other legislative body; in the 10574  
case of a board of county hospital trustees, the board; in the 10575  
case of a county hospital commission, the commission; in the case 10576  
of a municipal corporation, the council or other legislative 10577

authority; in the case of a new community authority, its board of 10578  
trustees; in the case of a joint township hospital district, the 10579  
joint township district hospital board; in the case of a state or 10580  
municipal university or college, its board of trustees or board of 10581  
directors; in the case of a nonprofit hospital agency, the board 10582  
of trustees or other body having general management of the agency; 10583  
and, in the case of the state, the director of development or the 10584  
Ohio higher educational facility commission. 10585

(E) "Hospital facilities" means buildings, structures and 10586  
other improvements, additions thereto and extensions thereof, 10587  
furnishings, equipment, and real estate and interests in real 10588  
estate, used or to be used for or in connection with one or more 10589  
hospitals, emergency, intensive, intermediate, extended, 10590  
long-term, or self-care facilities, diagnostic and treatment and 10591  
out-patient facilities, facilities related to programs for home 10592  
health services, clinics, laboratories, public health centers, 10593  
research facilities, and rehabilitation facilities, for or 10594  
pertaining to diagnosis, treatment, care, or rehabilitation of 10595  
sick, ill, injured, infirm, impaired, disabled, or handicapped 10596  
persons, or the prevention, detection, and control of disease, and 10597  
also includes education, training, and food service facilities for 10598  
health professions personnel, housing facilities for such 10599  
personnel and their families, and parking and service facilities 10600  
in connection with any of the foregoing; and includes any one, 10601  
part of, or any combination of the foregoing; and further includes 10602  
site improvements, utilities, machinery, facilities, furnishings, 10603  
and any separate or connected buildings, structures, improvements, 10604  
sites, utilities, facilities, or equipment to be used in, or in 10605  
connection with the operation or maintenance of, or supplementing 10606  
or otherwise related to the services or facilities to be provided 10607  
by, any one or more of such hospital facilities. 10608

(F) "Costs of hospital facilities" means the costs of 10609

acquiring hospital facilities or interests in hospital facilities, 10610  
including membership interests in nonprofit hospital agencies, 10611  
costs of constructing hospital facilities, costs of improving one 10612  
or more hospital facilities, including reconstructing, 10613  
rehabilitating, remodeling, renovating, and enlarging, costs of 10614  
equipping and furnishing such facilities, and all financing costs 10615  
pertaining thereto, including, without limitation thereto, costs 10616  
of engineering, architectural, and other professional services, 10617  
designs, plans, specifications and surveys, and estimates of cost, 10618  
costs of tests and inspections, the costs of any indemnity or 10619  
surety bonds and premiums on insurance, all related direct or 10620  
allocable administrative expenses pertaining thereto, fees and 10621  
expenses of trustees, depositories, and paying agents for the 10622  
obligations, cost of issuance of the obligations and financing 10623  
charges and fees and expenses of financial advisors, attorneys, 10624  
accountants, consultants and rating services in connection 10625  
therewith, capitalized interest on the obligations, amounts 10626  
necessary to establish reserves as required by the bond 10627  
proceedings, the reimbursement of all moneys advanced or applied 10628  
by the hospital agency or others or borrowed from others for the 10629  
payment of any item or items of costs of such facilities, and all 10630  
other expenses necessary or incident to planning or determining 10631  
feasibility or practicability with respect to such facilities, and 10632  
such other expenses as may be necessary or incident to the 10633  
acquisition, construction, reconstruction, rehabilitation, 10634  
remodeling, renovation, enlargement, improvement, equipment, and 10635  
furnishing of such facilities, the financing thereof, and the 10636  
placing of the same in use and operation, including any one, part 10637  
of, or combination of such classes of costs and expenses, and 10638  
means the costs of refinancing obligations issued by, or 10639  
reimbursement of money advanced by, nonprofit hospital agencies or 10640  
others the proceeds of which were used for the payment of costs of 10641  
hospital facilities, if the governing body of the public hospital 10642



agency determines that the refinancing or reimbursement advances 10643  
the purposes of this chapter, whether or not the refinancing or 10644  
reimbursement is in conjunction with the acquisition or 10645  
construction of additional hospital facilities. 10646

(G) "Hospital receipts" means all moneys received by or on 10647  
behalf of a hospital agency from or in connection with the 10648  
ownership, operation, acquisition, construction, improvement, 10649  
equipping, or financing of any hospital facilities, including, 10650  
without limitation thereto, any rentals and other moneys received 10651  
from the lease, sale, or other disposition of hospital facilities, 10652  
and any gifts, grants, interest subsidies, or other moneys 10653  
received under any federal program for assistance in financing the 10654  
costs of hospital facilities, and any other gifts, grants, and 10655  
donations, and receipts therefrom, available for financing the 10656  
costs of hospital facilities. 10657

(H) "Obligations" means bonds, notes, or other evidences of 10658  
indebtedness or obligation, including interest coupons pertaining 10659  
thereto, issued or issuable by a public hospital agency to pay 10660  
costs of hospital facilities. 10661

(I) "Bond service charges" means principal, interest, and 10662  
call premium, if any, required to be paid on obligations. 10663

(J) "Bond proceedings" means one or more ordinances, 10664  
resolutions, trust agreements, indentures, and other agreements or 10665  
documents, and amendments and supplements to the foregoing, or any 10666  
combination thereof, authorizing or providing for the terms, 10667  
including any variable interest rates, and conditions applicable 10668  
to, or providing for the security of, obligations and the 10669  
provisions contained in such obligations. 10670

(K) "Nursing home" has the same meaning as in division (A)(1) 10671  
of section 5701.13 of the Revised Code. 10672

(L) "Residential care facility" has the same meaning as in 10673

division (A)(2) of section 5701.13 of the Revised Code. 10674

(M) "Adult care facility" has the same meaning as in division 10675  
(A)(3) of section 5701.13 of the Revised Code. 10676

(N) "Independent living facility" means any self-care 10677  
facility or other housing facility designed or used as a residence 10678  
for elderly persons. An "independent living facility" does not 10679  
include a residential facility, or that part of a residential 10680  
facility, that is any of the following: 10681

(1) A hospital required to be certified by section 3727.02 of 10682  
the Revised Code; 10683

(2) A nursing home or residential care facility; 10684

(3) An adult care facility; 10685

(4) A hospice licensed under section 3712.04 of the Revised 10686  
Code; 10687

(5) ~~A habilitation center as defined in section 5123.041 of~~ 10688  
~~the Revised Code;~~ 10689

~~(6)~~ A residential facility for the mentally ill licensed by 10690  
the department of mental health under section 5119.22 of the 10691  
Revised Code; 10692

~~(7)~~(6) A facility licensed to provide methadone treatment 10693  
under section 3793.11 of the Revised Code; 10694

~~(8)~~(7) A facility certified as an alcohol and drug addiction 10695  
program under section 3793.06 of the Revised Code; 10696

~~(9)~~(8) A residential facility licensed under section 5123.19 10697  
of the Revised Code or a facility providing services under a 10698  
contract with the department of mental retardation and 10699  
developmental disabilities under section 5123.18 of the Revised 10700  
Code; 10701

~~(10)~~(9) A residential facility used as part of a hospital to 10702

provide housing for staff of the hospital or students pursuing a 10703  
course of study at the hospital. 10704

**Sec. 140.08.** (A) Except as otherwise provided in ~~divisions~~ 10705  
division (B)(1) ~~and (2)~~ of this section, all hospital facilities 10706  
purchased, acquired, constructed, or owned by a public hospital 10707  
agency, or financed in whole or in part by obligations issued by a 10708  
public hospital agency, and used, or to be used when completed, as 10709  
hospital facilities, and the income therefrom, are exempt from all 10710  
taxation within this state, including ad valorem and excise taxes, 10711  
notwithstanding any other provisions of law, and hospital agencies 10712  
are exempt from taxes levied under Chapters 5739. and 5741. of the 10713  
Revised Code. The obligations issued hereafter under section 10714  
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 10715  
Article XVIII, Ohio Constitution, to pay costs of hospital 10716  
facilities or to refund such obligations, and the transfer 10717  
thereof, and the interest and other income from such obligations, 10718  
including any profit made on the sale thereof, is free from 10719  
taxation within the state. 10720

(B)(1) Division (A) of this section does not exempt 10721  
independent living facilities from taxes levied on property or 10722  
taxes levied under Chapters 5739. and 5741. of the Revised Code. 10723  
If an independent living facility or part of such facility becomes 10724  
an adult care facility, nursing home, or residential care facility 10725  
on or after January 10, 1991, that part of the independent living 10726  
facility that is an adult care facility, nursing home, or 10727  
residential care facility is exempt from taxation subject to 10728  
division (B)(2) of this section on and after the date it becomes 10729  
an adult care facility, nursing home, or residential care 10730  
facility. 10731

(2) Division (A) of this section exempts nursing homes, 10732  
residential care facilities, and adult care facilities from taxes 10733

levied on property and taxes levied under Chapters 5739. and 5741. 10734  
of the Revised Code only until all obligations issued to finance 10735  
such homes or facilities, or all refunding or series of refundings 10736  
of those obligations, are redeemed or otherwise retired. 10737

(3) Nothing in division (A) of this section exempts any 10738  
person subject to this section from the tax levied by Chapter 10739  
5751. of the Revised Code, but the tax shall be based solely on 10740  
those gross receipts that contribute to such person's unrelated 10741  
business taxable income under the Internal Revenue Code of 1986, 10742  
100 Stat. 2085, 26 U.S.C. 1, as amended. 10743

**Sec. 141.011.** Beginning in calendar year 2001, the annual 10744  
salaries of the elective officers of the state shall be as follows 10745  
rather than as prescribed by divisions (A) to (F) of section 10746  
141.01 of the Revised Code: 10747

(A)(1) In calendar year 2001 the annual salary of the 10748  
governor shall be one hundred twenty-six thousand four hundred 10749  
ninety-seven dollars. 10750

(2) In calendar years 2002 through 2006 the annual salary of 10751  
the governor shall be one hundred thirty thousand two hundred 10752  
ninety-two dollars. 10753

(3) In calendar year 2007 the annual salary of the governor 10754  
shall be the annual salary in 2006 increased by each of the 10755  
following percentages in succession: 10756

(a) The lesser of three per cent or the percentage increase, 10757  
if any, in the consumer price index from October 1, 2001, to 10758  
September 30, 2002, rounded to the nearest one-tenth of one per 10759  
cent; 10760

(b) The lesser of three per cent or the percentage increase, 10761  
if any, in the consumer price index from October 1, 2002, to 10762  
September 30, 2003, rounded to the nearest one-tenth of one per 10763

cent; 10764

(c) The lesser of three per cent or the percentage increase, 10765  
if any, in the consumer price index from October 1, 2003, to 10766  
September 30, 2004, rounded to the nearest one-tenth of one per 10767  
cent; 10768

(d) The lesser of three per cent or the percentage increase, 10769  
if any, in the consumer price index from October 1, 2004, to 10770  
September 30, 2005, rounded to the nearest one-tenth of one per 10771  
cent; 10772

(e) The lesser of three per cent or the percentage increase, 10773  
if any, in the consumer price index from October 1, 2005, to 10774  
September 30, 2006, rounded to the nearest one-tenth of one per 10775  
cent. 10776

(4) In calendar year 2008 and thereafter, the annual salary 10777  
of the governor shall be the annual salary in 2007 increased by 10778  
the lesser of the following: 10779

(a) Three per cent; 10780

(b) The percentage increase, if any, in the consumer price 10781  
index from October 1, 2006, to September 30, 2007, rounded to the 10782  
nearest one-tenth of one per cent. 10783

(B)(1) In calendar year 2001 the annual salary of the 10784  
lieutenant governor shall be sixty-six thousand three hundred six 10785  
dollars. 10786

(2) In calendar years 2002 through 2006 the annual salary of 10787  
the lieutenant governor shall be sixty-eight thousand two hundred 10788  
ninety-five dollars. 10789

(3) In calendar year 2007 the annual salary of the lieutenant 10790  
governor shall be the annual salary in 2006 increased by each of 10791  
the following percentages in succession: 10792

(a) The lesser of three per cent or the percentage increase, 10793

if any, in the consumer price index from October 1, 2001, to	10794
September 30, 2002, rounded to the nearest one-tenth of one per	10795
cent;	10796
(b) The lesser of three per cent or the percentage increase,	10797
if any, in the consumer price index from October 1, 2002, to	10798
September 30, 2003, rounded to the nearest one-tenth of one per	10799
cent;	10800
(c) The lesser of three per cent or the percentage increase,	10801
if any, in the consumer price index from October 1, 2003, to	10802
September 30, 2004, rounded to the nearest one-tenth of one per	10803
cent;	10804
(d) The lesser of three per cent or the percentage increase,	10805
if any, in the consumer price index from October 1, 2004, to	10806
September 30, 2005, rounded to the nearest one-tenth of one per	10807
cent;	10808
(e) The lesser of three per cent or the percentage increase,	10809
if any, in the consumer price index from October 1, 2005, to	10810
September 30, 2006, rounded to the nearest one-tenth of one per	10811
cent.	10812
(4) In calendar year 2008 and thereafter, the annual salary	10813
of the lieutenant governor shall be the annual salary in 2007	10814
increased by the lesser of the following:	10815
(a) Three per cent;	10816
(b) The percentage increase, if any, in the consumer price	10817
index from October 1, 2006 to September 30, 2007, rounded to the	10818
nearest one-tenth of one per cent.	10819
If the governor appoints the lieutenant governor as an	10820
administrative department head <del>or as the director of the office of</del>	10821
<del>criminal justice services under section 108.05 of the Revised</del>	10822
<del>Code,</del> the lieutenant governor may accept the salary for that	10823

office while serving as its head in lieu of the salary for the 10824  
office of lieutenant governor. 10825

(C)(1) In calendar year 2001 the annual salary of the 10826  
secretary of state, auditor of state, treasurer of state, and 10827  
attorney general shall be ninety-three thousand four hundred 10828  
forty-seven dollars. 10829

(2) In calendar year 2002 the annual salary of the secretary 10830  
of state, auditor of state, treasurer of state, and attorney 10831  
general shall be ninety-six thousand two hundred fifty dollars. 10832

(3) In each calendar year from 2003 through 2008, the annual 10833  
salary of the secretary of state, auditor of state, treasurer of 10834  
state, and attorney general shall be increased by the lesser of 10835  
the following: 10836

(a) Three per cent; 10837

(b) The percentage increase, if any, in the consumer price 10838  
index over the twelve-month period that ends on the thirtieth day 10839  
of September of the immediately preceding year, rounded to the 10840  
nearest one-tenth of one per cent. 10841

(D) Upon the death of an elected executive officer of the 10842  
state listed in divisions (A) to (F) of section 141.01 of the 10843  
Revised Code during that person's term of office, an amount shall 10844  
be paid in accordance with section 2113.04 of the Revised Code, or 10845  
to that person's estate. The amount shall equal the amount of the 10846  
salary that the officer would have received during the remainder 10847  
of the officer's unexpired term or an amount equal to the salary 10848  
of that person's office for two years, whichever is less. 10849

(E) As used in this section, "consumer price index" has the 10850  
same meaning as in section 101.27 of the Revised Code. 10851

**Sec. 141.04.** (A) The annual salaries of the chief justice of 10852  
the supreme court and of the justices and judges named in this 10853

section payable from the state treasury are as follows, rounded to 10854  
the nearest fifty dollars: 10855

(1) For the chief justice of the supreme court, the following 10856  
amounts effective in the following years: 10857

(a) Beginning January 1, 2000, one hundred twenty-four 10858  
thousand nine hundred dollars; 10859

(b) Beginning January 1, 2001, one hundred twenty-eight 10860  
thousand six hundred fifty dollars; 10861

(c) After 2001, the amount determined under division (E)(1) 10862  
of this section. 10863

(2) For the justices of the supreme court, the following 10864  
amounts effective in the following years: 10865

(a) Beginning January 1, 2000, one hundred seventeen thousand 10866  
two hundred fifty dollars; 10867

(b) Beginning January 1, 2001, one hundred twenty thousand 10868  
seven hundred fifty dollars; 10869

(c) After 2001, the amount determined under division (E)(1) 10870  
of this section. 10871

(3) For the judges of the courts of appeals, the following 10872  
amounts effective in the following years: 10873

(a) Beginning January 1, 2000, one hundred nine thousand two 10874  
hundred fifty dollars; 10875

(b) Beginning January 1, 2001, one hundred twelve thousand 10876  
five hundred fifty dollars; 10877

(c) After 2001, the amount determined under division (E)(1) 10878  
of this section. 10879

(4) For the judges of the courts of common pleas, the 10880  
following amounts effective in the following years: 10881

(a) Beginning January 1, 2000, one hundred thousand five 10882



hundred dollars, reduced by an amount equal to the annual 10883  
compensation paid to that judge from the county treasury pursuant 10884  
to section 141.05 of the Revised Code; 10885

(b) Beginning January 1, 2001, one hundred three thousand 10886  
five hundred dollars, reduced by an amount equal to the annual 10887  
compensation paid to that judge from the county treasury pursuant 10888  
to section 141.05 of the Revised Code; 10889

(c) After 2001, the aggregate annual salary amount determined 10890  
under division (E)(2) of this section reduced by an amount equal 10891  
to the annual compensation paid to that judge from the county 10892  
treasury pursuant to section 141.05 of the Revised Code. 10893

(5) For the full-time judges of a municipal court or the 10894  
part-time judges of a municipal court of a territory having a 10895  
population of more than fifty thousand, the following amounts 10896  
effective in the following years, which amounts shall be in 10897  
addition to all amounts received pursuant to divisions (B)(1)(a) 10898  
and (2) of section 1901.11 of the Revised Code from municipal 10899  
corporations and counties: 10900

(a) Beginning January 1, 2000, thirty-two thousand six 10901  
hundred fifty dollars; 10902

(b) Beginning January 1, 2001, thirty-five thousand five 10903  
hundred dollars; 10904

(c) After 2001, the amount determined under division (E)(3) 10905  
of this section. 10906

(6) For judges of a municipal court designated as part-time 10907  
judges by section 1901.08 of the Revised Code, other than 10908  
part-time judges to whom division (A)(5) of this section applies, 10909  
and for judges of a county court, the following amounts effective 10910  
in the following years, which amounts shall be in addition to any 10911  
amounts received pursuant to division (A) of section 1901.11 of 10912

the Revised Code from municipal corporations and counties or 10913  
pursuant to division (A) of section 1907.16 of the Revised Code 10914  
from counties: 10915

(a) Beginning January 1, 2000, eighteen thousand eight 10916  
hundred dollars; 10917

(b) Beginning January 1, 2001, twenty thousand four hundred 10918  
fifty dollars; 10919

(c) After 2001, the amount determined under division (E)(4) 10920  
of this section. 10921

(B) Except as provided in section 1901.121 of the Revised 10922  
Code, except as otherwise provided in this division, and except 10923  
for the compensation to which the judges described in division 10924  
(A)(5) of this section are entitled pursuant to divisions 10925  
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 10926  
annual salary of the chief justice of the supreme court and of 10927  
each justice or judge listed in division (A) of this section shall 10928  
be paid in equal monthly installments from the state treasury. If 10929  
the chief justice of the supreme court or any justice or judge 10930  
listed in division (A)(2), (3), or (4) of this section delivers a 10931  
written request to be paid biweekly to the administrative director 10932  
of the supreme court prior to the first day of January of any 10933  
year, the annual salary of the chief justice or the justice or 10934  
judge that is listed in division (A)(2), (3), or (4) of this 10935  
section shall be paid, during the year immediately following the 10936  
year in which the request is delivered to the administrative 10937  
director of the supreme court, biweekly from the state treasury. 10938

(C) Upon the death of the chief justice or a justice of the 10939  
supreme court during that person's term of office, an amount shall 10940  
be paid in accordance with section 2113.04 of the Revised Code, or 10941  
to that person's estate. The amount shall equal the amount of the 10942  
salary that the chief justice or justice would have received 10943

during the remainder of the unexpired term or an amount equal to 10944  
the salary of office for two years, whichever is less. 10945

(D) Neither the chief justice of the supreme court nor any 10946  
justice or judge of the supreme court, the court of appeals, the 10947  
court of common pleas, or the probate court shall hold any other 10948  
office of trust or profit under the authority of this state or the 10949  
United States. 10950

(E)(1) Each calendar year from 2002 through 2008, the annual 10951  
salaries of the chief justice of the supreme court and of the 10952  
justices and judges named in divisions (A)(2) and (3) of this 10953  
section shall be increased by an amount equal to the adjustment 10954  
percentage for that year multiplied by the compensation paid the 10955  
preceding year pursuant to division (A)(1), (2), or (3) of this 10956  
section. 10957

(2) Each calendar year from 2002 through 2008, the aggregate 10958  
annual salary payable under division (A)(4) of this section to the 10959  
judges named in that division shall be increased by an amount 10960  
equal to the adjustment percentage for that year multiplied by the 10961  
aggregate compensation paid the preceding year pursuant to 10962  
division (A)(4) of this section and section 141.05 of the Revised 10963  
Code. 10964

(3) Each calendar year from 2002 through 2008, the salary 10965  
payable from the state treasury under division (A)(5) of this 10966  
section to the judges named in that division shall be increased by 10967  
an amount equal to the adjustment percentage for that year 10968  
multiplied by the aggregate compensation paid the preceding year 10969  
pursuant to division (A)(5) of this section and division (B)(1)(a) 10970  
of section 1901.11 of the Revised Code. 10971

(4) Each calendar year from 2002 through 2008, the salary 10972  
payable from the state treasury under division (A)(6) of this 10973  
section to the judges named in that division shall be increased by 10974

an amount equal to the adjustment percentage for that year 10975  
multiplied by the aggregate compensation paid the preceding year 10976  
pursuant to division (A)(6) of this section and division (A) of 10977  
section 1901.11 of the Revised Code from municipal corporations 10978  
and counties or division (A) of section 1907.16 of the Revised 10979  
Code from counties. 10980

(F) In addition to the salaries payable pursuant to this 10981  
section, the chief justice of the supreme court and the justices 10982  
of the supreme court shall be entitled to a vehicle allowance of 10983  
five hundred dollars per month, payable from the state treasury. 10984  
The allowance shall be increased on the first day of January of 10985  
each odd numbered year by an amount equal to the percentage 10986  
increase, if any, in the consumer price index for the immediately 10987  
preceding twenty-four month period for which information is 10988  
available. 10989

(G) As used in this section: 10990

(1) The "adjustment percentage" for a year is the lesser of 10991  
the following: 10992

(a) Three per cent; 10993

(b) The percentage increase, if any, in the consumer price 10994  
index over the twelve-month period that ends on the thirtieth day 10995  
of September of the immediately preceding year, rounded to the 10996  
nearest one-tenth of one per cent. 10997

(2) "Consumer price index" has the same meaning as in section 10998  
101.27 of the Revised Code. 10999

(3) "Salary" does not include any portion of the cost, 11000  
premium, or charge for health, medical, hospital, dental, or 11001  
surgical benefits, or any combination of those benefits, covering 11002  
the chief justice of the supreme court or a justice or judge named 11003  
in this section and paid on the chief justice's or the justice's 11004

or judge's behalf by a governmental entity.

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**Sec. 147.05.** (A) Before entering upon the duties of the office of notary public, a notary public shall leave the notary public's commission with the oath endorsed on the commission with the clerk of the court of common pleas of the county in which the notary public resides. The clerk shall record the commission in a book kept for that purpose. The clerk shall endorse on the margin of the record and on the back of the commission the time that the clerk received the commission for record and make a proper index to all commissions so recorded. For recording and indexing a commission, the fee of the clerk shall be as provided in division (R) of section 2303.20 of the Revised Code.

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(B) The secretary of state shall maintain a record of the commissions of each notary public appointed and commissioned by the secretary of state under this chapter and make a proper index to that record.

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The governor's office shall transfer to the secretary of state's office, on or after ~~the effective date of this amendment~~ June 6, 2001, the record of notaries public formerly kept by the governor's office under section 107.10 of the Revised Code. The secretary of state's office shall maintain that record together with the record and index of commissions of notaries public required by this division.

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(C) If a notary public legally changes the notary public's name or address after having been commissioned as a notary public, the notary public shall notify the secretary of state and the appropriate clerk of courts within thirty days after the name or address change. Notification to the secretary of state shall be on a form prescribed by the secretary of state.

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(D) A notary, other than an attorney, who resigns the

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person's commission shall deliver to the secretary of state, on a 11035  
form prescribed by the secretary of state, a written notice 11036  
indicating the effective date of resignation. 11037

**Sec. 147.10.** No notary public shall do or perform any act as 11038  
a notary public knowing that ~~his~~ the notary public's term of 11039  
office has expired or that the notary public has resigned the 11040  
notary public's commission. 11041

**Sec. 147.11.** A person appointed notary public who performs 11042  
any act as such after the expiration of ~~his~~ the person's term of 11043  
office or after the person resigns the person's commission, 11044  
knowing that ~~his~~ the person's term has expired or that the person 11045  
has resigned, shall forfeit not more than five hundred dollars, to 11046  
be recovered by an action in the name of the state. Such act shall 11047  
render ~~such~~ the person ineligible for reappointment. 11048

**Sec. 147.12.** An official act done by a notary public after 11049  
the expiration of ~~his~~ the notary public's term of office or after 11050  
the notary public resigns the notary public's commission is as 11051  
valid as if done during ~~his~~ the notary public's term of office. 11052

**Sec. 147.371.** (A) Upon receipt of a fee of two dollars and an 11053  
affidavit that the original commission of a notary public has been 11054  
lost or destroyed, a duplicate commission as notary public shall 11055  
be issued by the secretary of state. 11056

(B) Upon receipt of a fee of two dollars and the properly 11057  
completed, prescribed form for a name and address change under 11058  
division (C) of section 147.05 of the Revised Code, the secretary 11059  
of state shall issue a duplicate commission as a notary public. 11060

**Sec. 149.30.** The Ohio historical society, chartered by this 11061  
state as a corporation not for profit to promote a knowledge of 11062

history and archaeology, especially of Ohio, and operated 11063  
continuously in the public interest since 1885, may perform public 11064  
functions as prescribed by law. 11065

The general assembly may appropriate money to the Ohio 11066  
historical society each biennium to carry out the public functions 11067  
of the society as enumerated in this section. An appropriation by 11068  
the general assembly to the society constitutes an offer to 11069  
contract with the society to carry out those public functions for 11070  
which appropriations are made. An acceptance by the society of the 11071  
appropriated funds constitutes an acceptance by the society of the 11072  
offer and is considered an agreement by the society to perform 11073  
those functions in accordance with the terms of the appropriation 11074  
and the law and to expend the funds only for the purposes for 11075  
which appropriated. The governor may request on behalf of the 11076  
society, and the controlling board may release, additional funds 11077  
to the society for survey, salvage, repair, or rehabilitation of 11078  
an emergency nature for which funds have not been appropriated, 11079  
and acceptance by the society of those funds constitutes an 11080  
agreement on the part of the society to expend those funds only 11081  
for the purpose for which released by the controlling board. 11082

The society shall faithfully expend and apply all moneys 11083  
received from the state to the uses and purposes directed by law 11084  
and for necessary administrative expenses. The If the general 11085  
assembly appropriates money to the society for grants or subsidies 11086  
to other entities for their site-related programs, the society, 11087  
except for good cause, shall distribute the money within ninety 11088  
days of accepting a grant or subsidy application for the money. 11089  
The society shall not retain or charge an administrative, service, 11090  
or processing fee of any kind for distributing money to those 11091  
entities. 11092

The society shall perform the public function of sending 11093  
notice by certified mail to the owner of any property at the time 11094

it is listed on the national register of historic places. The 11095  
society shall accurately record all expenditures of such funds in 11096  
conformity with generally accepted accounting principles. 11097

The auditor of state shall audit all funds and fiscal records 11098  
of the society. 11099

The public functions to be performed by the Ohio historical 11100  
society shall include all of the following: 11101

(A) Creating, supervising, operating, protecting, 11102  
maintaining, and promoting for public use a system of state 11103  
memorials, titles to which may reside wholly or in part with this 11104  
state or wholly or in part with the society as provided in and in 11105  
conformity to appropriate acts and resolves of the general 11106  
assembly, and leasing for renewable periods of two years or less, 11107  
with the advice and consent of the attorney general and the 11108  
director of administrative services, lands and buildings owned by 11109  
the state which are in the care, custody, and control of the 11110  
society, all of which shall be maintained and kept for public use 11111  
at reasonable hours; 11112

(B) Making alterations and improvements, marking, and 11113  
constructing, reconstructing, protecting, or restoring structures, 11114  
earthworks, and monuments in its care, and equipping such 11115  
facilities with appropriate educational maintenance facilities; 11116

(C) Serving as the archives administration for the state and 11117  
its political subdivisions as provided in sections 149.31 to 11118  
149.42 of the Revised Code; 11119

(D) Administering a state historical museum, to be the 11120  
headquarters of the society and its principal museum and library, 11121  
which shall be maintained and kept for public use at reasonable 11122  
hours; 11123

(E) Establishing a marking system to identify all designated 11124  
historic and archaeological sites within the state and marking or 11125



causing to be marked historic sites and communities considered by 11126  
the society to be historically or archaeologically significant; 11127

(F) Publishing books, pamphlets, periodicals, and other 11128  
publications about history, archaeology, and natural science and 11129  
offering one copy of each regular periodical issue to all public 11130  
libraries in this state at a reasonable price, which shall not 11131  
exceed one hundred ten per cent more than the total cost of 11132  
publication; 11133

(G) Engaging in research in history, archaeology, and natural 11134  
science and providing historical information upon request to all 11135  
state agencies; 11136

(H) Collecting, preserving, and making available by all 11137  
appropriate means and under approved safeguards all manuscript, 11138  
print, or near-print library collections and all historical 11139  
objects, specimens, and artifacts which pertain to the history of 11140  
Ohio and its people, including the following original documents: 11141  
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 11142  
Ohio Constitution of 1875; design and the letters of patent and 11143  
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 11144  
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 11145  
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 11146  
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 11147  
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 11148  
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 11149  
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 11150  
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 11151  
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 11152  
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 11153  
(1947); 11154

(I) Encouraging and promoting the organization and 11155  
development of county and local historical societies; 11156

(J) Providing to Ohio schools such materials as the society 11157  
may prepare to facilitate the instruction of Ohio history at a 11158  
reasonable price, which shall not exceed one hundred ten per cent 11159  
more than the total cost of preparation and delivery; 11160

(K) Providing advisory and technical assistance to local 11161  
societies for the preservation and restoration of historic and 11162  
archaeological sites; 11163

(L) Devising uniform criteria for the designation of historic 11164  
and archaeological sites throughout the state and advising local 11165  
historical societies of the criteria and their application; 11166

(M) Taking inventory, in cooperation with the Ohio arts 11167  
council, the Ohio archaeological council, and the archaeological 11168  
society of Ohio, of significant designated and undesignated state 11169  
and local sites and keeping an active registry of all designated 11170  
sites within the state; 11171

(N) Contracting with the owners or persons having an interest 11172  
in designated historic or archaeological sites or property 11173  
adjacent or contiguous to those sites, or acquiring, by purchase, 11174  
gift, or devise, easements in those sites or in property adjacent 11175  
or contiguous to those sites, in order to control or restrict the 11176  
use of those historic or archaeological sites or adjacent or 11177  
contiguous property for the purpose of restoring or preserving the 11178  
historical or archaeological significance or educational value of 11179  
those sites; 11180

(O) Constructing a monument honoring Governor James A. 11181  
Rhodes, which shall stand on the northeast quadrant of the grounds 11182  
surrounding the capitol building. The monument shall be 11183  
constructed with private funds donated to the Ohio historical 11184  
society and designated for this purpose. No public funds shall be 11185  
expended to construct this monument. The department of 11186  
administrative services shall cooperate with the Ohio historical 11187

society in carrying out this function and shall maintain the 11188  
monument in a manner compatible with the grounds of the capitol 11189  
building. 11190

(P) Commissioning a portrait of each departing governor, 11191  
which shall be displayed in the capitol building. The Ohio 11192  
historical society may accept private contributions designated for 11193  
this purpose and, at the discretion of its board of trustees, also 11194  
may apply for the same purpose funds appropriated by the general 11195  
assembly to the society pursuant to this section. 11196

(Q) Planning and developing a center at the capitol building 11197  
for the purpose of educating visitors about the history of Ohio, 11198  
including its political, economic, and social development and the 11199  
design and erection of the capitol building and its grounds. The 11200  
Ohio historical society may accept contributions of private moneys 11201  
and in-kind services designated for this purpose and may, at the 11202  
discretion of its board of trustees, also apply, for the same 11203  
purpose, personnel and other resources paid in whole or in part by 11204  
its state subsidy. 11205

(R) Submitting an annual report of its activities, programs, 11206  
and operations to the governor within two months after the close 11207  
of each fiscal year of the state. 11208

The society shall not sell, mortgage, transfer, or dispose of 11209  
historical or archaeological sites to which it has title and in 11210  
which the state has monetary interest except by action of the 11211  
general assembly. 11212

In consideration of the public functions performed by the 11213  
Ohio historical society for the state, employees of the society 11214  
shall be considered public employees within the meaning of section 11215  
145.01 of the Revised Code. 11216

**Sec. 150.07.** (A) For the purpose stated in section 150.01 of 11217

the Revised Code, the authority may authorize a lender to claim 11218  
one of the tax credits allowed under section 5707.031, 5725.19, 11219  
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 11220  
credits shall be authorized by a written contract with the lender. 11221  
The contract shall specify the terms under which the lender may 11222  
claim the credit, including the amount of loss, if any, the lender 11223  
must incur before the lender may claim the credit; specify that 11224  
the credit shall not exceed the amount of the loss; and specify 11225  
that the lender may claim the credit only for a loss certified by 11226  
a program administrator to the authority under the procedures 11227  
prescribed under division (B)(6) of section 150.05 of the Revised 11228  
Code. 11229

(B) Tax credits may be authorized at any time after the 11230  
authority establishes the investment policy under section 150.03 11231  
of the Revised Code, but a tax credit so authorized may not be 11232  
claimed until the beginning of the fifth year after the authority 11233  
establishes the investment policy. A tax credit may not be claimed 11234  
after June 30, 2026. 11235

(C) Upon receiving certification of a lender's loss from a 11236  
program administrator pursuant to the procedures in the investment 11237  
policy, the authority shall issue a tax credit certificate to the 11238  
lender, except as otherwise provided in division (D) of this 11239  
section. The authority shall not issue a certificate until the 11240  
lender, in the manner prescribed by the authority, elects to 11241  
receive a refundable or nonrefundable tax credit. The election, 11242  
once made, is irrevocable. The certificate shall state the amount 11243  
of the credit, whether the credit is refundable or nonrefundable, 11244  
and the calendar year, under section 5707.031, 5725.19, 5727.241, 11245  
or 5729.08, the tax year, under section 5733.49, or the taxable 11246  
year under section 5747.80 of the Revised Code, for which the 11247  
credit may be claimed. The authority, in conjunction with the tax 11248  
commissioner, shall develop a system for issuing tax credit 11249

certificates for the purpose of verifying that any credit claimed 11250  
is a credit issued under this section and is properly taken in the 11251  
year specified in the certificate and in compliance with division 11252  
(B) of this section. 11253

(D) The authority shall not, in any fiscal year, issue tax 11254  
credit certificates in a total amount exceeding twenty million 11255  
dollars. 11256

**Sec. 150.10.** (A) On the first day of January of the second 11257  
year after the date of entering into an agreement under section 11258  
150.05 of the Revised Code and of each ensuing year, the authority 11259  
shall file with the clerk of the house of representatives, the 11260  
clerk of the senate, and the chairpersons of the house and senate 11261  
standing committees predominantly concerned with economic 11262  
development a written report on the Ohio venture capital program. 11263  
The report shall include all the following: 11264

(1) A description of the details of the investment policy 11265  
established or modified in accordance with sections 150.03 and 11266  
150.04 of the Revised Code; 11267

(2) The authority's assessment of the program's achievement 11268  
of its purpose stated in section 150.01 of the Revised Code; 11269

(3) The value of tax credit certificates issued by the 11270  
authority under section 150.07 of the Revised Code in each fiscal 11271  
year ending on or before the preceding thirtieth day of June; 11272

(4) The amount of tax credits claimed pursuant to section 11273  
5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the 11274  
Revised Code, as to the respective taxes involved; 11275

(5) The financial status of the Ohio venture capital fund; 11276

(6) The names of venture capital funds in which money from 11277  
the program fund has been invested and the locations of their 11278  
principal offices, and the names of the enterprises in which each 11279

of those venture capital funds has invested such money and the 11280  
locations of those enterprises' principal offices; 11281

(7) Any recommendations for modifying the program to better 11282  
achieve the purpose stated in section 150.01 of the Revised Code. 11283

(B) During each year that a report is issued under division 11284  
(A) of this section, the chairperson of the authority, or another 11285  
member of the authority designated by the chairperson as the 11286  
authority's representative, shall be required to appear in person 11287  
before the standing committees of the house and senate 11288  
predominantly concerned with economic development to give 11289  
testimony concerning the status of the Ohio venture capital 11290  
program. 11291

Sec. 153.02. (A) The director of administrative services may 11292  
debar a contractor from contract awards for public improvements as 11293  
referred to in section 153.01 of the Revised Code upon proof that 11294  
the contractor has done any of the following: 11295

(1) Defaulted on a contract requiring the execution of a 11296  
takeover agreement as set forth in division (B) of section 153.17 11297  
of the Revised Code; 11298

(2) Knowingly failed during the course of a contract to 11299  
maintain the coverage required by the bureau of workers' 11300  
compensation; 11301

(3) Knowingly failed during the course of a contract to 11302  
maintain the contractor's drug-free workplace program as required 11303  
by the contract; 11304

(4) Knowingly failed during the course of a contract to 11305  
maintain insurance required by the contract or otherwise by law, 11306  
resulting in a substantial loss to the owner, as owner is referred 11307  
to in section 153.01 of the Revised Code; 11308

(5) Misrepresented the firm's qualifications in the selection 11309

<u>process set forth in sections 153.65 to 153.71 of the Revised</u>	11310
<u>Code;</u>	11311
<u>(6) Been convicted of a criminal offense related to the</u>	11312
<u>application for or performance of any public or private contract,</u>	11313
<u>including, but not limited to, embezzlement, theft, forgery,</u>	11314
<u>bribery, falsification or destruction of records, receiving stolen</u>	11315
<u>property, and any other offense that directly reflects on the</u>	11316
<u>contractor's business integrity;</u>	11317
<u>(7) Been convicted of a criminal offense under state or</u>	11318
<u>federal antitrust laws;</u>	11319
<u>(8) Deliberately or willfully submitted false or misleading</u>	11320
<u>information in connection with the application for or performance</u>	11321
<u>of a public contract;</u>	11322
<u>(9) Been debarred from bidding on or participating in a</u>	11323
<u>contract with any state or federal agency.</u>	11324
<u>(B) When the director reasonably believes that grounds for</u>	11325
<u>debarment exist, the director shall send the contractor a notice</u>	11326
<u>of proposed debarment indicating the grounds for the proposed</u>	11327
<u>debarment and the procedure for requesting a hearing on the</u>	11328
<u>proposed debarment. The hearing shall be conducted in accordance</u>	11329
<u>with Chapter 119. of the Revised Code. If the contractor does not</u>	11330
<u>respond with a request for a hearing in the manner specified in</u>	11331
<u>Chapter 119. of the Revised Code, the director shall issue the</u>	11332
<u>debarment decision without a hearing and shall notify the</u>	11333
<u>contractor of the decision by certified mail, return receipt</u>	11334
<u>requested.</u>	11335
<u>(C) The director shall determine the length of the debarment</u>	11336
<u>period and may rescind the debarment at any time upon notification</u>	11337
<u>to the contractor. During the period of debarment, the contractor</u>	11338
<u>is not eligible to bid for or participate in any contract for a</u>	11339
<u>public improvement as referred to in section 153.01 of the Revised</u>	11340

Code. After the debarment period expires, the contractor shall be 11341  
eligible to bid for and participate in contracts for a public 11342  
improvement as referred to in section 153.01 of the Revised Code. 11343

(D) The director, through the office of the state architect, 11344  
shall maintain a list of all contractors currently debarred under 11345  
this section. Any governmental entity awarding a contract for 11346  
construction of a public improvement may use a contractor's 11347  
presence on the debarment list to determine whether a contractor 11348  
is responsible or best under section 9.312 or any other section of 11349  
the Revised Code in the award of a contract. 11350

**Sec. 173.26.** (A) Each of the following facilities shall 11351  
annually pay to the department of aging six dollars for each bed 11352  
maintained by the facility for use by a resident during any part 11353  
of the previous year: 11354

(1) Nursing homes, residential care facilities, and homes for 11355  
the aging as defined in section 3721.01 of the Revised Code; 11356

(2) Facilities authorized to provide extended care services 11357  
under Title XVIII of the "Social Security Act," 49 Stat. 620 11358  
(1935), 42 U.S.C. 301, as amended; 11359

(3) County homes and district homes operated pursuant to 11360  
Chapter 5155. of the Revised Code; 11361

(4) Adult care facilities as defined in section 3722.01 of 11362  
the Revised Code; 11363

(5) Facilities approved by the Veterans Administration under 11364  
Section 104(a) of the "Veterans Health Care Amendments of 1983," 11365  
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 11366  
the placement and care of veterans. 11367

The department shall, by rule adopted in accordance with 11368  
Chapter 119. of the Revised Code, establish deadlines for payments 11369  
required by this section. A facility that fails, within ninety 11370



days after the established deadline, to pay a payment required by 11371  
this section shall be assessed at two times the original invoiced 11372  
payment. 11373

(B) All money collected under this section shall be deposited 11374  
in the state treasury to the credit of the office of the state 11375  
long-term care ombudsperson program fund, which is hereby created. 11376  
Money credited to the fund shall be used solely to pay the costs 11377  
of operating the regional long-term care ombudsperson programs. 11378

(C) The state long-term care ombudsperson and the regional 11379  
programs may solicit and receive contributions to support the 11380  
operation of the office or a regional program, except that no 11381  
contribution shall be solicited or accepted that would interfere 11382  
with the independence or objectivity of the office or program. 11383

Sec. 173.39. As used in sections 173.39 to 173.393 of the 11384  
Revised Code, "community-based long-term care services" has the 11385  
same meaning as in section 173.14 of the Revised Code. 11386

Except as provided in section 173.392 of the Revised Code, 11387  
the department of aging may not pay a person or government entity 11388  
for providing community-based long-term care services under a 11389  
program the department administers unless the person or government 11390  
entity is certified under section 173.391 of the Revised Code and 11391  
provides the services. 11392

Sec. 173.391. (A) The department of aging or its designee 11393  
shall do all of the following in accordance with Chapter 119. of 11394  
the Revised Code: 11395

(1) Certify a person or government entity to provide 11396  
community-based long-term care services under a program the 11397  
department administers if the person or government entity 11398  
satisfies the requirements for certification established by rules 11399  
adopted under division (B) of this section; 11400

<u>(2) When required to do so by rules adopted under division</u>	11401
<u>(B) of this section, take one or more of the following</u>	11402
<u>disciplinary actions against a person or government entity issued</u>	11403
<u>a certificate under division (A)(1) of this section:</u>	11404
<u>(a) Issue a written warning;</u>	11405
<u>(b) Require the submission of a plan of correction;</u>	11406
<u>(c) Suspend referrals;</u>	11407
<u>(d) Remove clients;</u>	11408
<u>(e) Impose a fiscal sanction such as a civil monetary penalty</u>	11409
<u>or an order that unearned funds be repaid;</u>	11410
<u>(f) Revoke the certificate;</u>	11411
<u>(g) Impose another sanction.</u>	11412
<u>(3) Hold hearings when there is a dispute between the</u>	11413
<u>department or its designee and a person or government entity</u>	11414
<u>concerning actions the department or its designee takes or does</u>	11415
<u>not take under division (A)(1) or (2) of this section.</u>	11416
<u>(B) The director of aging shall adopt rules in accordance</u>	11417
<u>with Chapter 119. of the Revised Code establishing certification</u>	11418
<u>requirements and standards for determining which type of</u>	11419
<u>disciplinary action to take under division (A)(2) of this section</u>	11420
<u>in individual situations. The rules shall establish procedures for</u>	11421
<u>all of the following:</u>	11422
<u>(1) Ensuring that PASSPORT agencies, as defined in section</u>	11423
<u>173.41 of the Revised Code, comply with that section;</u>	11424
<u>(2) Evaluating the services provided to ensure that they are</u>	11425
<u>provided in a quality manner advantageous to the individual</u>	11426
<u>receiving the services;</u>	11427
<u>(3) Determining when to take disciplinary action under</u>	11428
<u>division (A)(2) of this section and which disciplinary action to</u>	11429

take. 11430

(C) The procedures established in rules adopted under 11431  
division (B)(2) of this section shall require that all of the 11432  
following be considered as part of an evaluation: 11433

(1) The service provider's experience and financial 11434  
responsibility; 11435

(2) The service provider's ability to comply with standards 11436  
for the community-based long-term care services that the provider 11437  
provides under a program the department administers; 11438

(3) The service provider's ability to meet the needs of the 11439  
individuals served; 11440

(4) Any other factor the director considers relevant. 11441

(D) The rules adopted under division (B)(3) of this section 11442  
shall specify that the reasons disciplinary action may be taken 11443  
under division (A)(2) of this section include good cause, 11444  
including misfeasance, malfeasance, nonfeasance, confirmed abuse 11445  
or neglect, financial irresponsibility, or other conduct the 11446  
director determines is injurious to the health or safety of 11447  
individuals being served. 11448

**Sec. 173.392.** (A) The department of aging may pay a person or 11449  
government entity for providing community-based long-term care 11450  
services under a program the department administers, even though 11451  
the person or government entity is not certified under section 11452  
173.391 of the Revised Code if all of the following are the case: 11453

(1) The person or government entity has a contract with the 11454  
department of aging or the department's designee to provide the 11455  
services; 11456

(2) The contract includes detailed conditions of 11457  
participation for providers of services under a program the 11458

department administers and service standards that the person or 11459  
government entity is required to satisfy; 11460

(3) The person or government entity complies with the 11461  
contract; 11462

(4) The contract is not for medicaid-funded services, other 11463  
than services provided under the PACE program administered by the 11464  
department of aging under section 173.50 of the Revised Code. 11465

(B) The director of aging shall adopt rules in accordance 11466  
with Chapter 119. of the Revised Code governing both of the 11467  
following: 11468

(1) Contracts between the department of aging and persons and 11469  
government entities regarding community-based long-term care 11470  
services provided under a program the department administers; 11471

(2) The department's payment for community-based long-term 11472  
care services provided under such a contract. 11473

**Sec. 173.393.** (A) Except as provided in division (B) of this 11474  
section, the records of an evaluation conducted in accordance with 11475  
rules adopted under division (B)(2) of section 173.391 of the 11476  
Revised Code are public records for purposes of section 149.43 of 11477  
the Revised Code and shall be made available on request of any 11478  
person, including individuals receiving or seeking community-based 11479  
long-term care services under a program the department of aging 11480  
administers. 11481

(B) A part of a record of an evaluation that is otherwise 11482  
available as a public record under division (A) of this section is 11483  
not available as a public record if its release would violate a 11484  
federal or state statute, regulation, or rule, including 11485  
regulations adopted by the United States department of health and 11486  
human services to implement the health information privacy 11487  
provisions of the "Health Insurance Portability and Accountability 11488

Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as  
amended. 11489  
11490

**Sec. 173.40.** There is hereby created a medicaid waiver 11491  
component ~~of the medicaid program established under Chapter 5111.~~ 11492  
as defined in section 5111.85 of the Revised Code, to be known as 11493  
the preadmission screening system providing options and resources 11494  
today program, or PASSPORT. The PASSPORT program shall provide 11495  
home and community-based services as an alternative to nursing 11496  
facility placement for aged and disabled medicaid recipients. The 11497  
program shall be operated pursuant to a home and community-based 11498  
waiver granted by the United States secretary of health and human 11499  
services under section 1915 of the "Social Security Act," 49 Stat. 11500  
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 11501  
shall administer the program through a contract entered into with 11502  
the department of job and family services under section 5111.91 of 11503  
the Revised Code. The ~~directors~~ director of aging and job and 11504  
family services shall adopt rules under section 5111.85 of the 11505  
Revised Code and the director of aging shall adopt rules in 11506  
accordance with Chapter 119. of the Revised Code to implement the 11507  
program. 11508

**Sec. ~~5101.75~~ 173.42.** (A) As used in ~~sections 5101.75,~~ 11509  
~~5101.751, 5101.752, 5101.753, and 5101.754~~ of the Revised Code 11510  
this section: 11511

(1) "~~Alternative source of long term care~~" includes a 11512  
~~residential care facility licensed under Chapter 3721. of the~~ 11513  
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 11514  
~~of the Revised Code, home and community based services, and a~~ 11515  
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 11516  
~~is not a nursing facility~~ Area agency on aging" means a public or 11517  
private nonprofit entity designated under section 173.011 of the 11518

Revised Code to administer programs on behalf of the department of 11519  
aging. 11520

(2) "Long-term care consultation" means the process used to 11521  
provide services under the long-term care consultation program 11522  
established pursuant to this section, including, but not limited 11523  
to, such services as the provision of information about long-term 11524  
care options and costs, the assessment of an individual's 11525  
functional capabilities, and the conduct of all or part of the 11526  
reviews, assessments, and determinations specified in sections 11527  
5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and 11528  
the rules adopted under those sections. 11529

(3) "Medicaid" means the medical assistance program 11530  
established under Chapter 5111. of the Revised Code. 11531

~~(3)~~(4) "Nursing facility" has the same meaning as in section 11532  
5111.20 of the Revised Code. 11533

~~(4)~~(5) "Representative" means a person acting on behalf of an 11534  
~~applicant~~ individual seeking a long-term care consultation, 11535  
applying for admission to a nursing facility, or residing in a 11536  
nursing facility. A representative may be a family member, 11537  
attorney, hospital social worker, or any other person chosen to 11538  
act on behalf of an ~~applicant~~ the individual. 11539

~~(5) "Third party payment source" means a third party payer as~~ 11540  
~~defined in section 3901.38 of the Revised Code or medicaid.~~ 11541

(B) ~~Effective July 1, 1994, the department of job and family~~ 11542  
~~services may assess a person applying or intending to apply for~~ 11543  
~~admission to a nursing facility who is not an applicant for or~~ 11544  
~~recipient of medicaid to determine whether the person is in need~~ 11545  
~~of nursing facility services and whether an alternative source of~~ 11546  
~~long term care is more appropriate for the person in meeting the~~ 11547  
~~person's physical, mental, and psychosocial needs than admission~~ 11548  
~~to the facility to which the person has applied.~~ 11549

~~Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons~~ The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may enter into a contract with an area agency on aging or other entity selected by the department under which the program for a particular area is administered by the area agency on aging or other entity pursuant to the contract.

(D) The long-term care consultations provided for purposes of

~~the program shall be provided by individuals certified by the 11582  
department under section 5101.752 173.43 of the Revised Code. The 11583  
department or designated agency shall make a recommendation on the 11584  
basis of the assessment and, not later than the time the 11585  
assessment is required to be performed under division (D) of this 11586  
section, give the person assessed written notice of the 11587  
recommendation, which shall explain the basis for the 11588  
recommendation. If the department or designated agency determines 11589  
pursuant to an assessment that an alternative source of long term 11590  
care is more appropriate for the person than admission to the 11591  
facility to which the person has applied, the department or 11592  
designated agency shall include in the notice possible sources of 11593  
financial assistance for the alternative source of long term care. 11594  
If the department or designated agency has been informed that the 11595  
person has a representative, it shall give the notice to the 11596  
representative. 11597~~

~~(C) A person (E) The information provided through a long-term 11598  
care consultation shall be appropriate to the individual's needs 11599  
and situation and shall address all of the following: 11600~~

~~(1) The availability of any long-term care options open to 11601  
the individual; 11602~~

~~(2) Sources and methods of both public and private payment 11603  
for long-term care services; 11604~~

~~(3) Factors to consider when choosing among the available 11605  
programs, services, and benefits; 11606~~

~~(4) Opportunities and methods for maximizing independence and 11607  
self-reliance, including support services provided by the 11608  
individual's family, friends, and community. 11609~~

~~(F) An individual's long-term care consultation may include 11610  
an assessment of the individual's functional capabilities. The 11611  
consultation may incorporate portions of the determinations 11612~~



required under sections 5111.202, 5119.061, and 5123.021 of the 11613  
Revised Code and may be provided concurrently with the assessment 11614  
required under section 5111.204 of the Revised Code. 11615

(G)(1) Unless an exemption specified in division (I) of this 11616  
section is applicable, each individual in the following categories 11617  
shall be provided with a long-term care consultation: 11618

(a) Individuals who apply or indicate an intention to apply 11619  
for admission to a nursing facility, regardless of the source of 11620  
payment to be used for their care in a nursing facility; 11621

(b) Nursing facility residents who apply or indicate an 11622  
intention to apply for medicaid; 11623

(c) Nursing facility residents who are likely to spend down 11624  
their resources within six months after admission to a nursing 11625  
facility to a level at which they are financially eligible for 11626  
medicaid; 11627

(d) Individuals who request a long-term care consultation. 11628

(2) In addition to the individuals included in the categories 11629  
specified in division (G)(1) of this section, long-term care 11630  
consultations may be provided to nursing facility residents who 11631  
have not applied and have not indicated an intention to apply for 11632  
medicaid. The purpose of the consultations provided to these 11633  
individuals shall be to determine continued need for nursing 11634  
facility services, to provide information on alternative services, 11635  
and to make referrals to alternative services. 11636

(H)(1) When a long-term care consultation is required to be 11637  
provided pursuant to division (G)(1) of this section, the 11638  
consultation shall be provided as follows or pursuant to division 11639  
(H)(2) or (3) of this section: 11640

(a) If the individual for whom the consultation is being 11641  
provided has applied for medicaid and the consultation is being 11642

provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment. 11643  
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(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or the program administrator under contract with the department receives notice of the reason for which the consultation is required to be provided pursuant to division (G)(1) of this section. 11648  
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(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section. 11653  
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(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or the program administrator under contract with the department may do any of the following: 11657  
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(a) Exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section; 11661  
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(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility; 11663  
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(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable. 11666  
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(I) An individual is not required to be assessed provided a long-term care consultation under ~~division (B)~~ of this section if any of the following apply: 11668  
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(1) The ~~circumstances~~ individual or the individual's representative chooses to forego participation in the consultation 11671  
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pursuant to criteria specified by in rules adopted under division 11673  
~~(I)(L)~~ of this section ~~exist.~~; 11674

(2) The ~~person~~ individual is to receive care in a nursing 11675  
facility under a contract for continuing care as defined in 11676  
section 173.13 of the Revised Code; 11677

(3) The ~~person~~ individual has a contractual right to 11678  
admission to a nursing facility operated as part of a system of 11679  
continuing care in conjunction with one or more facilities that 11680  
provide a less intensive level of services, including a 11681  
residential care facility licensed under Chapter 3721. of the 11682  
Revised Code, an ~~adult-care~~ adult care facility licensed under 11683  
Chapter 3722. of the Revised Code, or an independent living 11684  
arrangement; 11685

(4) The ~~person~~ individual is to receive continual care in a 11686  
home for the aged exempt from taxation under section 5701.13 of 11687  
the Revised Code; 11688

~~(5) The person is to receive care in the nursing facility for~~ 11689  
~~not more than fourteen days in order to provide temporary relief~~ 11690  
~~to the person's primary caregiver and the nursing facility~~ 11691  
~~notifies the department of the person's admittance not later than~~ 11692  
~~twenty four hours after admitting the person individual is seeking~~ 11693  
admission to a facility that is not a nursing facility with a 11694  
provider agreement under section 5111.22 of the Revised Code; 11695

(6) The ~~person~~ individual is to be transferred from another 11696  
nursing facility, ~~unless the nursing facility from which or to~~ 11697  
~~which the person is to be transferred determines that the person's~~ 11698  
~~medical condition has changed substantially since the person's~~ 11699  
~~admission to the nursing facility from which the person is to be~~ 11700  
~~transferred or a review is required by a third party payment~~ 11701  
~~source;~~ 11702

(7) The ~~person~~ individual is to be readmitted to a nursing 11703

facility following a period of hospitalization, unless the 11704  
hospital or nursing facility determines that the person's medical 11705  
condition has changed substantially since the person's admission 11706  
to the hospital, or a review is required by a third party payment 11707  
source; 11708

(8) The department or designated agency fails to complete an 11709  
assessment within the time required by division (D) or (E) of this 11710  
section or determines after a partial assessment that the person 11711  
should be exempt from the assessment individual is exempted from 11712  
the long-term care consultation requirement by the department or 11713  
the program administrator pursuant to rules that may be adopted 11714  
under division (L) of this section. 11715

(D) The department or designated agency shall perform a 11716  
complete assessment, or, if circumstances provided by rules 11717  
adopted under division (I) of this section exist, a partial 11718  
assessment, as follows: 11719

(1) In the case of a hospitalized person applying or 11720  
intending to apply to a nursing facility, not later than two 11721  
working days after the person or the person's representative is 11722  
notified that a bed is available in a nursing facility; 11723

(2) In the case of an emergency as determined in accordance 11724  
with rules adopted under division (I) of this section, not later 11725  
than one working day after the person or the person's 11726  
representative is notified that a bed is available in a nursing 11727  
facility; 11728

(3) In all other cases, not later than five calendar days 11729  
after the person or the person's representative who submits the 11730  
application is notified that a bed is available in a nursing 11731  
facility. 11732

(E) If the department or designated agency conducts a partial 11733  
assessment under division (D) of this section, it shall complete 11734

~~the rest of the assessment not later than one hundred eighty days  
after the date the person is admitted to the nursing facility  
unless the assessment entity determines the person should be  
exempt from the assessment.~~ 11735  
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~~(F) A person assessed under this section or the person's  
representative may file a complaint with the department about the  
assessment process. The department shall work to resolve the  
complaint in accordance with rules adopted under division (I) of  
this section.~~ 11739  
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~~(G) A person (J) At the conclusion of an individual's  
long-term care consultation, the department or the program  
administrator under contract with the department shall provide the  
individual or individual's representative with a written summary  
of options and resources available to meet the individual's needs.  
Even though the summary may specify that a source of long-term  
care other than care in a nursing facility is appropriate and  
available, the individual is not required to seek an alternative  
source of long-term care and may be admitted to or continue to  
reside in a nursing facility even though an alternative source of  
long term care is available or the person is determined pursuant  
to an assessment under this section not to need nursing facility  
services.~~ 11744  
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~~(H)(K) No nursing facility for which an operator has a  
provider agreement with the department under section 5111.22 of  
the Revised Code shall admit or retain any person, other than a  
person exempt from the assessment requirement as provided by  
division (C) of this section, individual as a resident, unless the  
nursing facility has received evidence that a ~~complete or partial  
assessment~~ long-term care consultation has been completed for the  
individual or division (I) of this section is applicable to the  
individual.~~ 11757  
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~~(I)(L)~~ The director of job and family services shall aging 11766  
may adopt any rules in accordance with Chapter 119. of the Revised 11767  
Code to implement and administer the director considers necessary 11768  
for the implementation and administration of this section. The 11769  
rules shall ~~include~~ be adopted in accordance with Chapter 119. of 11770  
the Revised Code and may specify any or all of the following: 11771

(1) ~~The information a person being assessed or the person's~~ 11772  
~~representative must provide to enable the department or designated~~ 11773  
~~agency to do the assessment;~~ 11774

(2) ~~Criteria to be used to determine whether a person is in~~ 11775  
~~need of nursing facility services;~~ 11776

(3) ~~Criteria to be used to determine whether an alternative~~ 11777  
~~source of long term care is appropriate for the person being~~ 11778  
~~assessed;~~ 11779

(4) ~~Criteria and procedures to be used to determine a~~ 11780  
~~person's physical, mental, and psychosocial needs;~~ 11781

(5) ~~Criteria to be used to determine the effectiveness and~~ 11782  
~~continued availability of a person's current source of informal~~ 11783  
~~support and care;~~ 11784

(6) ~~Circumstances, in addition to those specified in division~~ 11785  
~~(C) of this section, under which a person is not required to be~~ 11786  
~~assessed;~~ 11787

(7) ~~Circumstances under which the department or designated~~ 11788  
~~agency may perform a partial assessment under division (D) of this~~ 11789  
~~section;~~ 11790

(8) ~~The method by which a situation will be determined to be~~ 11791  
~~an emergency for the purpose of division (D)(2) of this section;~~ 11792

(9) ~~The method by which the department will attempt to~~ 11793  
~~resolve complaints filed under division (F) of this section~~ 11794  
Procedures for providing long-term care consultations pursuant to 11795

<u>this section;</u>	11796
<u>(2) Information to be provided through long-term care consultations regarding long-term care services that are available;</u>	11797 11798 11799
<u>(3) Criteria under which an individual or the individual's representative may choose to forego participation in a long-term care consultation;</u>	11800 11801 11802
<u>(4) Criteria for exempting individuals from the long-term care consultation requirement;</u>	11803 11804
<u>(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;</u>	11805 11806 11807 11808
<u>(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation.</u>	11809 11810
<del>(J)(M) The director of job and family services <u>aging</u> may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code <del>in either of the following circumstances:</del></del>	11811 11812 11813 11814
<del>(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;</del>	11815 11816 11817
<del>(2) The <u>if the</u> nursing facility admits <u>or retains an individual</u>, without evidence that a <del>complete or partial assessment long-term care consultation</del> has been <del>conducted</del> <u>provided</u>, a <del>person</del> other than a <del>person exempt from the assessment requirement</del> as <del>provided</del> <u>required</u> by <del>division (C) of this section.</del></del>	11818 11819 11820 11821 11822
<del>The director shall deposit <u>In accordance with section 5111.62 of the Revised Code</u>, all fines collected under this division <u>shall</u> be deposited into the <u>state treasury to the credit of the</u></del>	11823 11824 11825

residents protection fund established by section 5111.62 of the Revised Code. 11826  
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**Sec. ~~5101.752~~ 173.43.** The department of ~~job and family services aging~~ shall certify ~~registered nurses licensed under Chapter 4723. of the Revised Code and social workers and independent social workers licensed under Chapter 4757. of the Revised Code~~ individuals who meet certification requirements established by rule to ~~perform assessments under~~ provide long-term care consultations for purposes of section ~~5101.75 or 5101.754~~ 173.42 of the Revised Code. The director of ~~job and family services aging~~ shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification process and requirements. The rules shall specify the education, experience, or training in ~~geriatric~~ long-term care a person must have to qualify for certification. 11828  
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**Sec. 173.44.** (A) As used in this section, "nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 11841  
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(B) The department of aging may conduct an annual survey of nursing homes and residential care facilities. The survey shall include questions about capacity, occupancy, and private pay charges. The department may contract with an outside entity to conduct the survey and analyze the results. The results of the survey and any analysis completed by the department or its designee shall be made available to the general assembly, other state agencies, nursing home and residential care facility providers, and the general public. 11844  
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(C) No nursing home or residential care facility shall recklessly fail to complete the survey. 11853  
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**Sec. 173.45.** As used in this section and in sections 173.46 11855



to 173.49 of the Revised Code: 11856

(A) "Long-term care facility" means a nursing home or residential care facility. 11857  
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(B) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 11859  
11860

(C) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 11861  
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**Sec. 173.46.** (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to the effective date of this section under rules adopted under section 173.02 of the Revised Code. 11863  
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(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility: 11873  
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(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; 11877  
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(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative; 11879  
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(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; 11883  
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(4) Any other information the department specifies in rules 11885  
adopted under section 173.49 of the Revised Code. 11886

Sec. 173.47. (A) For purposes of publishing the Ohio 11887  
long-term care consumer guide, the department of aging shall 11888  
conduct or provide for the conduct of an annual customer 11889  
satisfaction survey of each long-term care facility. The results 11890  
of the surveys may include information obtained from long-term 11891  
care facility residents, their families, or both. 11892

(B)(1) The department may charge fees for the conduct of 11893  
annual customer satisfaction surveys. The department may contract 11894  
with any person or government entity to collect the fees on its 11895  
behalf. All fees collected under this section shall be deposited 11896  
in accordance with section 173.48 of the Revised Code. 11897

(2) The fees charged under this section shall not exceed the 11898  
following amounts: 11899

(a) Four hundred dollars for the customer satisfaction survey 11900  
of a long-term care facility that is a nursing home; 11901

(b) Three hundred dollars for the customer satisfaction 11902  
survey pertaining to a long-term care facility that is a 11903  
residential care facility. 11904

(3) Fees paid by a long-term care facility that is a nursing 11905  
facility shall be reimbursed through the medicaid program operated 11906  
under Chapter 5111. of the Revised Code. 11907

(C) Each long-term care facility shall cooperate in the 11908  
conduct of its annual customer satisfaction survey. 11909

Sec. 173.48. There is hereby created in the state treasury 11910  
the long-term care consumer guide fund. Money collected from the 11911  
fees charged for the conduct of customer satisfaction surveys 11912  
under section 173.47 of the Revised Code shall be credited to the 11913

fund. The department of aging shall use money in the fund for 11914  
costs associated with publishing the Ohio long-term care consumer 11915  
guide, including, but not limited to, costs incurred in conducting 11916  
or providing for the conduct of customer satisfaction surveys. 11917

Sec. 173.49. The department of aging shall adopt rules as the 11918  
department considers necessary to implement and administer 11919  
sections 173.45 to 173.48 of the Revised Code. The rules shall be 11920  
adopted under Chapter 119. of the Revised Code. 11921

Sec. 173.50. (A) Pursuant to a contract entered into with the 11922  
department of job and family services as an interagency agreement 11923  
under section 5111.91 of the Revised Code, the department of aging 11924  
shall carry out the day-to-day administration of the component of 11925  
the medicaid program established under Chapter 5111. of the 11926  
Revised Code known as the program of all-inclusive care for the 11927  
elderly or PACE. The department of aging shall carry out its PACE 11928  
administrative duties in accordance with the provisions of the 11929  
interagency agreement and all applicable federal laws, including 11930  
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, 11931  
as amended. 11932

(B) The department of aging may adopt rules in accordance 11933  
with Chapter 119. of the Revised Code regarding the PACE program, 11934  
subject to both of the following: 11935

(1) The rules shall be authorized by rules adopted by the 11936  
department of job and family services. 11937

(2) The rules shall address only those issues that are not 11938  
addressed in rules adopted by the department of job and family 11939  
services for the PACE program. 11940

Sec. 173.99. (A) A long-term care provider, person employed 11941

by a long-term care provider, other entity, or employee of such 11942  
other entity that violates division (C) of section 173.24 of the 11943  
Revised Code is subject to a fine not to exceed one thousand 11944  
dollars for each violation. 11945

(B) Whoever violates division (C) of section 173.23 of the 11946  
Revised Code is guilty of registering a false complaint, a 11947  
misdemeanor of the first degree. 11948

(C) A long-term care provider, other entity, or person 11949  
employed by a long-term care provider or other entity that 11950  
violates division (E) of section 173.19 of the Revised Code by 11951  
denying a representative of the office of the state long-term care 11952  
ombudsperson program the access required by that division is 11953  
subject to a fine not to exceed five hundred dollars for each 11954  
violation. 11955

(D) Whoever violates division (C) of section 173.44 of the 11956  
Revised Code is subject to a fine of one hundred dollars. 11957

**Sec. 183.28.** The education technology trust fund is hereby 11958  
created in the state treasury. Money credited to the fund shall be 11959  
used to pay costs of the eTech Ohio ~~SchoolNet~~ commission under 11960  
section ~~3301.80~~ 3353.02 of the Revised Code. All investment 11961  
earnings of the fund shall be credited to the fund. 11962

**Sec. 184.02.** (A) The third frontier commission may perform 11963  
any act to ensure the performance of any function necessary or 11964  
appropriate to carry out the purposes of, and exercise the powers 11965  
granted under, sections 184.01 and 184.02 of the Revised Code. In 11966  
addition, the commission may do any of the following: 11967

(1) Adopt, amend, and rescind rules under section 111.15 of 11968  
the Revised Code for the administration of any aspect of its 11969  
operations; 11970

(2) Adopt bylaws governing its operations, including bylaws 11971

that establish procedures and set policies as may be necessary to	11972
assist with the furtherance of its purposes;	11973
(3) Appoint and set the compensation of employees needed to	11974
carry out its duties;	11975
(4) Contract with, retain the services of, or designate, and	11976
fix the compensation of, such financial consultants, accountants,	11977
other consultants and advisors, and other independent contractors	11978
as may be necessary or desirable to carry out its duties;	11979
(5) Solicit input and comments from the third frontier	11980
advisory board, and specialized industry, professional, and other	11981
relevant interest groups concerning its purposes;	11982
(6) Facilitate alignment of the state's science and	11983
technology programs and activities;	11984
(7) Make grants and loans to individuals, public agencies,	11985
private companies or organizations, or joint ventures for any of	11986
the broad range of activities related to its purposes.	11987
(B) The commission shall do all of the following:	11988
(1) Establish a competitive process for the award of grants	11989
and loans that is designed to fund the most meritorious proposals	11990
and, when appropriate, provide for peer review of proposals;	11991
(2) Within ninety days after the end of each fiscal year,	11992
submit to the governor and the general assembly a report of the	11993
activities of the commission during the preceding fiscal year;	11994
(3) With specific application to the biomedical research and	11995
technology transfer trust fund, periodically make strategic	11996
assessments of the types of state investments in biomedical	11997
research and biotechnology in the state that would likely create	11998
jobs and business opportunities in the state and produce the most	11999
beneficial long-term improvements to the public health of <del>Ohioians</del>	12000
<u>Ohioans</u> , including, but not limited to, biomedical research and	12001

biotechnology initiatives that address tobacco-related illnesses 12002  
as may be outlined in any master agreement. The commission shall 12003  
award grants and loans from the fund pursuant to a process 12004  
established under division (B)(1) of this section. 12005

(C) Notwithstanding the authority granted to the commission 12006  
under sections 184.01 to 184.04 of the Revised Code, the 12007  
commission shall not make any grants or loans to individuals, 12008  
public agencies, private companies or organizations, or joint 12009  
ventures for any activities involving stem cell research with 12010  
embryonic tissue unless the stem cell research involves embryonic 12011  
stem cells listed on the "Human Embryonic Stem Cell Registry" 12012  
created by the national institutes of health in the United States 12013  
department of health and human services in accordance with 12014  
presidential criteria established on August 9, 2001. 12015

**Sec. 305.171.** (A) The board of county commissioners of any 12016  
county may contract for, purchase, or otherwise procure and pay 12017  
all or any part of the cost of group insurance policies that may 12018  
provide benefits including, but not limited to, hospitalization, 12019  
surgical care, major medical care, disability, dental care, eye 12020  
care, medical care, hearing aids, or prescription drugs, and that 12021  
may provide sickness and accident insurance, group legal services, 12022  
or group life insurance, or a combination of any of the foregoing 12023  
types of insurance or coverage, for county officers and employees 12024  
and their immediate dependents from the funds or budgets from 12025  
which the county officers or employees are compensated for 12026  
services, issued by an insurance company. 12027

(B) The board of county commissioners also may negotiate and 12028  
contract for any plan or plans of health care services with health 12029  
insuring corporations holding a certificate of authority under 12030  
Chapter 1751. of the Revised Code, provided that each county 12031  
officer or employee shall be permitted to do both of the 12032

following: 12033

(1) Exercise an option between a plan offered by an insurance 12034  
company and ~~such a~~ plan or plans offered by health insuring 12035  
corporations under this division, on the condition that the county 12036  
officer or employee shall pay any amount by which the cost of the 12037  
plan chosen by ~~such~~ the county officer or employee pursuant to 12038  
this division exceeds the cost of the plan offered under division 12039  
(A) of this section; 12040

(2) Change from one of the plans to another at a time each 12041  
year as determined by the board. 12042

(C) Section 307.86 of the Revised Code does not apply to the 12043  
purchase of benefits for county officers or employees under 12044  
divisions (A) and (B) of this section when those benefits are 12045  
provided through a jointly administered health and welfare trust 12046  
fund in which the county or contracting authority and a collective 12047  
bargaining representative of the county employees or contracting 12048  
authority agree to participate. 12049

(D) The board of trustees of a jointly administered trust 12050  
fund that receives contributions pursuant to collective bargaining 12051  
agreements entered into between the board of county commissioners 12052  
of any county and a collective bargaining representative of the 12053  
employees of the county may provide for self-insurance of all risk 12054  
in the provision of fringe benefits, and may provide through the 12055  
self-insurance method specific fringe benefits as authorized by 12056  
the rules of the board of trustees of the jointly administered 12057  
trust fund. The fringe benefits may include, but are not limited 12058  
to, hospitalization, surgical care, major medical care, 12059  
disability, dental care, vision care, medical care, hearing aids, 12060  
prescription drugs, group life insurance, sickness and accident 12061  
insurance, group legal services, or a combination of any of the 12062  
foregoing types of insurance or coverage, for county employees and 12063  
their dependents. 12064

(E) The board of county commissioners may provide the 12065  
benefits described in divisions (A) to (D) of this section through 12066  
an individual self-insurance program or a joint self-insurance 12067  
program as provided in section 9.833 of the Revised Code. 12068

(F) When a board of county commissioners offers health 12069  
benefits authorized under this section to ~~an~~ a county officer or 12070  
employee ~~of the county~~, the board may offer the benefits through a 12071  
cafeteria plan meeting the requirements of section 125 of the 12072  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, 12073  
as amended, and, as part of that plan, may offer the county 12074  
officer or employee the option of receiving a cash payment in any 12075  
form permissible under such cafeteria plans. A cash payment made 12076  
to ~~an~~ a county officer or employee under this division shall not 12077  
exceed twenty-five per cent of the cost of premiums or payments 12078  
that otherwise would be paid by the board for benefits for the 12079  
county officer or employee under a policy or plan. 12080

(G) The board of county commissioners may establish a policy 12081  
authorizing any county appointing authority to make a cash payment 12082  
to any county officer or employee in lieu of providing a benefit 12083  
authorized under this section if the county officer or employee 12084  
elects to take the cash payment instead of the offered benefit. A 12085  
cash payment made to ~~an~~ a county officer or employee under this 12086  
division shall not exceed twenty-five per cent of the cost of 12087  
premiums or payments that otherwise would be paid by the board for 12088  
benefits for the county officer or employee under an offered 12089  
policy or plan. 12090

(H) No cash payment in lieu of a health benefit shall be made 12091  
to a county officer or employee under division (F) or (G) of this 12092  
section unless the county officer or employee signs a statement 12093  
affirming that the county officer or employee is covered under 12094  
another health insurance or health care policy, contract, or plan, 12095  
and setting forth the name of the employer, if any, that sponsors 12096



the coverage, the name of the carrier that provides the coverage, 12097  
and the identifying number of the policy, contract, or plan. 12098

~~(I)(1) As used in this division:~~ 12099

~~(a) "County operated municipal court" and "legislative 12100  
authority" have the same meanings as in section 1901.03 of the 12101  
Revised Code.~~ 12102

~~(b) "Health care coverage" has the same meaning as in section 12103  
1901.111 of the Revised Code.~~ 12104

~~(2) The legislative authority of a county-operated municipal 12105  
court, after consultation with the judges, or the clerk and deputy 12106  
clerks, of the municipal court, shall negotiate and contract for, 12107  
purchase, or otherwise procure, and pay the costs, premiums, or 12108  
charges for, group health care coverage for the judges, and group 12109  
health care coverage for the clerk and deputy clerks, in 12110  
accordance with section 1901.111 or 1901.312 of the Revised Code. 12111~~

(J) As used in this section: 12112

(1) "County officer or employee" includes, but is not limited 12113  
to, a member or employee of the county board of elections. 12114

(2) "County-operated municipal court" and "legislative 12115  
authority" have the same meanings as in section 1901.03 of the 12116  
Revised Code. 12117

(3) "Health care coverage" has the same meaning as in section 12118  
1901.111 of the Revised Code. 12119

**Sec. 306.331.** Notwithstanding section 306.33 of the Revised 12120  
Code, the board of trustees of any regional transit authority 12121  
created by one county and two municipal corporations, with the 12122  
county having a population of at least five hundred thousand 12123  
according to the most recent federal census, shall be appointed 12124  
and governed as provided in this section. 12125

The board of trustees of such a regional transit authority shall consist of nine members, six of whom shall be appointed by the board of county commissioners, two of whom shall be appointed by the most populous municipal corporation that is included in the regional transit authority, and one of whom shall be appointed by the second most populous municipal corporation in the county, regardless of whether the second most populous municipal corporation in the county is a member of the regional transit authority. A trustee appointed under this section shall serve at the pleasure of the appointing authority. 12126  
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The trustees of any authority first appointed under this section shall serve staggered terms. Thereafter each successor shall serve a term of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. The resolutions or ordinances creating the regional transit authority may determine whether an appointed trustee is eligible for reappointment. 12136  
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A majority of the board of trustees constitutes a quorum, the affirmative vote of which is necessary for any action taken by the authority. No vacancy in the board shall impair the rights of a quorum to exercise all rights and perform all the duties of the authority. 12143  
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Each member of the board of trustees, before entering upon the trustee's official duties, shall take and subscribe to an oath or affirmation that the trustee will honestly, faithfully, and impartially perform the duties of office and that the trustee will not be personally interested directly or indirectly in any contract let by the regional transit authority. 12148  
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After each member of the board has taken the oath as prescribed by this section, the board shall meet and organize by electing one of its members as president and another as 12154  
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vice-president, who shall hold their respective offices until the 12157  
next annual meeting of the board as provided in its bylaws. At 12158  
each annual meeting thereafter, the board shall elect from its 12159  
membership a president and a vice-president who shall serve for a 12160  
term of one year. The board shall hold regular and special 12161  
meetings in a time, place, and manner established in its bylaws, 12162  
provided that all meetings shall be open to the public except 12163  
executive sessions as set forth in section 122.22 of the Revised 12164  
Code. 12165

The board shall appoint and fix the compensation of a 12166  
secretary-treasurer, who shall be the fiscal officer. The 12167  
secretary-treasurer shall not be a member of the board and shall 12168  
serve at the pleasure of the board. Each member of the board of 12169  
trustees is entitled to receive from the regional transit 12170  
authority reimbursement for reasonable expenses in the performance 12171  
of the trustee's duties. 12172

**Sec. 307.37.** (A) As used in division (B)(3) of this section, 12173  
"proposed new construction" means a proposal to erect, construct, 12174  
repair, alter, redevelop, or maintain a single-family, two-family, 12175  
or three-family dwelling or any structure that is regulated by the 12176  
Ohio building code. 12177

(B)(1)(a) The board of county commissioners may adopt local 12178  
residential building regulations governing residential buildings 12179  
as defined in section 3781.06 of the Revised Code, to be enforced 12180  
within the unincorporated area of the county or within districts 12181  
the board establishes in any part of the unincorporated area. No 12182  
local residential building regulation shall differ from the state 12183  
residential building code the board of building standards 12184  
establishes pursuant to Chapter 3781. of the Revised Code unless 12185  
the regulation addresses subject matter not addressed by the state 12186  
residential building code or is adopted pursuant to section 12187

3781.01 of the Revised Code. 12188

(b) The board of county commissioners may, by resolution, 12189  
adopt, administer, and enforce within the unincorporated area of 12190  
the county, or within districts the board establishes in the 12191  
unincorporated area, an existing structures code pertaining to the 12192  
repair and continued maintenance of structures and the premises of 12193  
those structures provided that the existing structures code 12194  
governs subject matter not addressed by, and is not in conflict 12195  
with, the state residential building code adopted pursuant to 12196  
Chapter 3781. of the Revised Code. The board may adopt by 12197  
~~incorporation~~ incorporation by reference a model or standard code 12198  
prepared and promulgated by the state, any agency of this state, 12199  
or any private organization that publishes a recognized or 12200  
standard existing structures code. 12201

(c) The board shall assign the duties of administering and 12202  
enforcing any local residential building regulations or existing 12203  
structures code to a county officer or employee who is trained and 12204  
qualified for those duties and shall establish by resolution the 12205  
minimum qualifications necessary to perform those duties. 12206

(2) The board may adopt regulations for participation in the 12207  
national flood insurance program established in the "Flood 12208  
Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, 12209  
as amended, and regulations adopted for the purposes of section 12210  
1506.04 or 1506.07 of the Revised Code governing the prohibition, 12211  
location, erection, construction, redevelopment, or floodproofing 12212  
of new buildings or structures, substantial improvements to 12213  
existing buildings or structures, or other development in 12214  
unincorporated territory within flood hazard areas identified 12215  
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 12216  
42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion 12217  
areas identified under section 1506.06 of the Revised Code, 12218  
including, but not limited to, residential, commercial, 12219

institutional, or industrial buildings or structures or other 12220  
permanent structures, as defined in section 1506.01 of the Revised 12221  
Code. Rules adopted under division (B)(2) of this section shall 12222  
not conflict with the state residential and nonresidential 12223  
building codes adopted pursuant to section 3781.10 of the Revised 12224  
Code. 12225

(3)(a) A board may adopt regulations that provide for a 12226  
review of the specific effects of a proposed new construction on 12227  
existing surface or subsurface drainage. The regulations may 12228  
require reasonable drainage mitigation and reasonable alteration 12229  
of a proposed new construction before a building permit is issued 12230  
in order to prevent or correct any adverse effects that the 12231  
proposed new construction may have on existing surface or 12232  
subsurface drainage. The regulations shall not be inconsistent 12233  
with, more stringent than, or broader in scope than standards 12234  
adopted by the natural resource conservation service in the United 12235  
States department of agriculture concerning drainage or rules 12236  
adopted by the environmental protection agency for reducing, 12237  
controlling, or mitigating storm water runoff from construction 12238  
sites, where applicable. The regulations shall allow a person who 12239  
is registered under Chapter 4703. or 4733. of the Revised Code to 12240  
prepare and submit relevant plans and other documents for review, 12241  
provided that the person is authorized to prepare the plans and 12242  
other documents pursuant to the person's registration. 12243

(b) If regulations are adopted under division (B)(3) of this 12244  
section, the board shall specify in the regulations a procedure 12245  
for the review of the specific effects of a proposed new 12246  
construction on existing surface or subsurface drainage. The 12247  
procedure shall include at a minimum all of the following: 12248

(i) A meeting at which the proposed new construction shall be 12249  
examined for those specific effects. The meeting shall be held 12250  
within thirty days after an application for a building permit is 12251

filed or a review is requested unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed or a review is requested.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed or a review is requested unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage so long as those alterations comply with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code. If the review is not completed within the thirty-day period or an extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division

(B)(3)(b)(iii) of this section by filing a petition in accordance 12284  
with Chapter 2506. of the Revised Code. 12285

(c) The regulations may authorize the board, after obtaining 12286  
the advice of the county engineer, to enter into an agreement with 12287  
the county engineer or another qualified person or entity to carry 12288  
out any necessary inspections and make evaluations about what, if 12289  
any, alterations are necessary to prevent or correct any adverse 12290  
effects that a proposed new construction may have on existing 12291  
surface or subsurface drainage. 12292

(d) Regulations adopted pursuant to division (B)(3) of this 12293  
section shall not apply to any property that a platting authority 12294  
has approved under section 711.05, 711.09, or 711.10 of the 12295  
Revised Code and shall not govern the same subject matter as the 12296  
state residential or nonresidential building codes adopted 12297  
pursuant to section 3781.10 of the Revised Code. 12298

(e) As used in division (B)(3) of this section, "subsurface 12299  
drainage" does not include a household sewage treatment system as 12300  
defined in section 3709.091 of the Revised Code. 12301

(C)(1) Any regulation, code, or amendment may be adopted 12302  
under this section only after a public hearing at not fewer than 12303  
two regular or special sessions of the board. The board shall 12304  
cause notice of any public hearing to be published in a newspaper 12305  
of general circulation in the county once a week for the two 12306  
consecutive weeks immediately preceding the hearing, except that 12307  
if the board posts the hearing notice on the board's internet site 12308  
on the world wide web, the board need publish only one notice of 12309  
the hearing in a newspaper of general circulation if that 12310  
newspaper notice includes the board's internet site and a 12311  
statement that the notice is also posted on the internet site. Any 12312  
notice of a public hearing shall include the time, date, and place 12313  
of the hearing. 12314

(2) Any proposed regulation, code, or amendment shall be made available to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D)(1) No person shall violate any regulation, code, or amendment the board adopts under sections 307.37 to 307.40 of the Revised Code.

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment.

(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes.

(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified.

**Sec. 307.695.** (A) As used in this section, ~~"convention:~~ 12344



(1) "Convention center" means any structure expressly designed and constructed for the purposes of presenting conventions, public meetings, and exhibitions and includes parking facilities that serve the center and any personal property used in connection with any such structure or facilities.

(2) "Community improvement corporation" means a corporation not for profit organized under Chapter 1724. of the Revised Code.

(B) A board of county commissioners may enter into an agreement with a convention and visitors' bureau or a community improvement corporation operating in the county under which:

(1) The bureau or corporation agrees to construct and equip a convention center in the county and to pledge and contribute from the tax revenues received by it under division (A) of section 5739.09 of the Revised Code, not more than ~~such~~ the portion ~~thereof of those revenues~~ that it is authorized to pledge and contribute for the purpose described in division (C) of this section; and

(2) The board agrees to levy a tax under division (C) of section 5739.09 of the Revised Code and pledge and contribute the revenues ~~therefrom~~ from the tax for the purpose described in division (C) of this section.

(C) The purpose of the pledges and contributions described in divisions (B)(1) and (2) of this section is payment of principal, interest, and premium, if any, on bonds and notes issued by or for the benefit of the convention and visitors' bureau or community improvement corporation to finance the construction and equipping of a convention center. The pledges and contributions provided for in the agreement under division (B) of this section shall be for the period stated in the agreement, but not to exceed thirty years. Revenues determined from time to time by the board to be needed to cover the real and actual costs of administering the tax

imposed by division (C) of section 5739.09 of the Revised Code may 12376  
not be pledged or contributed. The agreement under division (B) of 12377  
this section shall provide that any such bonds and notes shall be 12378  
secured by a trust agreement between the bureau or corporation, or 12379  
other issuer acting for the benefit of the bureau or corporation, 12380  
and a corporate trustee that is a trust company or bank having the 12381  
powers of a trust company within or without the state, and the 12382  
trust agreement shall pledge or assign to the retirement of the 12383  
bonds or notes, all moneys paid by the county under this section. 12384  
A tax the revenues from which are pledged under an agreement 12385  
entered into ~~by a board of county commissioners~~ under division (B) 12386  
of this section shall not be subject to diminution by initiative 12387  
or referendum, or diminution by statute, unless provision is made 12388  
therein for an adequate substitute therefor reasonably 12389  
satisfactory to the trustee under the trust agreement that secures 12390  
the bonds and notes. 12391

(D) A pledge of money by a county under division (B) of this 12392  
section shall not be indebtedness of the county for purposes of 12393  
Chapter 133. of the Revised Code. 12394

(E) If the terms of the agreement under division (B) of this 12395  
section so provide, the board of county commissioners may acquire 12396  
and lease real property to the convention and visitors' bureau or 12397  
community improvement corporation as the site of the convention 12398  
center. The lease shall be for a term not to exceed thirty years 12399  
and shall be on ~~such~~ the terms ~~as are~~ set forth in the agreement. 12400  
The purchase and lease are not subject to the limitations of 12401  
sections 307.02 and 307.09 of the Revised Code. 12402

(F) In addition to the authority granted to a board of county 12403  
commissioners under divisions (B) to (E) of this section, a board 12404  
of county commissioners in a county with a population of six 12405  
hundred thousand or more may establish and provide local funding 12406  
options for constructing and equipping a convention center. 12407

**Sec. 307.76.** (A) The board of county commissioners may 12408  
maintain and operate a zoological park, or it may contract with or 12409  
contribute to any nonprofit corporation that is organized to 12410  
encourage the study of and promote the sciences of natural 12411  
history, to maintain and operate a zoological park, to develop 12412  
~~such~~ that park, and to provide for the acquisition, disposition, 12413  
and care of the animals to be exhibited ~~therein~~ in that park. 12414

(B) A board of county commissioners may maintain and operate 12415  
a facility to encourage the study of and promote the sciences, 12416  
including, but not limited to, natural history, or it may contract 12417  
with or contribute to any nonprofit corporation that is organized 12418  
to encourage the study of and promote the sciences, to maintain 12419  
and operate such a facility. 12420

**Sec. 307.86.** Anything to be purchased, leased, leased with an 12421  
option or agreement to purchase, or constructed, including, but 12422  
not limited to, any product, structure, construction, 12423  
reconstruction, improvement, maintenance, repair, or service, 12424  
except the services of an accountant, architect, attorney at law, 12425  
physician, professional engineer, construction project manager, 12426  
consultant, surveyor, or appraiser, by or on behalf of the county 12427  
or contracting authority, as defined in section 307.92 of the 12428  
Revised Code, at a cost in excess of twenty-five thousand dollars, 12429  
except as otherwise provided in division (D) of section 713.23 and 12430  
in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 12431  
339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 12432  
5543.19, 5713.01, and 6137.05 of the Revised Code, shall be 12433  
obtained through competitive bidding. However, competitive bidding 12434  
is not required when any of the following applies: 12435

(A) The board of county commissioners, by a unanimous vote of 12436  
its members, makes a determination that a real and present 12437

emergency exists, and that determination and the reasons for it 12438  
are entered in the minutes of the proceedings of the board, when 12439  
either of the following applies: 12440

(1) The estimated cost is less than fifty thousand dollars. 12441

(2) There is actual physical disaster to structures, radio 12442  
communications equipment, or computers. 12443

For purposes of this division, "unanimous vote" means all 12444  
three members of a board of county commissioners when all three 12445  
members are present, or two members of the board if only two 12446  
members, constituting a quorum, are present. 12447

Whenever a contract of purchase, lease, or construction is 12448  
exempted from competitive bidding under division (A)(1) of this 12449  
section because the estimated cost is less than fifty thousand 12450  
dollars, but the estimated cost is twenty-five thousand dollars or 12451  
more, the county or contracting authority shall solicit informal 12452  
estimates from no fewer than three persons who could perform the 12453  
contract, before awarding the contract. With regard to each such 12454  
contract, the county or contracting authority shall maintain a 12455  
record of such estimates, including the name of each person from 12456  
whom an estimate is solicited. The county or contracting authority 12457  
shall maintain the record for the longer of at least one year 12458  
after the contract is awarded or the amount of time the federal 12459  
government requires. 12460

(B)(1) The purchase consists of supplies or a replacement or 12461  
supplemental part or parts for a product or equipment owned or 12462  
leased by the county, and the only source of supply for the 12463  
supplies, part, or parts is limited to a single supplier. 12464

(2) The purchase consists of services related to information 12465  
technology, such as programming services, that are proprietary or 12466  
limited to a single source. 12467

(C) The purchase is from the federal government, the state, 12468  
another county or contracting authority of another county, or a 12469  
board of education, township, or municipal corporation. 12470

(D) The purchase is made by a county department of job and 12471  
family services under section 329.04 of the Revised Code and 12472  
consists of family services duties or workforce development 12473  
activities or is made by a county board of mental retardation and 12474  
developmental disabilities under section 5126.05 of the Revised 12475  
Code and consists of program services, such as direct and 12476  
ancillary client services, child care, case management services, 12477  
residential services, and family resource services. 12478

(E) The purchase consists of criminal justice services, 12479  
social services programs, family services, or workforce 12480  
development activities by the board of county commissioners from 12481  
nonprofit corporations or associations under programs funded by 12482  
the federal government or by state grants. 12483

(F) The purchase consists of any form of an insurance policy 12484  
or contract authorized to be issued under Title XXXIX of the 12485  
Revised Code or any form of health care plan authorized to be 12486  
issued under Chapter 1751. of the Revised Code, or any combination 12487  
of such policies, contracts, or plans that the contracting 12488  
authority is authorized to purchase, and the contracting authority 12489  
does all of the following: 12490

(1) Determines that compliance with the requirements of this 12491  
section would increase, rather than decrease, the cost of the 12492  
purchase; 12493

(2) Employs a competent consultant to assist the contracting 12494  
authority in procuring appropriate coverages at the best and 12495  
lowest prices; 12496

(3) Requests issuers of the policies, contracts, or plans to 12497  
submit proposals to the contracting authority, in a form 12498

prescribed by the contracting authority, setting forth the 12499  
coverage and cost of the policies, contracts, or plans as the 12500  
contracting authority desires to purchase; 12501

(4) Negotiates with the issuers for the purpose of purchasing 12502  
the policies, contracts, or plans at the best and lowest price 12503  
reasonably possible. 12504

(G) The purchase consists of computer hardware, software, or 12505  
consulting services that are necessary to implement a computerized 12506  
case management automation project administered by the Ohio 12507  
prosecuting attorneys association and funded by a grant from the 12508  
federal government. 12509

(H) Child care services are purchased for provision to county 12510  
employees. 12511

(I)(1) Property, including land, buildings, and other real 12512  
property, is leased for offices, storage, parking, or other 12513  
purposes, and all of the following apply: 12514

(a) The contracting authority is authorized by the Revised 12515  
Code to lease the property. 12516

(b) The contracting authority develops requests for proposals 12517  
for leasing the property, specifying the criteria that will be 12518  
considered prior to leasing the property, including the desired 12519  
size and geographic location of the property. 12520

(c) The contracting authority receives responses from 12521  
prospective lessors with property meeting the criteria specified 12522  
in the requests for proposals by giving notice in a manner 12523  
substantially similar to the procedures established for giving 12524  
notice under section 307.87 of the Revised Code. 12525

(d) The contracting authority negotiates with the prospective 12526  
lessors to obtain a lease at the best and lowest price reasonably 12527  
possible considering the fair market value of the property and any 12528

relocation and operational costs that may be incurred during the 12529  
period the lease is in effect. 12530

(2) The contracting authority may use the services of a real 12531  
estate appraiser to obtain advice, consultations, or other 12532  
recommendations regarding the lease of property under this 12533  
division. 12534

(J) The purchase is made pursuant to section 5139.34 or 12535  
sections 5139.41 to 5139.46 of the Revised Code and is of programs 12536  
or services that provide case management, treatment, or prevention 12537  
services to any felony or misdemeanor delinquent, unruly youth, 12538  
or status offender under the supervision of the juvenile court, 12539  
including, but not limited to, community residential care, day 12540  
treatment, services to children in their home, or electronic 12541  
monitoring. 12542

(K) The purchase is made by a public children services agency 12543  
pursuant to section 307.92 or 5153.16 of the Revised Code and 12544  
consists of family services, programs, or ancillary services that 12545  
provide case management, prevention, or treatment services for 12546  
children at risk of being or alleged to be abused, neglected, or 12547  
dependent children. 12548

(L) The purchase is to obtain the services of emergency 12549  
medical service organizations under a contract made by the board 12550  
of county commissioners pursuant to section 307.05 of the Revised 12551  
Code with a joint emergency medical services district. 12552

Any issuer of policies, contracts, or plans listed in 12553  
division (F) of this section and any prospective lessor under 12554  
division (I) of this section may have the issuer's or prospective 12555  
lessor's name and address, or the name and address of an agent, 12556  
placed on a special notification list to be kept by the 12557  
contracting authority, by sending the contracting authority that 12558  
name and address. The contracting authority shall send notice to 12559

all persons listed on the special notification list. Notices shall  
state the deadline and place for submitting proposals. The  
contracting authority shall mail the notices at least six weeks  
prior to the deadline set by the contracting authority for  
submitting proposals. Every five years the contracting authority  
may review this list and remove any person from the list after  
mailing the person notification of that action.

Any contracting authority that negotiates a contract under  
division (F) of this section shall request proposals and  
renegotiate with issuers in accordance with that division at least  
every three years from the date of the signing of such a contract.

Any consultant employed pursuant to division (F) of this  
section and any real estate appraiser employed pursuant to  
division (I) of this section shall disclose any fees or  
compensation received from any source in connection with that  
employment.

**Sec. 307.88.** (A) Bids submitted pursuant to sections 307.86  
to 307.92 of the Revised Code shall be in a form prescribed by the  
contracting authority and filed in a sealed envelope at the time  
and place mentioned in the ~~advertisement~~ notice. The bids received  
shall be opened and tabulated at the time stated in the notice.  
Each bid shall contain the full name of each person submitting the  
bid. ~~Except as otherwise provided in division (B) of this section,~~  
~~if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and  
for a contract for the construction, demolition, alteration,  
repair, or reconstruction of an improvement, it shall meet the  
requirements of section 153.54 of the Revised Code. If the bid is  
in excess of ~~ten~~ twenty-five thousand dollars and for any other  
contract authorized by sections 307.86 to 307.92 of the Revised  
Code, it shall be accompanied by a bond or certified check,  
cashier's check, or money order on a solvent bank or savings and



loan association in a reasonable amount stated in the 12591  
~~advertisement notice~~ but not to exceed five per cent of the bid, 12592  
conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is 12593  
accepted, shall execute a contract in conformity to the invitation 12594  
and ~~his~~ the bid. 12595

(B) The board of county commissioners ~~may~~, by a unanimous 12596  
vote of the entire board, may permit a contracting authority to 12597  
exempt a bid from any or all of the requirements of section 153.54 12598  
of the Revised Code if the estimated cost is ~~less than~~ twenty-five 12599  
thousand dollars or less. If the board exempts a bid from any but 12600  
not all of ~~these~~ those requirements, the bid notice published in 12601  
the newspaper pursuant to section 307.87 of the Revised Code shall 12602  
state the specific bid guaranty requirements that apply. If the 12603  
board exempts a bid from all requirements of section 153.54 of the 12604  
Revised Code, the notice shall state that none of the requirements 12605  
of that section apply. 12606

**Sec. 317.08.** (A) Except as provided in divisions (C) and (D) 12607  
of this section, the county recorder shall keep six separate sets 12608  
of records as follows: 12609

(1) A record of deeds, in which shall be recorded all deeds 12610  
and other instruments of writing for the absolute and 12611  
unconditional sale or conveyance of lands, tenements, and 12612  
hereditaments; all notices as provided in sections 5301.47 to 12613  
5301.56 of the Revised Code; all judgments or decrees in actions 12614  
brought under section 5303.01 of the Revised Code; all 12615  
declarations and bylaws, and all amendments to declarations and 12616  
bylaws, as provided in Chapter 5311. of the Revised Code; 12617  
affidavits as provided in section 5301.252 of the Revised Code; 12618  
all certificates as provided in section 5311.17 of the Revised 12619  
Code; all articles dedicating archaeological preserves accepted by 12620  
the director of the Ohio historical society under section 149.52 12621

of the Revised Code; all articles dedicating nature preserves 12622  
accepted by the director of natural resources under section 12623  
1517.05 of the Revised Code; all agreements for the registration 12624  
of lands as archaeological or historic landmarks under section 12625  
149.51 or 149.55 of the Revised Code; all conveyances of 12626  
conservation easements and agricultural easements under section 12627  
5301.68 of the Revised Code; all instruments extinguishing 12628  
agricultural easements under section 901.21 or 5301.691 of the 12629  
Revised Code or pursuant to terms of such an easement granted to a 12630  
charitable organization under section 5301.68 of the Revised Code; 12631  
all instruments or orders described in division (B)(1)(c)(ii) of 12632  
section 5301.56 of the Revised Code; all no further action letters 12633  
issued under section 122.654 or 3746.11 of the Revised Code; all 12634  
covenants not to sue issued under section 3746.12 of the Revised 12635  
Code, including all covenants not to sue issued pursuant to 12636  
section 122.654 of the Revised Code; any restrictions on the use 12637  
of property contained in a no further action letter issued under 12638  
section 122.654 of the Revised Code, any restrictions on the use 12639  
of property identified pursuant to division (C)(3)(a) of section 12640  
3746.10 of the Revised Code, and any restrictions on the use of 12641  
property contained in a deed or other instrument as provided in 12642  
division (E) or (F) of section 3737.882 of the Revised Code; any 12643  
easement executed or granted under section 3734.22, 3734.24, 12644  
3734.25, or 3734.26 of the Revised Code; any environmental 12645  
covenant entered into in accordance with sections 5301.80 to 12646  
5301.92 of the Revised Code; all memoranda of trust, as described 12647  
in division (A) of section 5301.255 of the Revised Code, that 12648  
describe specific real property; and all agreements entered into 12649  
under division (A) of section 1521.26 of the Revised Code; 12650

(2) A record of mortgages, in which shall be recorded all of 12651  
the following: 12652

(a) All mortgages, including amendments, supplements, 12653

modifications, and extensions of mortgages, or other instruments 12654  
of writing by which lands, tenements, or hereditaments are or may 12655  
be mortgaged or otherwise conditionally sold, conveyed, affected, 12656  
or encumbered; 12657

(b) All executory installment contracts for the sale of land 12658  
executed after September 29, 1961, that by their terms are not 12659  
required to be fully performed by one or more of the parties to 12660  
them within one year of the date of the contracts; 12661

(c) All options to purchase real estate, including 12662  
supplements, modifications, and amendments of the options, but no 12663  
option of that nature shall be recorded if it does not state a 12664  
specific day and year of expiration of its validity; 12665

(d) Any tax certificate sold under section 5721.33 of the 12666  
Revised Code, or memorandum of it, that is presented for filing of 12667  
record. 12668

(3) A record of powers of attorney, including all memoranda 12669  
of trust, as described in division (A) of section 5301.255 of the 12670  
Revised Code, that do not describe specific real property; 12671

(4) A record of plats, in which shall be recorded all plats 12672  
and maps of town lots, of the subdivision of town lots, and of 12673  
other divisions or surveys of lands, any center line survey of a 12674  
highway located within the county, the plat of which shall be 12675  
furnished by the director of transportation or county engineer, 12676  
and all drawings and amendments to drawings, as provided in 12677  
Chapter 5311. of the Revised Code; 12678

(5) A record of leases, in which shall be recorded all 12679  
leases, memoranda of leases, and supplements, modifications, and 12680  
amendments of leases and memoranda of leases; 12681

(6) A record of declarations executed pursuant to section 12682  
2133.02 of the Revised Code and durable powers of attorney for 12683

health care executed pursuant to section 1337.12 of the Revised Code. 12684  
12685

(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.021~~ 5111.022, and 5311.18 of the Revised Code. 12686  
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The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option. 12698  
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(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in division (D) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section. 12703  
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(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant 12712  
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to section 2923.36 of the Revised Code and a separate set of 12715  
records containing all medicaid fraud lien notices filed with the 12716  
recorder pursuant to section 2933.75 of the Revised Code. 12717

**Sec. 317.36.** (A) The county recorder shall collect the low- 12718  
and moderate-income housing trust fund fee as specified in 12719  
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 12720  
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 12721  
6101.09, and 6115.09 of the Revised Code. The amount of any 12722  
housing trust fund fee the recorder is authorized to collect is 12723  
equal to the amount of any base fee the recorder is authorized to 12724  
collect for services. The housing trust fund fees shall be 12725  
collected in addition to the base fee. 12726

(B) The recorder shall certify the amounts collected as 12727  
housing trust fund fees pursuant to division (A) of this section 12728  
into the county treasury as housing trust fund fees to be paid to 12729  
the treasurer of state pursuant to section 319.63 of the Revised 12730  
Code. 12731

**Sec. 319.20.** After complying with sections 319.202, 315.251, 12732  
and 319.203 of the Revised Code, and on application and 12733  
presentation of title, with the affidavits required by law, or the 12734  
proper order of a court, bearing the last known address of the 12735  
grantee, or of any one of the grantees named in the title, and a 12736  
reference to the volume and page of the recording of the next 12737  
preceding recorded instrument by or through which the grantor 12738  
claims title, the county auditor shall transfer any land or town 12739  
lot or part thereof, minerals therein, or mineral rights thereto, 12740  
charged with taxes on the tax list, from the name in which it 12741  
stands into the name of the owner, when rendered necessary by a 12742  
conveyance, partition, devise, descent, or otherwise. If by reason 12743  
of the conveyance or otherwise, a part only of a tract or lot, 12744

minerals therein, or mineral rights thereto, as charged in the tax list, is to be transferred, the auditor shall determine the value of the part of a tract or lot of real estate, minerals therein, or mineral rights thereto, so transferred, and the value of the remaining part compared with the value of the whole.

Whenever a part only of a tract or lot of real estate has been transferred by the auditor and ~~such~~ the tract or lot bears unpaid taxes, penalties, interest, or special assessments, the unpaid taxes, penalties, interest, or special assessments shall immediately be apportioned, upon demand or request by the transferee or remaining owner, in the following manner:

(A) The auditor shall allocate to the part so transferred, and to the remaining part, amounts of any current or delinquent taxes, interest, or penalties that have accrued against the parcel as a whole, proportionate to their respective values.

(B) The lien of taxes, penalties, interest, and special assessments, as levied against the original tract, shall extend to the part so transferred and the part remaining only to the extent of the amounts so allocated to the respective parts.

This section does not change the total amount of taxes, special assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Whenever the state acquires an entire parcel or a part only of a parcel of real property in fee simple, the county auditor, upon application of the grantor or property owner or the state, which application shall contain a description of the property as it appears on the tax list and the date of transfer of ownership, shall prepare an estimate of the taxes that are a lien on ~~said~~ the property, but have not been determined, assessed, and levied for the year in which the property was acquired. The county auditor

shall thereupon apportion ~~such~~ the estimated taxes proportionately 12776  
between the grantor and the state for the period of the lien year 12777  
that each had or shall have had ownership or possession of the 12778  
property, whichever is earlier. The county treasurer shall accept 12779  
payment from the state for estimated taxes at the time that the 12780  
real property is acquired. If the state has paid in full in the 12781  
year in which the property is acquired that proportion of the 12782  
estimated taxes that the tax commissioner determines are not 12783  
subject to remission by the county auditor for such year under 12784  
division (C) of section 5713.08 of the Revised Code, the estimated 12785  
taxes paid shall be considered the tax liability on the exempted 12786  
property for that year. 12787

Section 319.42 of the Revised Code applies to the 12788  
apportionment of special assessments. 12789

Complaint against such values as determined by the auditor or 12790  
the allocation of assessments by the certifying authority may be 12791  
filed by the transferee or the remaining owner, and if filed, 12792  
proceedings including appeals shall be had in the manner and 12793  
within the time provided by sections 5717.01 to 5717.06 and 12794  
5715.19 to 5715.22 of the Revised Code, for complaints against 12795  
valuation or assessment of real property. 12796

The auditor shall endorse on the deed or other evidences of 12797  
title presented to the auditor that the proper transfer of the 12798  
real estate described in ~~such~~ the deed has been made in the 12799  
auditor's office or that it is not entered for taxation, and sign 12800  
the auditor's name to ~~such~~ the deed. The address of the grantee, 12801  
or any one of the grantees, set forth in the deed or other 12802  
evidences of title shall be entered by the auditor on the transfer 12803  
sheets and on the general tax list of real property prepared 12804  
pursuant to section 319.28 of the Revised Code. 12805

**Sec. 319.302.** (A)(1) Real property that is not intended 12806

primarily for use in a business activity shall qualify for a 12807  
partial exemption from real property taxation. For purposes of 12808  
this partial exemption, "business activity" does not include 12809  
farming, leasing property for farming, leasing property improved 12810  
with single-family, two-family, or three-family dwellings, or 12811  
holding vacant land that the county auditor determines will be 12812  
used for farming or to develop single-family, two-family, or 12813  
three-family dwellings. 12814

(2) Each year, the county auditor shall review each parcel of 12815  
real property to determine whether it qualifies for the partial 12816  
exemption provided for by this section as of the first day of 12817  
January of the current tax year. 12818

(B) After complying with section 319.301 of the Revised Code, 12819  
the county auditor shall reduce the remaining sums to be levied 12820  
against each parcel of real property that is listed on the general 12821  
tax list and duplicate of real and public utility property for the 12822  
current tax year and that qualifies for partial exemption under 12823  
division (A) of this section, and against each manufactured and 12824  
mobile home that is taxed pursuant to division (D)(2) of section 12825  
4503.06 of the Revised Code and that is on the manufactured home 12826  
tax list for the current tax year, by ten per cent, to provide a 12827  
partial exemption for that parcel or home. Except as otherwise 12828  
provided in sections 323.152, 323.158, 505.06, and 715.263 of the 12829  
Revised Code, the amount of the taxes remaining after any such 12830  
reduction shall be the real and public utility property taxes 12831  
charged and payable on each parcel of real property, including 12832  
property that does not qualify for partial exemption under 12833  
division (A) of this section, and the manufactured home tax 12834  
charged and payable on each property manufactured or mobile home, 12835  
and shall be the amounts certified to the county treasurer for 12836  
collection. Upon receipt of the tax duplicate, the treasurer shall 12837  
certify to the tax commissioner the total amount by which taxes 12838



were reduced under this section, as shown on the duplicate. Such 12839  
reduction shall not directly or indirectly affect the 12840  
determination of the principal amount of notes that may be issued 12841  
in anticipation of any tax levies or the amount of bonds or notes 12842  
for any planned improvements. If after application of sections 12843  
5705.31 and 5705.32 of the Revised Code and other applicable 12844  
provisions of law, including divisions (F) and (I) of section 12845  
321.24 of the Revised Code, there would be insufficient funds for 12846  
payment of debt charges on bonds or notes payable from taxes 12847  
reduced by this section, the reduction of taxes provided for in 12848  
this section shall be adjusted to the extent necessary to provide 12849  
funds from such taxes. 12850

(C) The tax commissioner may adopt rules governing the 12851  
administration of the partial exemption provided for by this 12852  
section. 12853

(D) The determination of whether property qualifies for 12854  
partial exemption under division (A) of this section is solely for 12855  
the purpose of allowing the partial exemption under division (B) 12856  
of this section. 12857

**Sec. 321.24.** (A) On or before the fifteenth day of February, 12858  
in each year, the county treasurer shall settle with the county 12859  
auditor for all taxes and assessments that the treasurer has 12860  
collected on the general duplicate of real and public utility 12861  
property at the time of making the settlement. 12862

(B) On or before the thirtieth day of June, in each year, the 12863  
treasurer shall settle with the auditor for all advance payments 12864  
of general personal and classified property taxes that the 12865  
treasurer has received at the time of making the settlement. 12866

(C) On or before the tenth day of August, in each year, the 12867  
treasurer shall settle with the auditor for all taxes and 12868  
assessments that the treasurer has collected on the general 12869

duplicates of real and public utility property at the time of 12870  
making such settlement, not included in the preceding February 12871  
settlement. 12872

(D) On or before the thirty-first day of October, in each 12873  
year, the treasurer shall settle with the auditor for all taxes 12874  
that the treasurer has collected on the general personal and 12875  
classified property duplicates, and for all advance payments of 12876  
general personal and classified property taxes, not included in 12877  
the preceding June settlement, that the treasurer has received at 12878  
the time of making such settlement. 12879

(E) In the event the time for the payment of taxes is 12880  
extended, pursuant to section 323.17 of the Revised Code, the date 12881  
on or before which settlement for the taxes so extended must be 12882  
made, as herein prescribed, shall be deemed to be extended for a 12883  
like period of time. At each such settlement, the auditor shall 12884  
allow to the treasurer, on the moneys received or collected and 12885  
accounted for by the treasurer, the treasurer's fees, at the rate 12886  
or percentage allowed by law, at a full settlement of the 12887  
treasurer. 12888

(F) Within thirty days after the day of each settlement of 12889  
taxes required under divisions (A) and (C) of this section, the 12890  
treasurer shall certify to the tax commissioner any adjustments 12891  
~~which~~ that have been made to the amount certified previously 12892  
pursuant to section 319.302 of the Revised Code and that the 12893  
settlement has been completed. Upon receipt of such certification, 12894  
the commissioner shall provide for payment to the county treasurer 12895  
from the general revenue fund of an amount equal to one-half of 12896  
the amount certified by the treasurer in the preceding tax year 12897  
under section 319.302 of the Revised Code, less one-half of the 12898  
amount computed for all taxing districts in that county for the 12899  
current fiscal year under section 5703.80 of the Revised Code for 12900  
crediting to the property tax administration fund. Such payment 12901

shall be credited upon receipt to the county's undivided income 12902  
tax fund, and the county auditor shall transfer to the county 12903  
general fund from the amount thereof the total amount of all fees 12904  
and charges which the auditor and treasurer would have been 12905  
authorized to receive had such section not been in effect and that 12906  
amount had been levied and collected as taxes. The county auditor 12907  
shall distribute the amount remaining among the various taxing 12908  
districts in the county as if it had been levied, collected, and 12909  
settled as real property taxes. The amount distributed to each 12910  
taxing district shall be reduced by the total of the amounts 12911  
computed for the district under ~~divisions (A), (B), and (C)~~ of 12912  
section 5703.80 of the Revised Code, but the reduction shall not 12913  
exceed the amount that otherwise would be distributed to the 12914  
taxing district under this division. The tax commissioner shall 12915  
make available to taxing districts such information as is 12916  
sufficient for a taxing district to be able to determine the 12917  
amount of the reduction in its distribution under this section. 12918

(G)(1) Within thirty days after the day of the settlement 12919  
required in division (D) of this section, the county treasurer 12920  
shall notify the tax commissioner that the settlement has been 12921  
completed. Upon receipt of that notification, the commissioner 12922  
shall provide for payment to the county treasurer from the general 12923  
revenue fund of an amount equal to the amount certified under 12924  
former section 319.311 of the Revised Code and paid in the state's 12925  
fiscal year 2003 multiplied by the percentage specified in 12926  
division (G)(2) of this section. The payment shall be credited 12927  
upon receipt to the county's undivided income tax fund, and the 12928  
county auditor shall distribute the amount thereof among the 12929  
various taxing districts of the county as if it had been levied, 12930  
collected, and settled as personal property taxes. The amount 12931  
received by a taxing district under this division shall be 12932  
apportioned among its funds in the same proportion as the current 12933  
year's personal property taxes are apportioned. 12934

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:	12935
(a) In fiscal year 2004, ninety per cent;	12936
(b) In fiscal year 2005, eighty per cent;	12937
(c) In fiscal year 2006, <del>seventy</del> <u>sixty-four</u> per cent;	12938
(d) In fiscal year 2007, <del>sixty</del> <u>forty</u> per cent;	12939
(e) In fiscal year 2008, <del>fifty</del> <u>thirty-two</u> per cent;	12940
(f) In fiscal year 2009, <del>forty</del> <u>sixteen</u> per cent;	12941
<del>(g) In fiscal year 2010, thirty per cent;</del>	12942
<del>(h) In fiscal year 2011, twenty per cent;</del>	12943
<del>(i) In fiscal year 2012, ten per cent.</del>	12944
After fiscal year <del>2012</del> <u>2009</u> , no payments shall be made under division (G)(1) of this section.	12945
(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.	12948
(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.	12949
(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.	12950
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(I) Within thirty days after the day of each settlement of taxes required under division (H) of this section, the county treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the current tax year under section 319.302 of the Revised Code. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes.

**Sec. 323.01.** Except as otherwise provided, as used in Chapter 323. of the Revised Code:

(A) "Subdivision" means any county, township, school district, or municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and

interest charged pursuant to section 323.121 of the Revised Code; 12995  
charges added pursuant to section 319.35 of the Revised Code; and 12996  
all of such charges which remain unpaid from any previous tax 12997  
year. 12998

(D) "Current taxes" means all taxes charged against an entry 12999  
on the general tax list and duplicate of real and public utility 13000  
property that have not appeared on such list and duplicate for any 13001  
prior tax year and any penalty thereon charged by division (A) of 13002  
section 323.121 of the Revised Code. Current taxes, whether or not 13003  
they have been certified delinquent, become delinquent taxes if 13004  
they remain unpaid after the last day prescribed for payment of 13005  
the second installment of current taxes without penalty. 13006

(E) "Delinquent taxes" means: 13007

(1) Any taxes charged against an entry on the general tax 13008  
list and duplicate of real and public utility property that were 13009  
charged against an entry on such list and duplicate for a prior 13010  
tax year and any penalties and interest charged against such 13011  
taxes. 13012

(2) Any current taxes charged on the general tax list and 13013  
duplicate of real and public utility property that remain unpaid 13014  
after the last day prescribed for payment of the second 13015  
installment of such taxes without penalty, whether or not they 13016  
have been certified delinquent, and any penalties and interest 13017  
charged against such taxes. 13018

(F) "Current tax year" means, with respect to particular 13019  
taxes, the calendar year in which the first installment of taxes 13020  
is due prior to any extension granted under section 323.17 of the 13021  
Revised Code. 13022

(G) "Liquidated claim" means: 13023

(1) Any sum of money due and payable, upon a written 13024

contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

(2) Any sum of money due and payable, for disability financial assistance ~~or disability medical assistance~~ provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

**Sec. 323.152.** In addition to the reduction in taxes required under section 319.302 of the Revised Code, taxes shall be reduced as provided in divisions (A) and (B) of this section.

(A)(1) Division (A) of this section applies to any of the following:

(a) A person who is permanently and totally disabled;

(b) A person who is sixty-five years of age or older;

(c) A person who is the surviving spouse of a deceased person who was permanently and totally disabled or sixty-five years of age or older and who applied and qualified for a reduction in taxes under this division in the year of death, provided the surviving spouse is at least fifty-nine but not sixty-five or more years of age on the date the deceased spouse dies.

(2) Real property taxes on a homestead owned and occupied, or a homestead in a housing cooperative occupied, by a person to whom division (A) of this section applies shall be reduced for each

year for which the owner obtains a certificate of reduction from 13055  
the county auditor under section 323.154 of the Revised Code or 13056  
for which the occupant obtains a certificate of reduction in 13057  
accordance with section 323.159 of the Revised Code. The reduction 13058  
shall equal the amount obtained by multiplying the tax rate for 13059  
the tax year for which the certificate is issued by the reduction 13060  
in taxable value shown in the following schedule: 13061

	Reduce Taxable Value	
	by the Lesser of:	
Total Income		
\$11,900 or less	\$5,000 or seventy-five per cent	
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent	
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent	
More than \$23,000	-0-	

(3) Each calendar year, the tax commissioner shall adjust the 13068  
foregoing schedule by completing the following calculations in 13069  
September of each year: 13070

(a) Determine the percentage increase in the gross domestic 13071  
product deflator determined by the bureau of economic analysis of 13072  
the United States department of commerce from the first day of 13073  
January of the preceding calendar year to the last day of December 13074  
of the preceding calendar year; 13075

(b) Multiply that percentage increase by each of the total 13076  
income amounts, and by each dollar amount by which taxable value 13077  
is reduced, for the current tax year; 13078

(c) Add the resulting product to each of the total income 13079  
amounts, and to each of the dollar amounts by which taxable value 13080  
is reduced, for the current tax year; 13081

(d)(i) Except as provided in division (A)(3)(d)(ii) of this 13082  
section, round the resulting sum to the nearest multiple of one 13083



hundred dollars; 13084

(ii) If rounding the resulting sum to the nearest multiple of 13085  
one hundred dollars under division (A)(3)(d)(i) of this section 13086  
does not increase the dollar amounts by which taxable value is 13087  
reduced, the resulting sum instead shall be rounded to the nearest 13088  
multiple of ten dollars. 13089

The commissioner shall certify the amounts resulting from the 13090  
adjustment to each county auditor not later than the first day of 13091  
December each year. The certified amounts apply to the following 13092  
tax year. The commissioner shall not make the adjustment in any 13093  
calendar year in which the amounts resulting from the adjustment 13094  
would be less than the total income amounts, or less than the 13095  
dollar amounts by which taxable value is reduced, for the current 13096  
tax year. 13097

(B) ~~Real~~ To provide a partial exemption, real property taxes 13098  
on any homestead, and manufactured home taxes on any manufactured 13099  
or mobile home on which a manufactured home tax is assessed 13100  
pursuant to division (D)(2) of section 4503.06 of the Revised 13101  
Code, shall be reduced for each year for which the owner obtains a 13102  
certificate of reduction from the county auditor under section 13103  
323.154 of the Revised Code. The amount of the reduction shall 13104  
equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which~~ 13105  
~~the of taxes charged and payable to be levied~~ on the homestead or 13106  
the manufactured or mobile home ~~are reduced for such year under~~ 13107  
after applying section ~~319.302~~ 319.301 of the Revised Code. 13108

(C) The reductions granted by this section do not apply to 13109  
special assessments or respread of assessments levied against the 13110  
homestead, and if there is a transfer of ownership subsequent to 13111  
the filing of an application for a reduction in taxes, such 13112  
reductions are not forfeited for such year by virtue of such 13113  
transfer. 13114

(D) The reductions in taxable value referred to in this 13115  
section shall be applied solely as a factor for the purpose of 13116  
computing the reduction of taxes under this section and shall not 13117  
affect the total value of property in any subdivision or taxing 13118  
district as listed and assessed for taxation on the tax lists and 13119  
duplicates, or any direct or indirect limitations on indebtedness 13120  
of a subdivision or taxing district. If after application of 13121  
sections 5705.31 and 5705.32 of the Revised Code, including the 13122  
allocation of all levies within the ten-mill limitation to debt 13123  
charges to the extent therein provided, there would be 13124  
insufficient funds for payment of debt charges not provided for by 13125  
levies in excess of the ten-mill limitation, the reduction of 13126  
taxes provided for in sections 323.151 to 323.159 of the Revised 13127  
Code shall be proportionately adjusted to the extent necessary to 13128  
provide such funds from levies within the ten-mill limitation. 13129

(E) No reduction shall be made on the taxes due on the 13130  
homestead of any person convicted of violating division (C) or (D) 13131  
of section 323.153 of the Revised Code for a period of three years 13132  
following the conviction. 13133

**Sec. 325.31.** (A) On the first business day of each month, and 13134  
at the end of the officer's term of office, each officer named in 13135  
section 325.27 of the Revised Code shall pay into the county 13136  
treasury, to the credit of the general county fund, on the warrant 13137  
of the county auditor, all fees, costs, penalties, percentages, 13138  
allowances, and perquisites collected by the officer's office 13139  
during the preceding month or part thereof for official services, 13140  
except the fees allowed the county auditor by division (B) of 13141  
section 319.54 of the Revised Code, which shall be paid into the 13142  
county treasury to the credit of the real estate assessment fund 13143  
hereby created. 13144

(B) Moneys to the credit of the real estate assessment fund 13145

may be expended, upon appropriation by the board of county  
commissioners, for the purpose of defraying one or more of the  
following:

(1) The cost incurred by the county auditor in assessing real  
estate pursuant to Chapter 5713. of the Revised Code and  
manufactured and mobile homes pursuant to Chapter 4503. of the  
Revised Code;

(2) At the county auditor's discretion, costs and expenses  
incurred by the county auditor in preparing the list of real and  
public utility property, in administering laws related to the  
taxation of real property and the levying of special assessments  
on real property, including administering reductions under  
Chapters 319. and 323. and section 4503.065 of the Revised Code,  
and to support assessments of real property in any administrative  
or judicial proceeding;

(3) At the county auditor's discretion, the expenses incurred  
by the county board of revision under Chapter 5715. of the Revised  
Code;

(4) At the county auditor's discretion, the expenses incurred  
by the county auditor for geographic information systems, mapping  
programs, and technological advances in those or similar systems  
or programs;

(5) At the county auditor's discretion, expenses incurred by  
the county auditor in compiling the general tax list of tangible  
personal property and administering tangible personal property  
taxes under Chapters 5711. and 5719. of the Revised Code;

(6) At the county auditor's discretion, costs, expenses, and  
fees incurred by the county auditor in the administration of  
estate taxes under Chapter 5731. of the Revised Code and the  
amounts incurred under section 5731.41 of the Revised Code.

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Any expenditures made from the real estate assessment fund 13176  
shall comply with rules that the tax commissioner adopts under 13177  
division (O) of section 5703.05 of the Revised Code. Those rules 13178  
shall include a requirement that a copy of any appraisal plans, 13179  
progress of work reports, contracts, or other documents required 13180  
to be filed with the tax commissioner shall be filed also with the 13181  
board of county commissioners. 13182

The board of county commissioners shall not transfer moneys 13183  
required to be deposited in the real estate assessment fund to any 13184  
other fund. Following an assessment of real property pursuant to 13185  
Chapter 5713. of the Revised Code, or an assessment of a 13186  
manufactured or mobile home pursuant to Chapter 4503. of the 13187  
Revised Code, any moneys not expended for the purpose of defraying 13188  
the cost incurred in assessing real estate or manufactured or 13189  
mobile homes or for the purpose of defraying the expenses 13190  
described in divisions (B)(2), (3), (4), (5), and (6) of this 13191  
section, and thereby remaining to the credit of the real estate 13192  
assessment fund, shall be apportioned ratably and distributed to 13193  
those taxing authorities that contributed to the fund. However, no 13194  
such distribution shall be made if the amount of such unexpended 13195  
moneys remaining to the credit of the real estate assessment fund 13196  
does not exceed five thousand dollars. 13197

(C) None of the officers named in section 325.27 of the 13198  
Revised Code shall collect any fees from the county. Each of such 13199  
officers shall, at the end of each calendar year, make and file a 13200  
sworn statement with the board of county commissioners of all such 13201  
fees, costs, penalties, percentages, allowances, and perquisites 13202  
which have been due in the officer's office and unpaid for more 13203  
than one year prior to the date such statement is required to be 13204  
made. 13205

**Sec. 329.04.** (A) The county department of job and family 13206

services shall have, exercise, and perform the following powers and duties: 13207  
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(1) Perform any duties assigned by the state department of job and family services regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or personal dependency and to strengthen family life: 13209  
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(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code; 13214  
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(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 or 5101.461 of the Revised Code; 13216  
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(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services. 13219  
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(d) Duties assigned under section 5111.98 of the Revised Code. 13227  
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(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code; 13229  
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~~(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;~~ 13232  
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~~(4) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board~~ 13235  
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of county commissioners and if otherwise required by state law;	13237
<del>(5)</del> (4) Cooperate with state and federal authorities in any	13238
matter relating to family services and to act as the agent of such	13239
authorities;	13240
<del>(6)</del> (5) Submit an annual account of its work and expenses to	13241
the board of county commissioners and to the state department of	13242
job and family services at the close of each fiscal year;	13243
<del>(7)</del> (6) Exercise any powers and duties relating to family	13244
services duties or workforce development activities imposed upon	13245
the county department of job and family services by law, by	13246
resolution of the board of county commissioners, or by order of	13247
the governor, when authorized by law, to meet emergencies during	13248
war or peace;	13249
<del>(8)</del> (7) Determine the eligibility for medical assistance of	13250
recipients of aid under Title XVI of the "Social Security Act";	13251
<del>(9)</del> (8) If assigned by the state director of job and family	13252
services under section 5101.515 of the Revised Code, determine	13253
applicants' eligibility for health assistance under the children's	13254
health insurance program part II;	13255
<del>(10)</del> (9) Enter into a plan of cooperation with the board of	13256
county commissioners under section 307.983, consult with the board	13257
in the development of the transportation work plan developed under	13258
section 307.985, establish with the board procedures under section	13259
307.986 for providing services to children whose families relocate	13260
frequently, and comply with the contracts the board enters into	13261
under sections 307.981 and 307.982 of the Revised Code that affect	13262
the county department;	13263
<del>(11)</del> (10) For the purpose of complying with a fiscal agreement	13264
the board of county commissioners enters into under section 307.98	13265
of the Revised Code, exercise the powers and perform the duties	13266
the fiscal agreement assigns to the county department;	13267

~~(12)~~(11) If the county department is designated as the 13268  
workforce development agency, provide the workforce development 13269  
activities specified in the contract required by section 330.05 of 13270  
the Revised Code. 13271

(B) The powers and duties of a county department of job and 13272  
family services are, and shall be exercised and performed, under 13273  
the control and direction of the board of county commissioners. 13274  
The board may assign to the county department any power or duty of 13275  
the board regarding family services duties and workforce 13276  
development activities. If the new power or duty necessitates the 13277  
state department of job and family services changing its federal 13278  
cost allocation plan, the county department may not implement the 13279  
power or duty unless the United States department of health and 13280  
human services approves the changes. 13281

**Sec. 329.051.** The county department of job and family 13282  
services shall make voter registration applications as prescribed 13283  
by the secretary of state under section 3503.10 of the Revised 13284  
Code available to persons who are applying for, receiving 13285  
assistance from, or participating in any of the following: 13286

(A) The disability financial assistance program established 13287  
under Chapter 5115. of the Revised Code; 13288

~~(B) The disability medical assistance program established 13289  
under Chapter 5115. of the Revised Code;~~ 13290

~~(C)~~ The medical assistance program established under Chapter 13291  
5111. of the Revised Code; 13292

~~(D)~~(C) The Ohio works first program established under Chapter 13293  
5107. of the Revised Code; 13294

~~(E)~~(D) The prevention, retention, and contingency program 13295  
established under Chapter 5108. of the Revised Code. 13296

**Sec. 339.72.** (A) Each board of county commissioners shall 13297  
provide for the county to be served by a tuberculosis control unit 13298  
by designating a county tuberculosis control unit or by entering 13299  
into an agreement with one or more boards of county commissioners 13300  
of other counties under which the boards jointly designate a 13301  
district tuberculosis control unit. The entity designated as the 13302  
county or district tuberculosis control unit may be any of the 13303  
following: 13304

(1) A communicable disease control program operated by a 13305  
board of health of a city or general health district pursuant to 13306  
section 3709.22 of the Revised Code; 13307

~~(2) A tuberculosis program operated by a county that receives 13308  
funds pursuant to section 339.77 of the Revised Code; 13309~~

~~(3) A tuberculosis clinic established by a board of county 13310  
commissioners pursuant to section 339.76 of the Revised Code; 13311~~

~~(4)~~(3) A hospital that provides tuberculosis clinic services 13312  
under a contract with a board of county commissioners pursuant to 13313  
section 339.75 of the Revised Code. 13314

(B) The entity designated under division (A) of this section 13315  
as the tuberculosis control unit shall accept that designation and 13316  
fulfill its duties as the tuberculosis control unit specified 13317  
under sections 339.71 to 339.89 of the Revised Code. 13318

**Sec. 339.88.** The expenses incurred for detention under 13319  
section 339.86 or 339.87 of the Revised Code shall be paid by the 13320  
individual detained or if the individual is indigent, by the board 13321  
of county commissioners of the county from which the individual 13322  
was removed. ~~The board of county commissioners may apply to the 13323  
director of health for reimbursement under section 339.77 of the 13324  
Revised Code for expenses of detaining indigent individuals with 13325  
tuberculosis. 13326~~



Sec. 340.03. (A) Subject to rules issued by the director of 13327  
mental health after consultation with relevant constituencies as 13328  
required by division (A)(11) of section 5119.06 of the Revised 13329  
Code, with regard to mental health services, the board of alcohol, 13330  
drug addiction, and mental health services shall: 13331

(1) Serve as the community mental health planning agency for 13332  
the county or counties under its jurisdiction, and in so doing it 13333  
shall: 13334

(a) Evaluate the need for facilities and community mental 13335  
health services; 13336

(b) In cooperation with other local and regional planning and 13337  
funding bodies and with relevant ethnic organizations, assess the 13338  
community mental health needs, set priorities, and develop plans 13339  
for the operation of facilities and community mental health 13340  
services; 13341

(c) In accordance with guidelines issued by the director of 13342  
mental health after consultation with board representatives, 13343  
develop and submit to the department of mental health, no later 13344  
than six months prior to the conclusion of the fiscal year in 13345  
which the board's current plan is scheduled to expire, a community 13346  
mental health plan listing community mental health needs, 13347  
including the needs of all residents of the district now residing 13348  
in state mental institutions and severely mentally disabled 13349  
adults, children, and adolescents; all children subject to a 13350  
determination made pursuant to section 121.38 of the Revised Code; 13351  
and all the facilities and community mental health services that 13352  
are or will be in operation or provided during the period for 13353  
which the plan will be in operation in the service district to 13354  
meet such needs. 13355

The plan shall include, but not be limited to, a statement of 13356

which of the services listed in section 340.09 of the Revised Code 13357  
the board intends to provide or purchase, an explanation of how 13358  
the board intends to make any payments that it may be required to 13359  
pay under section 5119.62 of the Revised Code, a statement of the 13360  
inpatient and community-based services the board proposes that the 13361  
department operate, an assessment of the number and types of 13362  
residential facilities needed, and such other information as the 13363  
department requests, and a budget for moneys the board expects to 13364  
receive. The board shall also submit an allocation request for 13365  
state and federal funds. Within sixty days after the department's 13366  
determination that the plan and allocation request are complete, 13367  
the department shall approve or disapprove the plan and request, 13368  
in whole or in part, according to the criteria developed pursuant 13369  
to section 5119.61 of the Revised Code. The department's statement 13370  
of approval or disapproval shall specify the inpatient and the 13371  
community-based services that the department will operate for the 13372  
board. Eligibility for financial support shall be contingent upon 13373  
an approved plan or relevant part of a plan. 13374

If the director disapproves all or part of any plan, the 13375  
director shall inform the board of the reasons for the disapproval 13376  
and of the criteria that must be met before the plan may be 13377  
approved. The director shall provide the board an opportunity to 13378  
present its case on behalf of the plan. The director shall give 13379  
the board a reasonable time in which to meet the criteria, and 13380  
shall offer the board technical assistance to help it meet the 13381  
criteria. 13382

If the approval of a plan remains in dispute thirty days 13383  
prior to the conclusion of the fiscal year in which the board's 13384  
current plan is scheduled to expire, the board or the director may 13385  
request that the dispute be submitted to a mutually agreed upon 13386  
third-party mediator with the cost to be shared by the board and 13387  
the department. The mediator shall issue to the board and the 13388

department recommendations for resolution of the dispute. Prior to 13389  
the conclusion of the fiscal year in which the current plan is 13390  
scheduled to expire, the director, taking into consideration the 13391  
recommendations of the mediator, shall make a final determination 13392  
and approve or disapprove the plan, in whole or in part. 13393

If a board determines that it is necessary to amend a plan or 13394  
an allocation request that has been approved under division 13395  
(A)(1)(c) of this section, the board shall submit a proposed 13396  
amendment to the director. The director may approve or disapprove 13397  
all or part of the amendment. If the director does not approve all 13398  
or part of the amendment within thirty days after it is submitted, 13399  
the amendment or part of it shall be considered to have been 13400  
approved. The director shall inform the board of the reasons for 13401  
disapproval of all or part of an amendment and of the criteria 13402  
that must be met before the amendment may be approved. The 13403  
director shall provide the board an opportunity to present its 13404  
case on behalf of the amendment. The director shall give the board 13405  
a reasonable time in which to meet the criteria, and shall offer 13406  
the board technical assistance to help it meet the criteria. 13407

The board shall implement the plan approved by the 13408  
department. 13409

(d) Receive, compile, and transmit to the department of 13410  
mental health applications for state reimbursement; 13411

(e) Promote, arrange, and implement working agreements with 13412  
social agencies, both public and private, and with judicial 13413  
agencies. 13414

(2) Investigate, or request another agency to investigate, 13415  
any complaint alleging abuse or neglect of any person receiving 13416  
services from a community mental health agency as defined in 13417  
section 5122.01 of the Revised Code, or from a residential 13418  
facility licensed under section 5119.22 of the Revised Code. If 13419

the investigation substantiates the charge of abuse or neglect, 13420  
the board shall take whatever action it determines is necessary to 13421  
correct the situation, including notification of the appropriate 13422  
authorities. Upon request, the board shall provide information 13423  
about such investigations to the department. 13424

(3) For the purpose of section 5119.611 of the Revised Code, 13425  
cooperate with the director of mental health in visiting and 13426  
evaluating whether the services of a community mental health 13427  
agency satisfy the certification standards established by rules 13428  
adopted under that section; 13429

(4) In accordance with criteria established under division 13430  
(G) of section 5119.61 of the Revised Code, review and evaluate 13431  
the quality, effectiveness, and efficiency of services provided 13432  
through its community mental health plan and submit its findings 13433  
and recommendations to the department of mental health; 13434

(5) In accordance with section 5119.22 of the Revised Code, 13435  
review applications for residential facility licenses and 13436  
recommend to the department of mental health approval or 13437  
disapproval of applications; 13438

(6) Audit, in accordance with rules adopted by the auditor of 13439  
state pursuant to section 117.20 of the Revised Code, at least 13440  
annually all programs and services provided under contract with 13441  
the board. In so doing, the board may contract for or employ the 13442  
services of private auditors. A copy of the fiscal audit report 13443  
shall be provided to the director of mental health, the auditor of 13444  
state, and the county auditor of each county in the board's 13445  
district. 13446

(7) Recruit and promote local financial support for mental 13447  
health programs from private and public sources; 13448

(8)(a) Enter into contracts with public and private 13449  
facilities for the operation of facility services included in the 13450

board's community mental health plan and enter into contracts with 13451  
public and private community mental health agencies for the 13452  
provision of community mental health services listed in section 13453  
340.09 of the Revised Code and included in the board's community 13454  
mental health plan. Contracts with community mental health 13455  
agencies are subject to section 5119.611 of the Revised Code. 13456  
Section 307.86 of the Revised Code does not apply to contracts 13457  
entered into under this division. In contracting with a community 13458  
mental health agency, a board shall consider the cost 13459  
effectiveness of services provided by that agency and the quality 13460  
and continuity of care, and may review cost elements, including 13461  
salary costs, of the services to be provided. A utilization review 13462  
process shall be established as part of the contract for services 13463  
entered into between a board and a community mental health agency. 13464  
The board may establish this process in a way that is most 13465  
effective and efficient in meeting local needs. In the case of a 13466  
contract with a community mental health facility, as defined in 13467  
section ~~5111.022~~ 5111.023 of the Revised Code, to provide services 13468  
listed in division (B) of that section, the contract shall provide 13469  
for the facility to be paid in accordance with the contract 13470  
entered into between the departments of job and family services 13471  
and mental health under section 5111.91 of the Revised Code and 13472  
any rules adopted under division (A) of section 5119.61 of the 13473  
Revised Code. 13474

If either the board or a facility or community mental health 13475  
agency with which the board contracts under division (A)(8)(a) of 13476  
this section proposes not to renew the contract or proposes 13477  
substantial changes in contract terms, the other party shall be 13478  
given written notice at least one hundred twenty days before the 13479  
expiration date of the contract. During the first sixty days of 13480  
this one hundred twenty-day period, both parties shall attempt to 13481  
resolve any dispute through good faith collaboration and 13482

negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board

of county commissioners, or of a majority of the boards of county  
commissioners if the district is a joint-county district. 13514  
13515

The director shall not give a board approval to operate a  
facility or provide a community mental health service under 13516  
division (A)(8)(b)(ii) or (iii) of this section unless the 13517  
director determines that it is not feasible to have the department 13518  
operate the facility or provide the service. 13519  
13520

The director shall not give a board approval to operate a  
facility or provide a community mental health service under 13521  
division (A)(8)(b)(iii) of this section unless the director 13522  
determines that the board will provide greater administrative 13523  
efficiency and more or better services than would be available if 13524  
the board contracted with a private or public facility or 13525  
community mental health agency. 13526  
13527

The director shall not give a board approval to operate a  
facility previously operated by a person or other government 13528  
entity unless the board has established to the director's 13529  
satisfaction that the person or other government entity cannot 13530  
effectively operate the facility or that the person or other 13531  
government entity has requested the board to take over operation 13532  
of the facility. The director shall not give a board approval to 13533  
provide a community mental health service previously provided by a 13534  
community mental health agency unless the board has established to 13535  
the director's satisfaction that the agency cannot effectively 13536  
provide the service or that the agency has requested the board 13537  
take over providing the service. 13538  
13539

The director shall review and evaluate a board's operation of  
a facility and provision of community mental health service under 13540  
division (A)(8)(b) of this section. 13541  
13542

Nothing in division (A)(8)(b) of this section authorizes a  
board to administer or direct the daily operation of any facility 13543  
13544

or community mental health agency, but a facility or agency may 13545  
contract with a board to receive administrative services or staff 13546  
direction from the board under the direction of the governing body 13547  
of the facility or agency. 13548

(9) Approve fee schedules and related charges or adopt a unit 13549  
cost schedule or other methods of payment for contract services 13550  
provided by community mental health agencies in accordance with 13551  
guidelines issued by the department as necessary to comply with 13552  
state and federal laws pertaining to financial assistance; 13553

(10) Submit to the director and the county commissioners of 13554  
the county or counties served by the board, and make available to 13555  
the public, an annual report of the programs under the 13556  
jurisdiction of the board, including a fiscal accounting; 13557

(11) Establish, to the extent resources are available, a 13558  
community support system, which provides for treatment, support, 13559  
and rehabilitation services and opportunities. The essential 13560  
elements of the system include, but are not limited to, the 13561  
following components in accordance with section 5119.06 of the 13562  
Revised Code: 13563

(a) To locate persons in need of mental health services to 13564  
inform them of available services and benefits mechanisms; 13565

(b) Assistance for clients to obtain services necessary to 13566  
meet basic human needs for food, clothing, shelter, medical care, 13567  
personal safety, and income; 13568

(c) Mental health care, including, but not limited to, 13569  
outpatient, partial hospitalization, and, where appropriate, 13570  
inpatient care; 13571

(d) Emergency services and crisis intervention; 13572

(e) Assistance for clients to obtain vocational services and 13573  
opportunities for jobs; 13574



(f) The provision of services designed to develop social, community, and personal living skills;	13575 13576
(g) Access to a wide range of housing and the provision of residential treatment and support;	13577 13578
(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;	13579 13580 13581
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;	13582 13583 13584 13585 13586
(j) Grievance procedures and protection of the rights of consumers of mental health services;	13587 13588
(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	13589 13590 13591
(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.	13592 13593 13594 13595 13596 13597 13598 13599 13600 13601 13602 13603 13604 13605

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section 3722.18 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties

as may be necessary or proper to carry out the purposes of this 13637  
chapter. 13638

(C) A board of alcohol, drug addiction, and mental health 13639  
services may receive by gift, grant, devise, or bequest any 13640  
moneys, lands, or property for the benefit of the purposes for 13641  
which the board is established, and may hold and apply it 13642  
according to the terms of the gift, grant, or bequest. All money 13643  
received, including accrued interest, by gift, grant, or bequest 13644  
shall be deposited in the treasury of the county, the treasurer of 13645  
which is custodian of the alcohol, drug addiction, and mental 13646  
health services funds to the credit of the board and shall be 13647  
available for use by the board for purposes stated by the donor or 13648  
grantor. 13649

(D) No board member or employee of a board of alcohol, drug 13650  
addiction, and mental health services shall be liable for injury 13651  
or damages caused by any action or inaction taken within the scope 13652  
of the board member's official duties or the employee's 13653  
employment, whether or not such action or inaction is expressly 13654  
authorized by this section, section 340.033, or any other section 13655  
of the Revised Code, unless such action or inaction constitutes 13656  
willful or wanton misconduct. Chapter 2744. of the Revised Code 13657  
applies to any action or inaction by a board member or employee of 13658  
a board taken within the scope of the board member's official 13659  
duties or employee's employment. For the purposes of this 13660  
division, the conduct of a board member or employee shall not be 13661  
considered willful or wanton misconduct if the board member or 13662  
employee acted in good faith and in a manner that the board member 13663  
or employee reasonably believed was in or was not opposed to the 13664  
best interests of the board and, with respect to any criminal 13665  
action or proceeding, had no reasonable cause to believe the 13666  
conduct was unlawful. 13667

(E) The meetings held by any committee established by a board 13668

of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

**Sec. 340.16.** Not later than ninety days after ~~the effective date of this section~~ September 5, 2001, the department of mental health and the department of job and family services shall adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services when a public children services agency refers a child in its custody to a board for services funded by the board. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

The department of mental health and department of job and family services shall collaborate in formulating a plan that delineates the funding responsibilities of public children services agencies and boards of alcohol, drug addiction, and mental health services for services provided under section ~~5111.022~~ 5111.023 of the Revised Code to children in the custody of public children services agencies. The departments shall complete the plan not later than ninety days after ~~the effective date of this section~~ September 5, 2001.

**Sec. 341.192.** (A) As used in this section:

(1) "Medical assistance program" has the same meaning as in section 2913.40 of the Revised Code.

(2) "Medical provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to a county or the department of rehabilitation and correction to provide medical services to persons confined in the county jail or a state correctional

institution. 13699

(3) "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a county jail or a state correctional institution or is in the custody of a law enforcement officer without endangering the life or health of the person. 13700  
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(B) If a physician employed by or under contract to a county or the department of rehabilitation and correction to provide medical services to persons confined in the county jail or state correctional institution determines that a person who is confined in the county jail or a state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in the county jail or a state correctional institution requires necessary care that the physician cannot provide, the necessary care shall be provided by a medical provider. The county or the department of rehabilitation and correction shall pay a medical provider for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the department of job and family services under the medical assistance program. 13706  
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**Sec. 731.14.** All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code ~~or~~, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, when any expenditure, other than the compensation of persons 13720  
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employed in the village, exceeds twenty-five thousand dollars, 13730  
such contracts shall be in writing and made with the lowest and 13731  
best bidder after advertising for not less than two nor more than 13732  
four consecutive weeks in a newspaper of general circulation 13733  
within the village. The bids shall be opened and shall be publicly 13734  
read by the clerk of the village or a person designated by the 13735  
clerk at the time, date, and place specified in the advertisement 13736  
to bidders or specifications. The time, date, and place of bid 13737  
openings may be extended to a later date by the legislative 13738  
authority of the village, provided that written or oral notice of 13739  
the change shall be given to all persons who have received or 13740  
requested specifications no later than ninety-six hours prior to 13741  
the original time and date fixed for the opening. This section 13742  
does not apply to those villages that have provided for the 13743  
appointment of a village administrator under section 735.271 of 13744  
the Revised Code. 13745

**Sec. 731.141.** In those villages that have established the 13746  
position of village administrator, as provided by section 735.271 13747  
of the Revised Code, the village administrator shall make 13748  
contracts, purchase supplies and materials, and provide labor for 13749  
any work under the administrator's supervision involving not more 13750  
than twenty-five thousand dollars. When an expenditure, other than 13751  
the compensation of persons employed by the village, exceeds 13752  
twenty-five thousand dollars, the expenditure shall first be 13753  
authorized and directed by ordinance of the legislative authority 13754  
of the village. When so authorized and directed, except where the 13755  
contract is for equipment, services, materials, or supplies to be 13756  
purchased under division (D) of section 713.23 or section 125.04 13757  
or 5513.01 of the Revised Code ~~or~~, available from a qualified 13758  
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 13759  
Revised Code, or required to be purchased from a qualified 13760  
nonprofit agency under sections 125.60 to 125.6012 of the Revised 13761

Code, the village administrator shall make a written contract with 13762  
the lowest and best bidder after advertisement for not less than 13763  
two nor more than four consecutive weeks in a newspaper of general 13764  
circulation within the village. The bids shall be opened and shall 13765  
be publicly read by the village administrator or a person 13766  
designated by the village administrator at the time, date, and 13767  
place as specified in the advertisement to bidders or 13768  
specifications. The time, date, and place of bid openings may be 13769  
extended to a later date by the village administrator, provided 13770  
that written or oral notice of the change shall be given to all 13771  
persons who have received or requested specifications no later 13772  
than ninety-six hours prior to the original time and date fixed 13773  
for the opening. All contracts shall be executed in the name of 13774  
the village and signed on its behalf by the village administrator 13775  
and the clerk. 13776

The legislative authority of a village may provide, by 13777  
ordinance, for central purchasing for all offices, departments, 13778  
divisions, boards, and commissions of the village, under the 13779  
direction of the village administrator, who shall make contracts, 13780  
purchase supplies or materials, and provide labor for any work of 13781  
the village in the manner provided by this section. 13782

**Sec. 742.59.** The board of trustees of the Ohio police and 13783  
fire pension fund shall be the trustee of the funds created as 13784  
follows: 13785

(A) The "police officers' contribution fund" is the fund in 13786  
which shall be credited the contributions deducted from the 13787  
salaries of members of police departments and paid into the Ohio 13788  
police and fire pension fund, as provided by section 742.31 of the 13789  
Revised Code, and that percentage of the employers' accrued 13790  
liability that is attributable to deductions previously made from 13791  
the salaries of members of the police department who are still in 13792

the active service at the time that portion of the employers' 13793  
accrued liability is paid. The accumulated contributions of a 13794  
member of a police department shall be transferred at the member's 13795  
retirement from the police officers' contribution fund to the 13796  
police officers' pension reserve fund. 13797

(B) The "firefighters' contribution fund" is the fund in 13798  
which shall be credited contributions deducted from the salaries 13799  
of members of fire departments and paid into the Ohio police and 13800  
fire pension fund, as provided by section 742.31 of the Revised 13801  
Code, and that percentage of the employers' accrued liability that 13802  
is attributable to deductions previously made from the salaries of 13803  
members of the fire department who are still in the active service 13804  
at the time that portion of the employers' accrued liability is 13805  
paid. The accumulated contributions of a member of a fire 13806  
department shall be transferred at the member's retirement from 13807  
the firefighters' contribution fund to the firefighters' pension 13808  
reserve fund. 13809

(C) The "police officer employers' contribution fund" is the 13810  
fund to which the following shall be credited: 13811

(1) The police officer employers' contribution, as provided 13812  
by section 742.33 of the Revised Code, ~~and that;~~ 13813

(2) The percentage of the employers' accrued liability that 13814  
is attributable to the employers' liability for prior service of 13815  
members of the police department who are still in the active 13816  
service at the time that portion of the employers' accrued 13817  
liability is paid, ~~and that portion of the state contribution~~ 13818  
~~allocated to such fund, as provided by section 742.36 of the~~ 13819  
~~Revised Code, shall be credited, and in which shall be~~ 13820  
~~accumulated.~~ 13821

In the police officer employers' contribution fund shall 13822  
accumulate the reserves held in trust for the payment of all 13823



pensions or other benefits provided by sections 742.01 to 742.61 13824  
of the Revised Code to members of a police department retiring in 13825  
the future or their qualified beneficiaries and from which the 13826  
reserves for such pensions and other benefits shall be transferred 13827  
to the police officers' pension reserve fund. 13828

(D) The "firefighter employers' contribution fund" is the 13829  
fund to which the following shall be credited: 13830

(1) The firefighter employers' contribution, as provided in 13831  
section 742.34 of the Revised Code, ~~and that;~~ 13832

(2) The percentage of the employers' accrued liability that 13833  
is attributable to the employers' liability for prior service for 13834  
members of the fire department who are still in the active service 13835  
at the time that portion of the employers' accrued liability is 13836  
paid, ~~and that portion of the state contribution allocated to such~~ 13837  
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 13838  
~~credited, and in which shall be accumulated.~~ 13839

In the firefighter employers' contribution fund shall 13840  
accumulate the reserves held in trust for the payment of all 13841  
pensions and other benefits provided by sections 742.01 to 742.61 13842  
of the Revised Code to members of a fire department retiring in 13843  
the future or their qualified beneficiaries and from which the 13844  
reserves for such pensions and other benefits shall be transferred 13845  
to the firefighters' pension reserve fund. 13846

(E) The "police officers' pension reserve fund" is the fund 13847  
from which shall be paid all pensions and other benefits for which 13848  
reserves have been transferred from the police officers' 13849  
contribution fund and the police officer employers' contribution 13850  
fund, and to which shall be credited that percentage of the 13851  
employers' accrued liability that is attributable to the total of 13852  
deductions previously made from the salaries of members of the 13853  
police department who are retired and are receiving pensions or 13854

other benefits, or whose beneficiaries are receiving benefits, at 13855  
the time that portion of the employers' accrued liability is paid, 13856  
and that percentage of the employers' accrued liability that is 13857  
attributable to prior service of members of the police department 13858  
who are retired and are receiving pensions or other benefits, or 13859  
whose beneficiaries are receiving benefits, at the time that 13860  
portion of the employers' accrued liability is paid. 13861

(F) The "firefighters' pension reserve fund" is the fund from 13862  
which shall be paid all pensions and other benefits for which 13863  
reserves have been transferred from the firefighters' contribution 13864  
fund and the firefighter employers' contribution fund, and to 13865  
which shall be credited that percentage of the employers' accrued 13866  
liability that is attributable to the total of deductions 13867  
previously made from the salaries of members of the fire 13868  
department who are retired and are receiving pensions or other 13869  
benefits, or whose beneficiaries are receiving benefits, at the 13870  
time that portion of the employers' accrued liability is paid, and 13871  
that percentage of the employers' accrued liability that is 13872  
attributable to prior service of members of the fire department 13873  
who are retired and are receiving pensions or other benefits, or 13874  
whose beneficiaries are receiving benefits, at the time that 13875  
portion of the employers' accrued liability is paid. 13876

(G) The "guarantee fund" is the fund from which interest is 13877  
transferred and credited on the amounts in the funds described in 13878  
divisions (C), (D), (E), and (F) of this section, and is a 13879  
contingent fund from which the special requirements of said funds 13880  
may be paid by transfer from this fund. All income derived from 13881  
the investment of funds by the board of trustees of the Ohio 13882  
police and fire pension fund as trustee under section 742.11 of 13883  
the Revised Code, together with all gifts and bequests or the 13884  
income therefrom, shall be paid into this fund. 13885

Any deficit occurring in any other fund that will not be 13886

covered by payments to that fund, as otherwise provided by 13887  
sections 742.01 to 742.61 of the Revised Code, shall be paid by 13888  
transfers of amounts from the guarantee fund to such fund or 13889  
funds. Should the amount in the guarantee fund be insufficient at 13890  
any time to meet the amounts payable therefrom, the amount of such 13891  
deficiency, with regular interest, shall be paid by an additional 13892  
employer rate of current contribution as determined by the actuary 13893  
and shall be approved by the board of trustees of the Ohio police 13894  
and fire pension fund, and the amount of such additional employer 13895  
contribution shall be credited to the guarantee fund. 13896

The board may accept gifts and bequests. Any funds that may 13897  
come into the possession of the board in this manner, or any other 13898  
funds whose disposition is not otherwise provided for, shall be 13899  
credited to the guarantee fund. 13900

(H) The "expense fund" is the fund from which shall be paid 13901  
the expenses for the administration and management of the Ohio 13902  
police and fire pension fund, as provided by sections 742.01 to 13903  
742.61 of the Revised Code, and to which shall be credited from 13904  
the guarantee fund an amount sufficient to pay the expenses of 13905  
operation. 13906

**Sec. 901.43.** (A) The director of agriculture may authorize 13907  
any department of agriculture laboratory to perform a laboratory 13908  
service for any person, organization, political subdivision, state 13909  
agency, federal agency, or other entity, whether public or 13910  
private. The director shall adopt and enforce rules to provide for 13911  
the rendering of a laboratory service. 13912

(B) The director may charge a reasonable fee for the 13913  
performance of a laboratory service, except when the service is 13914  
performed on an official sample taken by the director acting 13915  
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the 13916  
Revised Code; by a board of health acting as the licensor of 13917

retail food establishments or food service operations under 13918  
Chapter 3717. of the Revised Code; or by the director of health 13919  
acting as the licensor of food service operations under Chapter 13920  
3717. of the Revised Code. The director of agriculture shall adopt 13921  
rules specifying what constitutes an official sample. 13922

The director shall publish a list of laboratory services 13923  
offered, together with the fee for each service. 13924

(C) The director may enter into a contract with any person, 13925  
organization, political subdivision, state agency, federal agency, 13926  
or other entity for the provision of a laboratory service. 13927

(D)(1) The director may adopt rules establishing standards 13928  
for accreditation of laboratories and laboratory services and in 13929  
doing so may adopt by reference existing or recognized standards 13930  
or practices. 13931

(2) The director may inspect and accredit laboratories and 13932  
laboratory services, and may charge a reasonable fee for the 13933  
inspections and accreditation. 13934

(E)(1) ~~All~~ There is hereby created in the state treasury the 13935  
animal health and food safety fund. Moneys from the following 13936  
sources shall be deposited into the state treasury to the credit 13937  
of the fund: all moneys collected by the director under this 13938  
section that are from fees generated by a laboratory service 13939  
performed by the department and related to the diseases of 13940  
animals, ~~and~~ all moneys so collected that are from fees generated 13941  
for the inspection and accreditation of laboratories and 13942  
laboratory services related to the diseases of animals, ~~shall be~~ 13943  
~~deposited in the animal industry laboratory fund, which is hereby~~ 13944  
~~created in the state treasury. The director shall use the moneys~~ 13945  
~~in the animal industry laboratory fund to pay the expenses~~ 13946  
~~necessary to operate the animal industry laboratory, including the~~ 13947  
~~purchase of supplies and equipment.~~ 13948

~~(2) All~~ all moneys collected by the director under this 13949  
section that are from fees generated by a laboratory service 13950  
performed by the consumer analytical laboratory, and all moneys so 13951  
collected that are from fees generated for the inspection and 13952  
accreditation of laboratories and laboratory services not related 13953  
to weights and measures ~~or the diseases of animals, shall be~~ 13954  
~~deposited in the laboratory services fund, which is hereby created~~ 13955  
~~in the state treasury.~~ The director may use the moneys held in the 13956  
fund ~~may be used~~ to pay the expenses necessary to operate the 13957  
animal industry laboratory and the consumer analytical laboratory, 13958  
including the purchase of supplies and equipment. 13959

~~(3)~~(2) All moneys collected by the director under this 13960  
section that are from fees generated by a laboratory service 13961  
performed by the weights and measures laboratory, and all moneys 13962  
so collected that are from fees generated for the inspection and 13963  
accreditation of laboratories and laboratory services related to 13964  
weights and measures, shall be deposited in the state treasury to 13965  
the credit of the weights and measures laboratory fund, which is 13966  
hereby created in the state treasury. The moneys held in the fund 13967  
may be used to pay the expenses necessary to operate the division 13968  
of weights and measures, including the purchase of supplies and 13969  
equipment. 13970

Sec. 901.44. There is hereby created in the state treasury 13971  
the laboratory and administrative support fund. The department of 13972  
agriculture shall deposit the following moneys received by the 13973  
department to the credit of the fund: payment for the rental of 13974  
the department's auditoriums by outside parties and reimbursement 13975  
for related utility expenses, laboratory fees that are not 13976  
designated for deposit into another fund, and other miscellaneous 13977  
moneys that are not designated for deposit into another fund. The 13978  
department may use moneys in the fund to pay costs associated with 13979

any program of the department as the director of agriculture sees 13980  
fit. 13981

**Sec. 903.05.** (A) Each application for a permit to install or 13982  
permit to operate a concentrated animal feeding facility that is 13983  
submitted by an applicant who has not operated a concentrated 13984  
animal feeding facility in this state for at least two of the five 13985  
years immediately preceding the submission of the application 13986  
shall be accompanied by all of the following: 13987

(1) A listing of all ~~concentrated~~ animal feeding facilities 13988  
that the owner or operator of the proposed new or modified 13989  
concentrated animal feeding facility has operated or is operating 13990  
in this state; 13991

(2) A listing of the ~~concentrated~~ animal feeding facilities 13992  
that the owner or operator has operated or is operating elsewhere 13993  
in the United States and that are regulated under the Federal 13994  
Water Pollution Control Act together with a listing of the 13995  
~~concentrated~~ animal feeding facilities that the owner or operator 13996  
has operated or is operating outside the United States; 13997

(3) A listing of all administrative enforcement orders issued 13998  
to the owner or operator, all civil actions in which the owner or 13999  
operator was determined by the trier of fact to be liable in 14000  
damages or was the subject of injunctive relief or another type of 14001  
civil relief, and all criminal actions in which the owner or 14002  
operator pleaded guilty or was convicted, during the five years 14003  
immediately preceding the submission of the application, in 14004  
connection with any violation of the federal Water Pollution 14005  
Control Act, the "Safe Drinking Water Act," as defined in section 14006  
6109.01 of the Revised Code, or any other applicable state laws 14007  
pertaining to environmental protection that was alleged to have 14008  
occurred or to be occurring at any ~~concentrated~~ animal feeding 14009

facility that the owner or operator has operated or is operating 14010  
in the United States or with any violation of the environmental 14011  
laws of another country that was alleged to have occurred or to be 14012  
occurring at any ~~concentrated~~ animal feeding facility that the 14013  
owner or operator has operated or is operating outside the United 14014  
States. 14015

The lists of ~~concentrated~~ animal feeding facilities operated 14016  
by the owner or operator within or outside this state or outside 14017  
the United States shall include, respectively, all such facilities 14018  
operated by the owner or operator during the five-year period 14019  
immediately preceding the submission of the application. 14020

(B) If the applicant for a permit to install or permit to 14021  
operate has been involved in any prior activity involving the 14022  
operation of a ~~concentrated~~ an animal feeding facility, the 14023  
director of agriculture may deny the application if the director 14024  
finds from the application, the information submitted under 14025  
divisions (A)(1) to (3) of this section, pertinent information 14026  
submitted to the director, and other pertinent information 14027  
obtained by the director at the director's discretion that the 14028  
applicant and persons associated with the applicant, in the 14029  
operation of ~~concentrated~~ animal feeding facilities, have a 14030  
history of substantial noncompliance with the Federal Water 14031  
Pollution Control Act, the "Safe Drinking Water Act," as defined 14032  
in section 6109.01 of the Revised Code, any other applicable state 14033  
laws pertaining to environmental protection, or the environmental 14034  
laws of another country that indicates that the applicant lacks 14035  
sufficient reliability, expertise, and competence to operate the 14036  
proposed new or modified concentrated animal feeding facility in 14037  
substantial compliance with this chapter and rules adopted under 14038  
it. 14039

(C) A person who seeks to acquire a concentrated animal 14040  
feeding facility that has been issued an installation permit that 14041

has been transferred from the director of environmental protection 14042  
to the director of agriculture, a permit to install, or a permit 14043  
to operate shall submit to the director the information specified 14044  
in divisions (A)(1) to (3) of this section prior to the transfer 14045  
of the permit. The permit shall not be transferred as otherwise 14046  
provided in division (I) of section 903.09 of the Revised Code if 14047  
the director finds from the information submitted under divisions 14048  
(A)(1) to (3) of this section, pertinent information submitted to 14049  
the director, and other pertinent information obtained by the 14050  
director at the director's discretion that the person, in the 14051  
operation of ~~concentrated~~ animal feeding facilities, has a history 14052  
of substantial noncompliance with the Federal Water Pollution 14053  
Control Act, the "Safe Drinking Water Act," as defined in section 14054  
6109.01 of the Revised Code, any other applicable state laws 14055  
pertaining to environmental protection, or the environmental laws 14056  
of another country that indicates that the person lacks sufficient 14057  
reliability, expertise, and competence to operate the concentrated 14058  
animal feeding facility in substantial compliance with this 14059  
chapter and rules adopted under it. 14060

**Sec. 905.32.** (A) No person shall manufacture or distribute in 14061  
this state any type of fertilizer until a license to manufacture 14062  
or distribute has been obtained by the manufacturer or distributor 14063  
from the department of agriculture upon payment of a five dollar 14064  
fee: 14065

(1) For each fixed (permanent) location at which fertilizer 14066  
is manufactured in this state; 14067

(2) For each mobile unit used to manufacture fertilizer in 14068  
this state; 14069

(3) For each location out of the state from which fertilizer 14070  
is distributed in this state to nonlicensees. 14071



All licenses ~~expire on the thirtieth day of June of each~~ 14072  
shall be valid for one year beginning on the first day of December 14073  
of a calendar year through the thirtieth day of November of the 14074  
following calendar year. A renewal application for a license shall 14075  
be submitted ~~no earlier than the first day of June each year and~~ 14076  
no later than the thirtieth day of ~~June~~ November each year. A 14077  
person who submits a renewal application for a license after the 14078  
thirtieth day of ~~June~~ November shall include with the application 14079  
a late filing fee of ten dollars. 14080

(B) An application for license shall include: 14081

(1) The name and address of the licensee; 14082

(2) The name and address of each bulk distribution point in 14083  
the state, not licensed for fertilizer manufacture and 14084  
distribution. 14085

The name and address shown on the license shall be shown on 14086  
all labels, pertinent invoices, and bulk storage for fertilizers 14087  
distributed by the licensee in this state. 14088

(C) The licensee shall inform the director of agriculture in 14089  
writing of additional distribution points established during the 14090  
period of the license. 14091

**Sec. 905.33.** (A) Except as provided in division (C) of this 14092  
section, no person shall distribute in this state a specialty 14093  
fertilizer until it is registered by the manufacturer or 14094  
distributor with the department of agriculture. An application, in 14095  
duplicate, for each brand and product name of each grade of 14096  
specialty fertilizer shall be made on a form furnished by the 14097  
director of agriculture and shall be accompanied with a fee of 14098  
fifty dollars for each brand and product name of each grade. 14099  
Labels for each brand and product name of each grade shall 14100  
accompany the application. Upon the approval of an application by 14101

the director, a copy of the registration shall be furnished the 14102  
applicant. All registrations ~~expire on the thirtieth day of June~~ 14103  
~~of each shall be valid for one year beginning on the first day of~~ 14104  
December of a calendar year through the thirtieth day of November 14105  
of the following calendar year. 14106

(B) An application for registration shall include the 14107  
following: 14108

(1) Name and address of the manufacturer or distributor; 14109

(2) The brand and product name; 14110

(3) The grade; 14111

(4) The guaranteed analysis; 14112

(5) The package sizes for persons that package fertilizers 14113  
only in containers of ten pounds or less. 14114

(C)(1) No person who engages in the business of applying 14115  
custom mixed fertilizer to lawns, golf courses, recreation areas, 14116  
or other real property that is not used for agricultural 14117  
production shall be required to register the custom mixed 14118  
fertilizer as a specialty fertilizer in accordance with division 14119  
(A) of this section if the fertilizer ingredients of the custom 14120  
mixed fertilizer are registered as specialty fertilizers and the 14121  
inspection fee described in division (A) of section 905.36 of the 14122  
Revised Code is paid. 14123

(2) No person who engages in the business of blending custom 14124  
mixed fertilizer for use on lawns, golf courses, recreation areas, 14125  
or other real property that is not used for agricultural 14126  
production shall be required to register the custom mixed 14127  
fertilizer as a specialty fertilizer in accordance with division 14128  
(A) of this section if the facility holds a nonagricultural 14129  
production custom mixed fertilizer blender license issued under 14130  
section 905.331 of the Revised Code. 14131

(D) A person who engages in the business of applying or 14132  
blending custom mixed fertilizer as described in division (C) of 14133  
this section shall maintain an original or a copy of an invoice or 14134  
document of sale for all fertilizer the person applies or 14135  
distributes for one year following the date of the application or 14136  
distribution, and, upon the director's request, shall furnish the 14137  
director with the invoice or document of sale for the director's 14138  
review. 14139

**Sec. 905.331.** No person who engages in the business of 14140  
blending a custom mixed fertilizer for use on lawns, golf courses, 14141  
recreation areas, or other real property that is not used for 14142  
agricultural production shall fail to register a specialty 14143  
fertilizer in accordance with division (A) of section 905.33 of 14144  
the Revised Code unless the person has obtained a an annual 14145  
nonagricultural production custom mixed fertilizer blender license 14146  
from the director of agriculture. 14147

A license issued under this section shall be valid from the 14148  
first day of December of a calendar year through the thirtieth day 14149  
of November of the following calendar year. A renewal application 14150  
for a nonagricultural production custom mixed fertilizer blender 14151  
license shall be submitted to the director ~~no earlier than the~~ 14152  
~~first day of June each year and~~ no later than the thirtieth day of 14153  
~~June~~ November each year and shall include the name and address of 14154  
the applicant and of the premises where the blending occurs and a 14155  
one-hundred-dollar fee. A person who submits a renewal application 14156  
for a license after the thirtieth day of ~~June~~ November shall 14157  
include with the application a late filing fee of ten dollars. All 14158  
nonagricultural production custom mixed fertilizer blender 14159  
licenses expire on the thirtieth day of ~~June~~ of November each 14160  
year. 14161

A person holding a nonagricultural production custom mixed 14162

fertilizer blender license shall pay the inspection fees described 14163  
in division (A) of section 905.36 of the Revised Code for each 14164  
product being blended. 14165

**Sec. 905.36.** (A) A licensee or registrant, except registrants 14166  
who package specialty fertilizers only in containers of ten pounds 14167  
or less, shall pay the director of agriculture for all fertilizers 14168  
distributed in this state an inspection fee at the rate of ~~twelve~~ 14169  
twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per 14170  
metric ton. Licensees and registrants shall specify on an invoice 14171  
whether the per ton inspection fee has been paid or whether 14172  
payment of the fee is the responsibility of the purchaser of the 14173  
fertilizer. The payment of this inspection fee by a licensee or 14174  
registrant shall exempt all other persons from the payment of this 14175  
fee. 14176

(B) Every licensee or registrant shall file a ~~semiannual~~ 14177  
~~statement with the director an annual tonnage report~~ that includes 14178  
the number of net tons or metric tons of fertilizer distributed to 14179  
nonlicensees or nonregistrants in this state by grade; packaged; 14180  
bulk, dry or liquid; ~~within thirty days after the thirtieth day of~~ 14181  
~~June, and within thirty days after the thirty first day of~~ 14182  
~~December, respectively, of.~~ The report shall be filed on or before 14183  
the thirtieth day of November of each calendar year and shall 14184  
include data from the period beginning on the first day of 14185  
November of the year preceding the year in which the report is due 14186  
through the thirty-first day of October of the year in which the 14187  
report is due. The licensee or registrant, except registrants who 14188  
package specialty fertilizers only in containers of ten pounds or 14189  
less, shall include with this statement the inspection fee at the 14190  
rate stated in division (A) of this section. For a tonnage report 14191  
that is not filed or payment of inspection fees that is not made 14192  
~~within ten days after due date~~ on or before the thirtieth day of 14193

November of the applicable calendar year, a penalty of fifty 14194  
dollars or ten per cent of the amount due, whichever is greater, 14195  
shall be assessed against the licensee or registrant. The amount 14196  
of fees due, plus penalty, shall constitute a debt and become the 14197  
basis of a judgment against the licensee or registrant. For 14198  
tonnage reports found to be incorrect, a penalty of fifteen per 14199  
cent of the amount due shall be assessed against the licensee or 14200  
registrant and shall constitute a debt and become the basis of a 14201  
judgment against the licensee or registrant. 14202

(C) No information furnished under this section shall be 14203  
disclosed by any employee of the department of agriculture in such 14204  
a way as to divulge the operation of any person required to make 14205  
such a report. The filing by a licensee or registrant of a sales 14206  
volume tonnage statement required by division (B) of this section 14207  
thereby grants permission to the director to verify the same with 14208  
the records of the licensee or registrant. 14209

**Sec. 905.37.** (A) The director of agriculture ~~shall~~ may 14210  
distribute annual statements of fertilizer sales by grades of 14211  
materials and mixed fertilizer by counties, in a manner prescribed 14212  
by the director. 14213

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 14214  
of the analysis of fertilizers inspected. 14215

(C) The director may distribute a state fertilizer usage 14216  
report by grade of materials and mixed fertilizers for each month. 14217

**Sec. 905.38.** The commercial feed, fertilizer, seed, and lime 14218  
inspection and laboratory fund is hereby created in the state 14219  
treasury. All moneys collected by the director of agriculture 14220  
under sections 905.31 to 905.50 of the Revised Code, shall be 14221  
deposited into the fund. Moneys credited to the fund under this 14222  
section and sections 905.66, 907.16, and 923.46 of the Revised 14223

Code shall be used for administering and enforcing this chapter 14224  
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 14225  
adopted under them. 14226

**Sec. 905.381.** The director of agriculture shall keep accurate 14227  
accounts of all receipts and disbursements from the commercial 14228  
feed, fertilizer, seed, and lime inspection and laboratory fund, 14229  
and shall prepare, and provide upon request, an annual report 14230  
classifying the receipts and disbursements as pertaining to either 14231  
feed, fertilizer, seed, or lime. 14232

**Sec. 905.50.** If the director of agriculture has taken an 14233  
official sample of a fertilizer or mixed fertilizer and determined 14234  
that it constitutes mislabeled fertilizer pursuant to rules 14235  
adopted under section 905.40 of the Revised Code, the person who 14236  
labeled the fertilizer or mixed fertilizer shall pay a penalty to 14237  
the consumer of the mislabeled fertilizer or, if the consumer 14238  
cannot be determined with reasonable diligence or is not 14239  
available, to the director for deposit into the commercial feed, 14240  
fertilizer, seed, and lime inspection and laboratory fund created 14241  
under section 905.38 of the Revised Code. The amount of the 14242  
penalty shall be calculated in accordance with either division (A) 14243  
or (B) of this section, whichever method of calculation yields the 14244  
largest amount. 14245

(A)(1) A penalty required to be paid under this section may 14246  
be calculated as follows: 14247

(a) Five dollars for each percentage point of total nitrogen 14248  
or phosphorus in the fertilizer that is below the percentage of 14249  
nitrogen or phosphorus guaranteed on the label, multiplied by the 14250  
number of tons of mislabeled fertilizer that have been sold to the 14251  
consumer; 14252

(b) Three dollars for each percentage point of potash in the 14253

fertilizer that is below the percentage of potash guaranteed on 14254  
the label, multiplied by the number of tons of mislabeled 14255  
fertilizer that have been sold to the consumer. 14256

(2) In the case of a fertilizer that contains a quantity of 14257  
nitrogen, phosphorus, or potash that is more than five percentage 14258  
points below the percentages guaranteed on the label, the 14259  
penalties calculated under division (A)(1) of this section shall 14260  
be tripled. 14261

(3) No penalty calculated under division (A) of this section 14262  
shall be less than twenty-five dollars. 14263

(B) A penalty required to be paid under this section may be 14264  
calculated by multiplying the market value of one unit of the 14265  
mislabeled fertilizer by the number of units of the mislabeled 14266  
fertilizer that have been sold to the consumer. 14267

(C) Upon making a determination under this section that a 14268  
person has mislabeled fertilizer or mixed fertilizer, the director 14269  
shall determine the parties to whom the penalty imposed by this 14270  
section is required to be paid and, in accordance with division 14271  
(A) or (B) of this section, as applicable, shall calculate the 14272  
amount of the penalty required to be paid to each such party. 14273  
After completing those determinations and calculations, the 14274  
director shall issue to the person who allegedly mislabeled the 14275  
fertilizer or mixed fertilizer a notice of violation. The notice 14276  
shall be accompanied by an order requiring, and specifying the 14277  
manner of, payment of the penalty imposed by this section to the 14278  
parties in the amounts set forth in the determinations and 14279  
calculations required by this division. The order shall be issued 14280  
in accordance with Chapter 119. of the Revised Code. 14281

No person shall violate a term or condition of an order 14282  
issued under this division. 14283

**Sec. 905.501.** (A) As used in this section, ~~"political:~~ 14284

(1) "Political subdivision" means a county, township, or 14285  
municipal corporation and any other body corporate and politic 14286  
that is responsible for government activities in a geographic area 14287  
smaller than that of the state. 14288

(2) "Local legislation" includes, but is not limited to, an 14289  
ordinance, resolution, regulation, rule, motion, or amendment that 14290  
is enacted or adopted by a political subdivision. 14291

(B)(1) No political subdivision shall regulate the 14292  
registration, packaging, labeling, sale, storage, distribution, 14293  
use, or application of fertilizer, or require a person licensed or 14294  
registered under sections 905.31 to 905.99 of the Revised Code to 14295  
obtain a license or permit to operate in a manner described in 14296  
those sections, or to satisfy any other condition except as 14297  
provided by a statute or rule of this state or of the United 14298  
States. 14299

(2) No political subdivision shall enact, adopt, or continue 14300  
in effect local legislation relating to the registration, 14301  
packaging, labeling, sale, storage, distribution, use, or 14302  
application of fertilizers. 14303

**Sec. 905.66.** All moneys collected by the director of 14304  
agriculture under sections 905.51 to 905.65 of the Revised Code 14305  
shall be deposited into the commercial feed, fertilizer, seed, and 14306  
lime inspection and laboratory fund created under section 905.38 14307  
of the Revised Code. 14308

The director shall prepare and provide a report concerning 14309  
the fund in accordance with section 905.381 of the Revised Code. 14310

**Sec. 907.111.** (A) The department of agriculture has sole and 14311  
exclusive authority to regulate the registration, labeling, sale, 14312



storage, transportation, distribution, notification of use, use, 14313  
and planting of seed within the state. The regulation of seed is a 14314  
matter of general statewide interest that requires uniform 14315  
statewide regulation, and this chapter and rules adopted under it 14316  
constitute a comprehensive plan with respect to all aspects of the 14317  
regulation of seed within this state. 14318

(B) No political subdivision shall do any of the following: 14319

(1) Regulate the registration, labeling, sale, storage, 14320  
transportation, distribution, notification of use, use, or 14321  
planting of seed; 14322

(2) Require a person who has been issued a permit or license 14323  
under this chapter to obtain a permit or license to operate in a 14324  
manner described in this chapter or to satisfy any other condition 14325  
except as provided by a statute or rule of this state or of the 14326  
United States; 14327

(3) Require a person who has registered a legume inoculant 14328  
under this chapter to register that inoculant in a manner 14329  
described in this chapter or to satisfy any other condition except 14330  
as provided by a statute or rule of this state or of the United 14331  
States. 14332

(C) No political subdivision shall enact, adopt, or continue 14333  
in effect local legislation relating to the permitting or 14334  
licensure of any person who is required to obtain a permit or 14335  
license under this chapter or to the registration, labeling, sale, 14336  
storage, transportation, distribution, notification of use, use, 14337  
or planting of seed. 14338

(D) As used in this section, "political subdivision" and 14339  
"local legislation" have the same meanings as in section 905.501 14340  
of the Revised Code. 14341

**Sec. 907.16.** All money collected by the director of 14342  
agriculture under sections 907.01 to 907.17 of the Revised Code 14343  
shall be deposited into the treasury of the state to the credit of 14344  
the commercial feed, fertilizer, seed, and lime inspection and 14345  
laboratory fund, which is hereby created in the state treasury. 14346  
~~Money credited to the fund shall be used to administer and enforce~~ 14347  
~~those sections and rules adopted under them~~ section 905.38 of the 14348  
Revised Code. 14349

**Sec. 913.02.** No person, firm, or corporation shall engage in 14350  
the business of operating a cannery without obtaining a license 14351  
for the operation of each cannery from the director of 14352  
agriculture. 14353

In order to obtain a license, an application shall be made on 14354  
a form prescribed by the director and shall be accompanied by a 14355  
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 14356  
an investigation to be made. If the applicant is supplied with the 14357  
facilities necessary for complying with sections 913.01 to 913.05 14358  
of the Revised Code and rules adopted under them, a license shall 14359  
be issued and shall be effective until the thirtieth day of June, 14360  
and shall become invalid on that date unless renewed. The fee for 14361  
each renewal is ~~one~~ two hundred dollars. License fees and renewal 14362  
fees shall be deposited to the credit of the food safety fund 14363  
created in section 915.24 of the Revised Code. 14364

The director may suspend or revoke any license for failure to 14365  
comply with sections 913.01 to 913.05 of the Revised Code, or any 14366  
rule or order adopted under those sections. In such event, the 14367  
cannery immediately shall cease operation. 14368

**Sec. 913.23.** (A) The director of agriculture may issue 14369  
licenses as required by sections 913.22 to 913.28 of the Revised 14370  
Code, may make the inspections and registrations required by those 14371

sections, and may prescribe the form of application to be filed 14372  
under this section. 14373

(B) No person shall manufacture or bottle for sale within 14374  
this state any soft drink in closed containers unless the person 14375  
has a license issued by the director. Upon receipt of an 14376  
application for such a license, the director shall examine the 14377  
products and the place of manufacture where the business is to be 14378  
conducted, to determine whether the products and place comply with 14379  
sections 913.22 to 913.28 of the Revised Code. Upon finding there 14380  
is compliance, and upon payment of a license fee of ~~one~~ two 14381  
hundred dollars, the director shall issue a license authorizing 14382  
the applicant to manufacture or bottle for sale such soft drinks, 14383  
subject to sections 913.22 to 913.28 of the Revised Code. The 14384  
license shall expire on the last day of March of each year unless 14385  
renewed. 14386

(C) No soft drink that is manufactured or bottled out of the 14387  
state shall be sold or offered for sale within this state unless 14388  
the soft drink and the plant in which the soft drink is 14389  
manufactured or bottled are found by the director to comply with 14390  
sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 14391  
registered by the director, which shall be upon a like application 14392  
as provided in division (B) of this section. 14393

An annual registration fee of ~~one~~ two hundred dollars shall 14394  
be paid to the director by each applicant under this division. The 14395  
registration shall be renewed annually, and the registration fee 14396  
paid with the application for annual renewal. 14397

Registration of out-of-state soft drink manufacturers or 14398  
bottlers or syrup and extract manufacturers is not required if a 14399  
reciprocal agreement is in effect whereby a soft drink 14400  
manufacturer or bottler or syrup and extract manufacturer located 14401  
in this state is not subject to a license or registration fee by 14402  
another state or a political subdivision thereof. 14403

(D) No person, other than a manufacturer or bottler holding a 14404  
soft drink plant license under this section, shall sell, offer for 14405  
sale, use, or have in the person's possession with intent to sell, 14406  
any soda water syrup or extract or soft drink syrup, to be used in 14407  
making, drawing, or dispensing soda water or other soft drinks, 14408  
without first registering the person's name and address, the name 14409  
and address of the manufacturer of the syrup or extract, the 14410  
number and variety of such syrups or extracts intended to be sold, 14411  
and the trade name or brand of those products, with the director, 14412  
together with such samples of the syrups or extracts as the 14413  
director requests for analysis. The person also shall pay to the 14414  
department of agriculture at the time of making registration a 14415  
license fee of ~~fifty~~ one hundred dollars. No license shall be 14416  
granted by the director unless the director determines that the 14417  
syrup or extract is free from all harmful drugs and other 14418  
ingredients that, as used, may be injurious to health. The 14419  
registration shall be renewed annually upon like terms. If any 14420  
manufacturer, bottler, agent, or seller is licensed or has 14421  
registered the manufacturer's, bottler's, agent's, or seller's 14422  
name and product as required by this section and has paid the 14423  
manufacturer's, bottler's, agent's, or seller's fee, the 14424  
manufacturer's, bottler's, agent's, or seller's distributor, 14425  
retail agent, or retail seller using the products shall not be 14426  
required to pay that fee. This section does not apply to local 14427  
sellers of soft drinks as to syrups and extracts made by 14428  
themselves for their own use exclusively. 14429

(E) All moneys received under sections 913.22 to 913.28 of 14430  
the Revised Code shall be deposited with the treasurer of state to 14431  
the credit of the food safety fund created in section 915.24 of 14432  
the Revised Code. 14433

(F) The director may revoke any license or registration 14434  
issued under sections 913.22 to 913.28 of the Revised Code, 14435

whenever the director determines that those sections have been  
violated. When a license has been revoked, the licensee shall  
discontinue the manufacture and sale of soft drinks or other  
products for which the license was issued. When a registration has  
been revoked, the registrant shall discontinue the sale within  
this state of the registrant's products until those sections have  
been complied with and a new license or registration has been  
issued. The director may suspend any such license or registration  
temporarily, pending compliance with such conditions required by  
those sections as the director prescribes.

**Sec. 915.02.** No person, firm, or corporation shall operate a  
cold-storage warehouse, for hire, without a license issued by the  
director of agriculture. ~~Such~~ A license shall be issued only on  
written application stating the location of ~~such~~ the warehouse.  
Upon receipt of the application the director shall cause an  
examination to be made into the sanitary conditions of ~~such~~ the  
warehouse. If it is found to be in a sanitary condition and  
properly equipped for the purpose of cold storage, the director  
shall cause a license to be issued authorizing the applicant to  
operate a warehouse. No license shall be issued until the  
applicant has paid to the director the sum of ~~one~~ two hundred  
dollars. ~~Such~~ A license shall be valid until the last day of March  
of each year and becomes invalid on that date unless renewed. A  
license shall be required for each separate warehouse building.

**Sec. 915.16.** The license fee for an establishment is  
~~twenty-five~~ fifty dollars. Any operator operating in connection  
with a cold-storage warehouse holding a license under section  
915.02 of the Revised Code is not required to secure an additional  
license under section 915.15 of the Revised Code so long as ~~he~~ the  
operator continues to be licensed as a cold-storage warehouse; but  
~~he~~ the operator shall comply with sections 915.14 to 915.24,

~~inclusive~~, of the Revised Code, and all rules and regulations 14467  
promulgated thereunder. The license issued shall be in such form 14468  
as the department of agriculture prescribes. Licenses shall be 14469  
valid until the last day of November following initial issuance or 14470  
renewal and shall become invalid on that date unless renewed. The 14471  
original license or a certified copy thereof shall be 14472  
conspicuously displayed by the operator in the establishment. 14473

**Sec. 915.24.** (A) There is hereby created in the state 14474  
treasury the food safety fund. All of the following moneys shall 14475  
be credited to the fund: 14476

(1) Bakery registration fees and fines received under 14477  
sections 911.02 to 911.20 of the Revised Code; 14478

(2) Cannery license fees and renewal fees received under 14479  
sections 913.01 to 913.05 of the Revised Code; 14480

(3) Moneys received under sections 913.22 to 913.28 of the 14481  
Revised Code; 14482

(4) License fees, fines, and penalties recovered for the 14483  
violation of sections 915.01 to 915.12 of the Revised Code; 14484

(5) License fees collected under sections 915.14 to 915.23 of 14485  
the Revised Code; 14486

(6) License fees, other fees, and fines collected by or for 14487  
the director of agriculture under Chapter 3717. of the Revised 14488  
Code; 14489

(7) Fees collected under section 3715.04 of the Revised Code 14490  
for the issuance of certificates of health and freesale. 14491

(B) The director of agriculture shall use the moneys 14492  
deposited into the food safety fund to administer and enforce the 14493  
laws pursuant to which the moneys were collected. 14494

**Sec. 921.02.** (A) No person shall distribute a pesticide 14495

within this state unless the pesticide is registered with the 14496  
director of agriculture under this chapter. Registrations shall be 14497  
issued for a period of time established by rule and shall be 14498  
renewed in accordance with deadlines established by rule. 14499  
Registration is not required if a pesticide is shipped from one 14500  
plant or warehouse to another plant or warehouse operated by the 14501  
same person and used solely at that plant or warehouse as a 14502  
constituent part to make a pesticide that is registered under this 14503  
chapter, or if the pesticide is distributed under the provisions 14504  
of an experimental use permit issued under section 921.03 of the 14505  
Revised Code or an experimental use permit issued by the United 14506  
States environmental protection agency. 14507

(B) The applicant for registration of a pesticide shall file 14508  
a statement with the director on a form provided by the director, 14509  
which shall include all of the following: 14510

(1) The name and address of the applicant and the name and 14511  
address of the person whose name will appear on the label, if 14512  
other than the applicant's name; 14513

(2) The brand and product name of the pesticide; 14514

(3) Any necessary information required for completion of the 14515  
department of agriculture's application for registration, 14516  
including the agency registration number; 14517

(4) A complete copy of the labeling accompanying the 14518  
pesticide and a statement of all claims to be made for it, 14519  
including the directions for use and the use classification as 14520  
provided for in the federal act. 14521

(C) The director, when the director considers it necessary in 14522  
the administration of this chapter, may require the submission of 14523  
the complete formula of any pesticide including the active and 14524  
inert ingredients. 14525

(D) The director may require a full description of the tests 14526  
made and the results thereof upon which the claims are based for 14527  
any pesticide. The director shall not consider any data submitted 14528  
in support of an application, without permission of the applicant, 14529  
in support of any other application for registration unless the 14530  
other applicant first has offered to pay reasonable compensation 14531  
for producing the test data to be relied upon and the data are not 14532  
protected from disclosure by section 921.04 of the Revised Code. 14533  
In the case of a renewal of registration, a statement shall be 14534  
required only with respect to information that is different from 14535  
that furnished when the pesticide was registered or last 14536  
registered. 14537

(E) The director may require any other information to be 14538  
submitted with an application. 14539

Any applicant may designate any portion of the required 14540  
registration information as a trade secret or confidential 14541  
business information. Upon receipt of any required registration 14542  
information designated as a trade secret or confidential business 14543  
information, the director shall consider the designated 14544  
information as confidential and shall not reveal or cause to be 14545  
revealed any such designated information without the consent of 14546  
the applicants, except to persons directly involved in the 14547  
registration process described in this section or as required by 14548  
law. 14549

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay 14550  
a registration and inspection fee ~~established by rule of one~~ 14551  
hundred fifty dollars for each product name and brand registered 14552  
for the company whose name appears on the label. If an applicant 14553  
files for a renewal of registration after the deadline established 14554  
by rule, the applicant shall pay a penalty fee ~~established by rule~~ 14555  
of seventy-five dollars for each product name and brand registered 14556  
for the applicant. The penalty fee shall be added to the original 14557



fee and paid before the renewal registration is issued. In 14558  
addition to any other remedy available under this chapter, if a 14559  
pesticide that is not registered pursuant to this section is 14560  
distributed within this state, the person required to register the 14561  
pesticide shall do so and shall pay a penalty fee ~~established by~~ 14562  
~~rule of seventy-five dollars~~ for each product name and brand 14563  
registered for the applicant. The penalty fee shall be added to 14564  
the original fee of one hundred fifty dollars and paid before the 14565  
registration is issued. 14566

(G) Provided that the state is authorized by the 14567  
administrator of the United States environmental protection agency 14568  
to register pesticides to meet special local needs, the director 14569  
shall require the information set forth under divisions (B), (C), 14570  
(D), and (E) of this section and shall register any such pesticide 14571  
after determining that all of the following conditions are met: 14572

(1) Its composition is such as to warrant the proposed claims 14573  
for it. 14574

(2) Its labeling and other material required to be submitted 14575  
comply with the requirements of the federal act and of this 14576  
chapter, and rules adopted thereunder. 14577

(3) It will perform its intended function without 14578  
unreasonable adverse effects on the environment. 14579

(4) When used in accordance with widespread and commonly 14580  
recognized practice, it will not generally cause unreasonable 14581  
adverse effects on the environment. 14582

(5) The classification for general or restricted use is in 14583  
conformity with the federal act. 14584

The director shall not make any lack of essentiality a 14585  
criterion for denying the registration of any pesticide. When two 14586  
pesticides meet the requirements of division (G) of this section, 14587  
the director shall not register one in preference to the other. 14588

(H)(1) The director may refuse to register a pesticide if the application for registration fails to comply with this section.

(2) The director may suspend or revoke a pesticide registration after a hearing in accordance with Chapter 119. of the Revised Code for a pesticide that fails to meet the claims made for it on its label.

(3) The director may immediately suspend a pesticide registration, prior to a hearing, when the director believes that the pesticide poses an immediate hazard to human or animal health or a hazard to the environment. Not later than fifteen days after suspending the registration, the director shall determine whether the pesticide poses such a hazard. If the director determines that no hazard exists, the director shall lift the suspension of the registration. If the director determines that a hazard exists, the director shall revoke the registration in accordance with Chapter 119. of the Revised Code.

**Sec. 921.16.** (A) The director of agriculture shall adopt rules the director determines necessary for the effective enforcement and administration of this chapter. The rules may relate to, but are not limited to, the time, place, manner, and methods of application, materials, and amounts and concentrations of application of pesticides, may restrict or prohibit the use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors that the director determines necessary to minimize or prevent damage to the environment. In addition, the rules shall establish the ~~fees~~, ~~deadlines~~, and time periods for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code; the fees for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code that shall apply

~~until the fees that are established under that section take effect 14620  
on January 1, 2007; and the fees, deadlines, and time periods for 14621  
licensure and license renewal under sections 921.06, 921.09, 14622  
921.11, and 921.13 of the Revised Code. The aggregate amount of 14623  
the fees that initially are established by rule after the 14624  
effective date of this amendment shall be designed to cover, but 14625  
not exceed, the costs incurred by the department of agriculture in 14626  
administering this chapter. Thereafter, the fees shall not be 14627  
increased without the approval of the general assembly. 14628~~

(B) The director shall adopt rules that establish a schedule 14629  
of civil penalties for violations of this chapter, or any rule or 14630  
order adopted or issued under it, provided that the civil penalty 14631  
for a first violation shall not exceed five thousand dollars and 14632  
the civil penalty for each subsequent violation shall not exceed 14633  
ten thousand dollars. In determining the amount of a civil penalty 14634  
for a violation, the director shall consider factors relevant to 14635  
the severity of the violation, including past violations and the 14636  
amount of actual or potential damage to the environment or to 14637  
human beings. 14638

(C) The director shall adopt rules that set forth the 14639  
conditions under which the director: 14640

(1) Requires that notice or posting be given of a proposed 14641  
application of a pesticide; 14642

(2) Requires inspection, condemnation, or repair of equipment 14643  
used to apply a pesticide; 14644

(3) Will suspend, revoke, or refuse to issue any pesticide 14645  
registration for a violation of this chapter; 14646

(4) Requires safe handling, transportation, storage, display, 14647  
distribution, and disposal of pesticides and their containers; 14648

(5) Ensures the protection of the health and safety of 14649

agricultural workers storing, handling, or applying pesticides, 14650  
and all residents of agricultural labor camps, as that term is 14651  
defined in section 3733.41 of the Revised Code, who are living or 14652  
working in the vicinity of pesticide-treated areas; 14653

(6) Requires a record to be kept of all pesticide 14654  
applications made by each commercial applicator and by any trained 14655  
serviceperson acting under the commercial applicator's direct 14656  
supervision and of all restricted use pesticide applications made 14657  
by each private applicator and by any immediate family member or 14658  
subordinate employee of that private applicator who is acting 14659  
under the private applicator's direct supervision as required 14660  
under section 921.14 of the Revised Code; 14661

(7) Determines the pesticide-use categories of diagnostic 14662  
inspections that must be conducted by a commercial applicator; 14663

(8) Requires a record to be kept of all diagnostic 14664  
inspections conducted by each commercial applicator and by any 14665  
trained service person. 14666

(D) The director shall prescribe standards for the licensure 14667  
of applicators of pesticides consistent with those prescribed by 14668  
the federal act and the regulations adopted under it or prescribe 14669  
standards that are more restrictive than those prescribed by the 14670  
federal act and the regulations adopted under it. The standards 14671  
may relate to the use of a pesticide or to an individual's 14672  
pesticide-use category. 14673

The director shall take into consideration standards of the 14674  
United States environmental protection agency. 14675

(E) The director may adopt rules setting forth the conditions 14676  
under which the director will: 14677

(1) Collect and examine samples of pesticides or devices; 14678

(2) Specify classes of devices that shall be subject to this 14679

chapter; 14680

(3) Prescribe other necessary registration information. 14681

(F) The director may adopt rules that do either or both of 14682  
the following: 14683

(1) Designate, in addition to those restricted uses so 14684  
classified by the administrator of the United States environmental 14685  
protection agency, restricted uses of pesticides for the state or 14686  
for designated areas within the state and, if the director 14687  
considers it necessary, to further restrict such use; 14688

(2) Define what constitutes "acting under the instructions 14689  
and control of a commercial applicator" as used in the definition 14690  
of "direct supervision" in division (Q)(1) of section 921.01 of 14691  
the Revised Code. In adopting a rule under division (F)(2) of this 14692  
section, the director shall consider the factors associated with 14693  
the use of pesticide in the various pesticide-use categories. 14694  
Based on consideration of the factors, the director may define 14695  
"acting under the instructions and control of a commercial 14696  
applicator" to include communications between a commercial 14697  
applicator and a trained serviceperson that are conducted via 14698  
landline telephone or a means of wireless communication. Any rules 14699  
adopted under division (F)(2) of this section shall be drafted in 14700  
consultation with representatives of the pesticide industry. 14701

(G) Except as provided in division (D) of this section, the 14702  
director shall not adopt any rule under this chapter that is 14703  
inconsistent with the requirements of the federal act and 14704  
regulations adopted thereunder. 14705

(H) The director, after notice and opportunity for hearing, 14706  
may declare as a pest any form of plant or animal life, other than 14707  
human beings and other than bacteria, viruses, and other 14708  
microorganisms on or in living human beings or other living 14709  
animals, that is injurious to health or the environment. 14710

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson. 14741

(L) The director shall adopt all rules under this chapter in 14742  
accordance with Chapter 119. of the Revised Code. 14743

**Sec. 923.44.** (A)(1) Except as otherwise provided in divisions 14744  
(A)(2), (3), and (4) of this section, the first distributor of a 14745  
commercial feed shall pay the director of agriculture a semiannual 14746  
inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with 14747  
a minimum payment of ~~ten~~ twenty-five dollars, on all commercial 14748  
feeds distributed by ~~him~~ the first distributor in this state. 14749  
14750

(2) The semiannual inspection fee required under division 14751  
(A)(1) of this section shall not be paid by the first distributor 14752  
of a commercial feed if the distribution is made to an exempt 14753  
buyer who shall be responsible for the fee. The director shall 14754  
establish an exempt list consisting of those buyers who are 14755  
responsible for the fee. 14756

(3) The semiannual inspection fee shall not be paid on a 14757  
commercial feed if the fee has been paid by a previous 14758  
distributor. 14759

(4) The semiannual inspection fee shall not be paid on 14760  
customer-formula feed if the fee has been paid on the commercial 14761  
feeds ~~which~~ that are used as components in that customer-formula 14762  
feed. 14763

(B) Each distributor or exempt buyer who is required to pay a 14764  
fee under division (A)(1) or (2) of this section shall file a 14765  
semiannual statement with the director that includes the number of 14766  
net tons of commercial feed distributed by ~~him~~ the distributor or 14767  
exempt buyer in this state, within thirty days after the thirtieth 14768  
day of June and within thirty days after the thirty-first day of 14769  
December, respectively, of each calendar year. 14770

The inspection fee at the rate stated in division (A)(1) of 14771  
this section shall accompany the statement. For a tonnage report 14772  
that is not filed or payment of inspection fees that is not made 14773  
within fifteen days after the due date, a penalty of ten per cent 14774  
of the amount due, with a minimum penalty of fifty dollars shall 14775  
be assessed against the distributor or exempt buyer. The amount of 14776  
fees due, plus penalty, shall constitute a debt and become the 14777  
basis of a judgment against the distributor or exempt buyer. 14778

(C) No information furnished under this section shall be 14779  
disclosed by an employee of the department of agriculture in such 14780  
a way as to divulge the operation of any person required to make 14781  
such a report. 14782

**Sec. 923.45.** The director of agriculture ~~shall~~ may publish ~~at~~ 14783  
~~least~~ annually in such form as ~~he~~ the director considers proper: 14784  
14785

(A) Information concerning the sale of commercial feed, 14786  
including any production and use data ~~he~~ the director considers 14787  
advisable, provided that the data does not disclose the operation 14788  
of any manufacturer or distributor; 14789

(B) A comparison of the analyses of official samples of 14790  
commercial feeds distributed in this state with the guaranteed 14791  
analyses on the label. 14792

**Sec. 923.46.** All moneys collected by the director of 14793  
agriculture under sections 923.41 to 923.55 of the Revised Code 14794  
shall be deposited into the state treasury to the credit of the 14795  
commercial feed, fertilizer, seed, and lime inspection and 14796  
laboratory fund created in section 905.38 of the Revised Code. 14797  
~~Money credited to the fund shall be used only for administering~~ 14798  
~~and enforcing this chapter and Chapter 905. of the Revised Code~~ 14799  
~~and rules adopted under them.~~ 14800



The director shall prepare and provide a report concerning 14801  
the fund in accordance with section 905.381 of the Revised Code. 14802

**Sec. 926.01.** As used in this chapter: 14803

(A) "Agricultural commodity" means barley, corn, oats, rye, 14804  
grain sorghum, soybeans, wheat, sunflower, speltz, or any other 14805  
agricultural crop ~~which~~ that the director of agriculture may 14806  
designate by rule. "Agricultural commodity" does not mean any 14807  
grain that is purchased for sale as seed. 14808

(B) "Agricultural commodity handling" or "handling" means any 14809  
of the following: 14810

(1) Engaging in or participating in the business of 14811  
purchasing ~~an~~ from producers agricultural ~~commodity for sale,~~ 14812  
~~resale, processing, or commodities~~ for any ~~other~~ use in the 14813  
~~following volumes~~: 14814

~~(a) In the case of purchases made from producers, more than~~ 14815  
~~excess of~~ thirty thousand bushels annually; 14816

~~(b) In the case of purchases made from agricultural commodity~~ 14817  
~~handlers, more than one hundred thousand bushels annually;~~ 14818

~~(c) In the case of total purchases made from producers~~ 14819  
~~combined with total purchases made from handlers, more than one~~ 14820  
~~hundred thousand bushels annually.~~ 14821

(2) Operating a warehouse as a bailee for the receiving, 14822  
storing, shipping, or conditioning of an agricultural commodity; 14823

(3) Receiving into a warehouse an agricultural commodity 14824  
purchased under a delayed price agreement; 14825

(4) Providing marketing functions, including storage, delayed 14826  
price marketing, deferred payment, feed agreements, or any other 14827  
marketing transaction whereby control is exerted over the monetary 14828  
proceeds of a producer's agricultural commodities by a person 14829

other than the producer. 14830

(C) "Agricultural commodity handler" or "handler" means any 14831  
person who is engaged in the business of agricultural commodity 14832  
handling. ~~"Agricultural commodity handler" or "handler" does not~~ 14833  
~~include a person who does not handle agricultural commodities as a~~ 14834  
~~bailee and who purchases agricultural commodities in the following~~ 14835  
~~volumes:~~ 14836

~~(1) Thirty thousand or fewer bushels annually from producers;~~ 14837

~~(2) One hundred thousand or fewer bushels annually from~~ 14838  
~~agricultural commodity handlers.~~ 14839

~~A person who does not handle agricultural commodities as a~~ 14840  
~~bailee and who annually purchases thirty thousand or fewer bushels~~ 14841  
~~of agricultural commodities from producers and one hundred~~ 14842  
~~thousand or fewer bushels of agricultural commodities from~~ 14843  
~~agricultural commodity handlers shall be considered to be an~~ 14844  
~~agricultural commodity handler if the combined annual volume of~~ 14845  
~~purchases from the producers and the agricultural commodity~~ 14846  
~~handlers exceeds one hundred thousand bushels.~~ 14847

(D) "Depositor" means: 14848

(1) Any person who delivers an agricultural commodity to a 14849  
licensed handler for storage, conditioning, shipment, or sale; 14850

(2) Any owner or legal holder of a ticket or receipt issued 14851  
for an agricultural commodity who is a creditor of the licensed 14852  
handler for the value of the agricultural commodity; 14853

(3) Any licensed handler storing an agricultural commodity 14854  
that the licensed handler owns solely, jointly, or in common with 14855  
others in a warehouse owned or controlled by the licensed handler 14856  
or any other licensed handler. 14857

(E) "Receipt" means a warehouse receipt issued by a licensed 14858  
handler. 14859

(F) "Nonnegotiable receipt" means a receipt on which it is 14860  
stated that the agricultural commodity received will be delivered 14861  
to the depositor or to the order of any other person named in the 14862  
receipt. 14863

(G) "Negotiable receipt" means a receipt on which it is 14864  
stated that the agricultural commodity received will be delivered 14865  
to the bearer or to the order of any person named in the receipt. 14866

(H) "Ticket" means a scale weight ticket, a load slip, or any 14867  
evidence, other than a receipt, given to a depositor by a licensed 14868  
handler upon delivery of an agricultural commodity to the handler. 14869

(I) "Warehouse" means any building, bin, protected enclosure, 14870  
or similar premises under the control of a licensed or unlicensed 14871  
handler used for receiving, storing, shipping, or handling an 14872  
agricultural commodity. 14873

(J) "Storage" means the deposit of an agricultural commodity 14874  
into a warehouse either for the account of the licensed handler 14875  
operating the warehouse or for the account of a depositor. 14876

(K) "Producer" means any person who grows an agricultural 14877  
commodity on land that the person owns or leases. 14878

(L) "Agent" means any person, other than a producer, who 14879  
delivers an agricultural commodity to a licensed handler, either 14880  
for sale or for storage, for the account of the producer. 14881

(M) "Agricultural commodity tester" or "tester" means a 14882  
person who operates a moisture meter and other quality testing 14883  
devices to determine the quality of an agricultural commodity. 14884

(N) "Federally licensed grain inspector" means a person who 14885  
is licensed by the United States department of agriculture under 14886  
the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 14887  
U.S.C. 71, as amended, to test and grade grain, as "grain" is 14888  
defined in that act. 14889

(O) "Bailee" means a person to whom an agricultural commodity 14890  
is delivered in trust for storage in a warehouse with title 14891  
remaining in the name of the depositor. 14892

(P) "Bailor" means a person who delivers an agricultural 14893  
commodity to a bailee in trust for storage in a warehouse with 14894  
title remaining in the name of the depositor. 14895

(Q) "Bailment agreement" means a bailor-bailee agreement 14896  
between a depositor and a licensed handler as stated in the terms 14897  
of a receipt that is issued for an agricultural commodity in 14898  
storage and subject to the requirements of this chapter governing 14899  
the use of a receipt. 14900

(R) "Delayed price agreement" means a written executory 14901  
contract executed by and between a licensed handler and a 14902  
depositor that covers the sale and transfer of title of an 14903  
agricultural commodity and states in its written terms the service 14904  
charges and the method for pricing the commodity at a later date. 14905

(S) "Delayed price marketing" means the sale and transfer of 14906  
title of an agricultural commodity with the price to be 14907  
established at a later date according to the terms of a delayed 14908  
price agreement. 14909

(T) "Deferred payment" means the deferral of payment to a 14910  
depositor by a licensed handler for an agricultural commodity to 14911  
which the licensed handler has taken title, for the purpose of 14912  
deferring income of the depositor from one tax year to another. 14913

(U) "Feed agreement" means a written contract executed by and 14914  
between a licensed handler and a producer or depositor who 14915  
delivers an agricultural commodity to the licensed handler for 14916  
storage whereby each of the following applies: 14917

(1) The producer or depositor transfers title to the 14918  
agricultural commodity to the licensed handler in exchange for a 14919

nominal sum;	14920
(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code;	14921 14922 14923 14924
(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes.	14925 14926
(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and."	14927 14928
<b>Sec. 927.69.</b> To effect the purpose of sections 927.51 to 927.74 of the Revised Code, the director of agriculture or the director's authorized representative may:	14929 14930 14931
(A) Make reasonable inspection of any premises in this state and any property therein or thereon;	14932 14933
(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;	14934 14935 14936 14937
(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.	14938 14939 14940 14941 14942 14943 14944 14945 14946 14947
If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees	14948 14949

shall be as follows: 14950

(1) Phyto sanitary certificates, twenty-five dollars; 14951

(2) Compliance agreements, twenty dollars; 14952

(3) Solid wood packing certificates, twenty dollars; 14953

(4) Agricultural products and their conveyances inspections, 14954  
sixty-five dollars an amount equal to the hourly rate of pay in 14955  
the highest step in the pay range, including fringe benefits, of a 14956  
plant pest control specialist multiplied by the number of hours 14957  
worked by such a specialist in conducting an inspection. 14958

The director may adopt rules under section 927.52 of the 14959  
Revised Code that define the certificates, agreements, and 14960  
inspections. 14961

The fees shall be deposited into the state treasury to the 14962  
credit of the pesticide program fund created in Chapter 921. of 14963  
the Revised Code. Money credited to the fund shall be used to pay 14964  
the costs incurred by the department of agriculture in 14965  
administering this chapter, including employing a minimum of two 14966  
additional inspectors. 14967

**Sec. 1111.04.** (A) Prior to soliciting or engaging in trust 14968  
business in this state, a trust company shall pledge to the 14969  
treasurer of state interest bearing securities authorized in 14970  
division (B) of this section, having a par value, not including 14971  
unaccrued interest, of one hundred thousand dollars, and approved 14972  
by the superintendent of financial institutions. The trust company 14973  
may pledge the securities either by delivery to the treasurer of 14974  
state or by placing the securities with a qualified trustee for 14975  
safekeeping to the account of the treasurer of state, the 14976  
corporate fiduciary, and any other person having an interest in 14977  
the securities under Chapter 1109. of the Revised Code, as their 14978  
respective interests may appear and be asserted by written notice 14979

to or demand upon the qualified trustee or by order of judgment of 14980  
a court. 14981

(B) Securities pledged by a trust company to satisfy the 14982  
requirements of division (A) of this section shall be one or more 14983  
of the following: 14984

(1) Bonds, notes, or other obligations of or guaranteed by 14985  
the United States or for which the full faith and credit of the 14986  
United States is pledged for the payment of principal and 14987  
interest; 14988

(2) Bonds, notes, debentures, or other obligations or 14989  
securities issued by any agency or instrumentality of the United 14990  
States; 14991

(3) General obligations of this or any other state of the 14992  
United States or any subdivision of this or any other state of the 14993  
United States. 14994

(C) The treasurer of state shall accept delivery of 14995  
securities pursuant to this section when accompanied by the 14996  
superintendent's approval of the securities or the written receipt 14997  
of a qualified trustee describing the securities and showing the 14998  
superintendent's approval of the securities, and shall issue a 14999  
written acknowledgment of the delivery of the securities or the 15000  
qualified trustee's receipt and the superintendent's approval to 15001  
the trust company. 15002

(D) The superintendent shall approve securities to be pledged 15003  
by a trust company pursuant to this section if the securities are 15004  
all of the following: 15005

(1) Interest bearing and of the value required by division 15006  
(A) of this section; 15007

(2) Of one or more of the kinds authorized by division (B) of 15008  
this section and not a derivative of or merely an interest in any 15009

of those securities; 15010

(3) Not in default. 15011

(E) The treasurer of state shall, with the approval of the 15012  
superintendent, permit a trust company to pledge securities in 15013  
substitution for securities pledged pursuant to this section and 15014  
the withdrawal of the securities substituted for so long as the 15015  
securities remaining pledged satisfy the requirements of division 15016  
(A) of this section. The treasurer of state shall permit a trust 15017  
company to collect interest paid on securities pledged pursuant to 15018  
this section so long as the trust company is solvent. The 15019  
treasurer of state shall, with the approval of the superintendent, 15020  
permit a trust company to withdraw securities pledged pursuant to 15021  
this section when the trust company has ceased to solicit or 15022  
engage in trust business in this state. 15023

(F) For purposes of this section, a qualified trustee is a 15024  
federal reserve bank located in this state, a branch of a federal 15025  
reserve bank located in this state regardless of where the branch 15026  
is located, a federal home loan bank, or a trust company as 15027  
defined in section 1101.01 of the Revised Code, except a trust 15028  
company may not act as a qualified trustee for securities it or 15029  
any of its affiliates is pledging pursuant to this section. 15030

(G) The superintendent, with the approval of the treasurer of 15031  
state and the attorney general, shall prescribe the form of all 15032  
receipts and acknowledgments provided for by this section, and 15033  
upon request shall furnish a copy of each form, with the 15034  
superintendent's certification attached, to each qualified trustee 15035  
eligible to hold securities for safekeeping under this section. 15036

**Sec. 1327.511.** All money collected under section 1327.50 of 15037  
the Revised Code for services rendered by the department of 15038  
agriculture in operating the type evaluation program shall be 15039



deposited in the state treasury to the credit of the metrology and 15040  
scale certification fund, which is hereby created. Money credited 15041  
to the fund shall be used to pay operating costs incurred by the 15042  
department in administering the program. 15043

**Sec. 1502.02.** (A) There is hereby created in the department 15044  
of natural resources the division of recycling and litter 15045  
prevention to be headed by the chief of recycling and litter 15046  
prevention. 15047

(B) There is hereby created in the state treasury the 15048  
recycling and litter prevention fund, consisting of moneys 15049  
distributed to it from fees, including the fee levied under 15050  
division (A)(2) of section 3714.073 of the Revised Code, gifts, 15051  
donations, grants, reimbursements, and other sources, including 15052  
investment earnings. 15053

(C) The chief of recycling and litter prevention shall do all 15054  
of the following: 15055

(1) Use moneys credited to the fund exclusively for the 15056  
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 15057  
the Revised Code, with particular emphasis on programs relating to 15058  
recycling; 15059

(2) Expend for administration of the division not more than 15060  
ten per cent of any fiscal year's appropriation to the division, 15061  
excluding the amount assessed to the division for direct and 15062  
indirect central support charges; 15063

(3) Require recipients of grants under section 1502.05 of the 15064  
Revised Code, as a condition of receiving and retaining them, to 15065  
do all of the following: 15066

(a) Create a separate account for the grants and any cash 15067  
donations received that qualify for the donor credit allowed by 15068  
section 5733.064 of the Revised Code; 15069

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;	15070 15071
(c) Use any auditing and accounting practices the chief considers necessary regarding the account;	15072 15073
(d) Report to the chief information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;	15074 15075 15076
(e) Use grants received to supplement and not to replace any existing funding for such purposes.	15077 15078
(4) Report to the tax commissioner information the chief receives pursuant to division (C)(3)(d) of this section.	15079 15080
<b>Sec. 1509.06.</b> <u>(A)</u> An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of mineral resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:	15081 15082 15083 15084 15085 15086 15087
<del>(A)</del> <u>(1)</u> The name and address of the owner and, if a corporation, the name and address of the statutory agent;	15088 15089
<del>(B)</del> <u>(2)</u> The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.	15090 15091 15092
<del>(C)</del> <u>(3)</u> The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;	15093 15094 15095
<del>(D)</del> <u>(4)</u> The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;	15096 15097 15098

<del>(E)</del> (5) Designation of the well by name and number;	15099
<del>(F)</del> (6) The geological formation to be tested or used and the proposed total depth of the well;	15100 15101
<del>(G)</del> (7) The type of drilling equipment to be used;	15102
<del>(H)</del> (8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;	15103 15104 15105
<del>(I)</del> (9) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of occupied dwelling units shall be determined using the tax records of the municipal corporation or county in which the dwelling unit is located as of the date of the notice.	15106 15107 15108 15109 15110 15111 15112 15113 15114 15115 15116 15117 15118 15119 15120 15121 15122 15123 15124
<del>(J)</del> (10) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.	15125 15126 15127 15128 15129

~~(K)~~(11) A description by name or number of the county, 15130  
township, and municipal corporation roads, streets, and highways 15131  
that the applicant anticipates will be used for access to and 15132  
egress from the well site; 15133

~~(L)~~(12) Such other relevant information as the chief 15134  
prescribes by rule. 15135

Each application shall be accompanied by a map, on a scale 15136  
not smaller than four hundred feet to the inch, prepared by an 15137  
Ohio registered surveyor, showing the location of the well and 15138  
containing such other data as may be prescribed by the chief. If 15139  
the well is or is to be located within the excavations and 15140  
workings of a mine, the map also shall include the location of the 15141  
mine, the name of the mine, and the name of the person operating 15142  
the mine. 15143

(B) The chief shall cause a copy of the weekly circular 15144  
prepared by the division to be provided to the county engineer of 15145  
each county that contains active or proposed drilling activity. 15146  
The weekly circular shall contain, in the manner prescribed by the 15147  
chief, the names of all applicants for permits, the location of 15148  
each well or proposed well, the information required by division 15149  
~~(K)~~(A)(11) of this section, and any additional information the 15150  
chief prescribes. In addition, the chief promptly shall transfer 15151  
an electronic copy or facsimile, or if those methods are not 15152  
available to a municipal corporation or township, a copy via 15153  
regular mail, of a drilling permit application to the clerk of the 15154  
legislative authority of the municipal corporation or to the clerk 15155  
of the township in which the well or proposed well is or is to be 15156  
located if the legislative authority of the municipal corporation 15157  
or the board of township trustees has asked to receive copies of 15158  
such applications and the appropriate clerk has provided the chief 15159  
an accurate, current electronic mailing address or facsimile 15160  
number, as applicable. 15161

(C) The chief shall not issue a permit for at least ten days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or a request for expedited review is filed under this section. However, the chief shall issue a permit within twenty-one days of the filing of the application unless the chief denies the application by order.

(D) An applicant may file a request with the chief for expedited review of a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code.

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of five hundred dollars. Upon the filing of a request for expedited review, the chief shall cause the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.

(E) A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code.

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application to plug back an existing well that is required by that section and an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee of two as follows:

(1) Two hundred fifty dollars for a permit to conduct activities in a township with a population of fewer than five thousand;

(2) Five hundred dollars for a permit to conduct activities in a township with a population of five thousand or more, but fewer than ten thousand;

(3) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(4) One thousand dollars for a permit to conduct activities in either of the following:

<u>(a) A township with a population of fifteen thousand or more;</u>	15224
<u>(b) A municipal corporation regardless of population.</u>	15225
<u>For purposes of calculating fee amounts, populations shall be</u>	15226
<u>determined using the most recent federal decennial census.</u>	15227
<u>Each application for the revision or reissuance of a permit</u>	15228
<u>shall be accompanied by a nonrefundable fee of two hundred fifty</u>	15229
<u>dollars.</u>	15230
<u>(H) The chief may order the immediate suspension of drilling,</u>	15231
operating, or plugging activities after finding that any person is	15232
causing, engaging in, or maintaining a condition or activity that	15233
in the chief's judgment presents an imminent danger to public	15234
health or safety or results in or is likely to result in immediate	15235
substantial damage to natural resources or for nonpayment of <del>the a</del>	15236
fee required by this section. The chief may order the immediate	15237
suspension of the drilling or reopening of a well in a coal	15238
bearing township after determining that the drilling or reopening	15239
activities present an imminent and substantial threat to public	15240
health or safety or to miners' health or safety. Before issuing	15241
any such order, the chief shall notify the owner in such manner as	15242
in the chief's judgment would provide reasonable notification that	15243
the chief intends to issue a suspension order. The chief may issue	15244
such an order without prior notification if reasonable attempts to	15245
notify the owner have failed, but in such an event notification	15246
shall be given as soon thereafter as practical. Within five	15247
calendar days after the issuance of the order, the chief shall	15248
provide the owner an opportunity to be heard and to present	15249
evidence that the condition or activity is not likely to result in	15250
immediate substantial damage to natural resources or does not	15251
present an imminent danger to public health or safety or to	15252
miners' health or safety, if applicable. In the case of activities	15253
in a coal bearing township, if the chief, after considering	15254

evidence presented by the owner, determines that the activities do 15255  
not present such a threat, the chief shall revoke the suspension 15256  
order. Notwithstanding any provision of this chapter, the owner 15257  
may appeal a suspension order directly to the court of common 15258  
pleas of the county in which the activity is located or, if in a 15259  
coal bearing township, to the reclamation commission under section 15260  
1513.13 of the Revised Code. 15261

**Sec. 1509.072.** No oil or gas well owner or agent of an oil or 15262  
gas well owner shall fail to restore the land surface within the 15263  
area disturbed in siting, drilling, completing, and producing the 15264  
well as required in this section. 15265

(A) Within five months after the date upon which the surface 15266  
drilling of a well is commenced, the owner or the owner's agent, 15267  
in accordance with the restoration plan filed under division 15268  
~~(F)~~(A)(10) of section 1509.06 of the Revised Code, shall fill all 15269  
the pits for containing brine, other waste substances resulting, 15270  
obtained, or produced in connection with exploration or drilling 15271  
for, or production of, oil or gas, or oil that are not required by 15272  
other state or federal law or regulation, and remove all concrete 15273  
bases, drilling supplies, and drilling equipment. Within nine 15274  
months after the date upon which the surface drilling of a well is 15275  
commenced, the owner or the owner's agent shall grade or terrace 15276  
and plant, seed, or sod the area disturbed that is not required in 15277  
production of the well where necessary to bind the soil and 15278  
prevent substantial erosion and sedimentation. If the chief of the 15279  
division of mineral resources management finds that a pit used for 15280  
containing brine, other waste substances, or oil is in violation 15281  
of section 1509.22 of the Revised Code or rules adopted or orders 15282  
issued under it, the chief may require the pit to be emptied and 15283  
closed before expiration of the five-month restoration period. 15284

(B) Within six months after a well that has produced oil or 15285



gas is plugged, or after the plugging of a dry hole, the owner or 15286  
the owner's agent shall remove all production and storage 15287  
structures, supplies, and equipment, and any oil, salt water, and 15288  
debris, and fill any remaining excavations. Within that period the 15289  
owner or the owner's agent shall grade or terrace and plant, seed, 15290  
or sod the area disturbed where necessary to bind the soil and 15291  
prevent substantial erosion and sedimentation. 15292

The owner shall be released from responsibility to perform 15293  
any or all restoration requirements of this section on any part or 15294  
all of the area disturbed upon the filing of a request for a 15295  
waiver with and obtaining the written approval of the chief, which 15296  
request shall be signed by the surface owner to certify the 15297  
approval of the surface owner of the release sought. The chief 15298  
shall approve the request unless the chief finds upon inspection 15299  
that the waiver would be likely to result in substantial damage to 15300  
adjoining property, substantial contamination of surface or 15301  
underground water, or substantial erosion or sedimentation. 15302

The chief, by order, may shorten the time periods provided 15303  
for under division (A) or (B) of this section if failure to 15304  
shorten the periods would be likely to result in damage to public 15305  
health or the waters or natural resources of the state. 15306

The chief, upon written application by an owner or an owner's 15307  
agent showing reasonable cause, may extend the period within which 15308  
restoration shall be completed under divisions (A) and (B) of this 15309  
section, but not to exceed a further six-month period, except 15310  
under extraordinarily adverse weather conditions or when essential 15311  
equipment, fuel, or labor is unavailable to the owner or the 15312  
owner's agent. 15313

If the chief refuses to approve a request for waiver or 15314  
extension, the chief shall do so by order. 15315

Sec. 1509.31. Whenever the entire interest of an oil and gas 15316  
lease is assigned or otherwise transferred, the assignor or 15317  
transferor shall notify the holders of the royalty interests, and, 15318  
if a well or wells exist on the lease, the division of mineral 15319  
resources management, of the name and address of the assignee or 15320  
transferee by certified mail, return receipt requested, not later 15321  
than thirty days after the date of the assignment or transfer. 15322  
When notice of any such assignment or transfer is required to be 15323  
provided to the division, it shall be provided on a form 15324  
prescribed and provided by the division and verified by both the 15325  
assignor or transferor and by the assignee or transferee. The 15326  
notice form applicable to assignments or transfers of a well to 15327  
the owner of the surface estate of the tract on which the well is 15328  
located shall contain a statement informing the landowner that the 15329  
well may require periodic servicing to maintain its productivity; 15330  
that, upon assignment or transfer of the well to the landowner, 15331  
the landowner becomes responsible for compliance with the 15332  
requirements of this chapter and rules adopted under it, 15333  
including, without limitation, the proper disposal of brine 15334  
obtained from the well, the plugging of the well when it becomes 15335  
incapable of producing oil or gas, and the restoration of the well 15336  
site; and that, upon assignment or transfer of the well to the 15337  
landowner, the landowner becomes responsible for the costs of 15338  
compliance with the requirements of this chapter and rules adopted 15339  
under it and the costs for operating and servicing the well. 15340

The owner holding a permit under section 1509.05 of the 15341  
Revised Code is responsible for all obligations and liabilities 15342  
imposed by this chapter and any rules, orders, and terms and 15343  
conditions of a permit adopted or issued under it, and no 15344  
assignment or transfer by the owner relieves the owner of the 15345  
obligations and liabilities until and unless the assignee or 15346  
transferee files with the division the information described in 15347

divisions (A)(1), ~~(B)~~(2), ~~(C)~~(3), ~~(D)~~(4), ~~(E)~~(5), ~~(J)~~(10),  
~~(K)~~(11), and ~~(L)~~(12) of section 1509.06 of the Revised Code;  
obtains liability insurance coverage required by section 1509.07  
of the Revised Code, except when none is required by that section;  
and executes and files a surety bond, negotiable certificates of  
deposit or irrevocable letters of credit, or cash, as described in  
that section. Instead of a bond, but only upon acceptance by the  
chief of the division of mineral resources management, the  
assignee or transferee may file proof of financial responsibility,  
described in section 1509.07 of the Revised Code. Section 1509.071  
of the Revised Code applies to the surety bond, cash, and  
negotiable certificates of deposit and irrevocable letters of  
credit described in this section. Unless the chief approves a  
modification, each assignee or transferee shall operate in  
accordance with the plans and information filed by the permit  
holder pursuant to section 1509.06 of the Revised Code.

**Sec. 1515.14.** Within the limits of funds appropriated to the  
department of natural resources and the soil and water  
conservation district assistance fund created in this section,  
there shall be paid in each calendar year to each local soil and  
water conservation district an amount not to exceed one dollar for  
each one dollar received in accordance with section 1515.10 of the  
Revised Code, received from tax levies in excess of the ten-mill  
levy limitation approved for the benefit of local soil and water  
conservation districts, or received from an appropriation by a  
municipal corporation or a township to a maximum of eight thousand  
dollars, provided that the Ohio soil and water conservation  
commission may approve payment to a district in an amount in  
excess of eight thousand dollars in any calendar year upon receipt  
of a request and justification from the district. The county  
auditor shall credit such payments to the special fund established  
pursuant to section 1515.10 of the Revised Code for the local soil

and water conservation district. The department may make advances 15380  
at least quarterly to each district on the basis of the estimated 15381  
contribution of the state to each district. Moneys received by 15382  
each district shall be expended for the purposes of the district. 15383

For the purpose of providing money to soil and water 15384  
conservation districts under this section, there is hereby created 15385  
in the state treasury the soil and water conservation district 15386  
assistance fund consisting of money credited to it under section 15387  
3714.073 of the Revised Code. 15388

**Sec. 1517.02.** There is hereby created in the department of 15389  
natural resources the division of natural areas and preserves, 15390  
which shall be administered by the chief of natural areas and 15391  
preserves. The chief shall take an oath of office and shall file 15392  
in the office of the secretary of state a bond signed by the chief 15393  
and by a surety approved by the governor for a sum fixed pursuant 15394  
to section 121.11 of the Revised Code. 15395

The chief shall administer a system of nature preserves and 15396  
wild, scenic, and recreational river areas. The chief shall 15397  
establish a system of nature preserves through acquisition and 15398  
dedication of natural areas of state or national significance, 15399  
which shall include, but not be limited to, areas ~~which~~ that 15400  
represent characteristic examples of Ohio's natural landscape 15401  
types and its natural vegetation and geological history. The chief 15402  
shall encourage landowners to dedicate areas of unusual 15403  
significance as nature preserves, and shall establish and maintain 15404  
a registry of natural areas of unusual significance. 15405

The chief may supervise, operate, protect, and maintain wild, 15406  
scenic, and recreational river areas, as designated by the 15407  
director of natural resources. The chief may cooperate with 15408  
federal agencies administering any federal program concerning 15409  
wild, scenic, or recreational river areas. 15410

~~The chief may, with the approval of the director, enter into an agreement with the United States department of commerce under the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 U.S.C.A. 1451, as amended, for the purpose of receiving grants to continue the management, operation, research, and programming at old woman creek national estuarine research reserve.~~

The chief shall do the following: 15417

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves; 15418  
15419

(B) Formulate policies for the selection of areas suitable for registration; 15420  
15421

(C) Formulate policies for the dedication of areas as nature preserves; 15422  
15423

(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals; 15424  
15425  
15426

(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division ~~which~~ that are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code; 15427  
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(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character; 15435  
15436  
15437  
15438

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for 15439  
15440

their visitation and use; 15441

(H) Conduct and grant permits to qualified persons for the 15442  
conduct of scientific research and investigations within nature 15443  
preserves; 15444

(I) Establish an appropriate system for marking nature 15445  
preserves; 15446

(J) Publish and submit to the governor and the general 15447  
assembly a biennial report of the status and condition of each 15448  
nature preserve, activities conducted within each preserve, and 15449  
plans and recommendations for natural area preservation. 15450

**Sec. 1521.062.** (A) All dams, dikes, and levees constructed in 15451  
this state and not exempted by this section or by the chief of the 15452  
division of water under section 1521.06 of the Revised Code shall 15453  
be inspected periodically by the chief ~~to~~, except for classes of 15454  
dams that, in accordance with rules adopted under this section, 15455  
are required to be inspected by registered professional engineers 15456  
who have been approved for that purpose by the chief. The 15457  
inspection shall ensure that continued operation and use of the 15458  
dam, dike, or levee does not constitute a hazard to life, health, 15459  
or property. Periodic inspections shall not be required of the 15460  
following structures: 15461

(1) A dam that is less than ten feet in height and has a 15462  
storage capacity of not more than fifty acre-feet at the elevation 15463  
of the top of the dam, as determined by the chief. For the 15464  
purposes of this section, the height of a dam shall be measured 15465  
from the natural stream bed or lowest ground elevation at the 15466  
downstream or outside limit of the dam to the elevation of the top 15467  
of the dam. 15468

(2) A dam, regardless of height, that has a storage capacity 15469  
of not more than fifteen acre-feet at the elevation of the top of 15470

the dam, as determined by the chief; 15471

(3) A dam, regardless of storage capacity, that is six feet 15472  
or less in height, as determined by the chief; 15473

(4) A dam, dike, or levee belonging to a class exempted by 15474  
the chief; 15475

(5) A dam, dike, or levee that has been exempted in 15476  
accordance with rules adopted under section 1521.064 of the 15477  
Revised Code. 15478

(B) In accordance with rules adopted under this section, the 15479  
owner of a dam that is in a class of dams that is designated in 15480  
the rules for inspection by registered professional engineers 15481  
shall obtain the services of a registered professional engineer 15482  
who has been approved by the chief to conduct the periodic 15483  
inspection of dams pursuant to schedules and other standards and 15484  
procedures established in the rules. The registered professional 15485  
engineer shall prepare a report of the inspection in accordance 15486  
with the rules and provide the inspection report to the dam owner 15487  
who shall submit it to the chief. A dam that is designated under 15488  
the rules for inspection by a registered professional engineer but 15489  
that is not inspected within a five-year period may be inspected 15490  
by the chief at the owner's expense. 15491

(C) Intervals between periodic inspections shall be 15492  
determined by the chief, but shall not exceed five years. ~~The~~ 15493  
~~chief may use inspection reports prepared for the owner of the~~ 15494  
~~dam, dike, or levee by a registered professional engineer.~~ 15495

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 15496  
the chief inspects, the chief shall be furnished furnish a report 15497  
of ~~each~~ the inspection ~~and~~ to the owner of the dam, dike, or 15498  
levee. With regard to a dam, dike, or levee that has been 15499  
inspected, either by the chief or by a registered professional 15500  
engineer, and that is the subject of an inspection report prepared 15501

or received by the chief, the chief shall be informed of inform 15502  
the owner of any required repairs, maintenance, investigations, 15503  
and other remedial and operational measures ~~by the chief~~. The 15504  
chief shall order the owner to perform such repairs, maintenance, 15505  
investigations, or other remedial or operational measures as ~~he~~ 15506  
the chief considers necessary to safeguard life, health, or 15507  
property. The order shall permit the owner a reasonable time in 15508  
which to perform the needed repairs, maintenance, investigations, 15509  
or other remedial measures, and the cost thereof shall be borne by 15510  
the owner. All orders of the chief are subject to appeal as 15511  
provided in Chapter 119. of the Revised Code. The attorney 15512  
general, upon written request of the chief, may bring an action 15513  
for an injunction against any person who violates this section or 15514  
to enforce an order of the chief made pursuant to this section. 15515

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 15516  
maintain, and operate the structure and its appurtenances safely 15517  
in accordance with state rules, terms and conditions of permits, 15518  
orders, and other requirements issued pursuant to this section or 15519  
section 1521.06 of the Revised Code. The owner shall fully and 15520  
promptly notify the division of water and other responsible 15521  
authorities of any condition ~~which~~ that threatens the safety of 15522  
the structure and shall take all necessary actions to safeguard 15523  
life, health, and property. 15524

~~(E)~~(F) Before commencing the repair, improvement, alteration, 15525  
or removal of a dam, dike, or levee, the owner shall file an 15526  
application including plans, specifications, and other required 15527  
information with the division and shall secure written approval of 15528  
the application by the chief. Emergency actions by the owner 15529  
required to safeguard life, health, or property are exempt from 15530  
this requirement. The chief may, by rule, define maintenance, 15531  
repairs, or other remedial measures of a routine nature ~~which~~ that 15532  
are exempt from this requirement. 15533



~~(F)~~(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

~~(G)~~(H) If the condition of any dam, dike, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

(1) Lower the water level of the lake or reservoir by releasing water;

(2) Completely drain the lake or reservoir;

(3) Take such other measures or actions as ~~he~~ the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

~~(H)~~(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public

or private source and may contract with the United States 15565  
government or any other agency or entity for the purpose of 15566  
carrying out the dam safety functions set forth in this section 15567  
and section 1521.06 of the Revised Code. 15568

(J) In accordance with Chapter 119. of the Revised Code, the 15569  
chief shall adopt, and may amend or rescind, rules that do all of 15570  
the following: 15571

(1) Designate classes of dams for which dam owners must 15572  
obtain the services of a registered professional engineer to 15573  
periodically inspect the dams and to prepare reports of the 15574  
inspections for submittal to the chief; 15575

(2) Establish standards in accordance with which the chief 15576  
must approve or disapprove registered professional engineers to 15577  
inspect dams together with procedures governing the approval 15578  
process; 15579

(3) Establish schedules, standards, and procedures governing 15580  
periodic inspections and standards and procedures governing the 15581  
preparation and submittal of inspection reports; 15582

(4) Establish provisions regarding the enforcement of this 15583  
section and rules adopted under it. 15584

**Sec. 1531.27.** The chief of the division of wildlife shall pay 15585  
to the treasurers of the several counties wherein lands owned by 15586  
the state and administered by the division are ~~situate~~ located an 15587  
annual amount determined in the following manner: in each such 15588  
county one per cent of the total value of such lands exclusive of 15589  
improvements, as shown on the auditor's records of taxable value 15590  
of real property existing at the time when the state acquired the 15591  
tract or tracts comprising ~~such~~ the lands. 15592

~~Such~~ The payments shall be made from funds accruing to the 15593  
division ~~of wildlife~~ from the sale of hunting or fishing licenses 15594

and ~~federal wildlife restoration funds, and the~~ from fines, 15595  
penalties, and forfeitures deposited into the state treasury to 15596  
the credit of the wildlife fund created in section 1531.17 of the 15597  
Revised Code. The allocation of amounts to be paid from ~~such~~ those 15598  
sources shall be determined by the director of natural resources. 15599

~~Such~~ The payments to the treasurers of the several counties 15600  
shall be credited to the fund for school purposes within the 15601  
school districts wherein ~~such~~ the lands are ~~situate~~ located. 15602

**Sec. 1533.10.** Except as provided in this section or division 15603  
(A)(2) of section 1533.12 of the Revised Code, no person shall 15604  
hunt any wild bird or wild quadruped without a hunting license. 15605  
Each day that any person hunts within the state without procuring 15606  
such a license constitutes a separate offense. Except as otherwise 15607  
provided in this section, every applicant for a hunting license 15608  
who is a resident of the state and ~~sixteen~~ eighteen years of age 15609  
or more shall procure a resident hunting license, the fee for 15610  
which shall be eighteen dollars, unless the rules adopted under 15611  
division (B) of section 1533.12 of the Revised Code provide for 15612  
issuance of a resident hunting license to the applicant free of 15613  
charge. Except as provided in rules adopted under division (B)(2) 15614  
of that section, each applicant who is a resident of this state 15615  
and who at the time of application is sixty-six years of age or 15616  
older shall procure a special senior hunting license, the fee for 15617  
which shall be one-half of the regular hunting license fee. Every 15618  
applicant who is under the age of ~~sixteen~~ eighteen years shall 15619  
procure a special youth hunting license, the fee for which shall 15620  
be one-half of the regular hunting license fee. The owner of lands 15621  
in the state and the owner's children of any age and grandchildren 15622  
under eighteen years of age may hunt on the lands without a 15623  
hunting license. The tenant and children of the tenant, residing 15624  
on lands in the state, may hunt on them without a hunting license. 15625  
~~Every~~ Except as otherwise provided in division (A)(1) of section 15626

1533.12 of the Revised Code, every applicant for a hunting license 15627  
who is a nonresident of the state and who is ~~sixteen~~ eighteen 15628  
years of age or older shall procure a nonresident hunting license, 15629  
the fee for which shall be one hundred twenty-four dollars, unless 15630  
the applicant is a resident of a state that is a party to an 15631  
agreement under section 1533.91 of the Revised Code, in which case 15632  
the fee shall be eighteen dollars. 15633

The chief of the division of wildlife may issue a small game 15634  
hunting license expiring three days from the effective date of the 15635  
license to a nonresident of the state, the fee for which shall be 15636  
thirty-nine dollars. No person shall take or possess deer, wild 15637  
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 15638  
animal while possessing only a small game hunting license. A small 15639  
game hunting license does not authorize the taking or possessing 15640  
of ducks, geese, or brant without having obtained, in addition to 15641  
the small game hunting license, a wetlands habitat stamp as 15642  
provided in section 1533.112 of the Revised Code. A small game 15643  
hunting license does not authorize the taking or possessing of 15644  
deer, wild turkeys, or fur-bearing animals. A nonresident of the 15645  
state who wishes to take or possess deer, wild turkeys, or 15646  
fur-bearing animals in this state shall procure, respectively, a 15647  
special deer or wild turkey permit as provided in section 1533.11 15648  
of the Revised Code or a fur taker permit as provided in section 15649  
1533.111 of the Revised Code in addition to a nonresident hunting 15650  
license or a special youth hunting license, as applicable, as 15651  
provided in this section. 15652

No person shall procure or attempt to procure a hunting 15653  
license by fraud, deceit, misrepresentation, or any false 15654  
statement. 15655

This section does not authorize the taking and possessing of 15656  
deer or wild turkeys without first having obtained, in addition to 15657  
the hunting license required by this section, a special deer or 15658

wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt

rules prescribing a hunter education and conservation course for 15690  
first-time hunting license buyers and for volunteer instructors. 15691  
The course shall consist of subjects including, but not limited 15692  
to, hunter safety and health, use of hunting implements, hunting 15693  
tradition and ethics, the hunter and conservation, the law in 15694  
section 1533.17 of the Revised Code along with the penalty for its 15695  
violation, including a description of terms of imprisonment and 15696  
fines that may be imposed, and other law relating to hunting. 15697  
Authorized personnel of the division or volunteer instructors 15698  
approved by the chief shall conduct such courses with such 15699  
frequency and at such locations throughout the state as to 15700  
reasonably meet the needs of license applicants. The chief shall 15701  
issue a certificate of completion to each person who successfully 15702  
completes the course and passes an examination prescribed by the 15703  
chief. 15704

**Sec. 1533.11.** (A) Except as provided in this section, no 15705  
person shall hunt deer on lands of another without first obtaining 15706  
an annual special deer permit. Except as provided in this section, 15707  
no person shall hunt wild turkeys on lands of another without 15708  
first obtaining an annual special wild turkey permit. Each 15709  
applicant for a special deer or wild turkey permit shall pay an 15710  
annual fee of twenty-three dollars for each permit unless the 15711  
rules adopted under division (B) of section 1533.12 of the Revised 15712  
Code provide for issuance of a deer or wild turkey permit to the 15713  
applicant free of charge. Except as provided in rules adopted 15714  
under division (B)(2) of that section, each applicant who is a 15715  
resident of this state and who at the time of application is 15716  
sixty-six years of age or older shall procure a special senior 15717  
deer or wild turkey permit, the fee for which shall be one-half of 15718  
the regular special deer or wild turkey permit fee. Each applicant 15719  
who is under the age of ~~sixteen~~ eighteen years shall procure a 15720  
special youth deer or wild turkey permit, the fee for which shall 15721

be one-half of the regular special deer or wild turkey permit fee. 15722  
Except as provided in division (A)(2) of section 1533.12 of the 15723  
Revised Code, a deer or wild turkey permit shall run concurrently 15724  
with the hunting license. The money received shall be paid into 15725  
the state treasury to the credit of the wildlife fund, created in 15726  
section 1531.17 of the Revised Code, exclusively for the use of 15727  
the division of wildlife in the acquisition and development of 15728  
land for deer or wild turkey management, for investigating deer or 15729  
wild turkey problems, and for the stocking, management, and 15730  
protection of deer or wild turkey. Every person, while hunting 15731  
deer or wild turkey on lands of another, shall carry the person's 15732  
special deer or wild turkey permit and exhibit it to any 15733  
enforcement officer so requesting. Failure to so carry and exhibit 15734  
such a permit constitutes an offense under this section. The chief 15735  
of the division of wildlife shall adopt any additional rules the 15736  
chief considers necessary to carry out this section and section 15737  
1533.10 of the Revised Code. 15738

The owner and the children of the owner of lands in this 15739  
state may hunt deer or wild turkey thereon without a special deer 15740  
or wild turkey permit. The tenant and children of the tenant may 15741  
hunt deer or wild turkey on lands where they reside without a 15742  
special deer or wild turkey permit. 15743

(B) A special deer or wild turkey permit is not transferable. 15744  
No person shall carry a special deer or wild turkey permit issued 15745  
in the name of another person. 15746

(C) The wildlife refunds fund is hereby created in the state 15747  
treasury. The fund shall consist of money received from 15748  
application fees for special deer permits that are not issued. 15749  
Money in the fund shall be used to make refunds of such 15750  
application fees. 15751

**Sec. 1533.111.** Except as provided in this section or division 15752

(A)(2) of section 1533.12 of the Revised Code, no person shall 15753  
hunt or trap fur-bearing animals on land of another without first 15754  
obtaining an annual fur taker permit. Each applicant for a fur 15755  
taker permit shall pay an annual fee of fourteen dollars for the 15756  
permit, except as otherwise provided in this section or unless the 15757  
rules adopted under division (B) of section 1533.12 of the Revised 15758  
Code provide for issuance of a fur taker permit to the applicant 15759  
free of charge. Except as provided in rules adopted under division 15760  
(B)(2) of that section, each applicant who is a resident of this 15761  
state and who at the time of application is sixty-six years of age 15762  
or older shall procure a special senior fur taker permit, the fee 15763  
for which shall be one-half of the regular fur taker permit fee. 15764  
Each applicant ~~who is a resident of the state and~~ under the age of 15765  
~~sixteen~~ eighteen years shall procure a special youth fur taker 15766  
permit, the fee for which shall be one-half of the regular fur 15767  
taker permit fee. The fur taker permit shall run concurrently with 15768  
the hunting license. The money received shall be paid into the 15769  
state treasury to the credit of the fund established in section 15770  
1533.15 of the Revised Code. 15771

No fur taker permit shall be issued unless it is accompanied 15772  
by a written explanation of the law in section 1533.17 of the 15773  
Revised Code and the penalty for its violation, including a 15774  
description of terms of imprisonment and fines that may be 15775  
imposed. 15776

No fur taker permit shall be issued unless the applicant 15777  
presents to the agent authorized to issue a fur taker permit a 15778  
previously held hunting license or trapping or fur taker permit or 15779  
evidence of having held such a license or permit in content and 15780  
manner approved by the chief of the division of wildlife, a 15781  
certificate of completion issued upon completion of a trapper 15782  
education course approved by the chief, or evidence of equivalent 15783  
training in content and manner approved by the chief. 15784



No person shall issue a fur taker permit to any person who 15785  
fails to present the evidence required by this section. No person 15786  
shall purchase or obtain a fur taker permit without presenting to 15787  
the issuing agent the evidence required by this section. Issuance 15788  
of a fur taker permit in violation of the requirements of this 15789  
section is an offense by both the purchaser of the illegally 15790  
obtained permit and the clerk or agent who issued the permit. Any 15791  
fur taker permit issued in violation of this section is void. 15792

The chief, with approval of the wildlife council, shall adopt 15793  
rules prescribing a trapper education course for first-time fur 15794  
taker permit buyers and for volunteer instructors. The course 15795  
shall consist of subjects that include, but are not limited to, 15796  
trapping techniques, animal habits and identification, trapping 15797  
tradition and ethics, the trapper and conservation, the law in 15798  
section 1533.17 of the Revised Code along with the penalty for its 15799  
violation, including a description of terms of imprisonment and 15800  
fines that may be imposed, and other law relating to trapping. 15801  
Authorized personnel of the division of wildlife or volunteer 15802  
instructors approved by the chief shall conduct the courses with 15803  
such frequency and at such locations throughout the state as to 15804  
reasonably meet the needs of permit applicants. The chief shall 15805  
issue a certificate of completion to each person who successfully 15806  
completes the course and passes an examination prescribed by the 15807  
chief. 15808

Every person, while hunting or trapping fur-bearing animals 15809  
on lands of another, shall carry the person's fur taker permit 15810  
~~affixed to the person's hunting license~~ with the person's 15811  
signature written ~~across the face of~~ on the permit. Failure to 15812  
carry such a signed permit constitutes an offense under this 15813  
section. The chief shall adopt any additional rules the chief 15814  
considers necessary to carry out this section. 15815

The owner and the children of the owner of lands in this 15816

state may hunt or trap fur-bearing animals thereon without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

**Sec. 1533.112.** Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp. The annual fee for the wetlands habitat stamp shall be fourteen dollars for each stamp unless the rules adopted under division (B) of section 1533.12 provide for issuance of a wetlands habitat stamp to the applicant free of charge.

Moneys received from the stamp fee shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A)(2) of section 1533.12 of the

Revised Code. 15878

**Sec. 1533.12.** (A)(1) Except as otherwise provided in division 15879  
(A)(2) of this section, every person on active duty in the armed 15880  
forces of the United States who is stationed in this state and who 15881  
wishes to engage in an activity for which a license, permit, or 15882  
stamp is required under this chapter first shall obtain the 15883  
requisite license, permit, or stamp. Such a person is eligible to 15884  
obtain a resident hunting or fishing license regardless of whether 15885  
the person qualifies as a resident of this state. To obtain a 15886  
resident hunting or fishing license, the person shall present a 15887  
card or other evidence identifying the person as being on active 15888  
duty in the armed forces of the United States and as being 15889  
stationed in this state. 15890

(2) Every person on active duty in the armed forces of the 15891  
United States, while on leave or furlough, may take or catch fish 15892  
of the kind lawfully permitted to be taken or caught within the 15893  
state, may hunt any wild bird or wild quadruped lawfully permitted 15894  
to be hunted within the state, and may trap fur-bearing animals 15895  
lawfully permitted to be trapped within the state, without 15896  
procuring a fishing license, a hunting license, a fur taker 15897  
permit, or a wetlands habitat stamp required by this chapter, 15898  
provided that the person shall carry on the person when fishing, 15899  
hunting, or trapping, a card or other evidence identifying the 15900  
person as being on active duty in the armed forces of the United 15901  
States, and provided that the person is not otherwise violating 15902  
any of the hunting, fishing, and trapping laws of this state. 15903

In order to hunt deer or wild turkey, any such person shall 15904  
obtain a special deer or wild turkey permit, as applicable, under 15905  
section 1533.11 of the Revised Code. However, the person need not 15906  
obtain a hunting license in order to obtain such a permit. 15907

(B) The chief of the division of wildlife shall provide by 15908

rule adopted under section 1531.10 of the Revised Code all of the 15909  
following: 15910

(1) Every resident of this state with a disability that has 15911  
been determined by the veterans administration to be permanently 15912  
and totally disabling, who receives a pension or compensation from 15913  
the veterans administration, and who received an honorable 15914  
discharge from the armed forces of the United States, and every 15915  
veteran to whom the registrar of motor vehicles has issued a set 15916  
of license plates under section 4503.41 of the Revised Code, shall 15917  
be issued an annual fishing license, hunting license, fur taker 15918  
permit, deer or wild turkey permit, or wetlands habitat stamp, or 15919  
any combination of those licenses, permits, and stamp, free of 15920  
charge when application is made to the chief in the manner 15921  
prescribed by and on forms provided by the chief. 15922

(2) Every resident of the state who was born on or before 15923  
December 31, 1937, shall be issued an annual fishing license, 15924  
hunting license, fur taker permit, deer or wild turkey permit, or 15925  
wetlands habitat stamp, or any combination of those licenses, 15926  
permits, and stamp, free of charge when application is made to the 15927  
chief in the manner prescribed by and on forms provided by the 15928  
chief. 15929

(3) Every resident of state or county institutions, 15930  
charitable institutions, and military homes in this state shall be 15931  
issued an annual fishing license free of charge when application 15932  
is made to the chief in the manner prescribed by and on forms 15933  
provided by the chief. 15934

(4) Any mobility impaired or blind person, as defined in 15935  
section 955.011 of the Revised Code, who is a resident of this 15936  
state and who is unable to engage in fishing without the 15937  
assistance of another person shall be issued an annual fishing 15938  
license free of charge when application is made to the chief in 15939

the manner prescribed by and on forms provided by the chief. The  
person who is assisting the mobility impaired or blind person may  
assist in taking or catching fish of the kind permitted to be  
taken or caught without procuring the license required under  
section 1533.32 of the Revised Code, provided that only one line  
is used by both persons.

(5) As used in division (B)(5) of this section, "prisoner of  
war" means any regularly appointed, enrolled, enlisted, or  
inducted member of the military forces of the United States who  
was captured, separated, and incarcerated by an enemy of the  
United States.

Any person who has been a prisoner of war, was honorably  
discharged from the military forces, and is a resident of this  
state shall be issued an annual fishing license, hunting license,  
fur taker permit, or wetlands habitat stamp, or any combination of  
those licenses, permits, and stamp, free of charge when  
application is made to the chief in the manner prescribed by and  
on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08  
of the Revised Code designating not more than two days, which need  
not be consecutive, in each year as "free sport fishing days" on  
which any resident may exercise the privileges accorded the holder  
of a fishing license issued under section 1533.32 of the Revised  
Code without procuring such a license, provided that the person is  
not otherwise violating any of the fishing laws of this state.

Sec. 1533.122. (A) Unless otherwise provided by division  
rule, a person who traps, captures, removes, relocates, or  
controls native or nonnative wildlife shall obtain an annual  
wildlife control operators permit issued by the division of  
wildlife under this section and shall conduct those activities in  
accordance with this section and the rules adopted pursuant to it.

Unless otherwise provided by those rules, a wildlife control operators permit shall expire on the fifteenth day of March of each year. Unless otherwise provided by those rules, the fee for such a permit shall be one hundred dollars. While engaged in trapping, capturing, removal, relocation, or control of native or nonnative wildlife, a person shall carry the person's wildlife control operators permit and shall exhibit the permit to any law enforcement officer requesting it. 15971  
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(B) The chief of the division of wildlife shall adopt rules under section 1531.08 of the Revised Code governing the trapping, capturing, removal, relocation, and control of native or nonnative wildlife by wildlife control operators. The rules shall establish procedures for the issuance of wildlife control operators permits and for the record-keeping that is required under division (C) of this section, including procedures for the annual submission of records as required under that division or under division rules. In addition, the rules may establish requirements and procedures for the administration of an examination prior to the issuance of a permit under this section. The rules may require the examination to test knowledge of current wildlife rules, animal life history, control methods, and other pertinent information. The rules may require that an applicant for a wildlife control operators permit pass the examination in order to receive a permit under this section and may establish a fee for the administration of the test. The rules also may require an applicant to satisfy minimum standards established in the rules. 15979  
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(C) In accordance with rules adopted pursuant to division (B) of this section, a person who has been issued a wildlife control operators permit and who has engaged in the trapping, capturing, removal, relocation, or control of native or nonnative wildlife shall keep accurate, legible, written records of all of the 15997  
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following: 16002

(1) The county and township where native or nonnative  
wildlife have been trapped, captured, removed, relocated, or  
controlled; 16003  
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(2) The date on which the native or nonnative wildlife were  
captured and the method used to trap, capture, remove, relocate,  
or control the native or nonnative wildlife; 16006  
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(3) The species and number of native or nonnative wildlife  
trapped, captured, removed, relocated, or controlled; 16009  
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(4) The disposition of native or nonnative wildlife trapped,  
captured, removed, relocated, or controlled; 16011  
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(5) Any other information required by the chief. 16013

All records shall be kept on forms provided by the division  
for a period of three years and shall be made available for  
inspection by a representative of the division at reasonable  
hours. 16014  
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(D) A summary of the information compiled under divisions  
(C)(1), (3), and (4) of this section for the previous year shall  
be submitted to the division with an application for renewal of a  
wildlife control operators permit. A person who fails to submit  
the summary with an application for renewal by the fifteenth day  
of March of the year in which the person's permit expires shall be  
denied a renewal of the permit. 16018  
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(E) No person shall violate this section or a rule adopted  
pursuant to it. 16025  
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**Sec. 1533.32.** Except as provided in this section or division 16027  
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 16028  
including nonresidents, shall take or catch any fish by angling in 16029  
any of the waters in the state or engage in fishing in those 16030



waters without a license. No person shall take or catch frogs or 16031  
turtles without a valid fishing license, except as provided in 16032  
this section. Persons fishing in privately owned ponds, lakes, or 16033  
reservoirs to or from which fish are not accustomed to migrate are 16034  
exempt from the license requirements set forth in this section. 16035  
Persons fishing in privately owned ponds, lakes, or reservoirs 16036  
that are open to public fishing through an agreement or lease with 16037  
the division of wildlife shall comply with the license 16038  
requirements set forth in this section. 16039

The fee for an annual license shall be thirty-nine dollars 16040  
for a resident of a state that is not a party to an agreement 16041  
under section 1533.91 of the Revised Code. The fee for an annual 16042  
license shall be eighteen dollars for a resident of a state that 16043  
is a party to such an agreement. The fee for an annual license for 16044  
residents of this state shall be eighteen dollars unless the rules 16045  
adopted under division (B) of section 1533.12 of the Revised Code 16046  
provide for issuance of a resident fishing license to the 16047  
applicant free of charge. Except as provided in rules adopted 16048  
under division (B)(2) of that section, each applicant who is a 16049  
resident of this state and who at the time of application is 16050  
sixty-six years of age or older shall procure a special senior 16051  
fishing license, the fee for which shall be one-half of the annual 16052  
resident fishing license fee. 16053

Any person under the age of sixteen years may take or catch 16054  
frogs and turtles and take or catch fish by angling without a 16055  
license. 16056

The chief of the division of wildlife may issue a tourist's 16057  
license expiring three days from the effective date of the license 16058  
to a resident of a state that is not a party to an agreement under 16059  
section 1533.91 of the Revised Code. The fee for a tourist's 16060  
license shall be eighteen dollars. 16061

The chief shall adopt rules under section 1531.10 of the 16062

Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be fifty-five per cent of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

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Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

No person shall alter a fishing license or possess a fishing license that has been altered.

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the

immediate families of such owners, may take frogs and turtles and  
may take or catch fish of the kind permitted to be taken or caught  
therefrom without procuring a license provided for in this  
section. This exemption extends to tenants actually residing upon  
such lands and to the members of the immediate families of the  
tenants. Residents of state or county institutions, charitable  
institutions, and military homes in this state may take frogs and  
turtles without procuring the required license, provided that a  
member of the institution or home has an identification card,  
which shall be carried on that person when fishing.

Every fisher required to be licensed, while fishing or taking  
or attempting to take frogs or turtles, shall carry the license  
and exhibit it to any person. Failure to so carry and exhibit the  
license constitutes an offense under this section.

**Sec. 1533.99.** (A) Whoever violates section 1533.17 of the  
Revised Code is guilty of a misdemeanor of the third degree on a  
first offense and a misdemeanor of the second degree on each  
subsequent offense. In addition to any other sanction imposed  
under this division, on a second or subsequent offense occurring  
within a period of three consecutive years after the date of  
conviction of the immediately preceding violation of that section,  
any firearms or other hunting implements in the possession or  
under the control of the offender at the time of the violation are  
subject to seizure in accordance with section 1531.20 of the  
Revised Code. If the offender persists in the offense after  
reasonable warning or request to desist, the offender is guilty of  
a misdemeanor of the second degree.

(B) Whoever violates section 1533.122, 1533.161, 1533.23,  
1533.24, 1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511,  
1533.55, 1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71,  
1533.72, 1533.73, 1533.74, 1533.75, 1533.76, 1533.77, 1533.78,

1533.79, or 1533.80, division (F) of section 1533.731, or division 16125  
(B) or (C) of section 1533.97 of the Revised Code is guilty of a 16126  
misdemeanor of the third degree. 16127

(C) Whoever violates division (B) of section 1533.03, section 16128  
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 16129  
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 16130  
or 1533.882, division (B)(2) or (3) of section 1533.731, or 16131  
division (A) of section 1533.97 of the Revised Code is guilty of a 16132  
misdemeanor of the first degree. 16133

(D) Whoever violates division (D) of section 1533.97 of the 16134  
Revised Code is guilty of a misdemeanor of the fourth degree. The 16135  
court shall require any person who is convicted of or pleads 16136  
guilty to the offense to refund to all participants in the fishing 16137  
tournament operated by the person any entry fees paid by the 16138  
participants. 16139

(E) Whoever violates division (C) or (D) of section 1533.632 16140  
of the Revised Code is guilty of a felony of the fifth degree. 16141

(F) Whoever violates any section of this chapter for which no 16142  
penalty is otherwise provided is guilty of a misdemeanor of the 16143  
fourth degree. 16144

(G) A court that imposes sentence for a violation of any 16145  
section of this chapter governing the holding, taking, or 16146  
possession of wild animals shall require the person who is 16147  
convicted of or pleads guilty to the offense, in addition to any 16148  
fine, term of imprisonment, seizure, and forfeiture imposed, to 16149  
make restitution for the minimum value of the wild animal or 16150  
animals illegally held, taken, or possessed as established under 16151  
section 1531.201 of the Revised Code. An officer who collects 16152  
moneys paid as restitution under this section shall pay those 16153  
moneys to the treasurer of state who shall deposit them in the 16154  
state treasury to the credit of the wildlife fund established 16155

under section 1531.17 of the Revised Code.

16156

**Sec. 1541.03.** All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

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16161

(A) To make alterations and improvements;

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(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;

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(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;

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(D) ~~To~~ Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:

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(1) Governing opening and closing times and dates of the parks;

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(2) Establishing fees and charges for ~~admission to state parks and for~~ use of facilities in ~~them~~ state parks;

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(3) Governing camps, camping, and fees for camps and camping;

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(4) Governing the application for and rental of, rental fees for, and the use of cabins;

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(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;

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(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal

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property and control of food service sales on lands and waters 16185  
under the control of the division, which rules shall establish 16186  
uniform requirements; 16187

(7) Providing uniform standards relating to the size, type, 16188  
location, construction, and maintenance of structures and devices 16189  
used for fishing or moorage of watercraft, rowboats, sailboats, 16190  
and powercraft, as those terms are defined in section 1547.01 of 16191  
the Revised Code, over waters under the control of the division 16192  
and establishing reasonable fees for the construction of and 16193  
annual use permits for those structures and devices; 16194

(8) Governing state beaches, swimming, inflatable devices, 16195  
and fees for them; 16196

(9) Governing the removal and disposition of any watercraft, 16197  
rowboat, sailboat, or powercraft, as those terms are defined in 16198  
section 1547.01 of the Revised Code, left unattended for more than 16199  
seven days on any lands or waters under the control of the 16200  
division; 16201

(10) Governing the establishment and collection of check 16202  
collection charges for checks that are returned to the division or 16203  
dishonored for any reason. 16204

The division shall adopt rules under this section 16205  
establishing a discount program for all persons who are issued a 16206  
golden buckeye card under section 173.06 of the Revised Code. The 16207  
discount program shall provide a discount for all park services 16208  
and rentals, but shall not provide a discount for the purchase of 16209  
merchandise. 16210

The division shall not adopt rules establishing fees or 16211  
charges for parking a motor vehicle in a state park or for 16212  
admission to a state park. 16213

Every resident of this state with a disability that has been 16214

determined by the veterans administration to be permanently and  
totally disabling, who receives a pension or compensation from the  
veterans administration, and who received an honorable discharge  
from the armed forces of the United States, and every veteran to  
whom the registrar of motor vehicles has issued a set of license  
plates under section 4503.41 of the Revised Code, shall be exempt  
from the fees for camping, provided that the resident or veteran  
carries in the state park such evidence of the resident's or  
veteran's disability as the chief of the division of parks and  
recreation prescribes by rule.

~~Every~~ Unless otherwise provided by division rule, every  
resident of this state who is sixty-five years of age or older or  
who is permanently and totally disabled and who furnishes evidence  
of that age or disability in a manner prescribed by division rule  
shall be charged one-half of the regular fee for camping, except  
on the weekends and holidays designated by the division. ~~Such a~~  
~~person, and~~ shall not be charged more than ninety per cent of the  
regular charges for state recreational facilities, equipment,  
services, and food service operations utilized by the person at  
any time of year, whether maintained or operated by the state or  
leased for operation by another entity.

As used in this section, "food service operations" means  
restaurants that are owned by the department of natural resources  
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state  
parks or are part of a state park lodge. "Food service operations"  
does not include automatic vending machines, concession stands, or  
snack bars.

As used in this section, "prisoner of war" means any  
regularly appointed, enrolled, enlisted, or inducted member of the  
military forces of the United States who was captured, separated,  
and incarcerated by an enemy of the United States. Any person who  
has been a prisoner of war, was honorably discharged from the

military forces, and is a resident of this state is exempt from  
the fees for camping. To claim this exemption, the person shall  
present written evidence in the form of a record of separation, a  
letter from one of the military forces of the United States, or  
such other evidence as the chief prescribes by rule that satisfies  
the eligibility criteria established by this section.

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of  
the Revised Code:

(A) "Eligible project" means a project that involves the  
acquisition, construction, establishment, reconstruction,  
rehabilitation, renovation, enlargement, improvement, equipping,  
furnishing, or development of either of the following:

(1) Marine recreational facilities;

(2) Refuge harbors and other projects for the harboring,  
mooring, docking, launching, and storing of light draft vessels.

(B) "Marine recreational facilities," "refuge harbors,"  
"light draft vessels," and "allowable costs" have the meanings  
established in rules adopted under section 1547.723 of the Revised  
Code.

(C) "Revolving loan program" means the loan program  
established under sections 1547.721 to 1547.726 of the Revised  
Code.

(D) "State agency" has the same meaning as in section 9.66 of  
the Revised Code.

Sec. 1547.722. There is hereby created in the state treasury  
the watercraft revolving loan fund consisting of money  
appropriated or transferred to it, money received and credited to  
the fund under section 1547.726 of the Revised Code, and any  
grants, gifts, or contributions of moneys received for deposit to



the credit of the fund. 16276

The director of natural resources shall use money in the 16277  
watercraft revolving loan fund for the purpose of making loans 16278  
under section 1547.724 of the Revised Code for eligible projects 16279  
and taking actions under sections 1547.721 to 1547.726 of the 16280  
Revised Code necessary to fulfill that purpose. The director may 16281  
establish separate accounts in the fund for particular projects or 16282  
otherwise. Income from the investment of money in the fund shall 16283  
be credited to the fund, and, if the director so requires, to 16284  
particular accounts in the fund. 16285

Sec. 1547.723. (A) The director of natural resources shall 16286  
adopt rules under Chapter 119. of the Revised Code that the 16287  
director determines to be necessary for the implementation of the 16288  
revolving loan program. The rules shall include a definition of 16289  
what constitutes "allowable costs" of an eligible project for 16290  
purposes of the program together with a definition of "marine 16291  
recreational facilities," "refuge harbors," and "light draft 16292  
vessels," respectively. 16293

(B) The director may delegate any of the director's duties or 16294  
responsibilities under sections 1547.721 to 1547.726 of the 16295  
Revised Code to the chief of the division of watercraft. 16296

Sec. 1547.724. (A) With the approval of the controlling 16297  
board, and subject to the other applicable provisions of sections 16298  
1547.721 to 1547.726 of the Revised Code, the director of natural 16299  
resources may lend moneys in the watercraft revolving loan fund to 16300  
public or private entities for the purpose of paying the allowable 16301  
costs of an eligible project. Loans shall be made under this 16302  
division only if the director determines that all of the following 16303  
apply: 16304

(1) The project is an eligible project and is economically sound; 16305  
16306

(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms; 16307  
16308

(3) The repayment of the loan will be adequately secured by a mortgage, lien, assignment, or pledge at a level of priority as the director may require; 16309  
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(4) The amount of the loan does not exceed ninety per cent of the total cost of the project. 16312  
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(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director. Further, the director's determinations that a project constitutes an eligible project and that the costs of such a project are allowable costs, together with all other determinations relevant to the project or to an action taken or agreement entered into under sections 1547.721 to 1547.726 of the Revised Code shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under those sections. 16314  
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(C) The director may take any actions necessary or appropriate with respect to a loan made under this section, including facilitating the collection of amounts due on a loan. 16325  
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**Sec. 1547.725.** For purposes of the revolving loan program, the director of natural resources may do any of the following: 16328  
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(A) Establish fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the watercraft revolving loan fund that the director determines to be appropriate and in furtherance of the purpose for which the loans are made; 16330  
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(B) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors that the director determines to be necessary and fix the compensation for their services; 16335  
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(C) Receive and accept from any person grants, gifts, contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made; 16340  
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(D) Enter into appropriate agreements with other governmental entities to provide for all of the following: 16344  
16345

(1) Payment of allowable costs related to the development of eligible projects for which loans have been made from the watercraft revolving loan fund; 16346  
16347  
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(2) Any governmental action a governmental entity is authorized to take, including undertaking on behalf and at the request of the director any action that the director is authorized to undertake pursuant to sections 1547.721 to 1547.725 of the Revised Code; 16349  
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(3) The operation of facilities associated with eligible projects. 16354  
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All state agencies shall cooperate with and provide assistance to the director as is necessary for the administration of sections 1547.721 to 1547.726 of the Revised Code. 16356  
16357  
16358

**Sec. 1547.726.** All money received by the state from the repayment of loans made from the watercraft revolving loan fund, including interest, fees, and charges associated with such loans, shall be deposited to the credit of the watercraft revolving loan fund. 16359  
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**Sec. 1548.06.** (A)(1) Application for a certificate of title 16364  
for a watercraft or outboard motor shall be made upon a form 16365  
prescribed by the chief of the division of watercraft and shall be 16366  
sworn to before a notary public or other officer empowered to 16367  
administer oaths. The application shall be filed with the clerk of 16368  
any court of common pleas. An application for a certificate of 16369  
title may be filed electronically by any electronic means approved 16370  
by the chief in any county with the clerk of the court of common 16371  
pleas of that county. The application shall be accompanied by the 16372  
fee prescribed in section 1548.10 of the Revised Code. The fee 16373  
shall be retained by the clerk who issues the certificate of title 16374  
and shall be distributed in accordance with that section. If a 16375  
clerk of a court of common pleas, other than the clerk of the 16376  
court of common pleas of an applicant's county of residence, 16377  
issues a certificate of title to the applicant, the clerk shall 16378  
transmit data related to the transaction to the automated title 16379  
processing system. 16380

(2) If a certificate of title previously has been issued for 16381  
the watercraft or outboard motor, the application for a 16382  
certificate of title also shall be accompanied by the certificate 16383  
of title duly assigned unless otherwise provided in this chapter. 16384  
If a certificate of title previously has not been issued for the 16385  
watercraft or outboard motor in this state, the application, 16386  
unless otherwise provided in this chapter, shall be accompanied by 16387  
a manufacturer's or importer's certificate; by a sworn statement 16388  
of ownership if the watercraft or outboard motor was purchased by 16389  
the applicant on or before October 9, 1963, or if the watercraft 16390  
is less than fourteen feet long with a permanently affixed 16391  
mechanical means of propulsion and was purchased by the applicant 16392  
on or before January 1, 2000; or by a certificate of title, bill 16393  
of sale, or other evidence of ownership required by the law of 16394  
another state from which the watercraft or outboard motor was 16395

brought into this state. Evidence of ownership of a watercraft or 16396  
outboard motor for which an Ohio certificate of title previously 16397  
has not been issued and which watercraft or outboard motor does 16398  
not have permanently affixed to it a manufacturer's serial number 16399  
shall be accompanied by the certificate of assignment of a hull 16400  
identification number assigned by the chief as provided in section 16401  
1548.07 of the Revised Code. 16402

(3) The clerk shall retain the evidence of title presented by 16403  
the applicant and on which the certificate of title is issued, 16404  
except that, if an application for a certificate of title is filed 16405  
electronically, by a vendor on behalf of a purchaser of a 16406  
watercraft or outboard motor, the clerk shall retain the completed 16407  
electronic record to which the vendor converted the certificate of 16408  
title application and other required documents. The chief, after 16409  
consultation with the attorney general, shall adopt rules that 16410  
govern the location at which, and the manner in which, are stored 16411  
the actual application and all other documents relating to the 16412  
sale of a watercraft or outboard motor when a vendor files the 16413  
application for a certificate of title electronically on behalf of 16414  
a purchaser. 16415

(B) The clerk shall use reasonable diligence in ascertaining 16416  
whether the facts in the application are true by checking the 16417  
application and documents accompanying it or the electronic record 16418  
to which a vendor converted the application and accompanying 16419  
documents with the records of watercraft and outboard motors in 16420  
the clerk's office. If the clerk is satisfied that the applicant 16421  
is the owner of the watercraft or outboard motor and that the 16422  
application is in the proper form, the clerk shall issue a 16423  
physical certificate of title over the clerk's signature and 16424  
sealed with the clerk's seal unless the applicant specifically 16425  
requests the clerk not to issue a physical certificate of title 16426  
and instead to issue an electronic certificate of title. However, 16427

if the evidence indicates and an investigation shows that one or 16428  
more Ohio titles already exist for the watercraft or outboard 16429  
motor, the chief may cause the redundant title or titles to be 16430  
canceled. 16431

(C) In the case of the sale of a watercraft or outboard motor 16432  
by a vendor to a general purchaser or user, the certificate of 16433  
title shall be obtained in the name of the purchaser by the vendor 16434  
upon application signed by the purchaser. In all other cases, the 16435  
certificate shall be obtained by the purchaser. In all cases of 16436  
transfer of watercraft or outboard motors, the application for 16437  
certificate of title shall be filed within thirty days after the 16438  
later of the date of purchase or assignment of ownership of the 16439  
watercraft or outboard motor. If the application for certificate 16440  
of title is not filed within thirty days after the later of the 16441  
date of purchase or assignment of ownership of the watercraft or 16442  
outboard motor, the clerk shall charge a late penalty fee of five 16443  
dollars in addition to the fee prescribed by section 1548.10 of 16444  
the Revised Code. The clerk shall retain the entire amount of each 16445  
late penalty fee. 16446

(D) The clerk shall refuse to accept an application for 16447  
certificate of title unless the applicant either tenders with the 16448  
application payment of all taxes levied by or pursuant to Chapter 16449  
5739. or 5741. of the Revised Code based on the applicant's county 16450  
of residence less, in the case of a sale by a vendor, any discount 16451  
to which the vendor is entitled under section 5739.12 of the 16452  
Revised Code, or submits any of the following: 16453

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 16454  
courts showing payment of the tax; 16455

~~(B)~~(2) A copy of the unit certificate of exemption completed 16456  
by the purchaser at the time of sale as provided in section 16457  
5739.03 of the Revised Code; 16458

~~(C)~~(3) An exemption certificate, in a form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be in accordance with rules issued by the tax commissioner, and the clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for the certificate of title.

(E)(1) For receiving and disbursing the taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent of the taxes collected, which shall be paid into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

(2) A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The chief of the division of watercraft, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(F) In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be

prescribed by the chief, which shall be prima-facie evidence of 16490  
the price for the determination of the tax. In addition to the 16491  
information required by section 1548.08 of the Revised Code, each 16492  
certificate of title shall contain in bold lettering the following 16493  
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 16494  
(SELLER AND BUYER). You are required by law to state the true 16495  
selling price. A false statement is a violation of section 2921.13 16496  
of the Revised Code and is punishable by six months imprisonment 16497  
or a fine of up to one thousand dollars, or both. All transfers 16498  
are audited by the department of taxation. The seller and buyer 16499  
must provide any information requested by the department of 16500  
taxation. The buyer may be assessed any additional tax found to be 16501  
due." 16502

~~The clerk shall forward all payments of taxes, less poundage 16503  
fees, to the treasurer of state in a manner to be prescribed by 16504  
the tax commissioner and shall furnish information to the 16505  
commissioner as the commissioner may require. (G) Each county 16506  
clerk of courts shall forward to the treasurer of state all sales 16507  
and use tax collections resulting from sales of titled watercraft 16508  
and outboard motors during a calendar week on or before the Friday 16509  
following the close of that week. If, on any Friday, the offices 16510  
of the clerk of courts or the state are not open for business, the 16511  
tax shall be forwarded to the treasurer of state on or before the 16512  
next day on which the offices are open. Every remittance of tax 16513  
under this division shall be accompanied by a remittance report in 16514  
such form as the tax commissioner prescribes. Upon receipt of a 16515  
tax remittance and remittance report, the treasurer of state shall 16516  
date stamp the report and forward it to the tax commissioner. If 16517  
the tax due for any week is not remitted by a clerk of courts as 16518  
required under this division, the clerk shall forfeit the poundage 16519  
fees for the sales made during that week. The treasurer of state 16520  
may require the clerks of courts to transmit tax collections and 16521  
remittance reports electronically. 16522~~



(H) For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

**Sec. 1707.01.** As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates,

interests in any trust or pretended trust, any investment 16554  
contract, any life settlement interest, any instrument evidencing 16555  
a promise or an agreement to pay money, warehouse receipts for 16556  
intoxicating liquor, and the currency of any government other than 16557  
those of the United States and Canada, but sections 1707.01 to 16558  
1707.45 of the Revised Code do not apply to the sale of real 16559  
estate. 16560

(C)(1) "Sale" has the full meaning of "sale" as applied by or 16561  
accepted in courts of law or equity, and includes every 16562  
disposition, or attempt to dispose, of a security or of an 16563  
interest in a security. "Sale" also includes a contract to sell, 16564  
an exchange, an attempt to sell, an option of sale, a solicitation 16565  
of a sale, a solicitation of an offer to buy, a subscription, or 16566  
an offer to sell, directly or indirectly, by agent, circular, 16567  
pamphlet, advertisement, or otherwise. 16568

(2) "Sell" means any act by which a sale is made. 16569

(3) The use of advertisements, circulars, or pamphlets in 16570  
connection with the sale of securities in this state exclusively 16571  
to the purchasers specified in division (D) of section 1707.03 of 16572  
the Revised Code is not a sale when the advertisements, circulars, 16573  
and pamphlets describing and offering those securities bear a 16574  
readily legible legend in substance as follows: "This offer is 16575  
made on behalf of dealers licensed under sections 1707.01 to 16576  
1707.45 of the Revised Code, and is confined in this state 16577  
exclusively to institutional investors and licensed dealers." 16578

(4) The offering of securities by any person in conjunction 16579  
with a licensed dealer by use of advertisement, circular, or 16580  
pamphlet is not a sale if that person does not otherwise attempt 16581  
to sell securities in this state. 16582

(5) Any security given with, or as a bonus on account of, any 16583  
purchase of securities is conclusively presumed to constitute a 16584

part of the subject of that purchase and has been "sold." 16585

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person 16586  
acting in a representative capacity, includes sale on behalf of 16587  
such party by an agent, including a licensed dealer or 16588  
salesperson. 16589

(D) "Person," except as otherwise provided in this chapter, 16590  
means a natural person, firm, partnership, limited partnership, 16591  
partnership association, syndicate, joint-stock company, 16592  
unincorporated association, trust or trustee except where the 16593  
trust was created or the trustee designated by law or judicial 16594  
authority or by a will, and a corporation or limited liability 16595  
company organized under the laws of any state, any foreign 16596  
government, or any political subdivision of a state or foreign 16597  
government. 16598

(E)(1) "Dealer," except as otherwise provided in this 16599  
chapter, means every person, other than a salesperson, who engages 16600  
or professes to engage, in this state, for either all or part of 16601  
the person's time, directly or indirectly, either in the business 16602  
of the sale of securities for the person's own account, or in the 16603  
business of the purchase or sale of securities for the account of 16604  
others in the reasonable expectation of receiving a commission, 16605  
fee, or other remuneration as a result of engaging in the purchase 16606  
and sale of securities. "Dealer" does not mean any of the 16607  
following: 16608

(a) Any issuer, including any officer, director, employee, or 16609  
trustee of, or member or manager of, or partner in, or any general 16610  
partner of, any issuer, that sells, offers for sale, or does any 16611  
act in furtherance of the sale of a security that represents an 16612  
economic interest in that issuer, provided no commission, fee, or 16613  
other similar remuneration is paid to or received by the issuer 16614  
for the sale; 16615

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are such clerical or other employees of an issuer or dealer as are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or

employee if it determines that protection of the public  
necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under  
this chapter.

(G) "Issuer" means every person who has issued, proposes to  
issue, or issues any security.

(H) "Director" means each director or trustee of a  
corporation, each trustee of a trust, each general partner of a  
partnership, except a partnership association, each manager of a  
partnership association, and any person vested with managerial or  
directory power over an issuer not having a board of directors or  
trustees.

(I) "Incorporator" means any incorporator of a corporation  
and any organizer of, or any person participating, other than in a  
representative or professional capacity, in the organization of an  
unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent  
practices," or "fraudulent transactions" means anything recognized  
on or after July 22, 1929, as such in courts of law or equity; any  
device, scheme, or artifice to defraud or to obtain money or  
property by means of any false pretense, representation, or  
promise; any fictitious or pretended purchase or sale of  
securities; and any act, practice, transaction, or course of  
business relating to the purchase or sale of securities that is  
fraudulent or that has operated or would operate as a fraud upon  
the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any  
classification or computation is based upon "par value," as  
applied to securities without par value, the average of the  
aggregate consideration received or to be received by the issuer  
for each class of those securities shall be used as the basis for

that classification or computation. 16677

(L)(1) "Intangible property" means patents, copyrights, 16678  
secret processes, formulas, services, good will, promotion and 16679  
organization fees and expenses, trademarks, trade brands, trade 16680  
names, licenses, franchises, any other assets treated as 16681  
intangible according to generally accepted accounting principles, 16682  
and securities, accounts receivable, or contract rights having no 16683  
readily determinable value. 16684

(2) "Tangible property" means all property other than 16685  
intangible property and includes securities, accounts receivable, 16686  
and contract rights, when the securities, accounts receivable, or 16687  
contract rights have a readily determinable value. 16688

(M) "Public utilities" means those utilities defined in 16689  
sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised 16690  
Code; in the case of a foreign corporation, it means those 16691  
utilities defined as public utilities by the laws of its domicile; 16692  
and in the case of any other foreign issuer, it means those 16693  
utilities defined as public utilities by the laws of the situs of 16694  
its principal place of business. The term always includes 16695  
railroads whether or not they are so defined as public utilities. 16696

(N) "State" means any state of the United States, any 16697  
territory or possession of the United States, the District of 16698  
Columbia, and any province of Canada. 16699

(O) "Bank" means any bank, trust company, savings and loan 16700  
association, savings bank, or credit union that is incorporated or 16701  
organized under the laws of the United States, any state of the 16702  
United States, Canada, or any province of Canada and that is 16703  
subject to regulation or supervision by that country, state, or 16704  
province. 16705

(P) "Include," when used in a definition, does not exclude 16706  
other things or persons otherwise within the meaning of the term 16707

defined. 16708

(Q)(1) "Registration by description" means that the 16709  
requirements of section 1707.08 of the Revised Code have been 16710  
complied with. 16711

(2) "Registration by qualification" means that the 16712  
requirements of sections 1707.09 and 1707.11 of the Revised Code 16713  
have been complied with. 16714

(3) "Registration by coordination" means that there has been 16715  
compliance with section 1707.091 of the Revised Code. Reference in 16716  
this chapter to registration by qualification also shall be deemed 16717  
to include registration by coordination unless the context 16718  
otherwise indicates. 16719

(R) "Intoxicating liquor" includes all liquids and compounds 16720  
that contain more than three and two-tenths per cent of alcohol by 16721  
weight and are fit for use for beverage purposes. 16722

(S) "Institutional investor" means any corporation, bank, 16723  
insurance company, pension fund or pension fund trust, employees' 16724  
profit-sharing fund or employees' profit-sharing trust, any 16725  
association engaged, as a substantial part of its business or 16726  
operations, in purchasing or holding securities, or any trust in 16727  
respect of which a bank is trustee or cotrustee. "Institutional 16728  
investor" does not include any business entity formed for the 16729  
primary purpose of evading sections 1707.01 to 1707.45 of the 16730  
Revised Code. 16731

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, 16732  
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 16733  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, 16734  
"Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, 16735  
and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a 16736  
mean the federal statutes of those names as amended before or 16737  
after March 18, 1999. 16738

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of



this chapter. 16769

(W) "Offeror" means a person who makes, or in any way 16770  
participates or aids in making, a control bid and includes persons 16771  
acting jointly or in concert, or who intend to exercise jointly or 16772  
in concert any voting rights attached to the securities for which 16773  
the control bid is made and also includes any subject company 16774  
making a control bid for its own securities. 16775

(X)(1) "Investment adviser" means any person who, for 16776  
compensation, engages in the business of advising others, either 16777  
directly or through publications or writings, as to the value of 16778  
securities or as to the advisability of investing in, purchasing, 16779  
or selling securities, or who, for compensation and as a part of 16780  
regular business, issues or promulgates analyses or reports 16781  
concerning securities. 16782

(2) "Investment adviser" does not mean any of the following: 16783

(a) Any attorney, accountant, engineer, or teacher, whose 16784  
performance of investment advisory services described in division 16785  
(X)(1) of this section is solely incidental to the practice of the 16786  
attorney's, accountant's, engineer's, or teacher's profession; 16787

(b) A publisher of any bona fide newspaper, news magazine, or 16788  
business or financial publication of general and regular 16789  
circulation; 16790

(c) A person who acts solely as an investment adviser 16791  
representative; 16792

(d) A bank holding company, as defined in the "Bank Holding 16793  
Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an 16794  
investment company; 16795

(e) A bank, or any receiver, conservator, or other 16796  
liquidating agent of a bank; 16797

(f) Any licensed dealer or licensed salesperson whose 16798

performance of investment advisory services described in division 16799  
(X)(1) of this section is solely incidental to the conduct of the 16800  
dealer's or salesperson's business as a licensed dealer or 16801  
licensed salesperson and who receives no special compensation for 16802  
the services; 16803

(g) Any person, the advice, analyses, or reports of which do 16804  
not relate to securities other than securities that are direct 16805  
obligations of, or obligations guaranteed as to principal or 16806  
interest by, the United States, or securities issued or guaranteed 16807  
by corporations in which the United States has a direct or 16808  
indirect interest, and that have been designated by the secretary 16809  
of the treasury as exempt securities as defined in the "Securities 16810  
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c; 16811

(h) Any person that is excluded from the definition of 16812  
investment adviser pursuant to section 202(a)(11)(A) to (E) of the 16813  
"Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that 16814  
has received an order from the securities and exchange commission 16815  
under section 202(a)(11)(F) of the "Investment Advisers Act of 16816  
1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not 16817  
within the intent of section 202(a)(11) of the Investment Advisers 16818  
Act of 1940. 16819

(i) A person who acts solely as a state retirement system 16820  
investment officer or as a bureau of workers' compensation chief 16821  
investment officer; 16822

(j) Any other person that the division designates by rule, if 16823  
the division finds that the designation is necessary or 16824  
appropriate in the public interest or for the protection of 16825  
investors or clients and consistent with the purposes fairly 16826  
intended by the policy and provisions of this chapter. 16827

(Y)(1) "Subject company" means an issuer that satisfies both 16828  
of the following: 16829

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing

the percentage of the class owned by any other person. A person 16862  
shall be deemed the beneficial owner of any security beneficially 16863  
owned by any relative or spouse or relative of the spouse residing 16864  
in the home of that person, any trust or estate in which that 16865  
person owns ten per cent or more of the total beneficial interest 16866  
or serves as trustee or executor, any corporation or entity in 16867  
which that person owns ten per cent or more of the equity, and any 16868  
affiliate or associate of that person. 16869

(AA) "Offeree" means the beneficial or record owner of any 16870  
security that an offeror acquires or offers to acquire in 16871  
connection with a control bid. 16872

(BB) "Equity security" means any share or similar security, 16873  
or any security convertible into any such security, or carrying 16874  
any warrant or right to subscribe to or purchase any such 16875  
security, or any such warrant or right, or any other security 16876  
that, for the protection of security holders, is treated as an 16877  
equity security pursuant to rules of the division of securities. 16878

(CC)(1) "Investment adviser representative" means a 16879  
supervised person of an investment adviser, provided that the 16880  
supervised person has more than five clients who are natural 16881  
persons other than excepted persons defined in division (EE) of 16882  
this section, and that more than ten per cent of the supervised 16883  
person's clients are natural persons other than excepted persons 16884  
defined in division (EE) of this section. "Investment adviser 16885  
representative" does not mean any of the following: 16886

(a) A supervised person that does not on a regular basis 16887  
solicit, meet with, or otherwise communicate with clients of the 16888  
investment adviser; 16889

(b) A supervised person that provides only investment 16890  
advisory services described in division (X)(1) of this section by 16891  
means of written materials or oral statements that do not purport 16892

to meet the objectives or needs of specific individuals or 16893  
accounts; 16894

(c) Any other person that the division designates by rule, if 16895  
the division finds that the designation is necessary or 16896  
appropriate in the public interest or for the protection of 16897  
investors or clients and is consistent with the provisions fairly 16898  
intended by the policy and provisions of this chapter. 16899

(2) For the purpose of the calculation of clients in division 16900  
(CC)(1) of this section, a natural person and the following 16901  
persons are deemed a single client: Any minor child of the natural 16902  
person; any relative, spouse, or relative of the spouse of the 16903  
natural person who has the same principal residence as the natural 16904  
person; all accounts of which the natural person or the persons 16905  
referred to in division (CC)(2) of this section are the only 16906  
primary beneficiaries; and all trusts of which the natural person 16907  
or persons referred to in division (CC)(2) of this section are the 16908  
only primary beneficiaries. Persons who are not residents of the 16909  
United States need not be included in the calculation of clients 16910  
under division (CC)(1) of this section. 16911

(3) If subsequent to March 18, 1999, amendments are enacted 16912  
or adopted defining "investment adviser representative" for 16913  
purposes of the Investment Advisers Act of 1940 or additional 16914  
rules or regulations are promulgated by the securities and 16915  
exchange commission regarding the definition of "investment 16916  
adviser representative" for purposes of the Investment Advisers 16917  
Act of 1940, the division of securities shall, by rule, adopt the 16918  
substance of the amendments, rules, or regulations, unless the 16919  
division finds that the amendments, rules, or regulations are not 16920  
necessary for the protection of investors or in the public 16921  
interest. 16922

(DD) "Supervised person" means a natural person who is any of 16923

the following: 16924

(1) A partner, officer, or director of an investment adviser, 16925  
or other person occupying a similar status or performing similar 16926  
functions with respect to an investment adviser; 16927

(2) An employee of an investment adviser; 16928

(3) A person who provides investment advisory services 16929  
described in division (X)(1) of this section on behalf of the 16930  
investment adviser and is subject to the supervision and control 16931  
of the investment adviser. 16932

(EE) "Excepted person" means a natural person to whom any of 16933  
the following applies: 16934

(1) Immediately after entering into the investment advisory 16935  
contract with the investment adviser, the person has at least 16936  
seven hundred fifty thousand dollars under the management of the 16937  
investment adviser. 16938

(2) The investment adviser reasonably believes either of the 16939  
following at the time the investment advisory contract is entered 16940  
into with the person: 16941

(a) The person has a net worth, together with assets held 16942  
jointly with a spouse, of more than one million five hundred 16943  
thousand dollars. 16944

(b) The person is a qualified purchaser as defined in 16945  
division (FF) of this section. 16946

(3) Immediately prior to entering into an investment advisory 16947  
contract with the investment adviser, the person is either of the 16948  
following: 16949

(a) An executive officer, director, trustee, general partner, 16950  
or person serving in a similar capacity, of the investment 16951  
adviser; 16952

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the

Investment Advisers Act of 1940 or additional rules or regulations 16984  
are promulgated by the securities and exchange commission 16985  
regarding the definition of "qualified purchaser" for purposes of 16986  
the Investment Advisers Act of 1940, the division of securities 16987  
shall, by rule, adopt the amendments, rules, or regulations, 16988  
unless the division finds that the amendments, rules, or 16989  
regulations are not necessary for the protection of investors or 16990  
in the public interest. 16991

(GG)(1) "Purchase" has the full meaning of "purchase" as 16992  
applied by or accepted in courts of law or equity and includes 16993  
every acquisition of, or attempt to acquire, a security or an 16994  
interest in a security. "Purchase" also includes a contract to 16995  
purchase, an exchange, an attempt to purchase, an option to 16996  
purchase, a solicitation of a purchase, a solicitation of an offer 16997  
to sell, a subscription, or an offer to purchase, directly or 16998  
indirectly, by agent, circular, pamphlet, advertisement, or 16999  
otherwise. 17000

(2) "Purchase" means any act by which a purchase is made. 17001

(3) Any security given with, or as a bonus on account of, any 17002  
purchase of securities is conclusively presumed to constitute a 17003  
part of the subject of that purchase. 17004

(HH) "Life settlement interest" means the entire interest or 17005  
any fractional interest in an insurance policy or certificate of 17006  
insurance, or in an insurance benefit under such a policy or 17007  
certificate, that is the subject of a life settlement contract. 17008

For purposes of this division, "life settlement contract" 17009  
means an agreement for the purchase, sale, assignment, transfer, 17010  
devise, or bequest of any portion of the death benefit or 17011  
ownership of any life insurance policy or contract, in return for 17012  
consideration or any other thing of value that is less than the 17013  
expected death benefit of the life insurance policy or contract. 17014



"Life settlement contract" includes a viatical settlement contract	17015
as defined in section 3916.01 of the Revised Code, but does not	17016
include any of the following:	17017
(1) A loan by an insurer under the terms of a life insurance	17018
policy, including, but not limited to, a loan secured by the cash	17019
value of the policy;	17020
(2) An agreement with a bank that takes an assignment of a	17021
life insurance policy as collateral for a loan;	17022
(3) The provision of accelerated benefits as defined in	17023
section 3915.21 of the Revised Code;	17024
(4) Any agreement between an insurer and a reinsurer;	17025
(5) An agreement by an individual to purchase an existing	17026
life insurance policy or contract from the original owner of the	17027
policy or contract, if the individual does not enter into more	17028
than one life settlement contract per calendar year;	17029
(6) The initial purchase of an insurance policy or	17030
certificate of insurance from its owner by a viatical settlement	17031
provider, as defined in section 3916.01 of the Revised Code, that	17032
is licensed under Chapter 3916. of the Revised Code.	17033
(II) "State retirement system" means the public employees	17034
retirement system, Ohio police and fire pension fund, state	17035
teachers retirement system, school employees retirement system,	17036
and state highway patrol retirement system.	17037
(JJ) "State retirement system investment officer" means an	17038
individual employed by a state retirement system as a chief	17039
investment officer, assistant investment officer, or the person in	17040
charge of a class of assets or in a position that is substantially	17041
equivalent to chief investment officer, assistant investment	17042
officer, or person in charge of a class of assets.	17043
(KK) <u>"Bureau of workers' compensation chief investment</u>	17044

officer" means an individual employed by the bureau of workers' compensation as a chief investment officer in a position that is substantially equivalent to a chief investment officer. 17045  
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Sec. 1707.164. (A) No person shall act as a bureau of workers' compensation chief investment officer unless the person is licensed as a bureau of workers' compensation chief investment officer by the division of securities. 17048  
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(B) No bureau of workers' compensation chief investment officer shall act as a dealer, salesperson, investment advisor, or investment advisor representative. 17052  
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Sec. 1707.165. (A) Application for a bureau of workers' compensation chief investment officer's license shall be made in accordance with this section by filing with the division of securities the information, materials, and forms specified in rules adopted by the division. 17055  
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(B) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as a chief investment officer. If the application for a bureau of workers' compensation chief investment officer's license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation. The division shall furnish the applicant with an itemized statement of the expenses the applicant is required to pay. 17060  
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(C) The division shall by rule require an applicant for a bureau of workers' compensation chief investment officer's license to pass an examination designated by the division or achieve a specified professional designation unless the applicant meets both 17071  
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fee prescribed in division (B) of this section, no later than the 17105  
thirty-first day of December of each year. 17106

(4) The license of every state retirement system investment 17107  
officer licensed under section 1707.163 of the Revised Code and 17108  
the license of a bureau of workers' compensation chief investment 17109  
officer issued under section 1707.165 of the Revised Code shall 17110  
expire on the thirtieth day of June of each year. The licenses may 17111  
be renewed on the filing with the division of an application for 17112  
renewal, and the payment of the fee prescribed in division (B) of 17113  
this section. The division shall give notice, without unreasonable 17114  
delay, of its action on any application for renewal. 17115

(B)(1) The fee for each dealer's license, and for each annual 17116  
renewal thereof, shall be one hundred dollars. 17117

(2) The fee for each salesperson's license, and for each 17118  
annual renewal thereof, shall be fifty dollars. 17119

(3) The fee for each investment adviser's license, and for 17120  
each annual renewal thereof, shall be fifty dollars. 17121

(4) The fee for each investment adviser notice filing 17122  
required by division (B) of section 1707.141 of the Revised Code 17123  
shall be fifty dollars. 17124

(5) The fee for each investment adviser representative's 17125  
license, and for each annual renewal thereof, shall be thirty-five 17126  
dollars. 17127

(6) The fee for each state retirement system investment 17128  
officer's license, and for each annual renewal thereof, shall be 17129  
fifty dollars. 17130

(7) The fee for a bureau of workers' compensation chief 17131  
investment officer's license, and for each annual renewal thereof, 17132  
shall be fifty dollars. 17133

(C) A dealer's, salesperson's, investment adviser's, 17134

investment adviser representative's, bureau of workers' 17135  
compensation chief investment officer's, or state retirement 17136  
system investment officer's license may be issued at any time for 17137  
the remainder of the calendar year. In that event, the annual fee 17138  
shall not be reduced. 17139

**Sec. 1707.19.** (A) An original license, or a renewal thereof, 17140  
applied for by a dealer or salesperson of securities, or by an 17141  
investment adviser, investment adviser representative, bureau of 17142  
workers' compensation chief investment officer, or state 17143  
retirement system investment officer, may be refused, and any such 17144  
license granted may be suspended and, after notice and hearing in 17145  
accordance with Chapter 119. of the Revised Code, may be revoked, 17146  
by the division of securities, if the division determines that the 17147  
applicant or the licensed dealer, salesperson, investment adviser, 17148  
investment adviser representative, bureau of workers' compensation 17149  
chief investment officer, or state retirement system investment 17150  
officer: 17151

(1) Is not of good business repute; 17152

(2) Is conducting an illegitimate or fraudulent business; 17153

(3) Is, in the case of a dealer or investment adviser, 17154  
insolvent; 17155

(4) Has knowingly violated any provision of sections 1707.01 17156  
to 1707.45 of the Revised Code, or any regulation or order made 17157  
thereunder; 17158

(5) Has knowingly made a false statement of a material fact 17159  
or an omission of a material fact in an application for a license, 17160  
in a description or application that has been filed, or in any 17161  
statement made to the division under such sections; 17162

(6) Has refused to comply with any lawful order or 17163  
requirement of the division under section 1707.23 of the Revised 17164

Code; 17165

(7) Has been guilty of any fraudulent act in connection with 17166  
the sale of any securities or in connection with acting as an 17167  
investment adviser, investment adviser representative, bureau of 17168  
workers' compensation chief investment officer, or state 17169  
retirement system investment officer; 17170

(8) Conducts business in purchasing or selling securities at 17171  
such variations from the existing market as in the light of all 17172  
the circumstances are unconscionable; 17173

(9) Conducts business in violation of such rules and 17174  
regulations as the division prescribes for the protection of 17175  
investors, clients, or prospective clients; 17176

(10)(a) Has failed to furnish to the division any information 17177  
with respect to the purchases or sales of securities within this 17178  
state that may be reasonably requested by the division as 17179  
pertinent to the protection of investors in this state. 17180

(b) Has failed to furnish to the division any information 17181  
with respect to acting as an investment adviser, investment 17182  
adviser representative, bureau of workers' compensation chief 17183  
investment officer, or state retirement system investment officer 17184  
within this state that may be reasonably requested by the 17185  
division. 17186

(B) For the protection of investors the division may 17187  
prescribe reasonable rules defining fraudulent, evasive, 17188  
deceptive, or grossly unfair practices or devices in the purchase 17189  
or sale of securities. 17190

(C) For the protection of investors, clients, or prospective 17191  
clients, the division may prescribe reasonable rules regarding the 17192  
acts and practices of an investment adviser or an investment 17193  
adviser representative. 17194

(D) Pending any investigation or hearing provided for in 17195  
sections 1707.01 to 1707.45 of the Revised Code, the division may 17196  
order the suspension of any dealer's, salesperson's, investment 17197  
adviser's, investment adviser representative's, bureau of workers' 17198  
compensation chief investment officer's, or state retirement 17199  
system investment officer's license by notifying the party 17200  
concerned of such suspension and the cause for it. If it is a 17201  
salesperson whose license is suspended, the division shall also 17202  
notify the dealer employing the salesperson. If it is an 17203  
investment adviser representative whose license is suspended, the 17204  
division also shall notify the investment adviser with whom the 17205  
investment adviser representative is employed or associated. If it 17206  
is a state retirement system investment officer whose license is 17207  
suspended, the division shall also notify the state retirement 17208  
system with whom the state retirement system investment officer is 17209  
employed. If it is a bureau of workers' compensation chief 17210  
investment officer whose license is suspended, the division shall 17211  
also notify the bureau of workers' compensation. 17212

(E)(1) The suspension or revocation of the dealer's license 17213  
suspends the licenses of all the dealer's salespersons. 17214

(2) The suspension or revocation of the investment adviser's 17215  
license suspends the licenses of all the investment adviser's 17216  
investment adviser representatives. The suspension or revocation 17217  
of an investment adviser's registration under section 203 of the 17218  
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, suspends the 17219  
licenses of all the investment adviser's investment adviser 17220  
representatives. 17221

(F) It is sufficient cause for refusal, revocation, or 17222  
suspension of the license in case of a partnership, partnership 17223  
association, corporation, or unincorporated association if any 17224  
general partner of the partnership, manager of the partnership 17225  
association, or executive officer of the corporation or 17226

unincorporated association is not of good business repute or has  
been guilty of any act or omission which would be cause for  
refusing or revoking the license of an individual dealer,  
salesperson, investment adviser, or investment adviser  
representative.

**Sec. 1707.20.** (A) The division of securities may adopt,  
amend, and rescind such rules, forms, and orders as are necessary  
to carry out sections 1707.01 to 1707.45 of the Revised Code,  
including rules and forms governing registration statements,  
applications, and reports, and defining any terms, whether or not  
used in sections 1707.01 to 1707.45 of the Revised Code, insofar  
as the definitions are not inconsistent with these sections. For  
the purpose of rules and forms, the division may classify  
securities, persons, and matters within its jurisdiction, and  
prescribe different requirements for different classes.

(B) No rule, form, or order may be made, amended, or  
rescinded unless the division finds that the action is necessary  
or appropriate in the public interest or for the protection of  
investors, clients, prospective clients, ~~or~~ state retirement  
systems, or the workers' compensation system and consistent with  
the purposes fairly intended by the policy and provisions of  
sections 1707.01 to 1707.45 of the Revised Code. In prescribing  
rules and forms and in otherwise administering sections 1707.01 to  
1707.45 of the Revised Code, the division may cooperate with the  
securities administrators of the other states and the securities  
and exchange commission with a view of effectuating the policy of  
this section to achieve maximum uniformity in the form and content  
of registration statements, applications, reports, and overall  
securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required



under sections 1707.01 to 1707.45 of the Revised Code; 17258

(2) The circumstances under which consolidated financial 17259  
statements shall be filed; 17260

(3) Whether any required financial statements shall be 17261  
certified by independent or certified public accountants. All 17262  
financial statements shall be prepared in accordance with 17263  
generally accepted accounting practices. 17264

(D) All rules and forms of the division shall be published; 17265  
and in addition to fulfilling the requirements of Chapter 119. of 17266  
the Revised Code, the division shall prescribe, and shall publish 17267  
and make available its rules regarding the sale of securities, the 17268  
administration of sections 1707.01 to 1707.45 of the Revised Code, 17269  
and the procedure and practice before the division. 17270

(E) No provision of sections 1707.01 to 1707.45 of the 17271  
Revised Code imposing any liability applies to any act done or 17272  
omitted in good faith in conformity with any rule, form, or order 17273  
of the division of securities, notwithstanding that the rule, 17274  
form, or order may later be amended or rescinded or be determined 17275  
by judicial or other authority to be invalid for any reason, 17276  
except that the issuance of an order granting effectiveness to a 17277  
registration under section 1707.09 or 1707.091 of the Revised Code 17278  
for the purposes of this division shall not be deemed an order 17279  
other than as the establishment of the fact of registration. 17280

**Sec. 1707.22.** Whenever a dealer's, salesperson's, investment 17281  
adviser's, investment adviser representative's, bureau of workers' 17282  
compensation chief investment officer's, or state retirement 17283  
system investment officer's license has been refused, suspended, 17284  
or revoked, or a renewal thereof has been denied, by the division 17285  
of securities, or whenever the division has refused to qualify 17286  
securities or has suspended or revoked the registration of any 17287

particular security by description or by qualification, or the 17288  
right to buy, sell, or deal in any particular security whether it 17289  
is registered or qualified or exempt, or whether the transactions 17290  
in it are registered or exempt, the aggrieved party may appeal in 17291  
accordance with Chapter 119. of the Revised Code. 17292

An order sustaining the refusal of the division to grant or 17293  
renew a dealer's, salesperson's, investment adviser's, investment 17294  
adviser representative's, bureau of workers' compensation chief 17295  
investment officer's, or state retirement system investment 17296  
officer's license or to grant qualification of securities, or an 17297  
order sustaining the division in suspending or revoking a 17298  
dealer's, salesperson's, investment adviser's, investment adviser 17299  
representative's, bureau of workers' compensation chief investment 17300  
officer's, or state retirement system investment officer's 17301  
license, the registration of any particular security by 17302  
description or by qualification, or the right to buy, sell, or 17303  
deal in any particular security, shall not bar, after ten days 17304  
from the order, a new registration by description, or a new 17305  
application of the plaintiff for such a license or qualification 17306  
or for a withdrawal of a revocation or suspension; nor shall an 17307  
order in favor of the plaintiff prevent the division, after proper 17308  
notice and hearing, from thereafter revoking or suspending such 17309  
license, registration, or right to buy, sell, or deal in a 17310  
particular security, for any proper cause which may, after the 17311  
order, accrue or be discovered. 17312

**Sec. 1707.23.** Whenever it appears to the division of 17313  
securities, from its files, upon complaint, or otherwise, that any 17314  
person has engaged in, is engaged in, or is about to engage in any 17315  
practice declared to be illegal or prohibited by this chapter or 17316  
rules adopted under this chapter by the division, or defined as 17317  
fraudulent in this chapter or rules adopted under this chapter by 17318  
the division, or any other deceptive scheme or practice in 17319

connection with the sale of securities, or acting as a dealer, a 17320  
salesperson, an investment adviser, investment adviser 17321  
representative, bureau of workers' compensation chief investment 17322  
officer, or state retirement system investment officer or when the 17323  
division believes it to be in the best interests of the public and 17324  
necessary for the protection of investors, the division may do any 17325  
of the following: 17326

(A) Require any person to file with it, on such forms as it 17327  
prescribes, an original or additional statement or report in 17328  
writing, under oath or otherwise, as to any facts or circumstances 17329  
concerning the issuance, sale, or offer for sale of securities 17330  
within this state by the person, as to the person's acts or 17331  
practices as a dealer, a salesperson, an investment adviser, 17332  
investment adviser representative, bureau of workers' compensation 17333  
chief investment officer, or state retirement system investment 17334  
officer within this state, and as to other information as it deems 17335  
material or relevant thereto; 17336

(B) Examine any investment adviser, investment adviser 17337  
representative, state retirement system investment officer, bureau 17338  
of workers' compensation chief investment officer, or any seller, 17339  
dealer, salesperson, or issuer of any securities, and any of their 17340  
agents, employees, partners, officers, directors, members, or 17341  
shareholders, wherever located, under oath; and examine and 17342  
produce records, books, documents, accounts, and papers as the 17343  
division deems material or relevant to the inquiry; 17344

(C) Require the attendance of witnesses, and the production 17345  
of books, records, and papers, as are required either by the 17346  
division or by any party to a hearing before the division, and for 17347  
that purpose issue a subpoena for any witness, or a subpoena duces 17348  
tecum to compel the production of any books, records, or papers. 17349  
The subpoena shall be served by personal service or by certified 17350

mail, return receipt requested. If the subpoena is returned 17351  
because of inability to deliver, or if no return is received 17352  
within thirty days of the date of mailing, the subpoena may be 17353  
served by ordinary mail. If no return of ordinary mail is received 17354  
within thirty days after the date of mailing, service shall be 17355  
deemed to have been made. If the subpoena is returned because of 17356  
inability to deliver, the division may designate a person or 17357  
persons to effect either personal or residence service upon the 17358  
witness. The person designated to effect personal or residence 17359  
service under this division may be the sheriff of the county in 17360  
which the witness resides or may be found or any other duly 17361  
designated person. The fees and mileage of the person serving the 17362  
subpoena shall be the same as those allowed by the courts of 17363  
common pleas in criminal cases, and shall be paid from the funds 17364  
of the division. Fees and mileage for the witness shall be the 17365  
same as those allowed for witnesses by the courts of common pleas 17366  
in criminal cases, and shall be paid from the funds of the 17367  
division upon request of the witness following the hearing. 17368

(D) Initiate criminal proceedings under section 1707.042 or 17369  
1707.44 of the Revised Code or rules adopted under those sections 17370  
by the division by laying before the prosecuting attorney of the 17371  
proper county any evidence of criminality which comes to its 17372  
knowledge; and in the event of the neglect or refusal of the 17373  
prosecuting attorney to prosecute such violations, or at the 17374  
request of the prosecuting attorney, the division shall submit the 17375  
evidence to the attorney general, who may proceed in the 17376  
prosecution with all the rights, privileges, and powers conferred 17377  
by law on prosecuting attorneys, including the power to appear 17378  
before grand juries and to interrogate witnesses before such grand 17379  
juries. 17380

(E) Require any dealers immediately to furnish to the 17381  
division copies of prospectuses, circulars, or advertisements 17382

respecting securities that they publish or generally distribute, 17383  
or require any investment advisers immediately to furnish to the 17384  
division copies of brochures, advertisements, publications, 17385  
analyses, reports, or other writings that they publish or 17386  
distribute; 17387

(F) Require any dealers to mail to the division, prior to 17388  
sale, notices of intention to sell, in respect to all securities 17389  
which are not exempt under section 1707.02 of the Revised Code, or 17390  
which are sold in transactions not exempt under section 1707.03 or 17391  
1707.04 of the Revised Code; 17392

(G) Issue and cause to be served by certified mail upon all 17393  
persons affected an order requiring the person or persons to cease 17394  
and desist from the acts or practices appearing to the division to 17395  
constitute violations of this chapter or rules adopted under this 17396  
chapter by the division. The order shall state specifically the 17397  
section or sections of this chapter or the rule or rules adopted 17398  
under this chapter by the division that appear to the division to 17399  
have been violated and the facts constituting the violation. If 17400  
after the issuance of the order it appears to the division that 17401  
any person or persons affected by the order have engaged in any 17402  
act or practice from which the person or persons shall have been 17403  
required, by the order, to cease and desist, the director of 17404  
commerce may apply to the court of common pleas of any county for, 17405  
and upon proof of the validity of the order of the division, the 17406  
delivery of the order to the person or persons affected, and of 17407  
the illegality and the continuation of the acts or practices that 17408  
are the subject of the order, the court may grant an injunction 17409  
implementing the order of the division. 17410

(H) Issue and initiate contempt proceedings in this state 17411  
regarding subpoenas and subpoenas duces tecum at the request of 17412  
the securities administrator of another state, if it appears to 17413  
the division that the activities for which the information is 17414

sought would violate this chapter if the activities had occurred 17415  
in this state. 17416

(I) The remedies provided by this section are cumulative and 17417  
concurrent with any other remedy provided in this chapter, and the 17418  
exercise of one remedy does not preclude or require the exercise 17419  
of any other remedy. 17420

**Sec. 1707.25.** In case any person fails to file any statement 17421  
or report required by sections 1707.01 to 1707.45 of the Revised 17422  
Code, to obey any subpoena the issuance of which is provided for 17423  
in those sections, or to produce books, records, or papers, give 17424  
testimony, or answer questions, as required by those sections, the 17425  
director of commerce may apply to a court of common pleas of any 17426  
county for, and upon proof of such failure the court may grant, an 17427  
injunction restraining the acting as an investment adviser, 17428  
investment adviser representative, bureau of workers' compensation 17429  
chief investment officer, or state retirement system investment 17430  
officer, or the issuance, sale, or offer for sale of any 17431  
securities by the person or by its agents, employees, partners, 17432  
officers, directors, or shareholders, until such failure has been 17433  
remedied and other relief as the facts may warrant has been had. 17434  
Such injunctive relief is available in addition to the other 17435  
remedies provided for in sections 1707.01 to 1707.45 of the 17436  
Revised Code. 17437

Where the person refusing to comply with such order of court 17438  
is an issuer of securities, the court may enjoin the sale by any 17439  
dealer of any securities of the issuer, and the division of 17440  
securities may revoke the qualification of the securities of the 17441  
issuer, or suspend or revoke the sale of any securities of the 17442  
issuer which have been registered by description, and such 17443  
securities shall not thereafter be sold by any dealer until the 17444  
order of the court or of the division is withdrawn. 17445

**Sec. 1707.261.** (A) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code, after consultation with the attorney general the director of commerce may request that court to order the defendant or defendants that are subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(B) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution or rescission under division (A) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a purchaser or holder of securities, the court may order the defendant or defendants subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of sections 1707.01 to 1707.45 of the Revised Code.

(C) A court order granting restitution or rescission based upon a request made pursuant to division (A) of this section shall meet the requirements of division (B) of this section and may not be based solely upon a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code or upon an action to enforce a final order issued by the division pursuant to that chapter. Notwithstanding the foregoing provision, a request for restitution or rescission pursuant to division (A) of this section may concern the same acts, practices, or transactions that

were, or may later be, the subject of a division of securities 17477  
action for a violation of any provision of sections 1707.01 to 17478  
1707.45 of the Revised Code. If a request for restitution or 17479  
rescission pursuant to division (A) of this section concerns the 17480  
same acts, practices, or transactions that were the subject of a 17481  
final order issued by the division of securities pursuant to 17482  
Chapter 119. of the Revised Code, the court shall review the 17483  
request in accordance with division (B) of this section, and the 17484  
standard of review in section 119.12 of the Revised Code shall not 17485  
apply to the request. 17486

(D) No purchaser or holder of securities who is entitled to 17487  
restitution or rescission under this section shall recover, 17488  
pursuant to this section or any other proceeding, a total amount 17489  
in excess of the person's purchase price for the securities sold 17490  
in violation of sections 1707.01 to 1707.45 of the Revised Code. 17491

(E)(1) If a court of common pleas grants an injunction 17492  
pursuant to section 1707.26 of the Revised Code against any state 17493  
retirement system investment officer, after consultation with the 17494  
attorney general, the director of commerce may request that court 17495  
to order the state retirement system investment officer or 17496  
officers that are subject to the injunction to make restitution to 17497  
the state retirement system damaged by the state retirement system 17498  
investment officer's or officers' violation of any provision of 17499  
sections 1707.01 to 1707.45 of the Revised Code. 17500

(2) If the court of common pleas is satisfied with the 17501  
sufficiency of the director's request for restitution under 17502  
division (E)(1) of this section and with the sufficiency of the 17503  
proof of a substantial violation of any provision of sections 17504  
1707.01 to 1707.45 of the Revised Code, or of the use of any act, 17505  
practice, or transaction declared to be illegal or prohibited or 17506  
defined as fraudulent by those sections or rules adopted under 17507  
those sections by the division of securities, to the material 17508



prejudice of a state retirement system, the court may order the  
state retirement system investment officer or officers subject to  
the injunction to make restitution to the state retirement system  
damaged by the state retirement system investment officer's or  
officers' violation of sections 1707.01 to 1707.45 of the Revised  
Code. A request for restitution pursuant to division (E)(1) of  
this section may concern the same acts, practices, or transactions  
that were, or may later be, the subject of a division of  
securities action for a violation of any provision of section  
1707.01 to 1707.45 of the Revised Code.

(F)(1) If a court of common pleas grants an injunction  
pursuant to section 1707.26 of the Revised Code against a bureau  
of workers' compensation chief investment officer, after  
consultation with the attorney general, the director of commerce  
may request that court to order the bureau of workers'  
compensation chief investment officer who is subject to the  
injunction to make restitution to the bureau of workers'  
compensation damaged by the bureau of workers' compensation chief  
investment officer's violation of any provision of sections  
1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the  
sufficiency of the director's request for restitution under  
division (F)(1) of this section and with the sufficiency of the  
proof of a substantial violation of any provision of sections  
1707.01 to 1707.45 of the Revised Code, or of the use of any act,  
practice, or transaction declared to be illegal or prohibited or  
defined as fraudulent by those sections or rules adopted under  
those sections by the division of securities, to the material  
prejudice of the bureau of workers' compensation, the court may  
order the bureau of workers' compensation chief investment officer  
subject to the injunction to make restitution to the bureau of  
workers' compensation damaged by the bureau of workers'

compensation chief investment officer's violation of sections 17541  
1707.01 to 1707.45 of the Revised Code. A request for restitution 17542  
pursuant to division (F)(1) of this section may concern the same 17543  
acts, practices, or transactions that were, or may later be, the 17544  
subject of a division of securities action for a violation of any 17545  
provision of section 1707.01 to 1707.45 of the Revised Code. 17546

**Sec. 1707.431.** For purposes of this section, the following 17547  
persons shall not be deemed to have effected, participated in, or 17548  
aided the seller in any way in making, a sale or contract of sale 17549  
in violation of sections 1707.01 to 1707.45 of the Revised Code: 17550

(A) Any attorney, accountant, or engineer whose performance 17551  
is incidental to the practice of the person's profession; 17552

(B) Any person, other than an investment adviser, investment 17553  
adviser representative, bureau of workers' compensation chief 17554  
investment officer, or state retirement system investment officer, 17555  
who brings any issuer together with any potential investor, 17556  
without receiving, directly or indirectly, a commission, fee, or 17557  
other remuneration based on the sale of any securities by the 17558  
issuer to the investor. Remuneration received by the person solely 17559  
for the purpose of offsetting the reasonable out-of-pocket costs 17560  
incurred by the person shall not be deemed a commission, fee, or 17561  
other remuneration. 17562

Any person claiming exemption under this division for a 17563  
publicly advertised meeting shall file a notice with the division 17564  
of securities indicating an intent to cause or hold such a meeting 17565  
at least twenty-one days prior to the meeting. The division may, 17566  
upon receipt of such notice, issue an order denying the 17567  
availability of an exemption under this division not more than 17568  
fourteen days after receipt of the notice based on a finding that 17569  
the applicant is not entitled to the exemption. Notwithstanding 17570  
the notice described in this section, a failure to file the notice 17571

does not create a presumption that a person was participating in 17572  
or aiding in the making of a sale or contract of sale in violation 17573  
of this chapter. 17574

(C) Any person whom the division exempts from this provision 17575  
by rule. 17576

**Sec. 1707.44.** (A)(1) No person shall engage in any act or 17577  
practice that violates division (A), (B), or (C) of section 17578  
1707.14 of the Revised Code, and no salesperson shall sell 17579  
securities in this state without being licensed pursuant to 17580  
section 1707.16 of the Revised Code. 17581

(2) No person shall engage in any act or practice that 17582  
violates division (A) of section 1707.141 or section 1707.161 of 17583  
the Revised Code. 17584

(3) No person shall engage in any act or practice that 17585  
violates section 1707.162 of the Revised Code. 17586

(4) No person shall engage in any act or practice that 17587  
violates section 1707.164 of the Revised Code. 17588

(B) No person shall knowingly make or cause to be made any 17589  
false representation concerning a material and relevant fact, in 17590  
any oral statement or in any prospectus, circular, description, 17591  
application, or written statement, for any of the following 17592  
purposes: 17593

(1) Registering securities or transactions, or exempting 17594  
securities or transactions from registration, under this chapter; 17595

(2) Securing the qualification of any securities under this 17596  
chapter; 17597

(3) Procuring the licensing of any dealer, salesperson, 17598  
investment adviser, investment adviser representative, bureau of 17599  
workers' compensation chief investment officer, or state 17600

retirement system investment officer under this chapter;	17601
(4) Selling any securities in this state;	17602
(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities;	17603 17604 17605
(6) Submitting a notice filing to the division under division (X) of section 1707.03 or section 1707.092 or 1707.141 of the Revised Code.	17606 17607 17608
(C) No person shall knowingly sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:	17609 17610 17611
(1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not been registered by coordination or qualification, and is not the subject matter of a transaction that has been registered by description;	17612 17613 17614 17615 17616 17617
(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;	17618 17619 17620
(3) The person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked;	17621 17622 17623 17624 17625
(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.	17626 17627 17628
(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be	17629 17630

insolvent in that the liabilities of the issuer exceed its assets, 17631  
shall sell any securities of or for any such issuer, without 17632  
disclosing the fact of the insolvency to the purchaser. 17633

(E) No person with intent to aid in the sale of any 17634  
securities on behalf of the issuer, shall knowingly make any 17635  
representation not authorized by such issuer or at material 17636  
variance with statements and documents filed with the division by 17637  
such issuer. 17638

(F) No person, with intent to deceive, shall sell, cause to 17639  
be sold, offer for sale, or cause to be offered for sale, any 17640  
securities of an insolvent issuer, with knowledge that such issuer 17641  
is insolvent in that the liabilities of the issuer exceed its 17642  
assets, taken at their fair market value. 17643

(G) No person in purchasing or selling securities shall 17644  
knowingly engage in any act or practice that is, in this chapter, 17645  
declared illegal, defined as fraudulent, or prohibited. 17646

(H) No licensed dealer shall refuse to buy from, sell to, or 17647  
trade with any person because the person appears on a blacklist 17648  
issued by, or is being boycotted by, any foreign corporate or 17649  
governmental entity, nor sell any securities of or for any issuer 17650  
who is known in relation to the issuance or sale of the securities 17651  
to have engaged in such practices. 17652

(I) No dealer in securities, knowing that the dealer's 17653  
liabilities exceed the reasonable value of the dealer's assets, 17654  
shall accept money or securities, except in payment of or as 17655  
security for an existing debt, from a customer who is ignorant of 17656  
the dealer's insolvency, and thereby cause the customer to lose 17657  
any part of the customer's securities or the value of those 17658  
securities, by doing either of the following without the 17659  
customer's consent: 17660

(1) Pledging, selling, or otherwise disposing of such 17661

securities, when the dealer has no lien on or any special property 17662  
in such securities; 17663

(2) Pledging such securities for more than the amount due, or 17664  
otherwise disposing of such securities for the dealer's own 17665  
benefit, when the dealer has a lien or indebtedness on such 17666  
securities. 17667

It is an affirmative defense to a charge under this division 17668  
that, at the time the securities involved were pledged, sold, or 17669  
disposed of, the dealer had in the dealer's possession or control, 17670  
and available for delivery, securities of the same kinds and in 17671  
amounts sufficient to satisfy all customers entitled to the 17672  
securities, upon demand and tender of any amount due on the 17673  
securities. 17674

(J) No person, with purpose to deceive, shall make, issue, 17675  
publish, or cause to be made, issued, or published any statement 17676  
or advertisement as to the value of securities, or as to alleged 17677  
facts affecting the value of securities, or as to the financial 17678  
condition of any issuer of securities, when the person knows that 17679  
such statement or advertisement is false in any material respect. 17680

(K) No person, with purpose to deceive, shall make, record, 17681  
or publish or cause to be made, recorded, or published, a report 17682  
of any transaction in securities which is false in any material 17683  
respect. 17684

(L) No dealer shall engage in any act that violates the 17685  
provisions of section 15(c) or 15(g) of the "Securities Exchange 17686  
Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule 17687  
or regulation promulgated by the securities and exchange 17688  
commission thereunder. If, subsequent to October 11, 1994, 17689  
additional amendments to section 15(c) or 15(g) are adopted, or 17690  
additional rules or regulations are promulgated pursuant to such 17691  
sections, the division of securities shall, by rule, adopt the 17692

amendments, rules, or regulations, unless the division finds that  
the amendments, rules, or regulations are not necessary for the  
protection of investors or in the public interest.

(M)(1) No investment adviser or investment adviser  
representative shall do any of the following:

(a) Employ any device, scheme, or artifice to defraud any  
person;

(b) Engage in any act, practice, or course of business that  
operates or would operate as a fraud or deceit upon any person;

(c) In acting as principal for the investment adviser's or  
investment adviser representative's own account, knowingly sell  
any security to or purchase any security from a client, or in  
acting as salesperson for a person other than such client,  
knowingly effect any sale or purchase of any security for the  
account of such client, without disclosing to the client in  
writing before the completion of the transaction the capacity in  
which the investment adviser or investment adviser representative  
is acting and obtaining the consent of the client to the  
transaction. Division (M)(1)(c) of this section does not apply to  
any investment adviser registered with the securities and exchange  
commission under section 203 of the "Investment Advisers Act of  
1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a  
licensed dealer or salesperson if the licensed dealer or  
salesperson is not acting as an investment adviser or investment  
adviser representative in relation to the transaction.

(d) Engage in any act, practice, or course of business that  
is fraudulent, deceptive, or manipulative. The division of  
securities may adopt rules reasonably designed to prevent such  
acts, practices, or courses of business that are fraudulent,  
deceptive, or manipulative.

(2) No investment adviser or investment adviser

representative licensed or required to be licensed under this 17724  
chapter shall take or have custody of any securities or funds of 17725  
any person, except as provided in rules adopted by the division. 17726

(3) In the solicitation of clients or prospective clients, no 17727  
person shall make any untrue statement of a material fact or omit 17728  
to state a material fact necessary in order to make the statements 17729  
made not misleading in light of the circumstances under which the 17730  
statements were made. 17731

(N) No person knowingly shall influence, coerce, manipulate, 17732  
or mislead any person engaged in the preparation, compilation, 17733  
review, or audit of financial statements to be used in the 17734  
purchase or sale of securities for the purpose of rendering the 17735  
financial statements materially misleading. 17736

(O) No state retirement system investment officer shall do 17737  
any of the following: 17738

(1) Employ any device, scheme, or artifice to defraud any 17739  
state retirement system; 17740

(2) Engage in any act, practice, or course of business that 17741  
operates or would operate as a fraud or deceit on any state 17742  
retirement system; 17743

(3) Engage in any act, practice, or course of business that 17744  
is fraudulent, deceptive, or manipulative. The division of 17745  
securities may adopt rules reasonably designed to prevent such 17746  
acts, practices, or courses of business as are fraudulent, 17747  
deceptive, or manipulative; 17748

(4) Knowingly fail to comply with any policy adopted 17749  
regarding the officer established pursuant to section 145.094, 17750  
742.104, 3307.043, 3309.043, or ~~5505.066~~ 5505.065 of the Revised 17751  
Code. 17752

(P) No bureau of workers' compensation chief investment 17753



officer shall do any of the following: 17754

(1) Employ any device, scheme, or artifice to defraud the 17755  
workers' compensation system; 17756

(2) Engage in any act, practice, or course of business that 17757  
operates or would operate as a fraud or deceit on the workers' 17758  
compensation system; 17759

(3) Engage in any act, practice, or course of business that 17760  
is fraudulent, deceptive, or manipulative. The division of 17761  
securities may adopt rules reasonably designed to prevent such 17762  
acts, practices, or courses of business as are fraudulent, 17763  
deceptive, or manipulative; 17764

(4) Knowingly fail to comply with any policy adopted 17765  
regarding the officer established pursuant to section 4123.441 of 17766  
the Revised Code. 17767

**Sec. 1707.46.** The principal executive officer of the division 17768  
of securities shall be the commissioner of securities, who shall 17769  
be appointed by the director of commerce. The commissioner of 17770  
securities shall enforce all the laws and administrative rules 17771  
enacted or adopted to regulate the sale of bonds, stocks, and 17772  
other securities and to prevent fraud in such sales. The 17773  
commissioner also shall enforce all the laws and administrative 17774  
rules enacted or adopted to regulate investment advisers, 17775  
investment adviser representatives, ~~and~~ state retirement system 17776  
investment officers, and the bureau of workers' compensation chief 17777  
investment officer and to prevent fraud in their acts, practices, 17778  
and transactions. 17779

The commissioner shall be paid at a rate not less than pay 17780  
range 47 set out in schedule E-2 of section 124.152 of the Revised 17781  
Code, to be paid as other operating expenses of the division. 17782

Sec. 1711.52. The advisory council on amusement ride safety 17783  
shall: 17784

(A) Study any subject pertaining to amusement ride safety, 17785  
including administrative, engineering, and technical subjects, and 17786  
make findings and recommendations to the director of agriculture; 17787

(B) Prior to the ~~promulgation~~ adoption of any rules or 17788  
amendments to those rules under division (B) of section 1711.53 17789  
and division (B) of section 1711.551 of the Revised Code, study 17790  
the proposed rules to be ~~promulgated~~ adopted by the director 17791  
regarding amusement ride safety, advise the director, and make 17792  
findings and recommendations to the director; 17793

(C) Not later than December 31, 2006, prepare and submit a 17794  
report to the governor, the speaker of the house of 17795  
representatives, the president of the senate, and the director 17796  
concerning the advisory council's recommendations for alternative 17797  
funding sources for the amusement ride safety program established 17798  
under this chapter. 17799

The director shall make available to the advisory council any 17800  
information, reports, and studies requested by the advisory 17801  
council. 17802

Sec. 1711.53. (A)(1) No person shall operate an amusement 17803  
ride within the state without a permit issued by the director of 17804  
agriculture under division (A)(2) of this section. The owner of an 17805  
amusement ride, whether the ride is a temporary amusement ride or 17806  
a permanent amusement ride, who desires to operate the amusement 17807  
ride within the state shall, prior to the operation of the 17808  
amusement ride and annually thereafter, submit to the department 17809  
of agriculture an application for a permit, together with the 17810  
appropriate permit and inspection fee, on a form to be furnished 17811  
by the department. Prior to issuing any permit the department 17812

shall, within thirty days after the date on which it receives the 17813  
application, inspect each amusement ride described in the 17814  
application. The owner of an amusement ride shall have the 17815  
amusement ride ready for inspection not later than two hours after 17816  
the time that is requested by the person for the inspection. 17817

(2) For each amusement ride found to comply with the rules 17818  
adopted by the director under division (B) of this section and 17819  
division (B) of section 1711.551 of the Revised Code, the director 17820  
shall issue an annual permit, provided that evidence of liability 17821  
insurance coverage for the amusement ride as required by section 17822  
1711.54 of the Revised Code is on file with the department. 17823

(3) The director shall issue with each permit a decal 17824  
indicating that the amusement ride has been issued the permit. The 17825  
owner of the amusement ride shall affix the decal on the ride at a 17826  
location where the decal is easily visible to the patrons of the 17827  
ride. A copy of the permit shall be kept on file at the same 17828  
address as the location of the amusement ride identified on the 17829  
permit, and shall be made available for inspection, upon 17830  
reasonable demand, by any person. An owner may operate an 17831  
amusement ride prior to obtaining a permit, provided that the 17832  
operation is for the purpose of testing the amusement ride or 17833  
training amusement ride operators and other employees of the owner 17834  
and the amusement ride is not open to the public. 17835

(B) The director, in accordance with Chapter 119. of the 17836  
Revised Code, shall adopt rules providing for a schedule of fines, 17837  
with no fine exceeding five thousand dollars, for violations of 17838  
sections 1711.50 to 1711.57 of the Revised Code or any rules 17839  
adopted under this division and for the classification of 17840  
amusement rides and rules for the safe operation and inspection of 17841  
all amusement rides as are necessary for amusement ride safety and 17842  
for the protection of the general public. Rules adopted by the 17843  
director for the safe operation and inspection of amusement rides 17844

shall be reasonable and based upon generally accepted engineering standards and practices. In adopting rules under this section, the director may adopt by reference, in whole or in part, the national fire code or the national electrical code (NEC) prepared by the national fire protection association, the standards of the American society for testing and materials (ASTM) or the American national standards institute (ANSI), or any other principles, tests, or standards of nationally recognized technical or scientific authorities. Insofar as is practicable and consistent with sections 1711.50 to 1711.57 of the Revised Code, rules adopted under this division shall be consistent with the rules of other states. The department shall cause sections 1711.50 to 1711.57 of the Revised Code and the rules adopted in accordance with this division and division (B) of section 1711.551 of the Revised Code to be published in pamphlet form and a copy to be furnished without charge to each owner of an amusement ride who holds a current permit or is an applicant therefor.

(C) With respect to an application for a permit for an amusement ride, an owner may apply to the director for a waiver or modification of any rule adopted under division (B) of this section if there are practical difficulties or unnecessary hardships for the amusement ride to comply with the rules. Any application shall set forth the reasons for the request. The director, with the approval of the advisory council on amusement ride safety, may waive or modify the application of a rule to any amusement ride if the public safety is secure. Any authorization by the director under this division shall be in writing and shall set forth the conditions under which the waiver or modification is authorized, and the department shall retain separate records of all proceedings under this division.

(D)(1) The director shall employ and provide for training of a chief inspector and additional inspectors and employees as may

be necessary to administer and enforce sections 1711.50 to 1711.57  
of the Revised Code. The director may appoint or contract with  
other persons to perform inspections of amusement rides, provided  
that the persons meet the qualifications for inspectors  
established by rules adopted under division (B) of this section  
and are not owners, or employees of owners, of any amusement ride  
subject to inspection under sections 1711.50 to 1711.57 of the  
Revised Code. No person shall inspect an amusement ride who,  
within six months prior to the date of inspection, was an employee  
of the owner of the ride.

(2) Before the director contracts with other persons to  
inspect amusement rides, the director shall seek the advice of the  
advisory council on amusement ride safety on whether to contract  
with those persons. The advice shall not be binding upon the  
director. After having received the advice of the council, the  
director may proceed to contract with inspectors in accordance  
with the procedures specified in division (E)(2) of section  
1711.11 of the Revised Code.

(3) With the advice and consent of the advisory council on  
amusement ride safety, the director may employ a special  
consultant to conduct an independent investigation of an amusement  
ride accident. This consultant need not be in the civil service of  
the state, but shall have qualifications to conduct the  
investigation acceptable to the council.

(E)(1) Except as otherwise provided in division (E)(1) of  
this section, the department shall charge the following amusement  
ride fees:

Permit	<del>\$ 50</del> <u>\$ 150</u>	
Annual inspection and reinspection per ride:		
Kiddie rides	\$ 100	
Roller coaster	\$ 950	
Aerial lifts or bungee		

jumping facilities	\$ 450	17909
Go karts	\$ 5	17910
Other rides	\$ 160	17911
Midseason operational inspection per ride	\$ 25	17912
Expedited inspection per ride	\$ 100	17913
Failure to cancel scheduled inspection per ride	\$ 100	17914
Failure to have amusement ride ready for inspection per ride	\$100	17915 17916

The go kart inspection fee is in addition to the inspection fee for the go kart track. 17917  
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The fees for an expedited inspection, failure to cancel a scheduled inspection, and failure to have an amusement ride ready for inspection do not apply to go karts. 17919  
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As used in division (E)(1) of this section, "expedited inspection" means an inspection of an amusement ride by the department not later than ten days after the owner of the amusement ride files an application for a permit under this section. 17922  
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(2) All fees and fines collected by the department under sections 1711.50 to 1711.57 of the Revised Code shall be deposited in the state treasury to the credit of the amusement ride inspection fund, which is hereby created, and shall be used only for the purpose of administering and enforcing sections 1711.11 and 1711.50 to 1711.57 of the Revised Code. 17927  
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(3) The owner of an amusement ride shall be required to pay a reinspection fee only if the reinspection was conducted at the owner's request under division (F) of this section, if the reinspection is required by division (F) of this section because of an accident, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code. If a reinspection is conducted at the request of the chief officer of a fair, festival, 17933  
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or event where the ride is operating, the reinspection fee shall 17940  
be charged to the fair, festival, or event. 17941

(4) The rules adopted under division (B) of this section 17942  
shall define "kiddie rides," "roller coaster," "aerial lifts," "go 17943  
karts," and "other rides" for purposes of determining the fees 17944  
under division (E) of this section. The rules shall define "other 17945  
rides" to include go kart tracks. 17946

(F) A reinspection of an amusement ride shall take place if 17947  
an accident occurs, if the owner of the ride or the chief officer 17948  
of the fair, festival, or event where the ride is operating 17949  
requests a reinspection, or if the reinspection is required by 17950  
division (F) of section 1711.55 of the Revised Code. 17951

(G) As a supplement to its annual inspection of a temporary 17952  
amusement ride, the department may inspect the ride during each 17953  
scheduled event, as listed in the schedule of events provided to 17954  
the department by the owner pursuant to division (C) of section 17955  
1711.55 of the Revised Code, at which the ride is operated in this 17956  
state. These supplemental inspections are in addition to any other 17957  
inspection or reinspection of the ride as may be required under 17958  
sections 1711.50 to 1711.57 of the Revised Code, and the owner of 17959  
the temporary amusement ride is not required to pay an inspection 17960  
or reinspection fee for this supplemental inspection. Nothing in 17961  
this division shall be construed to prohibit the owner of a 17962  
temporary amusement ride having a valid permit to operate in this 17963  
state from operating the ride at a scheduled event before the 17964  
department conducts a supplemental inspection. 17965

(H) The department may annually conduct a midseason 17966  
operational inspection of every amusement ride upon which it 17967  
conducts an annual inspection pursuant to division (A) of this 17968  
section. The midseason operational inspection is in addition to 17969  
any other inspection or reinspection of the amusement ride as may 17970

be required pursuant to sections 1711.50 to 1711.57 of the Revised Code. The owner of an amusement ride shall submit to the department, at the time determined by the department, the midseason operational inspection fee specified in division (E) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules specifying the time period during which the department will conduct midseason operational inspections.

Sec. 1711.531. (A) No person shall operate an amusement ride powered from an electric light company source unless the amusement ride operates through a fusible switch, enclosed circuit breaker, or panelboard that has been:

(1) Rated by the underwriters laboratories for service entrance applications;

(2) Installed in compliance with the national electrical code;

(3) Metered through a meter installed by the electric light company.

(B) An amusement ride owner shall not use an electric light company source as described in division (A) of this section unless the owner has written certification that the fusible switch, enclosed circuit breaker, or panelboard satisfies the requirements established in divisions (A)(1) to (3) of this section and that is issued by a person certified under section 3783.03 or licensed under section 4740.06 of the Revised Code. The owner shall make the certificate available to the director of agriculture upon request.

(C) This section does not apply to either of the following types of amusement rides:

(1) Rides that do not require electrical current;



(2) Rides that the director exempts in rules the director 18001  
adopts. 18002

(D) A person licensed pursuant to section 4740.06 of the 18003  
Revised Code, when conducting an inspection pursuant to this 18004  
section, is not violating section 3783.06 of the Revised Code. 18005

(E) As used in this section, "electric light company" has the 18006  
same meaning as in section 4905.03 of the Revised Code. 18007

**Sec. 1713.03.** The Ohio board of regents shall establish 18008  
standards for certificates of authorization to be issued to 18009  
institutions as defined in section 1713.01 of the Revised Code, to 18010  
private institutions exempt from regulation under Chapter 3332. of 18011  
the Revised Code as prescribed in section 3333.046 of the Revised 18012  
Code, and to schools holding certificates of registration issued 18013  
by the state board of career colleges and schools pursuant to 18014  
division (C) of section 3332.05 of the Revised Code. A certificate 18015  
of authorization may permit an institution or school to award one 18016  
or more types of degrees. 18017

The standards for a certificate of authorization may include, 18018  
for various types of institutions, schools, or degrees, minimum 18019  
qualifications for faculty, library, laboratories, and other 18020  
facilities as adopted and published by the Ohio board of regents. 18021  
The standards shall be adopted by the board pursuant to Chapter 18022  
119. of the Revised Code. 18023

An institution or school shall apply to the board for a 18024  
certificate of authorization on forms containing such information 18025  
as is prescribed by the board. Each institution or school with a 18026  
certificate of authorization shall file an annual report with the 18027  
board in such form and containing such information as the board 18028  
prescribes. 18029

The board shall adopt a rule under Chapter 119. of the 18030

Revised Code establishing fees to pay the cost of reviewing an 18031  
application for a certificate of authorization, which the 18032  
institution or school shall pay when it applies for a certificate 18033  
of authorization, and establishing fees, which an institution or 18034  
school shall pay, for any further reviews the board determines 18035  
necessary upon examining an institution's or school's annual 18036  
report. 18037

**Sec. 1751.03.** (A) Each application for a certificate of 18038  
authority under this chapter shall be verified by an officer or 18039  
authorized representative of the applicant, shall be in a format 18040  
prescribed by the superintendent of insurance, and shall set forth 18041  
or be accompanied by the following: 18042

(1) A certified copy of the applicant's articles of 18043  
incorporation and all amendments to the articles of incorporation; 18044

(2) A copy of any regulations adopted for the government of 18045  
the corporation, any bylaws, and any similar documents, and a copy 18046  
of all amendments to these regulations, bylaws, and documents. The 18047  
corporate secretary shall certify that these regulations, bylaws, 18048  
documents, and amendments have been properly adopted or approved. 18049

(3) A list of the names, addresses, and official positions of 18050  
the persons responsible for the conduct of the applicant, 18051  
including all members of the board, the principal officers, and 18052  
the person responsible for completing or filing financial 18053  
statements with the department of insurance, accompanied by a 18054  
completed original biographical affidavit and release of 18055  
information for each of these persons on forms acceptable to the 18056  
department; 18057

(4) A full and complete disclosure of the extent and nature 18058  
of any contractual or other financial arrangement between the 18059  
applicant and any provider or a person listed in division (A)(3) 18060

of this section, including, but not limited to, a full and  
complete disclosure of the financial interest held by any such  
provider or person in any health care facility, provider, or  
insurer that has entered into a financial relationship with the  
health insuring corporation;

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(5) A description of the applicant, its facilities, and its  
personnel, including, but not limited to, the location, hours of  
operation, and telephone numbers of all contracted facilities;

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(6) The applicant's projected annual enrollee population over  
a three-year period;

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(7) A clear and specific description of the health care plan  
or plans to be used by the applicant, including a description of  
the proposed providers, procedures for accessing care, and the  
form of all proposed and existing contracts relating to the  
administration, delivery, or financing of health care services;

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(8) A copy of each type of evidence of coverage and  
identification card or similar document to be issued to  
subscribers;

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(9) A copy of each type of individual or group policy,  
contract, or agreement to be used;

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(10) The schedule of the proposed contractual periodic  
prepayments or premium rates, or both, accompanied by appropriate  
supporting data;

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(11) A financial plan which provides a three-year projection  
of operating results, including the projected expenses, income,  
and sources of working capital;

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(12) The enrollee complaint procedure to be utilized as  
required under section 1751.19 of the Revised Code;

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(13) A description of the procedures and programs to be  
implemented on an ongoing basis to assure the quality of health

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care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;

(14) A statement describing the geographic area or areas to be served, by county;

(15) A copy of all solicitation documents;

(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;

(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;

(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The description shall include that person's experience in managing or administering health care plans, a copy of that person's most recent audited financial statement, and a completed biographical affidavit on a form acceptable to the superintendent for each of that person's principal officers and board members and for any additional employee to be directly involved in providing managerial or administrative services to the health insuring corporation. If the person to provide managerial or administrative services is affiliated with the health insuring corporation, the contract must provide for payment for services based on actual

costs.	18122
(19) A statement from the applicant's board that the admitted	18123
assets of the applicant have not been and will not be pledged or	18124
hypothecated;	18125
(20) A statement from the applicant's board that the	18126
applicant will submit monthly financial statements during the	18127
first year of operations;	18128
(21) The name and address of the applicant's Ohio statutory	18129
agent for service of process, notice, or demand;	18130
(22) Copies of all documents the applicant filed with the	18131
secretary of state;	18132
(23) The location of those books and records of the applicant	18133
that must be maintained, which books and records shall be	18134
maintained in Ohio if the applicant is a domestic corporation, and	18135
which may be maintained either in the applicant's state of	18136
domicile or in Ohio if the applicant is a foreign corporation;	18137
(24) The applicant's federal identification number, corporate	18138
address, and mailing address;	18139
(25) An internal and external organizational chart;	18140
(26) A list of the assets representing the initial net worth	18141
of the applicant;	18142
(27) If the applicant has a parent company, the parent	18143
company's guaranty, on a form acceptable to the superintendent,	18144
that the applicant will maintain Ohio's minimum net worth. If no	18145
parent company exists, a statement regarding the availability of	18146
future funds if needed.	18147
(28) The names and addresses of the applicant's actuary and	18148
external auditors;	18149
(29) If the applicant is a foreign corporation, a copy of the	18150

most recent financial statements filed with the insurance 18151  
regulatory agency in the applicant's state of domicile; 18152

(30) If the applicant is a foreign corporation, a statement 18153  
from the insurance regulatory agency of the applicant's state of 18154  
domicile stating that the regulatory agency has no objection to 18155  
the applicant applying for an Ohio license and that the applicant 18156  
is in good standing in the applicant's state of domicile; 18157

(31) Any other information that the superintendent may 18158  
require; 18159

(32) Documentation acceptable to the superintendent of the 18160  
bond or securities required by section 1751.271 of the Revised 18161  
Code. 18162

(B)(1) A health insuring corporation, unless otherwise 18163  
provided for in this chapter or in section 3901.321 of the Revised 18164  
Code, shall file a timely notice with the superintendent 18165  
describing any change to the corporation's articles of 18166  
incorporation or regulations, or any major modification to its 18167  
operations as set out in the information required by division (A) 18168  
of this section that affects any of the following: 18169

(a) The solvency of the health insuring corporation; 18170

(b) The health insuring corporation's continued provision of 18171  
services that it has contracted to provide; 18172

(c) The manner in which the health insuring corporation 18173  
conducts its business. 18174

(2) If the change or modification is to be the result of an 18175  
action to be taken by the health insuring corporation, the notice 18176  
shall be filed with the superintendent prior to the health 18177  
insuring corporation taking the action. The action shall be deemed 18178  
approved if the superintendent does not disapprove it within sixty 18179  
days of filing. 18180

(3) The filing of a notice pursuant to division (B)(1) or (2) 18181  
of this section shall also serve as the submission of a notice 18182  
when required for the superintendent's review for purposes of 18183  
section 3901.341 of the Revised Code, if the notice contains all 18184  
of the information that section 3901.341 of the Revised Code 18185  
requires for such submissions and a copy of any written agreement. 18186  
The filing of such a notice, for the purpose of satisfying this 18187  
division and section 3901.341 of the Revised Code, shall be 18188  
subject to the sixty-day review period of division (B)(2) of this 18189  
section. 18190

(C)(1) No health insuring corporation shall expand its 18191  
approved service area until a copy of the request for expansion, 18192  
accompanied by documentation of the network of providers, forms of 18193  
all proposed or existing provider contracts relating to the 18194  
delivery of health care services, a schedule of proposed 18195  
contractual periodic prepayments and premium rates for group 18196  
contracts accompanied by appropriate supporting data, enrollment 18197  
projections, plan of operation, and any other changes have been 18198  
filed with the superintendent. 18199

(2) Within ten calendar days after receipt of a complete 18200  
filing under division (C)(1) of this section, the superintendent 18201  
shall refer the appropriate jurisdictional issues to the director 18202  
of health if required pursuant to section 1751.04 of the Revised 18203  
Code. 18204

(3) Within seventy-five days after the superintendent's 18205  
receipt of a complete filing under division (C)(1) of this 18206  
section, the superintendent shall determine whether the plan for 18207  
expansion is lawful, fair, and reasonable. ~~The~~ If a referral is 18208  
required pursuant to section 1751.04 of the Revised Code, the 18209  
superintendent may not make a determination until the 18210  
superintendent has received the director's certification of 18211  
compliance, which the director shall furnish within forty-five 18212

days after the referral under division (C)(2) of this section. The 18213  
director shall not certify that the requirements of section 18214  
1751.04 of the Revised Code are not met, unless the applicant has 18215  
been given an opportunity for a hearing as provided in division 18216  
(D) of section 1751.04 of the Revised Code. The forty-five-day and 18217  
seventy-five-day review periods provided for in division (C)(3) of 18218  
this section shall cease to run as of the date on which the notice 18219  
of the applicant's right to request a hearing is mailed and shall 18220  
remain suspended until the director issues a final certification. 18221

(4) If the superintendent has not approved or disapproved all 18222  
or a portion of a service area expansion within the 18223  
seventy-five-day period provided for in division (C)(3) of this 18224  
section, the filing shall be deemed approved. 18225

(5) Disapproval of all or a portion of the filing shall be 18226  
effected by written notice, which shall state the grounds for the 18227  
order of disapproval and shall be given in accordance with Chapter 18228  
119. of the Revised Code. 18229

**Sec. 1751.04.** (A) ~~Upon~~ Except as provided by division (F) of 18230  
this section, upon the receipt by the superintendent of insurance 18231  
of a complete application for a certificate of authority to 18232  
establish or operate a health insuring corporation, which 18233  
application sets forth or is accompanied by the information and 18234  
documents required by division (A) of section 1751.03 of the 18235  
Revised Code, the superintendent shall transmit copies of the 18236  
application and accompanying documents to the director of health. 18237

(B) The director shall review the application and 18238  
accompanying documents and make findings as to whether the 18239  
applicant for a certificate of authority has done all of the 18240  
following with respect to any basic health care services and 18241  
supplemental health care services to be furnished: 18242

(1) Demonstrated the willingness and potential ability to 18243



ensure that all basic health care services and supplemental health care services described in the evidence of coverage will be provided to all its enrollees as promptly as is appropriate and in a manner that assures continuity;

(2) Made effective arrangements to ensure that its enrollees have reliable access to qualified providers in those specialties that are generally available in the geographic area or areas to be served by the applicant and that are necessary to provide all basic health care services and supplemental health care services described in the evidence of coverage;

(3) Made appropriate arrangements for the availability of short-term health care services in emergencies within the geographic area or areas to be served by the applicant, twenty-four hours per day, seven days per week, and for the provision of adequate coverage whenever an out-of-area emergency arises;

(4) Made appropriate arrangements for an ongoing evaluation and assurance of the quality of health care services provided to enrollees, including, if applicable, the development of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code, and the adequacy of the personnel, facilities, and equipment by or through which the services are rendered;

(5) Developed a procedure to gather and report statistics relating to the cost and effectiveness of its operations, the pattern of utilization of its services, and the quality, availability, and accessibility of its services.

(C) Within ninety days of the director's receipt of the application for issuance of a certificate of authority, the director shall certify to the superintendent whether or not the applicant meets the requirements of division (B) of this section

and sections 3702.51 to 3702.62 of the Revised Code. If the  
director certifies that the applicant does not meet these  
requirements, the director shall specify in what respects it is  
deficient. However, the director shall not certify that the  
requirements of this section are not met unless the applicant has  
been given an opportunity for a hearing.

(D) If the applicant requests a hearing, the director shall  
hold a hearing before certifying that the applicant does not meet  
the requirements of this section. The hearing shall be held in  
accordance with Chapter 119. of the Revised Code.

(E) The ninety-day review period provided for under division  
(C) of this section shall cease to run as of the date on which the  
notice of the applicant's right to request a hearing is mailed and  
shall remain suspended until the director issues a final  
certification order.

(F) Nothing in this section requires the director to review  
or make findings with regard to an application and accompanying  
documents to establish or operate a health insuring corporation to  
cover solely recipients of assistance under the medicaid program  
operated pursuant to Chapter 5111. of the Revised Code.

**Sec. 1751.05.** (A) The superintendent of insurance shall issue  
or deny a certificate of authority to ~~establish or operate a~~  
health insuring corporations within the deadlines specified as  
follows:

(1) For a health insuring corporation to ~~any corporation~~  
filing an application pursuant to section 1751.03 of the Revised  
Code ~~within~~, forty-five days ~~of~~ from the superintendent's receipt  
of the certification from the director of health under division  
(C) of section 1751.04 of the Revised Code;i

(2) For a health insuring corporation that covers solely

recipients of assistance under the medicaid program operated 18305  
pursuant to Chapter 5111. of the Revised Code, one hundred 18306  
thirty-five days from the superintendent's receipt of a complete 18307  
application and accompanying documents. 18308

(B) A certificate of authority shall be issued upon payment 18309  
of the application fee prescribed in section 1751.44 of the 18310  
Revised Code if the superintendent is satisfied that the following 18311  
conditions are met: 18312

(1) The persons responsible for the conduct of the affairs of 18313  
the applicant are competent, trustworthy, and possess good 18314  
reputations. 18315

(2) The director certifies, in accordance with division (C) 18316  
of section 1751.04 of the Revised Code, that the organization's 18317  
proposed plan of operation meets the requirements of division (B) 18318  
of that section and sections 3702.51 to 3702.62 of the Revised 18319  
Code. If, after the director has certified compliance, the 18320  
application is amended in a manner that affects its approval under 18321  
section 1751.04 of the Revised Code, the superintendent shall 18322  
request the director to review and recertify the amended plan of 18323  
operation. Within forty-five days of receipt of the amended plan 18324  
from the superintendent, the director shall certify to the 18325  
superintendent, pursuant to section 1751.04 of the Revised Code, 18326  
whether or not the amended plan meets the requirements of section 18327  
1751.04 of the Revised Code. The superintendent's forty-five-day 18328  
review period shall cease to run as of the date on which the 18329  
amended plan is transmitted to the director and shall remain 18330  
suspended until the superintendent receives a new certification 18331  
from the director. 18332

(3) The applicant constitutes an appropriate mechanism to 18333  
effectively provide or arrange for the provision of the basic 18334  
health care services, supplemental health care services, or 18335

specialty health care services to be provided to enrollees. 18336

(4) The applicant is financially responsible, complies with 18337  
section 1751.28 of the Revised Code, and may reasonably be 18338  
expected to meet its obligations to enrollees and prospective 18339  
enrollees. In making this determination, the superintendent may 18340  
consider: 18341

(a) The financial soundness of the applicant's arrangements 18342  
for health care services, including the applicant's proposed 18343  
contractual periodic prepayments or premiums and the use of 18344  
copayments and deductibles; 18345

(b) The adequacy of working capital; 18346

(c) Any agreement with an insurer, a government, or any other 18347  
person for insuring the payment of the cost of health care 18348  
services or providing for automatic applicability of an 18349  
alternative coverage in the event of discontinuance of the health 18350  
insuring corporation's operations; 18351

(d) Any agreement with providers or health care facilities 18352  
for the provision of health care services; 18353

(e) Any deposit of securities submitted in accordance with 18354  
section 1751.27 of the Revised Code as a guarantee that the 18355  
obligations will be performed. 18356

(5) The applicant has submitted documentation of an 18357  
arrangement to provide health care services to its enrollees until 18358  
the expiration of the enrollees' contracts with the applicant if a 18359  
health care plan or the operations of the health insuring 18360  
corporation are discontinued prior to the expiration of the 18361  
enrollees' contracts. An arrangement to provide health care 18362  
services may be made by using any one, or any combination, of the 18363  
following methods: 18364

(a) The maintenance of insolvency insurance; 18365

(b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days;

(c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations;

(d) Such other methods as approved by the superintendent.

(6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to the public at large, as determined by the superintendent.

(7) Any deficiencies certified by the director have been corrected.

(8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code.

~~(B)~~(C) If an applicant elects to fulfill the requirements of division (A)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason.

~~(C)~~(D) A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code.

**Sec. 1751.271.** (A) Each health insuring corporation that provides coverage to medicaid recipients shall post a performance bond in the amount of three million dollars as security to fulfill the obligations of the health insuring corporation to pay claims

of contracted providers for covered health care services provided 18396  
to medicaid recipients. The bond shall be payable to the 18397  
department of insurance in the event that the health insuring 18398  
corporation is placed in rehabilitation or liquidation proceedings 18399  
under Chapter 3903. of the Revised Code, and shall become a 18400  
special deposit subject to section 3903.14 or 3903.421 of the 18401  
Revised Code, as applicable. In lieu of the performance bond, a 18402  
medicaid health insuring corporation may deposit securities with 18403  
the superintendent of insurance, acceptable to the superintendent, 18404  
in the amount of three million dollars, to satisfy the bonding 18405  
requirements of this section. Upon rehabilitation or liquidation, 18406  
the securities shall become a special deposit subject to sections 18407  
3903.14 and 3903.421 of the Revised Code, as applicable. The 18408  
health insuring corporation shall receive the interest on the 18409  
deposited securities as long as the health insuring corporation 18410  
remains solvent. 18411

(B) The bond shall be issued by a surety company licensed 18412  
with the department of insurance. The bond or deposit, or any 18413  
replacement bond or deposit, shall be in a form acceptable to the 18414  
superintendent, and shall remain in effect during the duration of 18415  
the medicaid health insuring corporation's license and thereafter 18416  
until all claims against the medicaid health insuring corporation 18417  
have been paid in full. 18418

(C) Documentation of the bond acceptable to the 18419  
superintendent of insurance shall be filed with the superintendent 18420  
prior to the issuance of a certificate of authority. Annually, 18421  
thirty days prior to the renewal of its certificate of authority, 18422  
every medicaid health insuring corporation shall furnish the 18423  
superintendent of insurance with evidence that the required bond 18424  
is still in effect. 18425

(D) As used in this section: 18426

(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients. 18427  
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(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients. 18430  
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(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code. 18433  
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**Sec. 1751.89.** Sections 1751.77 to 1751.85 of the Revised Code do not apply to ~~either of the following:~~ 18436  
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~~(A) Coverage coverage provided to beneficiaries enrolled in the medicare... choice advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ 18438  
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~~(B) Coverage provided to recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.~~ 18442  
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**Sec. 1901.26.** (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows: 18445  
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(1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding. 18447  
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(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon 18452  
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affidavit or other evidence that a party is unable to make the  
required deposit. 18456  
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(3) When a jury trial is demanded in any civil action or  
proceeding, the party making the demand may be required to make an  
advance deposit as fixed by rule of court, unless, upon affidavit  
or other evidence, the court concludes that the party is unable to  
make the required deposit. If a jury is called, the fees of a jury  
shall be taxed as costs. 18458  
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(4) In any civil or criminal action or proceeding, witnesses'  
fees shall be fixed in accordance with sections 2335.06 and  
2335.08 of the Revised Code. 18464  
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(5) A reasonable charge for driving, towing, carting,  
storing, keeping, and preserving motor vehicles and other personal  
property recovered or seized in any proceeding may be taxed as  
part of the costs in a trial of the cause, in an amount that shall  
be fixed by rule of court. 18467  
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(6) Chattel property seized under any writ or process issued  
by the court shall be preserved pending final disposition for the  
benefit of all persons interested and may be placed in storage  
when necessary or proper for that preservation. The custodian of  
any chattel property so stored shall not be required to part with  
the possession of the property until a reasonable charge, to be  
fixed by the court, is paid. 18472  
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(7) The municipal court, as it determines, may refund all  
deposits and advance payments of fees and costs, including those  
for jurors and summoning jurors, when they have been paid by the  
losing party. 18479  
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(8) Charges for the publication of legal notices required by  
statute or order of court may be taxed as part of the costs, as  
provided by section 7.13 of the Revised Code. 18483  
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(B)(1) The municipal court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the municipal court offers a special program or service in cases of a specific type, the municipal court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The municipal court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the municipal court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (B) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(c) The municipal court shall collect in all its divisions except the small claims division the sum of ~~fifteen~~ twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state. The municipal court shall collect in its small claims division the sum of ~~seven~~ eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the ~~first business~~ twentieth day

of ~~each~~ the following month by the clerk of the court to the 18550  
treasurer of state in a manner prescribed by the treasurer of 18551  
state or by the Ohio legal assistance foundation. The ~~moneys then~~ 18552  
~~shall be deposited by the~~ treasurer of state shall deposit four 18553  
per cent of the funds collected under this division to the credit 18554  
of the civil case filing fee fund established under section 120.07 18555  
of the Revised Code and ninety-six per cent of the funds collected 18556  
under this division to the credit of the legal aid fund 18557  
established under section 120.52 of the Revised Code. 18558

The court may retain up to one per cent of the moneys it 18559  
collects under this division to cover administrative costs, 18560  
including the hiring of any additional personnel necessary to 18561  
implement this division. 18562

(D) In the Cleveland municipal court, reasonable charges for 18563  
investigating titles of real estate to be sold or disposed of 18564  
under any writ or process of the court may be taxed as part of the 18565  
costs. 18566

(E) Under the circumstances described in sections 2969.21 to 18567  
2969.27 of the Revised Code, the clerk of the municipal court 18568  
shall charge the fees and perform the other duties specified in 18569  
those sections. 18570

**Sec. 1901.31.** The clerk and deputy clerks of a municipal 18571  
court shall be selected, be compensated, give bond, and have 18572  
powers and duties as follows: 18573

(A) There shall be a clerk of the court who is appointed or 18574  
elected as follows: 18575

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 18576  
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 18577  
municipal courts, if the population of the territory equals or 18578  
exceeds one hundred thousand at the regular municipal election 18579

immediately preceding the expiration of the term of the present 18580  
clerk, the clerk shall be nominated and elected by the qualified 18581  
electors of the territory in the manner that is provided for the 18582  
nomination and election of judges in section 1901.07 of the 18583  
Revised Code. 18584

The clerk so elected shall hold office for a term of six 18585  
years, which term shall commence on the first day of January 18586  
following the clerk's election and continue until the clerk's 18587  
successor is elected and qualified. 18588

(b) In the Hamilton county municipal court, the clerk of 18589  
courts of Hamilton county shall be the clerk of the municipal 18590  
court and may appoint an assistant clerk who shall receive the 18591  
compensation, payable out of the treasury of Hamilton county in 18592  
semimonthly installments, that the board of county commissioners 18593  
prescribes. The clerk of courts of Hamilton county, acting as the 18594  
clerk of the Hamilton county municipal court and assuming the 18595  
duties of that office, shall receive compensation at one-fourth 18596  
the rate that is prescribed for the clerks of courts of common 18597  
pleas as determined in accordance with the population of the 18598  
county and the rates set forth in sections 325.08 and 325.18 of 18599  
the Revised Code. This compensation shall be paid from the county 18600  
treasury in semimonthly installments and is in addition to the 18601  
annual compensation that is received for the performance of the 18602  
duties of the clerk of courts of Hamilton county, as provided in 18603  
sections 325.08 and 325.18 of the Revised Code. 18604

(c) In the Portage county and Wayne county municipal courts, 18605  
the clerks of courts of Portage county and Wayne county shall be 18606  
the clerks, respectively, of the Portage county and Wayne county 18607  
municipal courts and may appoint a chief deputy clerk for each 18608  
branch that is established pursuant to section 1901.311 of the 18609  
Revised Code and assistant clerks as the judges of the municipal 18610  
court determine are necessary, all of whom shall receive the 18611

compensation that the legislative authority prescribes. The clerks 18612  
of courts of Portage county and Wayne county, acting as the clerks 18613  
of the Portage county and Wayne county municipal courts and 18614  
assuming the duties of these offices, shall receive compensation 18615  
payable from the county treasury in semimonthly installments at 18616  
one-fourth the rate that is prescribed for the clerks of courts of 18617  
common pleas as determined in accordance with the population of 18618  
the county and the rates set forth in sections 325.08 and 325.18 18619  
of the Revised Code. 18620

(d) Except as otherwise provided in division (A)(1)(d) of 18621  
this section, in the Akron municipal court, candidates for 18622  
election to the office of clerk of the court shall be nominated by 18623  
primary election. The primary election shall be held on the day 18624  
specified in the charter of the city of Akron for the nomination 18625  
of municipal officers. Notwithstanding section 3513.257 of the 18626  
Revised Code, the nominating petitions of independent candidates 18627  
shall be signed by at least two hundred fifty qualified electors 18628  
of the territory of the court. 18629

The candidates shall file a declaration of candidacy and 18630  
petition, or a nominating petition, whichever is applicable, not 18631  
later than four p.m. of the seventy-fifth day before the day of 18632  
the primary election, in the form prescribed by section 3513.07 or 18633  
3513.261 of the Revised Code. The declaration of candidacy and 18634  
petition, or the nominating petition, shall conform to the 18635  
applicable requirements of section 3513.05 or 3513.257 of the 18636  
Revised Code. 18637

If no valid declaration of candidacy and petition is filed by 18638  
any person for nomination as a candidate of a particular political 18639  
party for election to the office of clerk of the Akron municipal 18640  
court, a primary election shall not be held for the purpose of 18641  
nominating a candidate of that party for election to that office. 18642  
If only one person files a valid declaration of candidacy and 18643

petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Akron municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

~~(e) Irrespective of the population of the territory of the Medina municipal court, the clerk of that court shall be appointed pursuant to division (A)(2)(a) of this section by the judges of that court, shall hold office until the clerk's successor is similarly appointed and qualified, and shall receive pursuant to division (C) of this section the annual compensation that the legislative authority prescribes and that is payable in semimonthly installments from the same sources and in the same manner as provided in section 1901.11 of the Revised Code.~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of this section, in the Barberton municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Barberton for the

nomination of municipal officers. Notwithstanding section 3513.257 18676  
of the Revised Code, the nominating petitions of independent 18677  
candidates shall be signed by at least two hundred fifty qualified 18678  
electors of the territory of the court. 18679

The candidates shall file a declaration of candidacy and 18680  
petition, or a nominating petition, whichever is applicable, not 18681  
later than four p.m. of the seventy-fifth day before the day of 18682  
the primary election, in the form prescribed by section 3513.07 or 18683  
3513.261 of the Revised Code. The declaration of candidacy and 18684  
petition, or the nominating petition, shall conform to the 18685  
applicable requirements of section 3513.05 or 3513.257 of the 18686  
Revised Code. 18687

If no valid declaration of candidacy and petition is filed by 18688  
any person for nomination as a candidate of a particular political 18689  
party for election to the office of clerk of the Barberton 18690  
municipal court, a primary election shall not be held for the 18691  
purpose of nominating a candidate of that party for election to 18692  
that office. If only one person files a valid declaration of 18693  
candidacy and petition for nomination as a candidate of a 18694  
particular political party for election to that office, a primary 18695  
election shall not be held for the purpose of nominating a 18696  
candidate of that party for election to that office, and the 18697  
candidate shall be issued a certificate of nomination in the 18698  
manner set forth in section 3513.02 of the Revised Code. 18699

Declarations of candidacy and petitions, nominating 18700  
petitions, and certificates of nomination for the office of clerk 18701  
of the Barberton municipal court shall contain a designation of 18702  
the term for which the candidate seeks election. At the following 18703  
regular municipal election, all candidates for the office shall be 18704  
submitted to the qualified electors of the territory of the court 18705  
in the manner that is provided in section 1901.07 of the Revised 18706  
Code for the election of the judges of the court. The clerk so 18707

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elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

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~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f) of this section, in the Cuyahoga Falls municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Cuyahoga Falls for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

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The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

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If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Cuyahoga Falls municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the



manner set forth in section 3513.02 of the Revised Code. 18740

Declarations of candidacy and petitions, nominating 18741  
petitions, and certificates of nomination for the office of clerk 18742  
of the Cuyahoga Falls municipal court shall contain a designation 18743  
of the term for which the candidate seeks election. At the 18744  
following regular municipal election, all candidates for the 18745  
office shall be submitted to the qualified electors of the 18746  
territory of the court in the manner that is provided in section 18747  
1901.07 of the Revised Code for the election of the judges of the 18748  
court. The clerk so elected shall hold office for a term of six 18749  
years, which term shall commence on the first day of January 18750  
following the clerk's election and continue until the clerk's 18751  
successor is elected and qualified. 18752

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 18753  
of this section, in the Toledo municipal court, candidates for 18754  
election to the office of clerk of the court shall be nominated by 18755  
primary election. The primary election shall be held on the day 18756  
specified in the charter of the city of Toledo for the nomination 18757  
of municipal officers. Notwithstanding section 3513.257 of the 18758  
Revised Code, the nominating petitions of independent candidates 18759  
shall be signed by at least two hundred fifty qualified electors 18760  
of the territory of the court. 18761

The candidates shall file a declaration of candidacy and 18762  
petition, or a nominating petition, whichever is applicable, not 18763  
later than four p.m. of the seventy-fifth day before the day of 18764  
the primary election, in the form prescribed by section 3513.07 or 18765  
3513.261 of the Revised Code. The declaration of candidacy and 18766  
petition, or the nominating petition, shall conform to the 18767  
applicable requirements of section 3513.05 or 3513.257 of the 18768  
Revised Code. 18769

If no valid declaration of candidacy and petition is filed by 18770

any person for nomination as a candidate of a particular political party for election to the office of clerk of the Toledo municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Toledo municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(2)(a) Except for the Alliance, Auglaize county, Brown county, Columbiana county, Lorain, Massillon, and Youngstown municipal courts, in a municipal court for which the population of the territory is less than one hundred thousand ~~and in the Medina municipal court~~, the clerk shall be appointed by the court, and the clerk shall hold office until the clerk's successor is appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown municipal courts, the clerk shall be elected for a term of office

as described in division (A)(1)(a) of this section.

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(c) In the Auglaize county and Brown county municipal courts, the clerks of courts of Auglaize county and Brown county shall be the clerks, respectively, of the Auglaize county and Brown county municipal courts and may appoint a chief deputy clerk for each branch that is established pursuant to section 1901.311 of the Revised Code, and assistant clerks as the judge of the court determines are necessary, all of whom shall receive the compensation that the legislative authority prescribes. The clerks of courts of Auglaize county and Brown county, acting as the clerks of the Auglaize county and Brown county municipal courts and assuming the duties of these offices, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

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(d) In the Columbiana county municipal court, the clerk of courts of Columbiana county shall be the clerk of the municipal court, may appoint a chief deputy clerk for each branch office that is established pursuant to section 1901.311 of the Revised Code, and may appoint any assistant clerks that the judges of the court determine are necessary. All of the chief deputy clerks and assistant clerks shall receive the compensation that the legislative authority prescribes. The clerk of courts of Columbiana county, acting as the clerk of the Columbiana county municipal court and assuming the duties of that office, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

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(3) During the temporary absence of the clerk due to illness, 18835  
vacation, or other proper cause, the court may appoint a temporary 18836  
clerk, who shall be paid the same compensation, have the same 18837  
authority, and perform the same duties as the clerk. 18838

(B) Except in the Hamilton county, ~~Medina~~, Portage county, 18839  
and Wayne county municipal courts, if a vacancy occurs in the 18840  
office of the clerk of the Alliance, Lorain, Massillon, or 18841  
Youngstown municipal court or occurs in the office of the clerk of 18842  
a municipal court for which the population of the territory equals 18843  
or exceeds one hundred thousand because the clerk ceases to hold 18844  
the office before the end of the clerk's term or because a 18845  
clerk-elect fails to take office, the vacancy shall be filled, 18846  
until a successor is elected and qualified, by a person chosen by 18847  
the residents of the territory of the court who are members of the 18848  
county central committee of the political party by which the last 18849  
occupant of that office or the clerk-elect was nominated. Not less 18850  
than five nor more than fifteen days after a vacancy occurs, those 18851  
members of that county central committee shall meet to make an 18852  
appointment to fill the vacancy. At least four days before the 18853  
date of the meeting, the chairperson or a secretary of the county 18854  
central committee shall notify each such member of that county 18855  
central committee by first class mail of the date, time, and place 18856  
of the meeting and its purpose. A majority of all such members of 18857  
that county central committee constitutes a quorum, and a majority 18858  
of the quorum is required to make the appointment. If the office 18859  
so vacated was occupied or was to be occupied by a person not 18860  
nominated at a primary election, or if the appointment was not 18861  
made by the committee members in accordance with this division, 18862  
the court shall make an appointment to fill the vacancy. A 18863  
successor shall be elected to fill the office for the unexpired 18864  
term at the first municipal election that is held more than one 18865  
hundred twenty days after the vacancy occurred. 18866

(C)(1) In a municipal court, other than the Auglaize county, 18867  
the Brown county, the Columbiana county, and the Lorain municipal 18868  
courts, for which the population of the territory is less than one 18869  
hundred thousand ~~and in the Medina municipal court~~, the clerk of 18870  
the municipal court shall receive the annual compensation that the 18871  
presiding judge of the court prescribes, if the revenue of the 18872  
court for the preceding calendar year, as certified by the auditor 18873  
or chief fiscal officer of the municipal corporation in which the 18874  
court is located or, in the case of a county-operated municipal 18875  
court, the county auditor, is equal to or greater than the 18876  
expenditures, including any debt charges, for the operation of the 18877  
court payable under this chapter from the city treasury or, in the 18878  
case of a county-operated municipal court, the county treasury for 18879  
that calendar year, as also certified by the auditor or chief 18880  
fiscal officer. If the revenue of a municipal court, other than 18881  
the Auglaize county, the Brown county, the Columbiana county, and 18882  
the Lorain municipal courts, for which the population of the 18883  
territory is less than one hundred thousand ~~or the revenue of the~~ 18884  
~~Medina municipal court~~ for the preceding calendar year as so 18885  
certified is not equal to or greater than those expenditures for 18886  
the operation of the court for that calendar year as so certified, 18887  
the clerk of a municipal court shall receive the annual 18888  
compensation that the legislative authority prescribes. As used in 18889  
this division, "revenue" means the total of all costs and fees 18890  
that are collected and paid to the city treasury or, in a 18891  
county-operated municipal court, the county treasury by the clerk 18892  
of the municipal court under division (F) of this section and all 18893  
interest received and paid to the city treasury or, in a 18894  
county-operated municipal court, the county treasury in relation 18895  
to the costs and fees under division (G) of this section. 18896

(2) In a municipal court, other than the Hamilton county, 18897  
~~Medina~~, Portage county, and Wayne county municipal courts, for 18898

which the population of the territory is one hundred thousand or 18899  
more, and in the Lorain municipal court, the clerk of the 18900  
municipal court shall receive annual compensation in a sum equal 18901  
to eighty-five per cent of the salary of a judge of the court. 18902

(3) The compensation of a clerk described in division (C)(1) 18903  
or (2) of this section is payable in semimonthly installments from 18904  
the same sources and in the same manner as provided in section 18905  
1901.11 of the Revised Code. 18906

(D) Before entering upon the duties of the clerk's office, 18907  
the clerk of a municipal court shall give bond of not less than 18908  
six thousand dollars to be determined by the judges of the court, 18909  
conditioned upon the faithful performance of the clerk's duties. 18910

(E) The clerk of a municipal court may do all of the 18911  
following: administer oaths, take affidavits, and issue executions 18912  
upon any judgment rendered in the court, including a judgment for 18913  
unpaid costs; issue, sign, and attach the seal of the court to all 18914  
writs, process, subpoenas, and papers issuing out of the court; 18915  
and approve all bonds, sureties, recognizances, and undertakings 18916  
fixed by any judge of the court or by law. The clerk may refuse to 18917  
accept for filing any pleading or paper submitted for filing by a 18918  
person who has been found to be a vexatious litigator under 18919  
section 2323.52 of the Revised Code and who has failed to obtain 18920  
leave to proceed under that section. The clerk shall do all of the 18921  
following: file and safely keep all journals, records, books, and 18922  
papers belonging or appertaining to the court; record the 18923  
proceedings of the court; perform all other duties that the judges 18924  
of the court may prescribe; and keep a book showing all receipts 18925  
and disbursements, which book shall be open for public inspection 18926  
at all times. 18927

The clerk shall prepare and maintain a general index, a 18928  
docket, and other records that the court, by rule, requires, all 18929  
of which shall be the public records of the court. In the docket, 18930

the clerk shall enter, at the time of the commencement of an  
action, the names of the parties in full, the names of the  
counsel, and the nature of the proceedings. Under proper dates,  
the clerk shall note the filing of the complaint, issuing of  
summons or other process, returns, and any subsequent pleadings.  
The clerk also shall enter all reports, verdicts, orders,  
judgments, and proceedings of the court, clearly specifying the  
relief granted or orders made in each action. The court may order  
an extended record of any of the above to be made and entered,  
under the proper action heading, upon the docket at the request of  
any party to the case, the expense of which record may be taxed as  
costs in the case or may be required to be prepaid by the party  
demanding the record, upon order of the court.

(F) The clerk of a municipal court shall receive, collect,  
and issue receipts for all costs, fees, fines, bail, and other  
moneys payable to the office or to any officer of the court. The  
clerk shall each month disburse to the proper persons or officers,  
and take receipts for, all costs, fees, fines, bail, and other  
moneys that the clerk collects. Subject to sections 3375.50 and  
4511.193 of the Revised Code and to any other section of the  
Revised Code that requires a specific manner of disbursement of  
any moneys received by a municipal court and except for the  
Hamilton county, Lawrence county, and Ottawa county municipal  
courts, the clerk shall pay all fines received for violation of  
municipal ordinances into the treasury of the municipal  
corporation the ordinance of which was violated and shall pay all  
fines received for violation of township resolutions adopted  
pursuant to Chapter 504. of the Revised Code into the treasury of  
the township the resolution of which was violated. Subject to  
sections 1901.024 and 4511.193 of the Revised Code, in the  
Hamilton county, Lawrence county, and Ottawa county municipal  
courts, the clerk shall pay fifty per cent of the fines received

for violation of municipal ordinances and fifty per cent of the  
fines received for violation of township resolutions adopted  
pursuant to Chapter 504. of the Revised Code into the treasury of  
the county. Subject to sections 3375.50, 3375.53, 4511.19, and  
5503.04 of the Revised Code and to any other section of the  
Revised Code that requires a specific manner of disbursement of  
any moneys received by a municipal court, the clerk shall pay all  
fines collected for the violation of state laws into the county  
treasury. Except in a county-operated municipal court, the clerk  
shall pay all costs and fees the disbursement of which is not  
otherwise provided for in the Revised Code into the city treasury.  
The clerk of a county-operated municipal court shall pay the costs  
and fees the disbursement of which is not otherwise provided for  
in the Revised Code into the county treasury. Moneys deposited as  
security for costs shall be retained pending the litigation. The  
clerk shall keep a separate account of all receipts and  
disbursements in civil and criminal cases, which shall be a  
permanent public record of the office. On the expiration of the  
term of the clerk, the clerk shall deliver the records to the  
clerk's successor. The clerk shall have other powers and duties as  
are prescribed by rule or order of the court.

(G) All moneys paid into a municipal court shall be noted on  
the record of the case in which they are paid and shall be  
deposited in a state or national bank, or a domestic savings and  
loan association, as defined in section 1151.01 of the Revised  
Code, that is selected by the clerk. Any interest received upon  
the deposits shall be paid into the city treasury, except that, in  
a county-operated municipal court, the interest shall be paid into  
the treasury of the county in which the court is located.

On the first Monday in January of each year, the clerk shall  
make a list of the titles of all cases in the court that were  
finally determined more than one year past in which there remains



unclaimed in the possession of the clerk any funds, or any part of  
a deposit for security of costs not consumed by the costs in the  
case. The clerk shall give notice of the moneys to the parties who  
are entitled to the moneys or to their attorneys of record. All  
the moneys remaining unclaimed on the first day of April of each  
year shall be paid by the clerk to the city treasurer, except  
that, in a county-operated municipal court, the moneys shall be  
paid to the treasurer of the county in which the court is located.  
The treasurer shall pay any part of the moneys at any time to the  
person who has the right to the moneys upon proper certification  
of the clerk.

(H) Deputy clerks may be appointed by the clerk and shall  
receive the compensation, payable in semimonthly installments out  
of the city treasury, that the clerk may prescribe, except that  
the compensation of any deputy clerk of a county-operated  
municipal court shall be paid out of the treasury of the county in  
which the court is located. Each deputy clerk shall take an oath  
of office before entering upon the duties of the deputy clerk's  
office and, when so qualified, may perform the duties appertaining  
to the office of the clerk. The clerk may require any of the  
deputy clerks to give bond of not less than three thousand  
dollars, conditioned for the faithful performance of the deputy  
clerk's duties.

(I) For the purposes of this section, whenever the population  
of the territory of a municipal court falls below one hundred  
thousand but not below ninety thousand, and the population of the  
territory prior to the most recent regular federal census exceeded  
one hundred thousand, the legislative authority of the municipal  
corporation may declare, by resolution, that the territory shall  
be considered to have a population of at least one hundred  
thousand.

(J) The clerk or a deputy clerk shall be in attendance at all

sessions of the municipal court, although not necessarily in the  
courtroom, and may administer oaths to witnesses and jurors and  
receive verdicts.

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**Sec. 1907.24.** (A) Subject to division (C) of this section, a  
county court shall fix and tax fees and costs as follows:

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(1) The county court shall require an advance deposit for the  
filing of any new civil action or proceeding when required by  
division (C) of this section and, in all other cases, shall  
establish a schedule of fees and costs to be taxed in any civil or  
criminal action or proceeding.

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(2) The county court by rule may require an advance deposit  
for the filing of a civil action or proceeding and publication  
fees as provided in section 2701.09 of the Revised Code. The court  
may waive an advance deposit requirement upon the presentation of  
an affidavit or other evidence that establishes that a party is  
unable to make the requisite deposit.

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(3) When a party demands a jury trial in a civil action or  
proceeding, the county court may require the party to make an  
advance deposit as fixed by rule of court, unless the court  
concludes, on the basis of an affidavit or other evidence  
presented by the party, that the party is unable to make the  
requisite deposit. If a jury is called, the county court shall tax  
the fees of a jury as costs.

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(4) In a civil or criminal action or proceeding, the county  
court shall fix the fees of witnesses in accordance with sections  
2335.06 and 2335.08 of the Revised Code.

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(5) A county court may tax as part of the costs in a trial of  
the cause, in an amount fixed by rule of court, a reasonable  
charge for driving, towing, carting, storing, keeping, and  
preserving motor vehicles and other personal property recovered or

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seized in a proceeding.

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(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

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(7) The county court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

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(8) The court may tax as part of costs charges for the publication of legal notices required by statute or order of court, as provided by section 7.13 of the Revised Code.

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(B)(1) The county court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

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If the county court offers a special program or service in cases of a specific type, the county court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The county court

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shall adjust the special assessment periodically, but not  
retroactively, so that the amount assessed in those cases does not  
exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall  
be paid to the county treasurer for deposit into either a general  
special projects fund or a fund established for a specific special  
project. Moneys from a fund of that nature shall be disbursed upon  
an order of the court in an amount no greater than the actual cost  
to the court of a project. If a specific fund is terminated  
because of the discontinuance of a program or service established  
under division (B) of this section, the county court may order  
that moneys remaining in the fund be transferred to an account  
established under this division for a similar purpose.

(2) As used in division (B) of this section:

(a) "Criminal cause" means a charge alleging the violation of  
a statute or ordinance, or subsection of a statute or ordinance,  
that requires a separate finding of fact or a separate plea before  
disposition and of which the defendant may be found guilty,  
whether filed as part of a multiple charge on a single summons,  
citation, or complaint or as a separate charge on a single  
summons, citation, or complaint. "Criminal cause" does not include  
separate violations of the same statute or ordinance, or  
subsection of the same statute or ordinance, unless each charge is  
filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation  
that must be determined by judgment entry.

(C) Subject to division (E) of this section, the county court  
shall collect in all its divisions except the small claims  
division the sum of ~~fifteen~~ twenty-six dollars as additional  
filing fees in each new civil action or proceeding for the  
charitable public purpose of providing financial assistance to

legal aid societies that operate within the state. Subject to 19119  
division (E) of this section, the county court shall collect in 19120  
its small claims division the sum of ~~seven~~ eleven dollars as 19121  
additional filing fees in each new civil action or proceeding for 19122  
the charitable public purpose of providing financial assistance to 19123  
legal aid societies that operate within the state. This division 19124  
does not apply to any execution on a judgment, proceeding in aid 19125  
of execution, or other post-judgment proceeding arising out of a 19126  
civil action. The filing fees required to be collected under this 19127  
division shall be in addition to any other court costs imposed in 19128  
the action or proceeding and shall be collected at the time of the 19129  
filing of the action or proceeding. The court shall not waive the 19130  
payment of the additional filing fees in a new civil action or 19131  
proceeding unless the court waives the advanced payment of all 19132  
filing fees in the action or proceeding. All such moneys collected 19133  
during a month shall be transmitted on or before the twentieth day 19134  
of the following month by the clerk of the court to the treasurer 19135  
of state in a manner prescribed by the treasurer of state or by 19136  
the Ohio legal assistance foundation. The ~~moneys then shall be~~ 19137  
~~deposited by the~~ treasurer of state shall deposit four per cent of 19138  
the funds collected under this division to the credit of the civil 19139  
case filing fee fund established under section 120.07 of the 19140  
Revised Code and ninety-six per cent of the funds collected under 19141  
this division to the credit of the legal aid fund established 19142  
under section 120.52 of the Revised Code. 19143

The court may retain up to one per cent of the moneys it 19144  
collects under this division to cover administrative costs, 19145  
including the hiring of any additional personnel necessary to 19146  
implement this division. 19147

(D) The county court shall establish by rule a schedule of 19148  
fees for miscellaneous services performed by the county court or 19149  
any of its judges in accordance with law. If judges of the court 19150

of common pleas perform similar services, the fees prescribed in 19151  
the schedule shall not exceed the fees for those services 19152  
prescribed by the court of common pleas. 19153

(E) Under the circumstances described in sections 2969.21 to 19154  
2969.27 of the Revised Code, the clerk of the county court shall 19155  
charge the fees and perform the other duties specified in those 19156  
sections. 19157

**Sec. 2113.041.** (A) The administrator of the estate recovery 19158  
program established pursuant to section 5111.11 of the Revised 19159  
Code may present an affidavit to a financial institution 19160  
requesting that the financial institution release account proceeds 19161  
to recover the cost of services correctly provided to a medicaid 19162  
recipient who is subject to the estate recovery program. The 19163  
affidavit shall include all of the following information: 19164

(1) The name of the decedent; 19165

(2) The name of any person who gave notice that the decedent 19166  
was a medicaid recipient and that person's relationship to the 19167  
decedent; 19168

(3) The name of the financial institution; 19169

(4) The account number; 19170

(5) A description of the claim for estate recovery; 19171

(6) The amount of funds to be recovered. 19172

(B) A financial institution may release account proceeds to 19173  
the administrator of the estate recovery program if all of the 19174  
following apply: 19175

(1) The decedent held an account at the financial institution 19176  
that was in the decedent's name only. 19177

(2) No estate has been, and it is reasonable to assume that 19178  
no estate will be, opened for the decedent. 19179

(3) The decedent has no outstanding debts known to the administrator of the estate recovery program.

(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received.

(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim.

**Sec. 2117.061.** (A) As used in this section, ~~"person:~~

(1) "Medicaid estate recovery program" means the program instituted under section 5111.11 of the Revised Code.

(2) "Permanently institutionalized individual" has the same meaning as in section 5111.11 of the Revised Code.

(3) "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) If ~~the a~~ decedent, at the time of death, was fifty-five years of age or older ~~at the time of death~~ or a permanently institutionalized individual, the person responsible for ~~an the decedent's~~ the decedent's estate shall determine whether the decedent was, at any time during the decedent's life, a medicaid recipient ~~of medical assistance~~ under Chapter 5111. of the Revised Code. If the decedent was a medicaid recipient, the person responsible for the estate shall ~~give written notice to that effect~~ submit a properly completed medicaid estate recovery reporting form prescribed under

division (D) of this section to the administrator of the medicaid 19210  
estate recovery program ~~instituted under section 5111.11 of the~~ 19211  
~~Revised Code~~ not later than thirty days after the occurrence of 19212  
any of the following: 19213

(1) The granting of letters testamentary; 19214

(2) The administration of the estate; 19215

(3) The filing of an application for release from 19216  
administration or summary release from administration. 19217

(C) The person responsible for ~~an~~ the estate shall mark the 19218  
appropriate box on the appropriate probate form to indicate 19219  
compliance with the requirements of division (B) of this section. 19220

The probate court shall send a copy of the completed probate 19221  
form to the administrator of the medicaid estate recovery program. 19222

(D) The administrator of the estate recovery program shall 19223  
prescribe a medicaid estate recovery reporting form for the 19224  
purpose of division (B) of this section. The form shall require, 19225  
at a minimum, that the person responsible for the estate list all 19226  
of the decedent's real and personal property and other assets that 19227  
are part of the decedent's estate as defined in section 5111.11 of 19228  
the Revised Code. The administrator shall include on the form a 19229  
statement printed in bold letters informing the person responsible 19230  
for the estate that knowingly making a false statement on the form 19231  
is falsification under section 2921.13 of the Revised Code, a 19232  
misdemeanor of the first degree. 19233

(E) The estate recovery program administrator shall present a 19234  
claim for estate recovery to the person responsible for the estate 19235  
or the person's legal representative not later than ninety days 19236  
after the date on which ~~notice~~ the medicaid estate recovery 19237  
reporting form is received under division (B) of this section or 19238  
one year after the decedent's death, whichever is later. 19239



Sec. 2151.282. (A) There is hereby created the Ohio court 19240  
appointed special advocate/guardian ad litem (CASA/GAL) study 19241  
committee consisting of five members. One member shall be a 19242  
representative of the Ohio court appointed special 19243  
advocate/guardian ad litem association appointed by the governor 19244  
and shall be the chairperson of the committee. One member shall be 19245  
a member of the Ohio juvenile judges association, appointed by the 19246  
president of the senate. One member shall be a member of the Ohio 19247  
state bar association appointed by the speaker of the house of 19248  
representatives. One member shall be a representative of the 19249  
office of the state public defender appointed by the minority 19250  
leader of the senate. One member shall be a representative of the 19251  
Ohio county commissioner's association appointed by the minority 19252  
leader of the house of representatives. The members of the 19253  
committee shall be appointed within sixty days after the effective 19254  
date of this section. The committee shall do all of the following: 19255

(1) Compile available public data associated with state and 19256  
local costs of advocating on behalf of children who have been 19257  
found to be abused, neglected, or dependent children; 19258

(2) Examine the costs in counties that have established and 19259  
operated an Ohio CASA/GAL association program, and the costs in 19260  
counties that utilize the county public defender, joint county 19261  
public defender, or court-appointed counsel, to advocate on behalf 19262  
of children who have been found to be abused, neglected, or 19263  
dependent children; 19264

(3) Analyze the total cost of advocating on behalf of 19265  
children who have been found to be abused, neglected, or dependent 19266  
children on a per county basis and a per child served basis; 19267

(4) Analyze the cost benefit of having an Ohio CASA/GAL 19268  
association versus utilizing the county public defender, joint 19269  
county public defender, or court-appointed counsel to advocate on 19270

behalf of children who have been found to be abused, neglected, or 19271  
dependent children; 19272

(5) Analyze the advocacy services provided to abused 19273  
children, neglected children, or dependent children by Ohio 19274  
CASA/GAL association programs versus the advocacy services 19275  
provided to abused, neglected, or dependent children by county 19276  
public defenders, joint county public defenders, or 19277  
court-appointed counsel. 19278

(B) The Ohio CASA/GAL association shall provide staff for the 19279  
Ohio CASA/GAL study committee and shall pay for any expenses 19280  
incurred by the study committee. The study committee shall meet 19281  
within thirty days after the appointment of the members to the 19282  
study committee. 19283

(C) The Ohio CASA/GAL study committee shall prepare a report 19284  
containing all relevant data and information that division (A) of 19285  
this section requires the study committee to compile, examine, and 19286  
analyze. The Ohio CASA/GAL study committee shall deliver a final 19287  
copy of the report to the governor, the speaker of the house of 19288  
representatives, and the president of the senate on or before July 19289  
1, 2007. 19290

**Sec. 2151.352.** A child, ~~or~~ the child's parents, or custodian, 19291  
or any other person in loco parentis of ~~such~~ the child is entitled 19292  
to representation by legal counsel at all stages of the 19293  
proceedings under this chapter or Chapter 2152. of the Revised 19294  
Code ~~and if~~. If, as an indigent person, ~~any such person~~ a party is 19295  
unable to employ counsel, the party is entitled to have counsel 19296  
provided for the person pursuant to Chapter 120. of the Revised 19297  
Code except in civil matters in which the juvenile court is 19298  
exercising jurisdiction pursuant to division (A)(2), (3), (9), 19299  
(10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); 19300  
(D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 19301

party appears without counsel, the court shall ascertain whether 19302  
the party knows of the party's right to counsel and of the party's 19303  
right to be provided with counsel if the party is an indigent 19304  
person. The court may continue the case to enable a party to 19305  
obtain counsel ~~or~~ to be represented by the county public defender 19306  
or the joint county public defender ~~and shall provide, or to be~~ 19307  
appointed counsel upon request pursuant to Chapter 120. of the 19308  
Revised Code. Counsel must be provided for a child not represented 19309  
by the child's parent, guardian, or custodian. If the interests of 19310  
two or more such parties conflict, separate counsel shall be 19311  
provided for each of them. 19312

Section 2935.14 of the Revised Code applies to any child 19313  
taken into custody. The parents, custodian, or guardian of such 19314  
child, and any attorney at law representing them or the child, 19315  
shall be entitled to visit such child at any reasonable time, be 19316  
present at any hearing involving the child, and be given 19317  
reasonable notice of such hearing. 19318

Any report or part thereof concerning such child, which is 19319  
used in the hearing and is pertinent thereto, shall for good cause 19320  
shown be made available to any attorney at law representing such 19321  
child and to any attorney at law representing the parents, 19322  
custodian, or guardian of such child, upon written request prior 19323  
to any hearing involving such child. 19324

**Sec. 2151.416.** (A) Each agency that is required by section 19325  
2151.412 of the Revised Code to prepare a case plan for a child 19326  
shall complete a semiannual administrative review of the case plan 19327  
no later than six months after the earlier of the date on which 19328  
the complaint in the case was filed or the child was first placed 19329  
in shelter care. After the first administrative review, the agency 19330  
shall complete semiannual administrative reviews no later than 19331  
every six months. If the court issues an order pursuant to section 19332

2151.414 or 2151.415 of the Revised Code, the agency shall 19333  
complete an administrative review no later than six months after 19334  
the court's order and continue to complete administrative reviews 19335  
no later than every six months after the first review, except that 19336  
the court hearing held pursuant to section 2151.417 of the Revised 19337  
Code may take the place of any administrative review that would 19338  
otherwise be held at the time of the court hearing. When 19339  
conducting a review, the child's health and safety shall be the 19340  
paramount concern. 19341

(B) Each administrative review required by division (A) of 19342  
this section shall be conducted by a review panel of at least 19343  
three persons, including, but not limited to, both of the 19344  
following: 19345

(1) A caseworker with day-to-day responsibility for, or 19346  
familiarity with, the management of the child's case plan; 19347

(2) A person who is not responsible for the management of the 19348  
child's case plan or for the delivery of services to the child or 19349  
the parents, guardian, or custodian of the child. 19350

(C) Each semiannual administrative review shall include, but 19351  
not be limited to, a joint meeting by the review panel with the 19352  
parents, guardian, or custodian of the child, the guardian ad 19353  
litem of the child, and the child's foster care provider and shall 19354  
include an opportunity for those persons to submit any written 19355  
materials to be included in the case record of the child. If a 19356  
parent, guardian, custodian, guardian ad litem, or foster care 19357  
provider of the child cannot be located after reasonable efforts 19358  
to do so or declines to participate in the administrative review 19359  
after being contacted, the agency does not have to include them in 19360  
the joint meeting. 19361

(D) The agency shall prepare a written summary of the 19362  
semiannual administrative review that shall include, but not be 19363

limited to, all of the following: 19364

(1) A conclusion regarding the safety and appropriateness of 19365  
the child's foster care placement; 19366

(2) The extent of the compliance with the case plan of all 19367  
parties; 19368

(3) The extent of progress that has been made toward 19369  
alleviating the circumstances that required the agency to assume 19370  
temporary custody of the child; 19371

(4) An estimated date by which the child may be returned to 19372  
and safely maintained in the child's home or placed for adoption 19373  
or legal custody; 19374

(5) An updated case plan that includes any changes that the 19375  
agency is proposing in the case plan; 19376

(6) The recommendation of the agency as to which agency or 19377  
person should be given custodial rights over the child for the 19378  
six-month period after the administrative review; 19379

(7) The names of all persons who participated in the 19380  
administrative review. 19381

(E) The agency shall file the summary with the court no later 19382  
than seven days after the completion of the administrative review. 19383  
If the agency proposes a change to the case plan as a result of 19384  
the administrative review, the agency shall file the proposed 19385  
change with the court at the time it files the summary. The agency 19386  
shall give notice of the summary and proposed change in writing 19387  
before the end of the next day after filing them to all parties 19388  
and the child's guardian ad litem. All parties and the guardian ad 19389  
litem shall have seven days after the date the notice is sent to 19390  
object to and request a hearing on the proposed change. 19391

(1) If the court receives a timely request for a hearing, the 19392  
court shall schedule a hearing pursuant to section 2151.417 of the 19393

Revised Code to be held not later than thirty days after the court  
receives the request. The court shall give notice of the date,  
time, and location of the hearing to all parties and the guardian  
ad litem. The agency may implement the proposed change after the  
hearing, if the court approves it. The agency shall not implement  
the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a  
hearing, the court may approve the proposed change without a  
hearing. If the court approves the proposed change without a  
hearing, it shall journalize the case plan with the change not  
later than fourteen days after the change is filed with the court.  
If the court does not approve the proposed change to the case  
plan, it shall schedule a review hearing to be held pursuant to  
section 2151.417 of the Revised Code no later than thirty days  
after the expiration of the fourteen-day time period and give  
notice of the date, time, and location of the hearing to all  
parties and the guardian ad litem of the child. If, despite the  
requirements of this division and division (D) of section 2151.417  
of the Revised Code, the court neither approves and journalizes  
the proposed change nor conducts a hearing, the agency may  
implement the proposed change not earlier than fifteen days after  
it is submitted to the court.

(F) The director of job and family services may adopt rules  
pursuant to Chapter 119. of the Revised Code for procedures and  
standard forms for conducting administrative reviews pursuant to  
this section.

(G) The juvenile court that receives the written summary of  
the administrative review, upon determining, either from the  
written summary, case plan, or otherwise, that the custody or care  
arrangement is not in the best interest of the child, may  
terminate the custody of an agency and place the child in the  
custody of another institution or association certified by the

department of job and family services under section 5103.03 of the Revised Code. 19426  
19427

(H) The department of job and family services shall report annually to the public and to the general assembly on the results of the review of case plans of each agency ~~and on the results of the summaries submitted to the department under section 3107.10 of the Revised Code.~~ The annual report shall include any information that is required by the department, including, but not limited to, all of the following: 19428  
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(1) A statistical analysis of the administrative reviews conducted pursuant to this section and section 2151.417 of the Revised Code; 19435  
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(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period; 19438  
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(3) An analysis of the utilization of public social services by agencies and parents or guardians, and the utilization of the adoption listing service of the department pursuant to section 5103.154 of the Revised Code; 19444  
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~~(4) A compilation and analysis of data submitted to the department under section 3107.10 of the Revised Code.~~ 19448  
19449

Sec. 2151.652. A joint board of county commissioners that has organized a district for the establishment and support of a school, forestry camp, or other facility or facilities under section 2151.65 of the Revised Code shall approve all contracts entered into by or on behalf of the district and shall approve the district's annual budget. The joint board of county commissioners 19450  
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has exclusive authority to retain legal counsel for the district. 19456

**Sec. 2152.43.** (A) A board of county commissioners that 19457  
provides a detention facility and the board of trustees of a 19458  
district detention facility may apply to the department of youth 19459  
services under section 5139.281 of the Revised Code for assistance 19460  
in defraying the cost of operating and maintaining the facility. 19461  
The application shall be made on forms prescribed and furnished by 19462  
the department. 19463

The board of county commissioners of each county that 19464  
participates in a district detention facility may apply to the 19465  
department of youth services for assistance in defraying the 19466  
county's share of the cost of acquisition or construction of the 19467  
facility, as provided in section 5139.271 of the Revised Code. 19468  
Application shall be made in accordance with rules adopted by the 19469  
department. No county shall be reimbursed for expenses incurred in 19470  
the acquisition or construction of a district detention facility 19471  
that serves a district having a population of less than one 19472  
hundred thousand. 19473

(B)(1) The joint boards of county commissioners of district 19474  
detention facilities shall defray all necessary expenses of the 19475  
facility not paid from funds made available under section 5139.281 19476  
of the Revised Code, through annual assessments of taxes, through 19477  
gifts, or through other means. 19478

If any county withdraws from a district under division (D) of 19479  
section 2152.41 of the Revised Code, it shall continue to have 19480  
levied against its tax duplicate any tax levied by the district 19481  
during the period in which the county was a member of the district 19482  
for current operating expenses, permanent improvements, or the 19483  
retirement of bonded indebtedness. The levy shall continue to be a 19484  
levy against the tax duplicate of the county until the time that 19485  
it expires or is renewed. 19486



(2) The current expenses of maintaining the facility not paid 19487  
from funds made available under section 5139.281 of the Revised 19488  
Code or division (C) of this section, and the cost of ordinary 19489  
repairs to the facility, shall be paid by each county in 19490  
accordance with one of the following methods as approved by the 19491  
joint board of county commissioners: 19492

(a) In proportion to the number of children from that county 19493  
who are maintained in the facility during the year; 19494

(b) By a levy submitted by the joint board of county 19495  
commissioners under division (A) of section 5705.19 of the Revised 19496  
Code and approved by the electors of the district; 19497

(c) In proportion to the taxable property of each county, as 19498  
shown by its tax duplicate; 19499

(d) In any ~~combination of the methods for payment described~~ 19500  
~~in division (B)(2)(a), (b), or (c) of this section~~ other method 19501  
agreed upon by unanimous vote of the joint board of county 19502  
commissioners. 19503

(C) When any person donates or bequeaths any real or personal 19504  
property to a county or district detention facility, the juvenile 19505  
court or the trustees of the facility may accept and use the gift, 19506  
consistent with the best interest of the institution and the 19507  
conditions of the gift. 19508

**Sec. 2152.44.** (A) As soon as practical after the organization 19509  
of the joint board of county commissioners as provided by section 19510  
2152.41 of the Revised Code, the joint board shall appoint a board 19511  
of not less than five trustees. The board shall hold office until 19512  
the first annual meeting after the choice of an established site 19513  
and buildings, or after the selection and purchase of a building 19514  
site. At that time, the joint board of county commissioners shall 19515  
appoint a board of not less than five trustees, one of whom shall 19516

hold office for a term of one year, one for a term of two years, 19517  
one for a term of three years, half of the remaining number for a 19518  
term of four years, and the remainder for a term of five years. 19519  
Annually thereafter, the joint board of county commissioners shall 19520  
appoint one or more trustees, each of whom shall hold office for a 19521  
term of five years, to succeed the trustee or trustees whose term 19522  
of office expires. A trustee may be appointed to successive terms. 19523  
Any person appointed as a trustee shall be recommended and 19524  
approved by the juvenile court judge or judges of the county of 19525  
which the person resides. 19526

At least one trustee shall reside in each county in the 19527  
district. In districts composed of two counties, each county shall 19528  
be entitled to not less than two trustees. In districts composed 19529  
of more than four counties, the number of trustees shall be 19530  
sufficiently increased, provided that there shall always be an 19531  
uneven number of trustees on the board. The county in which a 19532  
district detention facility is located shall have not less than 19533  
two trustees, who, in the interim period between the regular 19534  
meetings of the trustees, shall act as an executive committee in 19535  
the discharge of all business pertaining to the facility. 19536

The joint board of county commissioners may remove any 19537  
trustee for good cause. The trustee appointed to fill any vacancy 19538  
shall hold the office for the unexpired term of the predecessor 19539  
trustee. 19540

(B) The annual meeting of the board of trustees shall be held 19541  
on the first Tuesday in May in each year. 19542

A majority of the board constitutes a quorum. Other board 19543  
meetings shall be held at least quarterly. The juvenile court 19544  
judge of each county of the district, or the judge's designee, 19545  
shall attend the meetings. The members of the board shall receive 19546  
no compensation for their services, except their actual and 19547

necessary expenses. The treasurer shall pay the member's traveling 19548  
expenses when properly certified. 19549

(C) When the board of trustees does not choose an established 19550  
institution in one of the counties of the district, it may select 19551  
a suitable site for the erection of a district detention facility. 19552  
The site must be easily accessible, conducive to health, economy 19553  
in purchasing or in building, and the general interest of the 19554  
facility and its residents, and be as near as practicable to the 19555  
geographical center of the district. 19556

In the interim between the selection and purchase of a site, 19557  
and the erection and occupancy of the district detention facility, 19558  
the joint board of county commissioners provided under section 19559  
~~2151.41~~ 2152.41 of the Revised Code may delegate to the board of 19560  
trustees any powers and duties that, in its judgment, will be of 19561  
general interest or aid to the institution. The joint board of 19562  
county commissioners may appropriate a trustees' fund, to be 19563  
expended by the trustees for contracts, purchases, or other 19564  
necessary expenses of the facility. The trustees shall make a 19565  
complete settlement with the joint board of county commissioners 19566  
once each six months, or quarterly if required, and shall make to 19567  
the board of county commissioners and to the juvenile court of 19568  
each of the counties a full report of the condition of the 19569  
facility and residents. 19570

(D) The choice of an established site and buildings, or the 19571  
purchase of a site, stock, implements, and general farm equipment, 19572  
should there be a farm, the erection of buildings, and the 19573  
completion and furnishing of the district detention facility for 19574  
occupancy, shall be in the hands of the joint board of county 19575  
commissioners organized under section 2152.41 of the Revised Code. 19576  
The joint board of county commissioners may delegate all or a 19577  
portion of these duties to the board of trustees, under any 19578  
restrictions that the joint board of county commissioners imposes. 19579

When an established site and buildings are used for a 19580  
district detention facility, the joint board of county 19581  
commissioners shall cause the value of that site and those 19582  
buildings to be properly appraised. This appraisal value, or in 19583  
case of the purchase of a site, the purchase price and the cost of 19584  
all improvements thereto, shall be paid by the counties comprising 19585  
the district, in proportion to the taxable property of each 19586  
county, as shown by its tax duplicate. 19587

(E) Once a district is established, the trustees shall 19588  
operate, maintain, and manage the facility as provided in sections 19589  
2152.41 to 2152.43 of the Revised Code. 19590

(F) A joint board of county commissioners that has organized 19591  
a district for the establishment and support of a detention 19592  
facility under section 2152.41 of the Revised Code shall approve 19593  
all contracts entered into by or on behalf of the district and 19594  
shall approve the district's annual budget. The joint board of 19595  
county commissioners has exclusive authority to retain legal 19596  
counsel for the district. 19597

**Sec. 2152.74.** (A) As used in this section, "DNA analysis" and 19598  
"DNA specimen" have the same meanings as in section 109.573 of the 19599  
Revised Code. 19600

(B)(1) A child who is adjudicated a delinquent child for 19601  
committing an act listed in division (D) of this section and who 19602  
is committed to the custody of the department of youth services, 19603  
placed in a detention facility or district detention facility 19604  
pursuant to division (A)(3) of section 2152.19 of the Revised 19605  
Code, or placed in a school, camp, institution, or other facility 19606  
for delinquent children described in division (A)(2) of section 19607  
2152.19 of the Revised Code shall submit to a DNA specimen 19608  
collection procedure administered by the director of youth 19609  
services if committed to the department or by the chief 19610

administrative officer of the detention facility, district 19611  
detention facility, school, camp, institution, or other facility 19612  
for delinquent children to which the child was committed or in 19613  
which the child was placed. If the court commits the child to the 19614  
department of youth services, the director of youth services shall 19615  
cause the DNA specimen to be collected from the child during the 19616  
intake process at an institution operated by or under the control 19617  
of the department. If the court commits the child to or places the 19618  
child in a detention facility, district detention facility, 19619  
school, camp, institution, or other facility for delinquent 19620  
children, the chief administrative officer of the detention 19621  
facility, district detention facility, school, camp, institution, 19622  
or facility to which the child is committed or in which the child 19623  
is placed shall cause the DNA specimen to be collected from the 19624  
child during the intake process for the detention facility, 19625  
district detention facility, school, camp, institution, or 19626  
facility. In accordance with division (C) of this section, the 19627  
director or the chief administrative officer shall cause the DNA 19628  
specimen to be forwarded to the bureau of criminal identification 19629  
and investigation no later than fifteen days after the date of the 19630  
collection of the DNA specimen. The DNA specimen shall be 19631  
collected from the child in accordance with division (C) of this 19632  
section. 19633

(2) If a child is adjudicated a delinquent child for 19634  
committing an act listed in division (D) of this section, is 19635  
committed to or placed in the department of youth services, a 19636  
detention facility or district detention facility, or a school, 19637  
camp, institution, or other facility for delinquent children, and 19638  
does not submit to a DNA specimen collection procedure pursuant to 19639  
division (B)(1) of this section, prior to the child's release from 19640  
the custody of the department of youth services, from the custody 19641  
of the detention facility or district detention facility, or from 19642

the custody of the school, camp, institution, or facility, the  
child shall submit to, and the director of youth services or the  
chief administrator of the detention facility, district detention  
facility, school, camp, institution, or facility to which the  
child is committed or in which the child was placed shall  
administer, a DNA specimen collection procedure at the institution  
operated by or under the control of the department of youth  
services or at the detention facility, district detention  
facility, school, camp, institution, or facility to which the  
child is committed or in which the child was placed. In accordance  
with division (C) of this section, the director or the chief  
administrative officer shall cause the DNA specimen to be  
forwarded to the bureau of criminal identification and  
investigation no later than fifteen days after the date of the  
collection of the DNA specimen. The DNA specimen shall be  
collected in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood  
from the child or a similarly invasive procedure, a physician,  
registered nurse, licensed practical nurse, duly licensed clinical  
laboratory technician, or other qualified medical practitioner  
shall collect in a medically approved manner the DNA specimen  
required to be collected pursuant to division (B) of this section.  
If the DNA specimen is collected by swabbing for buccal cells or a  
similarly noninvasive procedure, this section does not require  
that the DNA specimen be collected by a qualified medical  
practitioner of that nature. No later than fifteen days after the  
date of the collection of the DNA specimen, the director of youth  
services or the chief administrative officer of the detention  
facility, district detention facility, school, camp, institution,  
or other facility for delinquent children to which the child is  
committed or in which the child was placed shall cause the DNA  
specimen to be forwarded to the bureau of criminal identification

and investigation in accordance with procedures established by the  
superintendent of the bureau under division (H) of section 109.573  
of the Revised Code. The bureau shall provide the specimen vials,  
mailing tubes, labels, postage, and instruction needed for the  
collection and forwarding of the DNA specimen to the bureau.

(D) The director of youth services and the chief  
administrative officer of a detention facility, district detention  
facility, school, camp, institution, or other facility for  
delinquent children shall cause a DNA specimen to be collected in  
accordance with divisions (B) and (C) of this section from each  
child in its custody who is adjudicated a delinquent child for  
committing any of the following acts:

(1) A violation of section 2903.01, 2903.02, 2903.11,  
2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or  
2911.12 of the Revised Code;

(2) A violation of section 2907.12 of the Revised Code as it  
existed prior to September 3, 1996;

(3) An attempt to commit a violation of section 2903.01,  
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to  
commit a violation of section 2907.12 of the Revised Code as it  
existed prior to September 3, 1996;

(4) A violation of any law that arose out of the same facts  
and circumstances and same act as did a charge against the child  
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02,  
2907.03, 2907.05, or 2911.11 of the Revised Code that previously  
was dismissed or amended or as did a charge against the child of a  
violation of section 2907.12 of the Revised Code as it existed  
prior to September 3, 1996, that previously was dismissed or  
amended;

(5) A violation of section 2905.02 or 2919.23 of the Revised  
Code that would have been a violation of section 2905.04 of the

Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(6) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(7) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(8) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of youth services and the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children is not required to comply with this section in relation to the following acts until the superintendent of the bureau of criminal identification and investigation gives agencies in the juvenile justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;



(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

**Sec. 2303.201.** (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the court, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may

be expended to pay debt charges on and financing costs related to 19800  
any general obligation bonds issued pursuant to division (B)(2) of 19801  
this section as they become due. General obligation bonds issued 19802  
pursuant to division (B)(2) of this section are Chapter 133. 19803  
securities. 19804

(C) The court of common pleas shall collect the sum of 19805  
~~fifteen~~ twenty-six dollars as additional filing fees in each new 19806  
civil action or proceeding for the charitable public purpose of 19807  
providing financial assistance to legal aid societies that operate 19808  
within the state. This division does not apply to proceedings 19809  
concerning annulments, dissolutions of marriage, divorces, legal 19810  
separation, spousal support, marital property or separate property 19811  
distribution, support, or other domestic relations matters; to a 19812  
juvenile division of a court of common pleas; to a probate 19813  
division of a court of common pleas, except that the additional 19814  
filing fees shall apply to name change, guardianship, ~~and~~ 19815  
adoption, and decedents' estate proceedings; or to an execution on 19816  
a judgment, proceeding in aid of execution, or other post-judgment 19817  
proceeding arising out of a civil action. The filing fees required 19818  
to be collected under this division shall be in addition to any 19819  
other filing fees imposed in the action or proceeding and shall be 19820  
collected at the time of the filing of the action or proceeding. 19821  
The court shall not waive the payment of the additional filing 19822  
fees in a new civil action or proceeding unless the court waives 19823  
the advanced payment of all filing fees in the action or 19824  
proceeding. All such moneys collected during a month shall be 19825  
transmitted on or before the twentieth day of the following month 19826  
by the clerk of the court to the treasurer of state in a manner 19827  
prescribed by the treasurer of state or by the Ohio legal 19828  
assistance foundation. ~~The moneys then shall be deposited by the~~ 19829  
treasurer of state shall deposit four per cent of the funds 19830  
collected under this division to the credit of the civil case 19831

filing fee fund established under section 120.07 of the Revised 19832  
Code and ninety-six per cent of the funds collected under this 19833  
division to the credit of the legal aid fund established under 19834  
section 120.52 of the Revised Code. 19835

The court may retain up to one per cent of the moneys it 19836  
collects under this division to cover administrative costs, 19837  
including the hiring of any additional personnel necessary to 19838  
implement this division. 19839

(D) On and after the thirtieth day after December 9, 1994, 19840  
the court of common pleas shall collect the sum of thirty-two 19841  
dollars as additional filing fees in each new action or proceeding 19842  
for annulment, divorce, or dissolution of marriage for the purpose 19843  
of funding shelters for victims of domestic violence pursuant to 19844  
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 19845  
required to be collected under this division shall be in addition 19846  
to any other filing fees imposed in the action or proceeding and 19847  
shall be collected at the time of the filing of the action or 19848  
proceeding. The court shall not waive the payment of the 19849  
additional filing fees in a new action or proceeding for 19850  
annulment, divorce, or dissolution of marriage unless the court 19851  
waives the advanced payment of all filing fees in the action or 19852  
proceeding. On or before the twentieth day of each month, all 19853  
moneys collected during the immediately preceding month pursuant 19854  
to this division shall be deposited by the clerk of the court into 19855  
the county treasury in the special fund used for deposit of 19856  
additional marriage license fees as described in section 3113.34 19857  
of the Revised Code. Upon their deposit into the fund, the moneys 19858  
shall be retained in the fund and expended only as described in 19859  
section 3113.34 of the Revised Code. 19860

(E)(1) The court of common pleas may determine that, for the 19861  
efficient operation of the court, additional funds are necessary 19862  
to acquire and pay for special projects of the court, including, 19863

but not limited to, the acquisition of additional facilities or 19864  
the rehabilitation of existing facilities, the acquisition of 19865  
equipment, the hiring and training of staff, community service 19866  
programs, mediation or dispute resolution services, the employment 19867  
of magistrates, the training and education of judges, acting 19868  
judges, and magistrates, and other related services. Upon that 19869  
determination, the court by rule may charge a fee, in addition to 19870  
all other court costs, on the filing of each criminal cause, civil 19871  
action or proceeding, or judgment by confession. 19872

If the court of common pleas offers a special program or 19873  
service in cases of a specific type, the court by rule may assess 19874  
an additional charge in a case of that type, over and above court 19875  
costs, to cover the special program or service. The court shall 19876  
adjust the special assessment periodically, but not retroactively, 19877  
so that the amount assessed in those cases does not exceed the 19878  
actual cost of providing the service or program. 19879

All moneys collected under division (E) of this section shall 19880  
be paid to the county treasurer for deposit into either a general 19881  
special projects fund or a fund established for a specific special 19882  
project. Moneys from a fund of that nature shall be disbursed upon 19883  
an order of the court in an amount no greater than the actual cost 19884  
to the court of a project. If a specific fund is terminated 19885  
because of the discontinuance of a program or service established 19886  
under division (E) of this section, the court may order that 19887  
moneys remaining in the fund be transferred to an account 19888  
established under this division for a similar purpose. 19889

(2) As used in division (E) of this section: 19890

(a) "Criminal cause" means a charge alleging the violation of 19891  
a statute or ordinance, or subsection of a statute or ordinance, 19892  
that requires a separate finding of fact or a separate plea before 19893  
disposition and of which the defendant may be found guilty, 19894

whether filed as part of a multiple charge on a single summons, 19895  
citation, or complaint or as a separate charge on a single 19896  
summons, citation, or complaint. "Criminal cause" does not include 19897  
separate violations of the same statute or ordinance, or 19898  
subsection of the same statute or ordinance, unless each charge is 19899  
filed on a separate summons, citation, or complaint. 19900

(b) "Civil action or proceeding" means any civil litigation 19901  
that must be determined by judgment entry. 19902

**Sec. 2305.234.** (A) As used in this section: 19903

(1) "Chiropractic claim," "medical claim," and "optometric 19904  
claim" have the same meanings as in section 2305.113 of the 19905  
Revised Code. 19906

(2) "Dental claim" has the same meaning as in section 19907  
2305.113 of the Revised Code, except that it does not include any 19908  
claim arising out of a dental operation or any derivative claim 19909  
for relief that arises out of a dental operation. 19910

(3) "Governmental health care program" has the same meaning 19911  
as in section 4731.65 of the Revised Code. 19912

(4) "Health care facility or location" means a hospital, 19913  
clinic, ambulatory surgical facility, office of a health care 19914  
professional or associated group of health care professionals, 19915  
training institution for health care professionals, or any other 19916  
place where medical, dental, or other health-related diagnosis, 19917  
care, or treatment is provided to a person. 19918

(5) "Health care professional" means any of the following who 19919  
provide medical, dental, or other health-related diagnosis, care, 19920  
or treatment: 19921

(a) Physicians authorized under Chapter 4731. of the Revised 19922  
Code to practice medicine and surgery or osteopathic medicine and 19923  
surgery; 19924

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	19925 19926 19927 19928 19929 19930
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	19931 19932
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	19933 19934
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	19935 19936 19937
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	19938 19939
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	19940 19941
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	19942 19943
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	19944 19945
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	19946 19947
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	19948 19949 19950 19951
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	19952 19953

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code. 19954  
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(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities. 19956  
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(7) "Indigent and uninsured person" means a person who meets all of the following requirements: 19963  
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(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 19965  
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(b) The person is not eligible to receive medical assistance under Chapter 5111., ~~disability medical assistance under Chapter 5115.~~ of the Revised Code, or assistance under any other governmental health care program. 19970  
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(c) Either of the following applies: 19974

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan. 19975  
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(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency 19979  
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or bankruptcy proceedings in any jurisdiction. 19984

(8) "Nonprofit health care referral organization" means an 19985  
entity that is not operated for profit and refers patients to, or 19986  
arranges for the provision of, health-related diagnosis, care, or 19987  
treatment by a health care professional or health care worker. 19988

(9) "Operation" means any procedure that involves cutting or 19989  
otherwise infiltrating human tissue by mechanical means, including 19990  
surgery, laser surgery, ionizing radiation, therapeutic 19991  
ultrasound, or the removal of intraocular foreign bodies. 19992  
"Operation" does not include the administration of medication by 19993  
injection, unless the injection is administered in conjunction 19994  
with a procedure infiltrating human tissue by mechanical means 19995  
other than the administration of medicine by injection. 19996  
"Operation" does not include routine dental restorative 19997  
procedures, the scaling of teeth, or extractions of teeth that are 19998  
not impacted. 19999

(10) "Tort action" means a civil action for damages for 20000  
injury, death, or loss to person or property other than a civil 20001  
action for damages for a breach of contract or another agreement 20002  
between persons or government entities. 20003

(11) "Volunteer" means an individual who provides any 20004  
medical, dental, or other health-care related diagnosis, care, or 20005  
treatment without the expectation of receiving and without receipt 20006  
of any compensation or other form of remuneration from an indigent 20007  
and uninsured person, another person on behalf of an indigent and 20008  
uninsured person, any health care facility or location, any 20009  
nonprofit health care referral organization, or any other person 20010  
or government entity. 20011

(12) "Community control sanction" has the same meaning as in 20012  
section 2929.01 of the Revised Code. 20013

(13) "Deep sedation" means a drug-induced depression of 20014

consciousness during which a patient cannot be easily aroused but 20015  
responds purposefully following repeated or painful stimulation, a 20016  
patient's ability to independently maintain ventilatory function 20017  
may be impaired, a patient may require assistance in maintaining a 20018  
patent airway and spontaneous ventilation may be inadequate, and 20019  
cardiovascular function is usually maintained. 20020

(14) "General anesthesia" means a drug-induced loss of 20021  
consciousness during which a patient is not arousable, even by 20022  
painful stimulation, the ability to independently maintain 20023  
ventilatory function is often impaired, a patient often requires 20024  
assistance in maintaining a patent airway, positive pressure 20025  
ventilation may be required because of depressed spontaneous 20026  
ventilation or drug-induced depression of neuromuscular function, 20027  
and cardiovascular function may be impaired. 20028

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 20029  
health care professional who is a volunteer and complies with 20030  
division (B)(2) of this section is not liable in damages to any 20031  
person or government entity in a tort or other civil action, 20032  
including an action on a medical, dental, chiropractic, 20033  
optometric, or other health-related claim, for injury, death, or 20034  
loss to person or property that allegedly arises from an action or 20035  
omission of the volunteer in the provision to an indigent and 20036  
uninsured person of medical, dental, or other health-related 20037  
diagnosis, care, or treatment, including the provision of samples 20038  
of medicine and other medical products, unless the action or 20039  
omission constitutes willful or wanton misconduct. 20040

(2) To qualify for the immunity described in division (B)(1) 20041  
of this section, a health care professional shall do all of the 20042  
following prior to providing diagnosis, care, or treatment: 20043

(a) Determine, in good faith, that the indigent and uninsured 20044  
person is mentally capable of giving informed consent to the 20045

provision of the diagnosis, care, or treatment and is not subject 20046  
to duress or under undue influence; 20047

(b) Inform the person of the provisions of this section, 20048  
including notifying the person that, by giving informed consent to 20049  
the provision of the diagnosis, care, or treatment, the person 20050  
cannot hold the health care professional liable for damages in a 20051  
tort or other civil action, including an action on a medical, 20052  
dental, chiropractic, optometric, or other health-related claim, 20053  
unless the action or omission of the health care professional 20054  
constitutes willful or wanton misconduct; 20055

(c) Obtain the informed consent of the person and a written 20056  
waiver, signed by the person or by another individual on behalf of 20057  
and in the presence of the person, that states that the person is 20058  
mentally competent to give informed consent and, without being 20059  
subject to duress or under undue influence, gives informed consent 20060  
to the provision of the diagnosis, care, or treatment subject to 20061  
the provisions of this section. A written waiver under division 20062  
(B)(2)(c) of this section shall state clearly and in conspicuous 20063  
type that the person or other individual who signs the waiver is 20064  
signing it with full knowledge that, by giving informed consent to 20065  
the provision of the diagnosis, care, or treatment, the person 20066  
cannot bring a tort or other civil action, including an action on 20067  
a medical, dental, chiropractic, optometric, or other 20068  
health-related claim, against the health care professional unless 20069  
the action or omission of the health care professional constitutes 20070  
willful or wanton misconduct. 20071

(3) A physician or podiatrist who is not covered by medical 20072  
malpractice insurance, but complies with division (B)(2) of this 20073  
section, is not required to comply with division (A) of section 20074  
4731.143 of the Revised Code. 20075

(C) Subject to divisions (F) and (G)(3) of this section, 20076

health care workers who are volunteers are not liable in damages 20077  
to any person or government entity in a tort or other civil 20078  
action, including an action upon a medical, dental, chiropractic, 20079  
optometric, or other health-related claim, for injury, death, or 20080  
loss to person or property that allegedly arises from an action or 20081  
omission of the health care worker in the provision to an indigent 20082  
and uninsured person of medical, dental, or other health-related 20083  
diagnosis, care, or treatment, unless the action or omission 20084  
constitutes willful or wanton misconduct. 20085

(D) Subject to divisions (F) and (G)(3) of this section, a 20086  
nonprofit health care referral organization is not liable in 20087  
damages to any person or government entity in a tort or other 20088  
civil action, including an action on a medical, dental, 20089  
chiropractic, optometric, or other health-related claim, for 20090  
injury, death, or loss to person or property that allegedly arises 20091  
from an action or omission of the nonprofit health care referral 20092  
organization in referring indigent and uninsured persons to, or 20093  
arranging for the provision of, medical, dental, or other 20094  
health-related diagnosis, care, or treatment by a health care 20095  
professional described in division (B)(1) of this section or a 20096  
health care worker described in division (C) of this section, 20097  
unless the action or omission constitutes willful or wanton 20098  
misconduct. 20099

(E) Subject to divisions (F) and (G)(3) of this section and 20100  
to the extent that the registration requirements of section 20101  
3701.071 of the Revised Code apply, a health care facility or 20102  
location associated with a health care professional described in 20103  
division (B)(1) of this section, a health care worker described in 20104  
division (C) of this section, or a nonprofit health care referral 20105  
organization described in division (D) of this section is not 20106  
liable in damages to any person or government entity in a tort or 20107  
other civil action, including an action on a medical, dental, 20108

chiropractic, optometric, or other health-related claim, for 20109  
injury, death, or loss to person or property that allegedly arises 20110  
from an action or omission of the health care professional or 20111  
worker or nonprofit health care referral organization relative to 20112  
the medical, dental, or other health-related diagnosis, care, or 20113  
treatment provided to an indigent and uninsured person on behalf 20114  
of or at the health care facility or location, unless the action 20115  
or omission constitutes willful or wanton misconduct. 20116

(F)(1) Except as provided in division (F)(2) of this section, 20117  
the immunities provided by divisions (B), (C), (D), and (E) of 20118  
this section are not available to a health care professional, 20119  
health care worker, nonprofit health care referral organization, 20120  
or health care facility or location if, at the time of an alleged 20121  
injury, death, or loss to person or property, the health care 20122  
professionals or health care workers involved are providing one of 20123  
the following: 20124

(a) Any medical, dental, or other health-related diagnosis, 20125  
care, or treatment pursuant to a community service work order 20126  
entered by a court under division (B) of section 2951.02 of the 20127  
Revised Code or imposed by a court as a community control 20128  
sanction; 20129

(b) Performance of an operation to which any one of the 20130  
following applies: 20131

(i) The operation requires the administration of deep 20132  
sedation or general anesthesia. 20133

(ii) The operation is a procedure that is not typically 20134  
performed in an office. 20135

(iii) The individual involved is a health care professional, 20136  
and the operation is beyond the scope of practice or the 20137  
education, training, and competence, as applicable, of the health 20138  
care professional. 20139

(c) Delivery of a baby or any other purposeful termination of a human pregnancy. 20140  
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(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency. 20142  
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(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location. 20147  
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(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment. 20151  
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(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers. 20158  
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(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state. 20163  
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(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, 20167  
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housing, air pollution, water pollution, sanitation, health, fire, 20171  
zoning, or safety. 20172

Sec. 2305.2341. (A) The medical liability insurance 20173  
reimbursement program is hereby established. Free 20174  
clini2305.2341cs, including the clinics' staff and volunteer 20175  
health care professionals and volunteer health care workers, may 20176  
participate in the medical liability insurance reimbursement 20177  
program established by this section. The coverage provided under 20178  
the program shall be limited to claims that arise out of the 20179  
diagnosis, treatment, and care of patients of free clinics, as 20180  
defined in division (D)(1) of this section. 20181

(B) A free clinic is eligible to receive reimbursement under 20182  
the medical liability insurance reimbursement program for the 20183  
premiums that the clinic pays for medical liability insurance 20184  
coverage for the clinic, its staff, and volunteer health care 20185  
professionals and health care workers. Free clinics shall register 20186  
with the department of health by the thirty-first day of January 20187  
of each year in order to participate in and to obtain 20188  
reimbursement under the program. Free clinics shall provide all of 20189  
the following to the department of health at the time of 20190  
registration: 20191

(1) A statement of the number of volunteer and paid health 20192  
care professionals and health care workers providing health care 20193  
services at the free clinic at that time; 20194

(2) A statement of the number of health care services 20195  
rendered by the free clinic during the previous fiscal year; 20196

(3) A signed form acknowledging that the free clinic agrees 20197  
to follow its medical liability insurer's risk management and loss 20198  
prevention policies; 20199

(4) A copy of the medical liability insurance policy 20200

purchased by the free clinic, or the policy's declaration page, 20201  
and documentation of the premiums paid by the clinic. 20202

(C) The department of health shall reimburse free clinics 20203  
participating in the professional liability insurance 20204  
reimbursement program for eighty per cent of the premiums that the 20205  
free clinic pays for medical liability insurance coverage up to 20206  
twenty thousand dollars. Appropriations to the department of 20207  
health may be made from the general fund of the state for this 20208  
purpose. 20209

(D) As used in this section: 20210

(1) "Free clinic" means a nonprofit organization exempt from 20211  
federal income taxation under section 501(c)(3) of the "Internal 20212  
Revenue Code of 1986," as amended, or a program component of a 20213  
nonprofit organization, whose primary mission is to provide health 20214  
care services for free or for a minimal administrative fee to 20215  
individuals with limited resources. A free clinic facilitates the 20216  
delivery of health care services through the use of volunteer 20217  
health care professionals and voluntary care networks. For this 20218  
purpose, a free clinic shall comply with all of the following: 20219

(a) If a free clinic does request a minimal administrative 20220  
fee, a free clinic shall not deny an individual access to its 20221  
health care services based on an individual's ability to pay the 20222  
fee. 20223

(b) A free clinic shall not bill a patient for health care 20224  
services rendered. 20225

(c) Free clinics shall not perform operations, as defined by 20226  
divisions (A)(9) and (F)(1)(b) of section 2305.234 of the Revised 20227  
Code. 20228

A clinic is not a free clinic if the clinic bills medicaid, 20229  
medicare, or other third-party payers for health care services 20230



rendered at the clinic, and receives twenty-five per cent or more 20231  
of the clinic's annual revenue from the third-party payments. 20232

(2) "Health care professional" and "health care worker" have 20233  
the same meanings as in section 2305.234 of the Revised Code. 20234

**Sec. 2307.65.** (A) The attorney general may bring a civil 20235  
action in the Franklin county court of common pleas on behalf of 20236  
the department of job and family services, and the prosecuting 20237  
attorney of the county in which a violation of division (B) of 20238  
section 2913.401 of the Revised Code occurs may bring a civil 20239  
action in the court of common pleas of that county on behalf of 20240  
the county department of job and family services, against a person 20241  
who violates division (B) of section 2913.401 of the Revised Code 20242  
for the recovery of the amount of benefits paid on behalf of a 20243  
person that either department would not have paid but for the 20244  
violation minus any amounts paid in restitution under division 20245  
(C)(2) of section 2913.401 of the Revised Code and for reasonable 20246  
attorney's fees and all other fees and costs of litigation. 20247

(B) In a civil action brought under division (A) of this 20248  
section, if the defendant failed to disclose a transfer of 20249  
property in violation of division (B)(3) of section 2913.401 of 20250  
the Revised Code, the court may also grant any of the following 20251  
relief to the extent permitted by 42 U.S.C. 1396p: 20252

(1) Avoidance of the transfer of property that was not 20253  
disclosed in violation of division (B)(3) of section 2913.401 of 20254  
the Revised Code to the extent of the amount of benefits the 20255  
department would not have paid but for the violation; 20256

(2) An order of attachment or garnishment against the 20257  
property in accordance with Chapter 2715. or 2716. of the Revised 20258  
Code; 20259

(3) An injunction against any further disposition by the 20260

transferor or transferee, or both, of the property the transfer of 20261  
which was not disclosed in violation of division (B)(3) of section 20262  
2913.401 of the Revised Code or against the disposition of other 20263  
property by the transferor or transferee; 20264

(4) Appointment of a receiver to take charge of the property 20265  
transferred or of other property of the transferee; 20266

(5) Any other relief that the court considers just and 20267  
equitable. 20268

(C) To the extent permitted by 42 U.S.C. 1396p, the 20269  
department of job and family services or the county department of 20270  
job and family services may enforce a judgment obtained under this 20271  
section by levying on property the transfer of which was not 20272  
disclosed in violation of division (B)(3) of section 2913.401 of 20273  
the Revised Code or on the proceeds of the transfer of that 20274  
property in accordance with Chapter 2329. of the Revised Code. 20275

(D) The remedies provided in divisions (B) and (C) of this 20276  
section do not apply if the transferee of the property the 20277  
transfer of which was not disclosed in violation of division 20278  
(B)(3) of section 2913.401 of the Revised Code acquired the 20279  
property in good faith and for fair market value. 20280

(E) The remedies provided in this section are not exclusive 20281  
and do not preclude the use of any other criminal or civil remedy 20282  
for any act that is in violation of section 2913.401 of the 20283  
Revised Code. 20284

(F) Amounts of medicaid benefits paid and recovered in an 20285  
action brought under this section shall be credited to the general 20286  
revenue fund, and any applicable federal share shall be returned 20287  
to the appropriate agency or department of the United States. 20288

**Sec. 2329.66.** (A) Every person who is domiciled in this state 20289  
may hold property exempt from execution, garnishment, attachment, 20290

or sale to satisfy a judgment or order, as follows: 20291

(1)(a) In the case of a judgment or order regarding money 20292  
owed for health care services rendered or health care supplies 20293  
provided to the person or a dependent of the person, one parcel or 20294  
item of real or personal property that the person or a dependent 20295  
of the person uses as a residence. Division (A)(1)(a) of this 20296  
section does not preclude, affect, or invalidate the creation 20297  
under this chapter of a judgment lien upon the exempted property 20298  
but only delays the enforcement of the lien until the property is 20299  
sold or otherwise transferred by the owner or in accordance with 20300  
other applicable laws to a person or entity other than the 20301  
surviving spouse or surviving minor children of the judgment 20302  
debtor. Every person who is domiciled in this state may hold 20303  
exempt from a judgment lien created pursuant to division (A)(1)(a) 20304  
of this section the person's interest, not to exceed five thousand 20305  
dollars, in the exempted property. 20306

(b) In the case of all other judgments and orders, the 20307  
person's interest, not to exceed five thousand dollars, in one 20308  
parcel or item of real or personal property that the person or a 20309  
dependent of the person uses as a residence. 20310

(2) The person's interest, not to exceed one thousand 20311  
dollars, in one motor vehicle; 20312

(3) The person's interest, not to exceed two hundred dollars 20313  
in any particular item, in wearing apparel, beds, and bedding, and 20314  
the person's interest, not to exceed three hundred dollars in each 20315  
item, in one cooking unit and one refrigerator or other food 20316  
preservation unit; 20317

(4)(a) The person's interest, not to exceed four hundred 20318  
dollars, in cash on hand, money due and payable, money to become 20319  
due within ninety days, tax refunds, and money on deposit with a 20320  
bank, savings and loan association, credit union, public utility, 20321

landlord, or other person. Division (A)(4)(a) of this section 20322  
applies only in bankruptcy proceedings. This exemption may include 20323  
the portion of personal earnings that is not exempt under division 20324  
(A)(13) of this section. 20325

(b) Subject to division (A)(4)(d) of this section, the 20326  
person's interest, not to exceed two hundred dollars in any 20327  
particular item, in household furnishings, household goods, 20328  
appliances, books, animals, crops, musical instruments, firearms, 20329  
and hunting and fishing equipment, that are held primarily for the 20330  
personal, family, or household use of the person; 20331

(c) Subject to division (A)(4)(d) of this section, the 20332  
person's interest in one or more items of jewelry, not to exceed 20333  
four hundred dollars in one item of jewelry and not to exceed two 20334  
hundred dollars in every other item of jewelry; 20335

(d) Divisions (A)(4)(b) and (c) of this section do not 20336  
include items of personal property listed in division (A)(3) of 20337  
this section. 20338

If the person does not claim an exemption under division 20339  
(A)(1) of this section, the total exemption claimed under division 20340  
(A)(4)(b) of this section shall be added to the total exemption 20341  
claimed under division (A)(4)(c) of this section, and the total 20342  
shall not exceed two thousand dollars. If the person claims an 20343  
exemption under division (A)(1) of this section, the total 20344  
exemption claimed under division (A)(4)(b) of this section shall 20345  
be added to the total exemption claimed under division (A)(4)(c) 20346  
of this section, and the total shall not exceed one thousand five 20347  
hundred dollars. 20348

(5) The person's interest, not to exceed an aggregate of 20349  
seven hundred fifty dollars, in all implements, professional 20350  
books, or tools of the person's profession, trade, or business, 20351  
including agriculture; 20352

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;	20353 20354 20355
(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	20356 20357 20358
(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;	20359 20360 20361
(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;	20362 20363 20364 20365
(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	20366 20367 20368 20369
(7) The person's professionally prescribed or medically necessary health aids;	20370 20371
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	20372 20373 20374
(9) The person's interest in the following:	20375
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	20376 20377
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	20378 20379
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	20380 20381

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code; 20382  
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(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code; 20384  
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(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code. 20387  
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(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund; 20389  
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(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for 20406  
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the support of the person and any of the person's dependents, 20413  
except if all the following apply: 20414

(i) The plan or contract was established by or under the 20415  
auspices of an insider that employed the person at the time the 20416  
person's rights under the plan or contract arose. 20417

(ii) The payment is on account of age or length of service. 20418

(iii) The plan or contract is not qualified under the 20419  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 20420  
amended. 20421

(c) Except for any portion of the assets that were deposited 20422  
for the purpose of evading the payment of any debt and except as 20423  
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 20424  
3123.06 of the Revised Code, the person's right in the assets held 20425  
in, or to receive any payment under, any individual retirement 20426  
account, individual retirement annuity, "Roth IRA," or education 20427  
individual retirement account that provides benefits by reason of 20428  
illness, disability, death, or age, to the extent that the assets, 20429  
payments, or benefits described in division (A)(10)(c) of this 20430  
section are attributable to any of the following: 20431

(i) Contributions of the person that were less than or equal 20432  
to the applicable limits on deductible contributions to an 20433  
individual retirement account or individual retirement annuity in 20434  
the year that the contributions were made, whether or not the 20435  
person was eligible to deduct the contributions on the person's 20436  
federal tax return for the year in which the contributions were 20437  
made; 20438

(ii) Contributions of the person that were less than or equal 20439  
to the applicable limits on contributions to a Roth IRA or 20440  
education individual retirement account in the year that the 20441  
contributions were made; 20442

(iii) Contributions of the person that are within the 20443  
applicable limits on rollover contributions under subsections 219, 20444  
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 20445  
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 20446  
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 20447

(d) Except for any portion of the assets that were deposited 20448  
for the purpose of evading the payment of any debt and except as 20449  
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 20450  
3123.06 of the Revised Code, the person's right in the assets held 20451  
in, or to receive any payment under, any Keogh or "H.R. 10" plan 20452  
that provides benefits by reason of illness, disability, death, or 20453  
age, to the extent reasonably necessary for the support of the 20454  
person and any of the person's dependents. 20455

(11) The person's right to receive spousal support, child 20456  
support, an allowance, or other maintenance to the extent 20457  
reasonably necessary for the support of the person and any of the 20458  
person's dependents; 20459

(12) The person's right to receive, or moneys received during 20460  
the preceding twelve calendar months from, any of the following: 20461

(a) An award of reparations under sections 2743.51 to 2743.72 20462  
of the Revised Code, to the extent exempted by division (D) of 20463  
section 2743.66 of the Revised Code; 20464

(b) A payment on account of the wrongful death of an 20465  
individual of whom the person was a dependent on the date of the 20466  
individual's death, to the extent reasonably necessary for the 20467  
support of the person and any of the person's dependents; 20468

(c) Except in cases in which the person who receives the 20469  
payment is an inmate, as defined in section 2969.21 of the Revised 20470  
Code, and in which the payment resulted from a civil action or 20471  
appeal against a government entity or employee, as defined in 20472  
section 2969.21 of the Revised Code, a payment, not to exceed five 20473



thousand dollars, on account of personal bodily injury, not  
including pain and suffering or compensation for actual pecuniary  
loss, of the person or an individual for whom the person is a  
dependent;

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(d) A payment in compensation for loss of future earnings of  
the person or an individual of whom the person is or was a  
dependent, to the extent reasonably necessary for the support of  
the debtor and any of the debtor's dependents.

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(13) Except as provided in sections 3119.80, 3119.81,  
3121.02, 3121.03, and 3123.06 of the Revised Code, personal  
earnings of the person owed to the person for services in an  
amount equal to the greater of the following amounts:

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(a) If paid weekly, thirty times the current federal minimum  
hourly wage; if paid biweekly, sixty times the current federal  
minimum hourly wage; if paid semimonthly, sixty-five times the  
current federal minimum hourly wage; or if paid monthly, one  
hundred thirty times the current federal minimum hourly wage that  
is in effect at the time the earnings are payable, as prescribed  
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29  
U.S.C. 206(a)(1), as amended;

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(b) Seventy-five per cent of the disposable earnings owed to  
the person.

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(14) The person's right in specific partnership property, as  
exempted by division (B)(3) of section 1775.24 of the Revised  
Code;

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(15) A seal and official register of a notary public, as  
exempted by section 147.04 of the Revised Code;

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(16) The person's interest in a tuition ~~credit~~ unit or a  
payment under section 3334.09 of the Revised Code pursuant to a  
tuition ~~credit~~ payment contract, as exempted by section 3334.15 of

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the Revised Code; 20504

(17) Any other property that is specifically exempted from 20505  
execution, attachment, garnishment, or sale by federal statutes 20506  
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 20507  
U.S.C.A. 101, as amended; 20508

(18) The person's interest, not to exceed four hundred 20509  
dollars, in any property, except that division (A)(18) of this 20510  
section applies only in bankruptcy proceedings. 20511

(B) As used in this section: 20512

(1) "Disposable earnings" means net earnings after the 20513  
garnishee has made deductions required by law, excluding the 20514  
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 20515  
3121.03, or 3123.06 of the Revised Code. 20516

(2) "Insider" means: 20517

(a) If the person who claims an exemption is an individual, a 20518  
relative of the individual, a relative of a general partner of the 20519  
individual, a partnership in which the individual is a general 20520  
partner, a general partner of the individual, or a corporation of 20521  
which the individual is a director, officer, or in control; 20522

(b) If the person who claims an exemption is a corporation, a 20523  
director or officer of the corporation; a person in control of the 20524  
corporation; a partnership in which the corporation is a general 20525  
partner; a general partner of the corporation; or a relative of a 20526  
general partner, director, officer, or person in control of the 20527  
corporation; 20528

(c) If the person who claims an exemption is a partnership, a 20529  
general partner in the partnership; a general partner of the 20530  
partnership; a person in control of the partnership; a partnership 20531  
in which the partnership is a general partner; or a relative in, a 20532  
general partner of, or a person in control of the partnership; 20533

(d) An entity or person to which or whom any of the following applies:	20534 20535
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	20536 20537 20538 20539 20540 20541 20542
(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.	20543 20544 20545 20546 20547
(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.	20548 20549 20550 20551
(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.	20552 20553 20554
(e) An insider, as otherwise defined in this section, of a person or entity to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;	20555 20556 20557 20558
(f) A managing agent of the person who claims an exemption.	20559
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	20560 20561
(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.	20562 20563

(C) For purposes of this section, "interest" shall be determined as follows:	20564 20565
(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;	20566 20567 20568
(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.	20569 20570 20571
An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.	20572 20573 20574
<b>Sec. 2743.191.</b> (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:	20575 20576 20577
(a) The payment of awards of reparations that are granted by the attorney general;	20578 20579
(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	20580 20581 20582
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	20583 20584
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	20585 20586
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	20587 20588
(f) The costs of investigation and decision-making as certified by the attorney general;	20589 20590
(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92	20591 20592

of the Revised Code;	20593
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	20594 20595 20596
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	20597 20598 20599
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	20600 20601 20602 20603 20604 20605
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code;	20606 20607 20608 20609 20610 20611
(l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(1) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year;	20612 20613 20614 20615 20616 20617 20618
<u>(m) The costs of administering the adult parole authority's supervision of sexually violent predators with an active global positioning system device pursuant to section 2971.05 of the Revised Code.</u>	20619 20620 20621 20622

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any

other appropriation for emergencies or contingencies to pay the  
award, the attorney general shall request the general assembly to  
make an appropriation sufficient to pay the award, and no payment  
shall be made until the appropriation has been made. The attorney  
general shall make this appropriation request during the current  
biennium and during each succeeding biennium until a sufficient  
appropriation is made. If, prior to the time that an appropriation  
is made by the general assembly pursuant to this division, the  
fund has sufficient unencumbered funds to pay the award or part of  
the award, the available funds shall be used to pay the award or  
part of the award, and the appropriation request shall be amended  
to request only sufficient funds to pay that part of the award  
that is unpaid.

(C) The attorney general shall not make payment on a decision  
or order granting an award until all appeals have been determined  
and all rights to appeal exhausted, except as otherwise provided  
in this section. If any party to a claim for an award of  
reparations appeals from only a portion of an award, and a  
remaining portion provides for the payment of money by the state,  
that part of the award calling for the payment of money by the  
state and not a subject of the appeal shall be processed for  
payment as described in this section.

(D) The attorney general shall prepare itemized bills for the  
costs of printing and distributing the pamphlet the attorney  
general prepares pursuant to section 109.42 of the Revised Code.  
The itemized bills shall set forth the name and address of the  
persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA  
specimen" have the same meanings as in section 109.573 of the  
Revised Code.

**Sec. 2744.05.** Notwithstanding any other provisions of the

Revised Code or rules of a court to the contrary, in an action 20685  
against a political subdivision to recover damages for injury, 20686  
death, or loss to person or property caused by an act or omission 20687  
in connection with a governmental or proprietary function: 20688

(A) Punitive or exemplary damages shall not be awarded. 20689

(B)(1) If a claimant receives or is entitled to receive 20690  
benefits for injuries or loss allegedly incurred from a policy or 20691  
policies of insurance or any other source, the benefits shall be 20692  
disclosed to the court, and the amount of the benefits shall be 20693  
deducted from any award against a political subdivision recovered 20694  
by that claimant. No insurer or other person is entitled to bring 20695  
an action under a subrogation provision in an insurance or other 20696  
contract against a political subdivision with respect to those 20697  
benefits. 20698

The amount of the benefits shall be deducted from an award 20699  
against a political subdivision under division (B)(1) of this 20700  
section regardless of whether the claimant may be under an 20701  
obligation to pay back the benefits upon recovery, in whole or in 20702  
part, for the claim. A claimant whose benefits have been deducted 20703  
from an award under division (B)(1) of this section is not 20704  
considered fully compensated and shall not be required to 20705  
reimburse a subrogated claim for benefits deducted from an award 20706  
pursuant to division (B)(1) of this section. 20707

(2) Nothing in division (B)(1) of this section shall be 20708  
construed to do either of the following: 20709

(a) Limit the rights of a beneficiary under a life insurance 20710  
policy or the rights of sureties under fidelity or surety bonds; 20711

(b) Prohibit the department of job and family services from 20712  
recovering from the political subdivision, pursuant to section 20713  
5101.58 of the Revised Code, the cost of medical assistance 20714  
benefits provided under Chapter 5107.7, or 5111.7, ~~or 5115.~~ of the 20715



Revised Code. 20716

(C)(1) There shall not be any limitation on compensatory 20717  
damages that represent the actual loss of the person who is 20718  
awarded the damages. However, except in wrongful death actions 20719  
brought pursuant to Chapter 2125. of the Revised Code, damages 20720  
that arise from the same cause of action, transaction or 20721  
occurrence, or series of transactions or occurrences and that do 20722  
not represent the actual loss of the person who is awarded the 20723  
damages shall not exceed two hundred fifty thousand dollars in 20724  
favor of any one person. The limitation on damages that do not 20725  
represent the actual loss of the person who is awarded the damages 20726  
provided in this division does not apply to court costs that are 20727  
awarded to a plaintiff, or to interest on a judgment rendered in 20728  
favor of a plaintiff, in an action against a political 20729  
subdivision. 20730

(2) As used in this division, "the actual loss of the person 20731  
who is awarded the damages" includes all of the following: 20732

(a) All wages, salaries, or other compensation lost by the 20733  
person injured as a result of the injury, including wages, 20734  
salaries, or other compensation lost as of the date of a judgment 20735  
and future expected lost earnings of the person injured; 20736

(b) All expenditures of the person injured or another person 20737  
on behalf of the person injured for medical care or treatment, for 20738  
rehabilitation services, or for other care, treatment, services, 20739  
products, or accommodations that were necessary because of the 20740  
injury; 20741

(c) All expenditures to be incurred in the future, as 20742  
determined by the court, by the person injured or another person 20743  
on behalf of the person injured for medical care or treatment, for 20744  
rehabilitation services, or for other care, treatment, services, 20745  
products, or accommodations that will be necessary because of the 20746

injury; 20747

(d) All expenditures of a person whose property was injured 20748  
or destroyed or of another person on behalf of the person whose 20749  
property was injured or destroyed in order to repair or replace 20750  
the property that was injured or destroyed; 20751

(e) All expenditures of the person injured or of the person 20752  
whose property was injured or destroyed or of another person on 20753  
behalf of the person injured or of the person whose property was 20754  
injured or destroyed in relation to the actual preparation or 20755  
presentation of the claim involved; 20756

(f) Any other expenditures of the person injured or of the 20757  
person whose property was injured or destroyed or of another 20758  
person on behalf of the person injured or of the person whose 20759  
property was injured or destroyed that the court determines 20760  
represent an actual loss experienced because of the personal or 20761  
property injury or property loss. 20762

"The actual loss of the person who is awarded the damages" 20763  
does not include any fees paid or owed to an attorney for any 20764  
services rendered in relation to a personal or property injury or 20765  
property loss, and does not include any damages awarded for pain 20766  
and suffering, for the loss of society, consortium, companionship, 20767  
care, assistance, attention, protection, advice, guidance, 20768  
counsel, instruction, training, or education of the person 20769  
injured, for mental anguish, or for any other intangible loss. 20770

**Sec. 2744.08.** (A)(1) A political subdivision may use public 20771  
funds to secure insurance with respect to its and its employees' 20772  
potential liability in damages in civil actions for injury, death, 20773  
or loss to persons or property allegedly caused by an act or 20774  
omission of the political subdivision or any of its employees in 20775  
connection with a governmental or proprietary function. The 20776

insurance may be at the limits, for the circumstances, and subject 20777  
to the terms and conditions, that are determined by the political 20778  
subdivision in its discretion. 20779

The insurance may be for the period of time that is set forth 20780  
in specifications for competitive bids or, when competitive 20781  
bidding is not required, for the period of time that is mutually 20782  
agreed upon by the political subdivision and insurance company. 20783  
The period of time does not have to be, but can be, limited to the 20784  
fiscal cycle under which the political subdivision is funded and 20785  
operates. 20786

(2)(a) Regardless of whether a political subdivision procures 20787  
a policy or policies of liability insurance pursuant to division 20788  
(A)(1) of this section or otherwise, the political subdivision may 20789  
establish and maintain a self-insurance program relative to its 20790  
and its employees' potential liability in damages in civil actions 20791  
for injury, death, or loss to persons or property allegedly caused 20792  
by an act or omission of the political subdivision or any of its 20793  
employees in connection with a governmental or proprietary 20794  
function. The political subdivision may reserve such funds as it 20795  
deems appropriate in a special fund that may be established 20796  
pursuant to an ordinance or resolution of the political 20797  
subdivision and not subject to section 5705.12 of the Revised 20798  
Code. The political subdivision may allocate the costs of 20799  
insurance or a self-insurance program, or both, among the funds or 20800  
accounts in the subdivision's treasury on the basis of relative 20801  
exposure and loss experience. The political subdivision may 20802  
require any deductibles under an insurance or self-insurance 20803  
program, or both, to be paid from funds or accounts in the 20804  
subdivision's treasury from which a loss was directly 20805  
attributable. If it so chooses, the political subdivision may 20806  
contract with any person, other political subdivision, or regional 20807  
council of governments for purposes of the administration of such 20808

a program. 20809

(b) Political subdivisions that have established 20810  
self-insurance programs relative to their and their employees' 20811  
potential liability as described in division (A)(2)(a) of this 20812  
section may mutually agree that their self-insurance programs will 20813  
be jointly administered in a specified manner. 20814

(B) The purchase of liability insurance, or the establishment 20815  
and maintenance of a self-insurance program, by a political 20816  
subdivision does not constitute a waiver of any immunity or 20817  
defense of the political subdivision or its employees, except that 20818  
the political subdivision may specifically waive any immunity or 20819  
defense to which it or its employees may be entitled if a 20820  
provision to that effect is specifically included in the policy of 20821  
insurance or in a written plan of operation of the self-insurance 20822  
program, or, if any, the legislative enactment of the political 20823  
subdivision authorizing the purchase of the insurance or the 20824  
establishment and maintenance of the self-insurance program. Such 20825  
a specific waiver shall be only to the extent of the insurance or 20826  
self-insurance program coverage. 20827

(C) The authorizations for political subdivisions to secure 20828  
insurance and to establish and maintain self-insurance programs in 20829  
this section are in addition to any other authority to secure 20830  
insurance or to establish and maintain self-insurance programs 20831  
that is granted pursuant to the Revised Code or the constitution 20832  
of this state, and they are not in derogation of any other 20833  
authorization. 20834

**Sec. 2744.082.** (A) If a political subdivision, pursuant to 20835  
division (A)(2)(a) of section 2744.08 of the Revised Code, has 20836  
allocated costs to, or required the payment of deductibles from, 20837  
funds or accounts in the subdivision's treasury, the subdivision's 20838  
fiscal officer, pursuant to an ordinance or resolution of the 20839

subdivision's legislative authority, shall transfer amounts equal 20840  
to those costs or deductibles from the funds or accounts to the 20841  
subdivision's general fund if both of the following occur: 20842

(1) The subdivision requests payment from the employee 20843  
responsible for the funds or accounts for those costs or 20844  
deductibles; 20845

(2) The employee receiving the request fails to remit payment 20846  
within forty-five days after the date of receipt of the request. 20847

(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised 20848  
Code do not apply to transfers made pursuant to this section. 20849

**Sec. 2901.07.** (A) As used in this section: 20850

(1) "DNA analysis" and "DNA specimen" have the same meanings 20851  
as in section 109.573 of the Revised Code. 20852

(2) "Jail" and "community-based correctional facility" have 20853  
the same meanings as in section 2929.01 of the Revised Code. 20854

(3) "Post-release control" has the same meaning as in section 20855  
2967.01 of the Revised Code. 20856

(B)(1) A person who is convicted of or pleads guilty to a 20857  
felony offense listed in division (D) of this section and who is 20858  
sentenced to a prison term or to a community residential sanction 20859  
in a jail or community-based correctional facility pursuant to 20860  
section 2929.16 of the Revised Code, and a person who is convicted 20861  
of or pleads guilty to a misdemeanor offense listed in division 20862  
(D) of this section and who is sentenced to a term of imprisonment 20863  
shall submit to a DNA specimen collection procedure administered 20864  
by the director of rehabilitation and correction or the chief 20865  
administrative officer of the jail or other detention facility in 20866  
which the person is serving the term of imprisonment. If the 20867  
person serves the prison term in a state correctional institution, 20868  
the director of rehabilitation and correction shall cause the DNA 20869

specimen to be collected from the person during the intake process 20870  
at the reception facility designated by the director. If the 20871  
person serves the community residential sanction or term of 20872  
imprisonment in a jail, a community-based correctional facility, 20873  
or another county, multicounty, municipal, municipal-county, or 20874  
multicounty-municipal detention facility, the chief administrative 20875  
officer of the jail, community-based correctional facility, or 20876  
detention facility shall cause the DNA specimen to be collected 20877  
from the person during the intake process at the jail, 20878  
community-based correctional facility, or detention facility. In 20879  
accordance with division (C) of this section, the director or the 20880  
chief administrative officer shall cause the DNA specimen to be 20881  
forwarded to the bureau of criminal identification and 20882  
investigation no later than fifteen days after the date of the 20883  
collection of the DNA specimen. The DNA specimen shall be 20884  
collected in accordance with division (C) of this section. 20885

(2) If a person is convicted of or pleads guilty to an 20886  
offense listed in division (D) of this section, is serving a 20887  
prison term, community residential sanction, or term of 20888  
imprisonment for that offense, and does not provide a DNA specimen 20889  
pursuant to division (B)(1) of this section, prior to the person's 20890  
release from the prison term, community residential sanction, or 20891  
imprisonment, the person shall submit to, and the director of 20892  
rehabilitation and correction or the chief administrative officer 20893  
of the jail, community-based correctional facility, or detention 20894  
facility in which the person is serving the prison term, community 20895  
residential sanction, or term of imprisonment shall administer, a 20896  
DNA specimen collection procedure at the state correctional 20897  
institution, jail, community-based correctional facility, or 20898  
detention facility in which the person is serving the prison term, 20899  
community residential sanction, or term of imprisonment. In 20900  
accordance with division (C) of this section, the director or the 20901

chief administrative officer shall cause the DNA specimen to be 20902  
forwarded to the bureau of criminal identification and 20903  
investigation no later than fifteen days after the date of the 20904  
collection of the DNA specimen. The DNA specimen shall be 20905  
collected in accordance with division (C) of this section. 20906

(3) If a person sentenced to a term of imprisonment or 20907  
serving a prison term or community residential sanction for 20908  
committing an offense listed in division (D) of this section is on 20909  
probation, is released on parole, under transitional control, or 20910  
on another type of release, or is on post-release control, if the 20911  
person is under the supervision of a probation department or the 20912  
adult parole authority, if the person is sent to jail or is 20913  
returned to a jail, community-based correctional facility, or 20914  
state correctional institution for a violation of the terms and 20915  
conditions of the probation, parole, transitional control, other 20916  
release, or post-release control, if the person was or will be 20917  
serving a term of imprisonment, prison term, or community 20918  
residential sanction for committing an offense listed in division 20919  
(D) of this section, and if the person did not provide a DNA 20920  
specimen pursuant to division (B)(1) or (2) of this section, the 20921  
person shall submit to, and the director of rehabilitation and 20922  
correction or the chief administrative officer of the jail or 20923  
community-based correctional facility shall administer, a DNA 20924  
specimen collection procedure at the jail, community-based 20925  
correctional facility, or state correctional institution in which 20926  
the person is serving the term of imprisonment, prison term, or 20927  
community residential sanction. In accordance with division (C) of 20928  
this section, the director or the chief administrative officer 20929  
shall cause the DNA specimen to be forwarded to the bureau of 20930  
criminal identification and investigation no later than fifteen 20931  
days after the date of the collection of the DNA specimen. The DNA 20932  
specimen shall be collected from the person in accordance with 20933

division (C) of this section.

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(C) If the DNA specimen is collected by withdrawing blood from the person or a similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician, or other qualified medical practitioner shall collect in a medically approved manner the DNA specimen required to be collected pursuant to division (B) of this section. If the DNA specimen is collected by swabbing for buccal cells or a similarly noninvasive procedure, this section does not require that the DNA specimen be collected by a qualified medical practitioner of that nature. No later than fifteen days after the date of the collection of the DNA specimen, the director of rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility, in which the person is serving the prison term, community residential sanction, or term of imprisonment shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation in accordance with procedures established by the superintendent of the bureau under division (H) of section 109.573 of the Revised Code. The bureau shall provide the specimen vials, mailing tubes, labels, postage, and instructions needed for the collection and forwarding of the DNA specimen to the bureau.

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(D) The director of rehabilitation and correction and the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility shall cause a DNA specimen to be collected in accordance with divisions (B) and (C) of this section from a person in its custody who is convicted of or pleads guilty to any of the following offenses:

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- (1) A violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code; 20966  
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- (2) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996; 20969  
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- (3) An attempt to commit a violation of section 2903.01, 2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code or to commit a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996; 20971  
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- (4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that previously was dismissed or amended or as did a charge against the person of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed or amended; 20975  
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- (5) A violation of section 2905.02 or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had it been committed prior to that date; 20983  
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- (6) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, if, in relation to that offense, the offender has been adjudicated a sexual predator or a child-victim predator, both as defined in section 2950.01 of the Revised Code; 20987  
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- (7) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended; 20992  
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(8) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(9) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of rehabilitation and correction or a chief administrative officer of a jail, community-based correctional facility, or other detention facility described in division (B) of this section in relation to the following offenses is not required to comply with this section until the superintendent of the bureau of criminal identification and investigation gives agencies in the criminal justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) Complicity in committing a violation of section 2903.01, 21027  
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 21028  
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 21029  
violation of section 2907.12 of the Revised Code as it existed 21030  
prior to September 3, 1996. 21031

**Sec. 2913.40.** (A) As used in this section: 21032

(1) "Statement or representation" means any oral, written, 21033  
electronic, electronic impulse, or magnetic communication that is 21034  
used to identify an item of goods or a service for which 21035  
reimbursement may be made under the medical assistance program or 21036  
that states income and expense and is or may be used to determine 21037  
a rate of reimbursement under the medical assistance program. 21038

(2) "Medical assistance program" means the program 21039  
established by the department of job and family services to 21040  
provide medical assistance under section 5111.01 of the Revised 21041  
Code and the medicaid program of Title XIX of the "Social Security 21042  
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 21043

(3) "Provider" means any person who has signed a provider 21044  
agreement with the department of job and family services to 21045  
provide goods or services pursuant to the medical assistance 21046  
program or any person who has signed an agreement with a party to 21047  
such a provider agreement under which the person agrees to provide 21048  
goods or services that are reimbursable under the medical 21049  
assistance program. 21050

(4) "Provider agreement" means an oral or written agreement 21051  
between the department of job and family services and a person in 21052  
which the person agrees to provide goods or services under the 21053  
medical assistance program. 21054

(5) "Recipient" means any individual who receives goods or 21055  
services from a provider under the medical assistance program. 21056

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the director of job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by ~~rules adopted under~~ section 5111.0112 of the Revised Code or ~~by any~~ rules adopted pursuant to ~~that~~ section 5111.01, 5111.011, or 5111.02 of the Revised Code.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.0112 of the Revised Code or rules adopted under ~~section 5111.0112~~ 5111.01, 5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted pursuant to that section~~, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods 21088  
or services under the medical assistance program, shall do either 21089  
of the following for a period of at least six years after a 21090  
reimbursement pursuant to that claim, or a reimbursement for those 21091  
goods or services, is received under the medical assistance 21092  
program: 21093

(1) Knowingly alter, falsify, destroy, conceal, or remove any 21094  
records that are necessary to fully disclose the nature of all 21095  
goods or services for which the claim was submitted, or for which 21096  
reimbursement was received, by the person; 21097

(2) Knowingly alter, falsify, destroy, conceal, or remove any 21098  
records that are necessary to disclose fully all income and 21099  
expenditures upon which rates of reimbursements were based for the 21100  
person. 21101

(E) Whoever violates this section is guilty of medicaid 21102  
fraud. Except as otherwise provided in this division, medicaid 21103  
fraud is a misdemeanor of the first degree. If the value of 21104  
property, services, or funds obtained in violation of this section 21105  
is five hundred dollars or more and is less than five thousand 21106  
dollars, medicaid fraud is a felony of the fifth degree. If the 21107  
value of property, services, or funds obtained in violation of 21108  
this section is five thousand dollars or more and is less than one 21109  
hundred thousand dollars, medicaid fraud is a felony of the fourth 21110  
degree. If the value of the property, services, or funds obtained 21111  
in violation of this section is one hundred thousand dollars or 21112  
more, medicaid fraud is a felony of the third degree. 21113

(F) Upon application of the governmental agency, office, or 21114  
other entity that conducted the investigation and prosecution in a 21115  
case under this section, the court shall order any person who is 21116  
convicted of a violation of this section for receiving any 21117  
reimbursement for furnishing goods or services under the medical 21118

assistance program to which the person is not entitled to pay to 21119  
the applicant its cost of investigating and prosecuting the case. 21120  
The costs of investigation and prosecution that a defendant is 21121  
ordered to pay pursuant to this division shall be in addition to 21122  
any other penalties for the receipt of that reimbursement that are 21123  
provided in this section, section 5111.03 of the Revised Code, or 21124  
any other provision of law. 21125

(G) The provisions of this section are not intended to be 21126  
exclusive remedies and do not preclude the use of any other 21127  
criminal or civil remedy for any act that is in violation of this 21128  
section. 21129

**Sec. 2913.401.** (A) As used in this section: 21130

(1) "Medicaid benefits" means benefits under the medical 21131  
assistance program established under Chapter 5111. of the Revised 21132  
Code. 21133

(2) "Property" means any real or personal property or other 21134  
asset in which a person has any legal title or interest. 21135

(B) No person shall knowingly do any of the following in an 21136  
application for medicaid benefits or in a document that requires a 21137  
disclosure of assets for the purpose of determining eligibility to 21138  
receive medicaid benefits: 21139

(1) Make or cause to be made a false or misleading statement; 21140

(2) Conceal an interest in property; 21141

(3)(a) Except as provided in division (B)(3)(b) of this 21142  
section, fail to disclose a transfer of property that occurred 21143  
during the period beginning thirty-six months before submission of 21144  
the application or document and ending on the date the application 21145  
or document was submitted; 21146

(b) Fail to disclose a transfer of property that occurred 21147

during the period beginning sixty months before submission of the 21148  
application or document and ending on the date the application or 21149  
document was submitted and that was made to an irrevocable trust a 21150  
portion of which is not distributable to the applicant for 21151  
medicaid benefits or the recipient of medicaid benefits or to a 21152  
revocable trust. 21153

(C)(1) Whoever violates this section is guilty of medicaid 21154  
eligibility fraud. Except as otherwise provided in this division, 21155  
a violation of this section is a misdemeanor of the first degree. 21156  
If the value of the medicaid benefits paid as a result of the 21157  
violation is five hundred dollars or more and is less than five 21158  
thousand dollars, a violation of this section is a felony of the 21159  
fifth degree. If the value of the medicaid benefits paid as a 21160  
result of the violation is five thousand dollars or more and is 21161  
less than one hundred thousand dollars, a violation of this 21162  
section is a felony of the fourth degree. If the value of the 21163  
medicaid benefits paid as a result of the violation is one hundred 21164  
thousand dollars or more, a violation of this section is a felony 21165  
of the third degree. 21166

(2) In addition to imposing a sentence under division (C)(1) 21167  
of this section, the court shall order that a person who is guilty 21168  
of medicaid eligibility fraud make restitution in the full amount 21169  
of any medicaid benefits paid on behalf of an applicant for or 21170  
recipient of medicaid benefits for which the applicant or 21171  
recipient was not eligible, plus interest at the rate applicable 21172  
to judgments on unreimbursed amounts from the date on which the 21173  
benefits were paid to the date on which restitution is made. 21174

(3) The remedies and penalties provided in this section are 21175  
not exclusive and do not preclude the use of any other criminal or 21176  
civil remedy for any act that is in violation of this section. 21177

(D) This section does not apply to a person who fully 21178

disclosed in an application for medicaid benefits or in a document 21179  
that requires a disclosure of assets for the purpose of 21180  
determining eligibility to receive medicaid benefits all of the 21181  
interests in property of the applicant for or recipient of 21182  
medicaid benefits, all transfers of property by the applicant for 21183  
or recipient of medicaid benefits, and the circumstances of all 21184  
those transfers. 21185

(E) Any amounts of medicaid benefits recovered as restitution 21186  
under this section and any interest on those amounts shall be 21187  
credited to the general revenue fund, and any applicable federal 21188  
share shall be returned to the appropriate agency or department of 21189  
the United States. 21190

**Sec. 2921.13.** (A) No person shall knowingly make a false 21191  
statement, or knowingly swear or affirm the truth of a false 21192  
statement previously made, when any of the following applies: 21193

(1) The statement is made in any official proceeding. 21194

(2) The statement is made with purpose to incriminate 21195  
another. 21196

(3) The statement is made with purpose to mislead a public 21197  
official in performing the public official's official function. 21198

(4) The statement is made with purpose to secure the payment 21199  
of unemployment compensation; Ohio works first; prevention, 21200  
retention, and contingency benefits and services; disability 21201  
financial assistance; retirement benefits; economic development 21202  
assistance, as defined in section 9.66 of the Revised Code; or 21203  
other benefits administered by a governmental agency or paid out 21204  
of a public treasury. 21205

(5) The statement is made with purpose to secure the issuance 21206  
by a governmental agency of a license, permit, authorization, 21207  
certificate, registration, release, or provider agreement. 21208



- (6) The statement is sworn or affirmed before a notary public 21209  
or another person empowered to administer oaths. 21210
- (7) The statement is in writing on or in connection with a 21211  
report or return that is required or authorized by law. 21212
- (8) The statement is in writing and is made with purpose to 21213  
induce another to extend credit to or employ the offender, to 21214  
confer any degree, diploma, certificate of attainment, award of 21215  
excellence, or honor on the offender, or to extend to or bestow 21216  
upon the offender any other valuable benefit or distinction, when 21217  
the person to whom the statement is directed relies upon it to 21218  
that person's detriment. 21219
- (9) The statement is made with purpose to commit or 21220  
facilitate the commission of a theft offense. 21221
- (10) The statement is knowingly made to a probate court in 21222  
connection with any action, proceeding, or other matter within its 21223  
jurisdiction, either orally or in a written document, including, 21224  
but not limited to, an application, petition, complaint, or other 21225  
pleading, or an inventory, account, or report. 21226
- (11) The statement is made on an account, form, record, 21227  
stamp, label, or other writing that is required by law. 21228
- (12) The statement is made in connection with the purchase of 21229  
a firearm, as defined in section 2923.11 of the Revised Code, and 21230  
in conjunction with the furnishing to the seller of the firearm of 21231  
a fictitious or altered driver's or commercial driver's license or 21232  
permit, a fictitious or altered identification card, or any other 21233  
document that contains false information about the purchaser's 21234  
identity. 21235
- (13) The statement is made in a document or instrument of 21236  
writing that purports to be a judgment, lien, or claim of 21237  
indebtedness and is filed or recorded with the secretary of state, 21238

a county recorder, or the clerk of a court of record. 21239

(14) The statement is made with purpose to obtain an Ohio's 21240  
best Rx program enrollment card under section 5110.09 of the 21241  
Revised Code or a payment from the department of job and family 21242  
services under section 5110.17 of the Revised Code. 21243

~~(14)~~(15) The statement is made in an application filed with a 21244  
county sheriff pursuant to section 2923.125 of the Revised Code in 21245  
order to obtain or renew a license to carry a concealed handgun or 21246  
is made in an affidavit submitted to a county sheriff to obtain a 21247  
temporary emergency license to carry a concealed handgun under 21248  
section 2923.1213 of the Revised Code. 21249

(16) The statement is required under section 5743.72 of the 21250  
Revised Code in connection with the person's purchase of 21251  
cigarettes or tobacco products in a delivery sale. 21252

(B) No person, in connection with the purchase of a firearm, 21253  
as defined in section 2923.11 of the Revised Code, shall knowingly 21254  
furnish to the seller of the firearm a fictitious or altered 21255  
driver's or commercial driver's license or permit, a fictitious or 21256  
altered identification card, or any other document that contains 21257  
false information about the purchaser's identity. 21258

(C) No person, in an attempt to obtain a license to carry a 21259  
concealed handgun under section 2923.125 of the Revised Code, 21260  
shall knowingly present to a sheriff a fictitious or altered 21261  
document that purports to be certification of the person's 21262  
competence in handling a handgun as described in division (B)(3) 21263  
of section 2923.125 of the Revised Code. 21264

(D) It is no defense to a charge under division (A)(6) of 21265  
this section that the oath or affirmation was administered or 21266  
taken in an irregular manner. 21267

(E) If contradictory statements relating to the same fact are 21268

made by the offender within the period of the statute of 21269  
limitations for falsification, it is not necessary for the 21270  
prosecution to prove which statement was false but only that one 21271  
or the other was false. 21272

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 21273  
(6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section 21274  
is guilty of falsification, a misdemeanor of the first degree. 21275

(2) Whoever violates division (A)(9) of this section is 21276  
guilty of falsification in a theft offense. Except as otherwise 21277  
provided in this division, falsification in a theft offense is a 21278  
misdemeanor of the first degree. If the value of the property or 21279  
services stolen is five hundred dollars or more and is less than 21280  
five thousand dollars, falsification in a theft offense is a 21281  
felony of the fifth degree. If the value of the property or 21282  
services stolen is five thousand dollars or more and is less than 21283  
one hundred thousand dollars, falsification in a theft offense is 21284  
a felony of the fourth degree. If the value of the property or 21285  
services stolen is one hundred thousand dollars or more, 21286  
falsification in a theft offense is a felony of the third degree. 21287

(3) Whoever violates division (A)(12) or (B) of this section 21288  
is guilty of falsification to purchase a firearm, a felony of the 21289  
fifth degree. 21290

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this 21291  
section is guilty of falsification to obtain a concealed handgun 21292  
license, a felony of the fourth degree. 21293

(G) A person who violates this section is liable in a civil 21294  
action to any person harmed by the violation for injury, death, or 21295  
loss to person or property incurred as a result of the commission 21296  
of the offense and for reasonable attorney's fees, court costs, 21297  
and other expenses incurred as a result of prosecuting the civil 21298  
action commenced under this division. A civil action under this 21299

division is not the exclusive remedy of a person who incurs 21300  
injury, death, or loss to person or property as a result of a 21301  
violation of this section. 21302

**Sec. 2923.25.** Each federally licensed firearms dealer who 21303  
sells any firearm, at the time of the sale of the firearm, shall 21304  
offer for sale to the purchaser of the firearm a trigger lock, gun 21305  
lock, or gun locking device that is appropriate for that firearm. 21306  
Each federally licensed firearms dealer shall post in a 21307  
conspicuous location in the dealer's place of business the poster 21308  
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 21309  
Revised Code and shall make available to all purchasers of 21310  
firearms from the dealer the brochure furnished to the dealer 21311  
pursuant to that section. 21312

As used in this section, "federally licensed firearms dealer" 21313  
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 21314  
Code. 21315

**Sec. 2927.023.** (A) As used in this section "authorized 21316  
recipient of tobacco products" means a person who is: 21317

(1) Licensed as a cigarette wholesale dealer under section 21318  
5743.15 of the Revised Code; 21319

(2) Licensed as a distributor of tobacco products under 21320  
section 5743.61 of the Revised Code; 21321

(3) An export warehouse proprietor as defined in section 5702 21322  
of the Internal Revenue Code; 21323

(4) An operator of a customs bonded warehouse under 19 U.S.C. 21324  
1311 or 19 U.S.C. 1555; 21325

(5) An officer, employee, or agent of the federal government 21326  
or of this state acting in the person's official capacity; 21327

(6) A department, agency, instrumentality, or political 21328

subdivision of the federal government or of this state; 21329

(7) A person having a consent for consumer shipment issued by 21330  
the tax commissioner under section 5743.71 of the Revised Code. 21331

The purpose of this section is to prevent the sale of 21332  
cigarettes to minors and to ensure compliance with the Master 21333  
Settlement Agreement, as defined in section 1346.01 of the Revised 21334  
Code. 21335

(B)(1) No person shall cause to be shipped any cigarettes to 21336  
any person in this state other than an authorized recipient of 21337  
tobacco products. 21338

(2) No common carrier, contract carrier, or other person 21339  
shall knowingly transport cigarettes to any person in this state 21340  
that the carrier or other person reasonably believes is not an 21341  
authorized recipient of tobacco products. If cigarettes are 21342  
transported to a home or residence, it shall be presumed that the 21343  
common carrier, contract carrier, or other person knew that the 21344  
person to whom the cigarettes were delivered was not an authorized 21345  
recipient of tobacco products. 21346

(C) No person engaged in the business of selling cigarettes 21347  
who ships or causes to be shipped cigarettes to any person in this 21348  
state in any container or wrapping other than the original 21349  
container or wrapping of the cigarettes shall fail to plainly and 21350  
visibly mark the exterior of the container or wrapping in which 21351  
the cigarettes are shipped with the words "cigarettes." 21352

(D) A court shall impose a fine of up to one thousand dollars 21353  
for each violation of division (B)(1), (B)(2), or (C) of this 21354  
section. 21355

**Sec. 2971.05.** (A)(1) After control over an offender's service 21356  
of a prison term imposed pursuant to division (A)(3) of section 21357  
2971.03 of the Revised Code has been transferred pursuant to 21358

section 2971.04 of the Revised Code to the court, the court shall 21359  
schedule, within thirty days of any of the following, a hearing on 21360  
whether to modify in accordance with division (C) of this section 21361  
the requirement that the offender serve the entire prison term in 21362  
a state correctional institution or to terminate the prison term 21363  
in accordance with division (D) of this section: 21364

(a) Control over the offender's service of a prison term is 21365  
transferred pursuant to section 2971.04 of the Revised Code to the 21366  
court, and no hearing to modify the requirement has been held; 21367

(b) Two years elapse after the most recent prior hearing held 21368  
pursuant to division (A)(1) or (2) of this section; 21369

(c) The prosecuting attorney, the department of 21370  
rehabilitation and correction, or the adult parole authority 21371  
requests the hearing, and recommends that the requirement be 21372  
modified or that the offender's prison term be terminated. 21373

(2) After control over the offender's service of a prison 21374  
term has been transferred pursuant to section 2971.04 of the 21375  
Revised Code to the court, the court, within thirty days of either 21376  
of the following, shall conduct a hearing on whether to modify in 21377  
accordance with division (C) of this section the requirement that 21378  
the offender serve the entire prison term in a state correctional 21379  
institution, whether to continue, revise, or revoke an existing 21380  
modification of that requirement, or whether to terminate the term 21381  
in accordance with division (D) of this section: 21382

(a) The requirement that the offender serve the entire prison 21383  
term in a state correctional institution has been modified, and 21384  
the offender is taken into custody for any reason. 21385

(b) The department of rehabilitation and correction or the 21386  
prosecuting attorney notifies the court pursuant to section 21387  
2971.06 of the Revised Code regarding a known or suspected 21388  
violation of a term or condition of the modification or a belief 21389

that there is a substantial likelihood that the offender has  
committed or is about to commit a sexually violent offense. 21390  
21391

(3) After control over the offender's service of a prison  
term has been transferred pursuant to section 2971.04 of the  
Revised Code to the court, the court, in any of the following  
circumstances, may conduct a hearing within thirty days to  
determine whether to modify in accordance with division (C) of  
this section the requirement that the offender serve the entire  
prison term in a state correctional institution, whether to  
continue, revise, or revoke an existing modification of that  
requirement, or whether to terminate the sentence in accordance  
with division (D) of this section: 21392  
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(a) The offender requests the hearing; 21402

(b) Upon the court's own motion; 21403

(c) One or more examiners who have conducted a psychological  
examination and assessment of the offender file a statement that  
states that there no longer is a likelihood that the offender will  
engage in the future in a sexually violent offense. 21404  
21405  
21406  
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(B)(1) Before a court holds a hearing pursuant to division  
(A) of this section, the court shall provide notice of the date,  
time, place, and purpose of the hearing to the offender, the  
prosecuting attorney, the department of rehabilitation and  
correction, and the adult parole authority and shall request the  
department to prepare pursuant to section 5120.61 of the Revised  
Code an update of the most recent risk assessment and report  
relative to the offender. The offender has the right to be present  
at any hearing held under this section. At the hearing, the  
offender and the prosecuting attorney may make a statement and  
present evidence as to whether the requirement should or should  
not be modified, whether the existing modification of the  
requirement should be continued, revised, or revoked, and whether 21408  
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the prison term should or should not be terminated. 21421

(2) At a hearing held pursuant to division (A) of this 21422  
section, the court may and, if the hearing is held pursuant to 21423  
division (A)(1)(a), (1)(b), or (3)(c) of this section, shall 21424  
determine by clear and convincing evidence whether the offender is 21425  
unlikely to commit a sexually violent offense in the future. 21426

(3) At the conclusion of the hearing held pursuant to 21427  
division (A) of this section, the court may order that the 21428  
requirement that the offender serve the entire prison term in a 21429  
state correctional institution be continued, that the requirement 21430  
be modified pursuant to division (C) of this section, that an 21431  
existing modification be continued, revised, or revoked pursuant 21432  
to division (C) of this section, or that the prison term be 21433  
terminated pursuant to division (D) of this section. 21434

(C)(1) If, at the conclusion of a hearing held pursuant to 21435  
division (A) of this section, the court determines by clear and 21436  
convincing evidence that the offender will not represent a 21437  
substantial risk of physical harm to others, the court may modify 21438  
the requirement that the offender serve the entire prison term in 21439  
a state correctional institution in a manner that the court 21440  
considers appropriate. If the court modifies the requirement, the 21441  
offender is subject to supervision under division (E) of this 21442  
section. 21443

(2) The modification of the requirement does not terminate 21444  
the prison term but serves only to suspend the requirement that 21445  
the offender serve the entire term in a state correctional 21446  
institution. The prison term shall remain in effect for the 21447  
offender's entire life unless the court terminates the prison term 21448  
pursuant to division (D) of this section. The offender shall 21449  
remain under the jurisdiction of the court for the offender's 21450  
entire life unless the court so terminates the prison term. The 21451



modification of the requirement does not terminate the 21452  
classification of the offender, as described in division (F) of 21453  
section 2971.03 of the Revised Code, as a sexual predator for 21454  
purposes of Chapter 2950. of the Revised Code, and the offender is 21455  
subject to supervision under division (E) of this section. 21456

(3) If the court revokes the modification under 21457  
consideration, the court shall order that the offender be returned 21458  
to the custody of the department of rehabilitation and correction 21459  
to continue serving the prison term to which the modification 21460  
applied, and section 2971.06 of the Revised Code applies regarding 21461  
the offender. 21462

(D)(1) If, at the conclusion of a hearing held pursuant to 21463  
division (A) of this section, the court determines by clear and 21464  
convincing evidence that the offender is unlikely to commit a 21465  
sexually violent offense in the future, the court may terminate 21466  
the offender's prison term imposed under division (A)(3) of 21467  
section 2971.03 of the Revised Code, subject to the offender 21468  
satisfactorily completing the period of conditional release 21469  
required by this division and compliance with division (E) of this 21470  
section. If the court terminates the prison term, the court shall 21471  
place the offender on conditional release for five years, require 21472  
the offender to comply with division (E) of this section, notify 21473  
the adult parole authority of its determination and of the 21474  
termination of the prison term, and order the adult parole 21475  
authority to supervise the offender during the five-year period of 21476  
conditional release and to supervise the offender pursuant to 21477  
division (E) of this section. Upon receipt of a notice from a 21478  
court pursuant to this division, the adult parole authority shall 21479  
supervise the offender who is the subject of the notice during the 21480  
five-year period of conditional release, periodically notify the 21481  
court of the offender's activities during that five-year period of 21482  
conditional release, and file with the court no later than thirty 21483

days prior to the expiration of the five-year period of 21484  
conditional release a written recommendation as to whether the 21485  
termination of the offender's prison term should be finalized, 21486  
whether the period of conditional release should be extended, or 21487  
whether another type of action authorized pursuant to this chapter 21488  
should be taken. 21489

Upon receipt of a recommendation of the adult parole 21490  
authority filed pursuant to this division, the court shall hold a 21491  
hearing to determine whether to finalize the termination of the 21492  
offender's prison term, to extend the period of conditional 21493  
release, or to take another type of action authorized pursuant to 21494  
this chapter. The court shall hold the hearing no later than the 21495  
date on which the five-year period of conditional release 21496  
terminates and shall provide notice of the date, time, place, and 21497  
purpose of the hearing to the offender and to the prosecuting 21498  
attorney. At the hearing, the offender, the prosecuting attorney, 21499  
and the adult parole authority employee who supervised the 21500  
offender during the period of conditional release may make a 21501  
statement and present evidence. 21502

(2) If the court determines to extend an offender's period of 21503  
conditional release, it may do so for additional periods of one 21504  
year in the same manner as the original period of conditional 21505  
release, and except as otherwise described in this division, all 21506  
procedures and requirements that applied to the original period of 21507  
conditional release apply to the additional period of extended 21508  
conditional release unless the court modifies a procedure or 21509  
requirement. If an offender's period of conditional release is 21510  
extended as described in this division, all references to a 21511  
five-year period of conditional release that are contained in 21512  
division (D)(1) of this section shall be construed, in applying 21513  
the provisions of that division to the extension, as being 21514  
references to the one-year period of the extension of the 21515

conditional release. 21516

If the court determines to take another type of action 21517  
authorized pursuant to this chapter, it may do so in the same 21518  
manner as if the action had been taken at any other stage of the 21519  
proceedings under this chapter. As used in this division, "another 21520  
type of action" includes the revocation of the conditional release 21521  
and the return of the offender to a state correctional institution 21522  
to continue to serve the prison term. 21523

If the court determines to finalize the termination of the 21524  
offender's prison term, it shall notify the department of 21525  
rehabilitation and correction, the department shall enter into its 21526  
records a final release and issue to the offender a certificate of 21527  
final release, and the prison term thereafter shall be considered 21528  
completed and terminated in every way. 21529

The termination of the offender's prison term pursuant to 21530  
division (D)(1) or (2) of this section does not affect the 21531  
classification of the offender, as described in division (F) of 21532  
section 2971.03 of the Revised Code, as a sexual predator for 21533  
purposes of Chapter 2950. of the Revised Code, and does not 21534  
terminate the adult parole authority's supervision of a sexually 21535  
violent predator with an active global positioning system device, 21536  
pursuant to division (E) of this section. The classification of 21537  
the offender as a sexual predator is permanent and continues until 21538  
the offender's death as described in division (D)(2) of section 21539  
2950.09 of the Revised Code. 21540

(E) The adult parole authority shall supervise an offender 21541  
whose prison term is modified as provided in division (C) of this 21542  
section or whose prison term is terminated as provided in division 21543  
(D) of this section with an active global positioning system 21544  
device during any time period in which the offender is not 21545  
incarcerated in a state correctional institution. Unless the court 21546

removes the offender's classification as a sexually violent 21547  
predator, an offender is subject to supervision with an active 21548  
global positioning system pursuant to this division for the 21549  
offender's entire life. The costs of administering the supervision 21550  
of sexually violent offenders with an active global positioning 21551  
system device shall be paid out of funds from the reparations 21552  
fund, created pursuant to section 2743.191 of the Revised Code. 21553  
This division shall only apply to a sexually violent predator who 21554  
is released from the custody of the department of rehabilitation 21555  
and correction on or after the effective date of this amendment. 21556

**Sec. 3107.10.** (A) Notwithstanding section 3107.01 of the 21557  
Revised Code, as used in this section, "agency" does not include a 21558  
public children services agency. 21559

(B) An agency or attorney, whichever arranges a minor's 21560  
adoption, shall file with the court a preliminary estimate 21561  
accounting not later than the time the adoption petition for the 21562  
minor is filed with the court. The agency or attorney, whichever 21563  
arranges the adoption, also shall file a final accounting with the 21564  
court before a final decree of adoption is issued or an 21565  
interlocutory order of adoption is finalized for the minor. The 21566  
agency or attorney shall complete and file accountings in a manner 21567  
acceptable to the court. 21568

An accounting shall specify all disbursements of anything of 21569  
value the petitioner, a person on the petitioner's behalf, and the 21570  
agency or attorney made and has agreed to make in connection with 21571  
the minor's permanent surrender under division (B) of section 21572  
5103.15 of the Revised Code, placement under section 5103.16 of 21573  
the Revised Code, and adoption under this chapter. The agency or 21574  
attorney shall include in an accounting an itemization of each 21575  
expense listed in division (C) of this section. The itemization of 21576  
the expenses specified in divisions (C)(3) and (4) of this section 21577

shall show the amount the agency or attorney charged or is going  
to charge for the services and the actual cost to the agency or  
attorney of providing the services. An accounting shall indicate  
whether any expenses listed in division (C) of this section do not  
apply to the adoption proceeding for which the accounting is  
filed.

The agency or attorney shall include with a preliminary  
estimate accounting and a final accounting a written statement  
signed by the petitioner that the petitioner has reviewed the  
accounting and attests to its accuracy.

(C) No petitioner, person acting on a petitioner's behalf, or  
agency or attorney shall make or agree to make any disbursements  
in connection with the minor's permanent surrender, placement, or  
adoption other than for the following:

(1) Physician expenses incurred on behalf of the birth mother  
or minor in connection with prenatal care, delivery, and  
confinement prior to or following the minor's birth;

(2) Hospital or other medical facility expenses incurred on  
behalf of the birth mother or minor in connection with the minor's  
birth;

(3) Expenses charged by the attorney arranging the adoption  
for providing legal services in connection with the placement and  
adoption, including expenses incurred by the attorney pursuant to  
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the  
Revised Code;

(4) Expenses charged by the agency arranging the adoption for  
providing services in connection with the permanent surrender and  
adoption, including the agency's application fee and the expenses  
incurred by the agency pursuant to sections 3107.031, 3107.09,  
3107.12, 5103.151, and 5103.152 of the Revised Code;

(5) Temporary costs of routine maintenance and medical care 21608  
for a minor required under section 5103.16 of the Revised Code if 21609  
the person seeking to adopt the minor refuses to accept placement 21610  
of the minor; 21611

(6) Guardian ad litem fees incurred on behalf of the minor in 21612  
any court proceedings; 21613

(7) Foster care expenses incurred in connection with any 21614  
temporary care and maintenance of the minor; 21615

(8) Court expenses incurred in connection with the minor's 21616  
permanent surrender, placement, and adoption. 21617

(D) If a court determines from an accounting that an amount 21618  
that is going to be disbursed for an expense listed in division 21619  
(C) of this section is unreasonable, the court may order a 21620  
reduction in the amount to be disbursed. If a court determines 21621  
from an accounting that an unreasonable amount was disbursed for 21622  
an expense listed in division (C) of this section, the court may 21623  
order the person who received the disbursement to refund to the 21624  
person who made the disbursement an amount the court orders. 21625

If a court determines from an accounting that a disbursement 21626  
for an expense not permitted by division (C) of this section is 21627  
going to be made, the court may issue an injunction prohibiting 21628  
the disbursement. If a court determines from an accounting that a 21629  
disbursement for an expense not permitted by division (C) of this 21630  
section was made, the court may order the person who received the 21631  
disbursement to return it to the person who made the disbursement. 21632

If a court determines that a final accounting does not 21633  
completely report all the disbursements that are going to be made 21634  
or have been made in connection with the minor's permanent 21635  
surrender, placement, and adoption, the court shall order the 21636  
agency or attorney to file with the court an accounting that 21637  
completely reports all such disbursements. 21638

The agency or attorney shall file the final accounting with 21639  
the court not later than ten days prior to the date scheduled for 21640  
the final hearing on the adoption. The court may not issue a final 21641  
decree of adoption or finalize an interlocutory order of adoption 21642  
of a minor until at least ten days after the agency or attorney 21643  
files the final accounting. 21644

~~(E) At the conclusion of each adoption proceeding, the court 21645  
shall prepare a summary of the proceeding, and on or before the 21646  
tenth day of each month, send copies of the summaries for all 21647  
proceedings concluded during the preceding calendar month to the 21648  
department of job and family services. The summary shall contain:~~ 21649

~~(1) A notation of the nature and approximate value or amount 21650  
of anything paid in connection with the proceeding, compiled from 21651  
the final accounting required by division (B) of this section and 21652  
indicating the category of division (C) of this section to which 21653  
any payment relates;~~ 21654

~~(2) If the court has not issued a decree because of the 21655  
requirements of division (D) of this section, a notation of that 21656  
fact and a statement of the reason for refusing to issue the 21657  
decree, related to the financial data summarized under division 21658  
(E)(1) of this section;~~ 21659

~~(3) If the adoption was arranged by an attorney, a notation 21660  
of that fact. 21661~~

~~The summary shall contain no information identifying by name 21662  
any party to the proceeding or any other person, but may contain 21663  
additional narrative material that the court considers useful to 21664  
an analysis of the summary. 21665~~

~~(F) This section does not apply to an adoption by a 21666  
stepparent whose spouse is a biological or adoptive parent of the 21667  
minor. 21668~~

**Sec. 3111.04.** (A) An action to determine the existence or 21669  
nonexistence of the father and child relationship may be brought 21670  
by the child or the child's personal representative, the child's 21671  
mother or her personal representative, a man alleged or alleging 21672  
himself to be the child's father, the child support enforcement 21673  
agency of the county in which the child resides if the child's 21674  
mother is a recipient of public assistance or of services under 21675  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 21676  
U.S.C.A. 651, as amended, or the alleged father's personal 21677  
representative. 21678

(B) An agreement does not bar an action under this section. 21679

(C) If an action under this section is brought before the 21680  
birth of the child and if the action is contested, all 21681  
proceedings, except service of process and the taking of 21682  
depositions to perpetuate testimony, may be stayed until after the 21683  
birth. 21684

(D) A recipient of public assistance or of services under 21685  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 21686  
U.S.C.A. 651, as amended, shall cooperate with the child support 21687  
enforcement agency of the county in which a child resides to 21688  
obtain an administrative determination pursuant to sections 21689  
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 21690  
determination pursuant to sections 3111.01 to 3111.18 of the 21691  
Revised Code, of the existence or nonexistence of a parent and 21692  
child relationship between the father and the child. If the 21693  
recipient fails to cooperate, the agency may commence an action to 21694  
determine the existence or nonexistence of a parent and child 21695  
relationship between the father and the child pursuant to sections 21696  
3111.01 to 3111.18 of the Revised Code. 21697

(E) As used in this section, "public assistance" means 21698  
medical assistance under Chapter 5111. of the Revised Code, 21699



assistance under Chapter 5107. of the Revised Code, or disability 21700  
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 21701  
~~disability medical assistance under Chapter 5115. of the Revised~~ 21702  
~~Code.~~ 21703

**Sec. 3119.54.** If either party to a child support order issued 21704  
in accordance with section 3119.30 of the Revised Code is eligible 21705  
for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 21706  
Code and the other party has obtained health insurance coverage, 21707  
the party eligible for medical assistance shall notify any 21708  
physician, hospital, or other provider of medical services for 21709  
which medical assistance is available of the name and address of 21710  
the other party's insurer and of the number of the other party's 21711  
health insurance or health care policy, contract, or plan. Any 21712  
physician, hospital, or other provider of medical services for 21713  
which medical assistance is available under Chapter 5111. ~~or 5115.~~ 21714  
of the Revised Code who is notified under this division of the 21715  
existence of a health insurance or health care policy, contract, 21716  
or plan with coverage for children who are eligible for medical 21717  
assistance shall first bill the insurer for any services provided 21718  
for those children. If the insurer fails to pay all or any part of 21719  
a claim filed under this section and the services for which the 21720  
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 21721  
Revised Code, the physician, hospital, or other medical services 21722  
provider shall bill the remaining unpaid costs of the services in 21723  
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 21724

**Sec. 3121.12.** (A) On receipt of a notice that a lump sum 21725  
payment of one hundred fifty dollars or more is to be paid to the 21726  
obligor, the court, with respect to a court support order, or the 21727  
child support enforcement agency, with respect to an 21728  
administrative child support order, shall do either of the 21729  
following: 21730

(1) If the obligor is in default under the support order or 21731  
has any arrearages under the support order, issue an order 21732  
requiring the transmittal of the lump sum payment, or any portion 21733  
of the lump sum payment sufficient to pay the arrearage in full, 21734  
to the office of child support; 21735

(2) If the obligor is not in default under the support order 21736  
and does not have any arrearages under the support order, issue an 21737  
order directing the person who gave the notice to the court or 21738  
agency to immediately pay the full amount of the lump sum payment 21739  
to the obligor. 21740

(B) ~~On receipt of any~~ Any moneys received by the office of 21741  
child support pursuant to division (A) of this section, ~~the office~~ 21742  
~~of child support shall pay the amount of the lump sum payment that~~ 21743  
~~is necessary to discharge all of the obligor's arrearages to the~~ 21744  
~~obligee and, within two business days after its receipt of the~~ 21745  
~~money, any amount that is remaining after the payment of the~~ 21746  
~~arrearages to the obligor~~ be distributed in accordance with rules 21747  
adopted under section 3121.71 of the Revised Code. 21748

(C) A court that issued an order prior to January 1, 1998, 21749  
requiring an employer to withhold an amount from an obligor's 21750  
personal earnings for the payment of support shall issue a 21751  
supplemental order that does not change the original order or the 21752  
related support order requiring the employer to do all of the 21753  
following: 21754

(1) No later than the earlier of forty-five days before a 21755  
lump sum payment is to be made or, if the obligor's right to a 21756  
lump sum payment is determined less than forty-five days before it 21757  
is to be made, the date on which that determination is made, 21758  
notify the child support enforcement agency of any lump sum 21759  
payment of any kind of one hundred fifty dollars or more that is 21760  
to be paid to the obligor; 21761

(2) Hold the lump sum payment for thirty days after the date 21762  
on which it would otherwise be paid to the obligor; 21763

(3) On order of the court, pay any specified amount of the 21764  
lump sum payment to the office of child support. 21765

(D) An employer that knowingly fails to notify the child 21766  
support enforcement agency in accordance with this section or 21767  
section 3121.03 of the Revised Code of any lump sum payment to be 21768  
made to an obligor is liable for any support payment not made to 21769  
the obligee as a result of its knowing failure to give the notice. 21770

**Sec. 3121.50.** On receipt of any amount forwarded from a payor 21771  
or financial institution, the office of child support shall 21772  
distribute the amount to the obligee within two business days of 21773  
its receipt of the amount forwarded. The Unless otherwise 21774  
prohibited from doing so by a law of this state or the United 21775  
States, the office may distribute the amount by means of 21776  
electronic disbursement, and the obligee shall accept payment by 21777  
means of electronic disbursement. The director of job and family 21778  
services may adopt, revise, or amend rules under Chapter 119. of 21779  
the Revised Code to assist in the implementation of this section. 21780

**Sec. 3125.18.** A child support enforcement agency shall 21781  
administer a Title IV-A program identified under division 21782  
(A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised Code that 21783  
the department of job and family services provides for the agency 21784  
to administer under the department's supervision pursuant to 21785  
section 5101.801 of the Revised Code. 21786

**Sec. 3125.191.** There is hereby created in the state treasury 21787  
the child support operating fund, which is a state special revenue 21788  
fund. The department of job and family services may deposit into 21789  
the fund a portion of the federal incentives described in division 21790

(A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that are received by the department of job and family services from the United States department of health and human services. The department of job and family services may use money in the child support operating fund for program and administrative purposes associated with the program of child support enforcement authorized by section 3125.03 of the Revised Code.

**Sec. 3301.079.** (A)(1) Not later than December 31, 2001, the state board of education shall adopt statewide academic standards for each of grades kindergarten through twelve in reading, writing, and mathematics. Not later than December 31, 2002, the state board shall adopt statewide academic standards for each of grades kindergarten through twelve in science and social studies. The standards shall specify the academic content and skills that students are expected to know and be able to do at each grade level.

(2) When academic standards have been completed for any subject area required by this division, the state board shall inform all school districts of the content of those standards.

(B) Not later than eighteen months after the completion of academic standards for any subject area required by division (A) of this section, the state board shall adopt a model curriculum for instruction in that subject area for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards to ensure that the academic content and skills specified for each grade level are taught to students. When any model curriculum has been completed, the state board shall inform all school districts of the content of that model curriculum.

All school districts may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement tests aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by section 3301.0710 of the Revised Code.

When any achievement test has been completed, the state board shall inform all school districts of its completion, and the department of education shall make the achievement test available to the districts. School districts shall administer the achievement test beginning in the school year indicated in section 3301.0712 of the Revised Code.

~~(D)(1) Not later than July 1, 2008, and except as provided in division (D)(3) of this section, the~~ The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in reading, writing, and mathematics and for each of grades grade three ~~through eight~~ in ~~reading, writing, mathematics, science, and social studies~~. The diagnostic assessment shall be designed to measure student comprehension of academic content and mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic tests shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

~~(3) The state board shall not adopt a diagnostic assessment for any subject area and grade level for which the state board develops an achievement test under division (C) of this section.~~

(E) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement tests, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement tests required by this section, the department shall ensure the interchangeability of those tests.

(F) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement test or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the

committee shall be final. This section does not create a private  
cause of action. 21883  
21884

**Sec. 3301.0710.** The state board of education shall adopt 21885  
rules establishing a statewide program to test student 21886  
achievement. The state board shall ensure that all tests 21887  
administered under the testing program are aligned with the 21888  
academic standards and model curricula adopted by the state board 21889  
and are created with input from Ohio parents, Ohio classroom 21890  
teachers, Ohio school administrators, and other Ohio school 21891  
personnel pursuant to section 3301.079 of the Revised Code. 21892

The testing program shall be designed to ensure that students 21893  
who receive a high school diploma demonstrate at least high school 21894  
levels of achievement in reading, writing, mathematics, science, 21895  
and social studies. 21896

(A)(1) The state board shall prescribe all of the following: 21897

(a) Two statewide achievement tests, one each designed to 21898  
measure the level of reading and mathematics skill expected at the 21899  
end of third grade; 21900

(b) Three statewide achievement tests, one each designed to 21901  
measure the level of reading, writing, and mathematics skill 21902  
expected at the end of fourth grade; 21903

(c) Four statewide achievement tests, one each designed to 21904  
measure the level of reading, mathematics, science, and social 21905  
studies skill expected at the end of fifth grade; 21906

(d) Two statewide achievement tests, one each designed to 21907  
measure the level of reading and mathematics skill expected at the 21908  
end of sixth grade; 21909

(e) Three statewide achievement tests, one each designed to 21910  
measure the level of reading, writing, and mathematics skill 21911  
expected at the end of seventh grade; 21912

(f) Four statewide achievement tests, one each designed to 21913  
measure the level of reading, mathematics, science, and social 21914  
studies skill expected at the end of eighth grade. 21915

(2) The state board shall determine and designate at least 21916  
five ranges of scores on each of the achievement tests described 21917  
in divisions (A)(1) and (B) of this section. Each range of scores 21918  
shall be deemed to demonstrate a level of achievement so that any 21919  
student attaining a score within such range has achieved one of 21920  
the following: 21921

(a) An advanced level of skill; 21922

(b) An accelerated level of skill; 21923

(c) A proficient level of skill; 21924

(d) A basic level of skill; 21925

(e) A limited level of skill. 21926

(B) The tests prescribed under this division shall 21927  
collectively be known as the Ohio graduation tests. The state 21928  
board shall prescribe five statewide high school achievement 21929  
tests, one each designed to measure the level of reading, writing, 21930  
mathematics, science, and social studies skill expected at the end 21931  
of tenth grade. The state board shall designate a score in at 21932  
least the range designated under division (A)(2)(c) of this 21933  
section on each such test that shall be deemed to be a passing 21934  
score on the test as a condition toward granting high school 21935  
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 21936  
of the Revised Code. 21937

The state board may enter into a reciprocal agreement with 21938  
the appropriate body or agency of any other state that has similar 21939  
statewide achievement testing requirements for receiving high 21940  
school diplomas, under which any student who has met an 21941  
achievement testing requirement of one state is recognized as 21942



having met the similar achievement testing requirement of the  
other state for purposes of receiving a high school diploma. For  
purposes of this section and sections 3301.0711 and 3313.61 of the  
Revised Code, any student enrolled in any public high school in  
this state who has met an achievement testing requirement  
specified in a reciprocal agreement entered into under this  
division shall be deemed to have attained at least the applicable  
score designated under this division on each test required by this  
division that is specified in the agreement.

(C) The Except as provided in division (H) of this section,  
the state board shall annually designate as follows the dates on  
which the tests prescribed under this section shall be  
administered:

(1) For the reading test prescribed under division (A)(1)(a)  
of this section, as follows:

(a) One date prior to the thirty-first day of December each  
school year;

(b) At least one date of each school year that is not earlier  
than Monday of the week containing the ~~eight~~ first day of ~~March~~  
May;

(c) One date during the summer that is not earlier than the  
tenth day of June nor later than the fifteenth day of July for  
students receiving summer remediation services under section  
3313.608 of the Revised Code.

(2) For the mathematics test prescribed under division  
(A)(1)(a) of this section and the tests prescribed under divisions  
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one  
date of each school year that is not earlier than Monday of the  
week containing the ~~eight~~ first day of ~~March~~ May;

(3) For the tests prescribed under division (B) of this

section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty-first day of December and at least one date subsequent to that date but prior to the thirty-first day of March of each school year for eleventh and twelfth grade students.

(D) In prescribing test dates pursuant to division (C)(3) of this section, the state board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.

(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(F) The state board shall prescribe a practice version of each Ohio graduation test described in division (B) of this section that is of comparable length to the actual test.

(G) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the tests described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the

tests if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate test scores based upon the recommendations of the task force.

(H)(1) The state board shall require any alternate assessment administered to a student under division (C)(1) of section 3301.0711 of the Revised Code to be completed and submitted to the entity with which the department contracts for the scoring of the test not later than the first day of April of the school year in which the test is administered.

(2) For any test prescribed by this section, the state board may designate a date one week earlier than the applicable date designated under division (C) of this section for the administration of the test to limited English proficient students.

(3) In designating days for the administration of the tests prescribed by division (A) of this section, the state board shall require the tests for each grade level to be administered on consecutive days.

**Sec. 3301.0711.** (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by

city, local, exempted village, and joint vocational school 22034  
districts, except that each district shall score any test 22035  
administered pursuant to division (B)(10) of this section. Each 22036  
test so furnished shall include the data verification code of the 22037  
student to whom the test will be administered, as assigned 22038  
pursuant to division (D)(2) of section 3301.0714 of the Revised 22039  
Code. In furnishing the practice versions of Ohio graduation tests 22040  
prescribed by division (F) of section 3301.0710 of the Revised 22041  
Code, the department shall make the tests available on its web 22042  
site for reproduction by districts. In awarding contracts for 22043  
grading tests, the department shall give preference to Ohio-based 22044  
entities employing Ohio residents. 22045

(2) Adopt rules for the ethical use of tests and prescribing 22046  
the manner in which the tests prescribed by section 3301.0710 of 22047  
the Revised Code shall be administered to students. 22048

(B) Except as provided in divisions (C) and (J) of this 22049  
section, the board of education of each city, local, and exempted 22050  
village school district shall, in accordance with rules adopted 22051  
under division (A) of this section: 22052

(1) Administer the reading test prescribed under division 22053  
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually 22054  
to all students in the third grade who have not attained the score 22055  
designated for that test under division (A)(2)(c) of section 22056  
3301.0710 of the Revised Code and once each summer to students 22057  
receiving summer remediation services under section 3313.608 of 22058  
the Revised Code. 22059

(2) Administer the mathematics test prescribed under division 22060  
(A)(1)(a) of section 3301.0710 of the Revised Code at least once 22061  
annually to all students in the third grade. 22062

(3) Administer the tests prescribed under division (A)(1)(b) 22063  
of section 3301.0710 of the Revised Code at least once annually to 22064

all students in the fourth grade. 22065

(4) Administer the tests prescribed under division (A)(1)(c) 22066  
of section 3301.0710 of the Revised Code at least once annually to 22067  
all students in the fifth grade. 22068

(5) Administer the tests prescribed under division (A)(1)(d) 22069  
of section 3301.0710 of the Revised Code at least once annually to 22070  
all students in the sixth grade. 22071

(6) Administer the tests prescribed under division (A)(1)(e) 22072  
of section 3301.0710 of the Revised Code at least once annually to 22073  
all students in the seventh grade. 22074

(7) Administer the tests prescribed under division (A)(1)(f) 22075  
of section 3301.0710 of the Revised Code at least once annually to 22076  
all students in the eighth grade. 22077

(8) Except as provided in division (B)(9) of this section, 22078  
administer any test prescribed under division (B) of section 22079  
3301.0710 of the Revised Code as follows: 22080

(a) At least once annually to all tenth grade students and at 22081  
least twice annually to all students in eleventh or twelfth grade 22082  
who have not yet attained the score on that test designated under 22083  
that division; 22084

(b) To any person who has successfully completed the 22085  
curriculum in any high school or the individualized education 22086  
program developed for the person by any high school pursuant to 22087  
section 3323.08 of the Revised Code but has not received a high 22088  
school diploma and who requests to take such test, at any time 22089  
such test is administered in the district. 22090

(9) In lieu of the board of education of any city, local, or 22091  
exempted village school district in which the student is also 22092  
enrolled, the board of a joint vocational school district shall 22093  
administer any test prescribed under division (B) of section 22094

3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a test unless no reasonable accommodation can be made to enable the student to take the test.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who 22127  
has been identified, based on an evaluation conducted in 22128  
accordance with section 3323.03 of the Revised Code or section 504 22129  
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 22130  
794, as amended, as a child with a disability shall be excused 22131  
from taking any particular test required to be administered under 22132  
this section if a plan developed for the student pursuant to rules 22133  
adopted by the state board excuses the student from taking that 22134  
test. In the case of any student so excused from taking a test, 22135  
the chartered nonpublic school shall not prohibit the student from 22136  
taking the test. 22137

(2) A district board may, for medical reasons or other good 22138  
cause, excuse a student from taking a test administered under this 22139  
section on the date scheduled, but any such test shall be 22140  
administered to such excused student not later than nine days 22141  
following the scheduled date. The board shall annually report the 22142  
number of students who have not taken one or more of the tests 22143  
required by this section to the state board of education not later 22144  
than the thirtieth day of June. 22145

(3) As used in this division, "limited English proficient 22146  
student" has the same meaning as in 20 U.S.C. 7801. 22147

No school district board shall excuse any limited English 22148  
proficient student from taking any particular test required to be 22149  
administered under this section, except that any limited English 22150  
proficient student who has been enrolled in United States schools 22151  
for less than one full school year shall not be required to take 22152  
any such reading or writing test. However, no board shall prohibit 22153  
a limited English proficient student who is not required to take a 22154  
test under this division from taking the test. A board may permit 22155  
any limited English proficient student to take any test required 22156  
to be administered under this section with appropriate 22157  
accommodations, as determined by the department. For each limited 22158

English proficient student, each school district shall annually  
assess that student's progress in learning English, in accordance  
with procedures approved by the department.

The governing authority of a chartered nonpublic school may  
excuse a limited English proficient student from taking any test  
administered under this section. However, no governing authority  
shall prohibit a limited English proficient student from taking  
the test.

(D)(1) In the school year next succeeding the school year in  
which the tests prescribed by division (A)(1) or (B) of section  
3301.0710 of the Revised Code or former division (A)(1), (A)(2),  
or (B) of section 3301.0710 of the Revised Code as it existed  
prior to September 11, 2001, are administered to any student, the  
board of education of any school district in which the student is  
enrolled in that year shall provide to the student intervention  
services commensurate with the student's test performance,  
including any intensive intervention required under section  
3313.608 of the Revised Code, in any skill in which the student  
failed to demonstrate at least a score at the proficient level on  
the test.

(2) Following any administration of the tests prescribed by  
division (F) of section 3301.0710 of the Revised Code to ninth  
grade students, each school district that has a three-year average  
graduation rate of not more than seventy-five per cent shall  
determine for each high school in the district whether the school  
shall be required to provide intervention services to any students  
who took the tests. In determining which high schools shall  
provide intervention services based on the resources available,  
the district shall consider each school's graduation rate and  
scores on the practice tests. The district also shall consider the  
scores received by ninth grade students on the reading and  
mathematics tests prescribed under division (A)(1)(f) of section



3301.0710 of the Revised Code in the eighth grade in determining 22191  
which high schools shall provide intervention services. 22192

Each high school selected to provide intervention services 22193  
under this division shall provide intervention services to any 22194  
student whose test results indicate that the student is failing to 22195  
make satisfactory progress toward being able to attain scores at 22196  
the proficient level on the Ohio graduation tests. Intervention 22197  
services shall be provided in any skill in which a student 22198  
demonstrates unsatisfactory progress and shall be commensurate 22199  
with the student's test performance. Schools shall provide the 22200  
intervention services prior to the end of the school year, during 22201  
the summer following the ninth grade, in the next succeeding 22202  
school year, or at any combination of those times. 22203

(E) Except as provided in section 3313.608 of the Revised 22204  
Code and division (M) of this section, no school district board of 22205  
education shall utilize any student's failure to attain a 22206  
specified score on any test administered under this section as a 22207  
factor in any decision to deny the student promotion to a higher 22208  
grade level. However, a district board may choose not to promote 22209  
to the next grade level any student who does not take any test 22210  
administered under this section or make up such test as provided 22211  
by division (C)(2) of this section and who is not exempt from the 22212  
requirement to take the test under division (C)(3) of this 22213  
section. 22214

(F) No person shall be charged a fee for taking any test 22215  
administered under this section. 22216

(G) ~~Not later than sixty days after any administration of any~~ 22217  
~~test prescribed by division (A)(1) or (B) of section 3301.0710 of~~ 22218  
~~the Revised Code, the~~ (1) Each school district board shall submit 22219  
the tests administered in the spring under division (B)(1) of this 22220  
section and the tests administered under divisions (B)(2) to (7) 22221

of this section to the entity with which the department contracts 22222  
for the scoring of the tests not later than the Friday after the 22223  
tests are administered, except that any such test that a student 22224  
takes during the make-up period described in division (C)(2) of 22225  
this section shall be submitted not later than the Friday 22226  
following the day the student takes the test. 22227

(2) The department or an entity with which the department 22228  
contracts for the scoring of the test shall send to each school 22229  
district board a list of the individual test scores of all persons 22230  
taking ~~the~~ any test prescribed by division (A)(1) or (B) of 22231  
section 3301.0710 of the Revised Code within sixty days after its 22232  
administration, but in no case shall the scores be returned later 22233  
than the fifteenth day of June following the administration. For 22234  
any tests administered under this section by a joint vocational 22235  
school district, the department or entity shall also send to each 22236  
city, local, or exempted village school district a list of the 22237  
individual test scores of any students of such city, local, or 22238  
exempted village school district who are attending school in the 22239  
joint vocational school district. 22240

(H) Individual test scores on any tests administered under 22241  
this section shall be released by a district board only in 22242  
accordance with section 3319.321 of the Revised Code and the rules 22243  
adopted under division (A) of this section. No district board or 22244  
its employees shall utilize individual or aggregate test results 22245  
in any manner that conflicts with rules for the ethical use of 22246  
tests adopted pursuant to division (A) of this section. 22247

(I) Except as provided in division (G) of this section, the 22248  
department or an entity with which the department contracts for 22249  
the scoring of the test shall not release any individual test 22250  
scores on any test administered under this section ~~and~~. The state 22251  
board of education shall adopt rules to ensure the protection of 22252  
student confidentiality at all times. The rules may require the 22253

use of the data verification codes assigned to students pursuant 22254  
to division (D)(2) of section 3301.0714 of the Revised Code to 22255  
protect the confidentiality of student test scores. 22256

(J) Notwithstanding division (D) of section 3311.52 of the 22257  
Revised Code, this section does not apply to the board of 22258  
education of any cooperative education school district except as 22259  
provided under rules adopted pursuant to this division. 22260

(1) In accordance with rules that the state board of 22261  
education shall adopt, the board of education of any city, 22262  
exempted village, or local school district with territory in a 22263  
cooperative education school district established pursuant to 22264  
divisions (A) to (C) of section 3311.52 of the Revised Code may 22265  
enter into an agreement with the board of education of the 22266  
cooperative education school district for administering any test 22267  
prescribed under this section to students of the city, exempted 22268  
village, or local school district who are attending school in the 22269  
cooperative education school district. 22270

(2) In accordance with rules that the state board of 22271  
education shall adopt, the board of education of any city, 22272  
exempted village, or local school district with territory in a 22273  
cooperative education school district established pursuant to 22274  
section 3311.521 of the Revised Code shall enter into an agreement 22275  
with the cooperative district that provides for the administration 22276  
of any test prescribed under this section to both of the 22277  
following: 22278

(a) Students who are attending school in the cooperative 22279  
district and who, if the cooperative district were not 22280  
established, would be entitled to attend school in the city, 22281  
local, or exempted village school district pursuant to section 22282  
3313.64 or 3313.65 of the Revised Code; 22283

(b) Persons described in division (B)(8)(b) of this section. 22284

Any testing of students pursuant to such an agreement shall 22285  
be in lieu of any testing of such students or persons pursuant to 22286  
this section. 22287

(K)(1) Any chartered nonpublic school may participate in the 22288  
testing program by administering any of the tests prescribed by 22289  
section 3301.0710 or 3301.0712 of the Revised Code if the chief 22290  
administrator of the school specifies which tests the school 22291  
wishes to administer. Such specification shall be made in writing 22292  
to the superintendent of public instruction prior to the first day 22293  
of August of any school year in which tests are administered and 22294  
shall include a pledge that the nonpublic school will administer 22295  
the specified tests in the same manner as public schools are 22296  
required to do under this section and rules adopted by the 22297  
department. 22298

(2) The department of education shall furnish the tests 22299  
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 22300  
to any chartered nonpublic school electing to participate under 22301  
this division. 22302

(L)(1) The superintendent of the state school for the blind 22303  
and the superintendent of the state school for the deaf shall 22304  
administer the tests described by section 3301.0710 of the Revised 22305  
Code. Each superintendent shall administer the tests in the same 22306  
manner as district boards are required to do under this section 22307  
and rules adopted by the department of education and in conformity 22308  
with division (C)(1)(a) of this section. 22309

(2) The department of education shall furnish the tests 22310  
described by section 3301.0710 of the Revised Code to each 22311  
superintendent. 22312

(M) Notwithstanding division (E) of this section, a school 22313  
district may use a student's failure to attain a score in at least 22314  
the basic range on the mathematics test described by division 22315

(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 22316  
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 22317  
of section 3301.0710 of the Revised Code as a factor in retaining 22318  
that student in the current grade level. 22319

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) 22320  
of this section, the tests required by section 3301.0710 of the 22321  
Revised Code shall become public records pursuant to section 22322  
149.43 of the Revised Code on the first day of July following the 22323  
school year that the test was administered, except that the 22324  
reading test prescribed under division (A)(1)(a) of section 22325  
3301.0710 of the Revised Code shall become a public record on the 22326  
sixteenth day of July following the school year that the test was 22327  
administered. 22328

(2) The department may field test proposed test questions 22329  
with samples of students to determine the validity, reliability, 22330  
or appropriateness of test questions for possible inclusion in a 22331  
future year's test. The department also may use anchor questions 22332  
on tests to ensure that different versions of the same test are of 22333  
comparable difficulty. 22334

Field test questions and anchor questions shall not be 22335  
considered in computing test scores for individual students. Field 22336  
test questions and anchor questions may be included as part of the 22337  
administration of any test required by section 3301.0710 of the 22338  
Revised Code. 22339

(3) Any field test question or anchor question administered 22340  
under division (N)(2) of this section shall not be a public 22341  
record. Such field test questions and anchor questions shall be 22342  
redacted from any tests which are released as a public record 22343  
pursuant to division (N)(1) of this section. 22344

(4) This division applies to the tests prescribed by division 22345  
(A) of section 3301.0710 of the Revised Code. 22346

(a) The first administration of each test, as specified in section 3301.0712 of the Revised Code, shall be a public record. 22347  
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(b) For subsequent administrations of each test, not less than forty per cent of the questions on the test that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future test and those questions shall not be public records and shall be redacted from the test prior to its release as a public record. 22349  
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(5) Each test prescribed by division (B) of section 3301.0710 of the Revised Code that is administered in the spring shall be a public record. Each test prescribed by that division that is administered in the fall or summer shall not be a public record. 22356  
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(0) As used in this section: 22360

(1) "Three-year average" means the average of the most recent consecutive three school years of data. 22361  
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(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country. 22363  
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(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins. 22368  
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**Sec. 3301.0714.** (A) The state board of education shall adopt 22378  
rules for a statewide education management information system. The 22379  
rules shall require the state board to establish guidelines for 22380  
the establishment and maintenance of the system in accordance with 22381  
this section and the rules adopted under this section. The 22382  
guidelines shall include: 22383

(1) Standards identifying and defining the types of data in 22384  
the system in accordance with divisions (B) and (C) of this 22385  
section; 22386

(2) Procedures for annually collecting and reporting the data 22387  
to the state board in accordance with division (D) of this 22388  
section; 22389

(3) Procedures for annually compiling the data in accordance 22390  
with division (G) of this section; 22391

(4) Procedures for annually reporting the data to the public 22392  
in accordance with division (H) of this section. 22393

(B) The guidelines adopted under this section shall require 22394  
the data maintained in the education management information system 22395  
to include at least the following: 22396

(1) Student participation and performance data, for each 22397  
grade in each school district as a whole and for each grade in 22398  
each school building in each school district, that includes: 22399

(a) The numbers of students receiving each category of 22400  
instructional service offered by the school district, such as 22401  
regular education instruction, vocational education instruction, 22402  
specialized instruction programs or enrichment instruction that is 22403  
part of the educational curriculum, instruction for gifted 22404  
students, instruction for handicapped students, and remedial 22405  
instruction. The guidelines shall require instructional services 22406  
under this division to be divided into discrete categories if an 22407

instructional service is limited to a specific subject, a specific 22408  
type of student, or both, such as regular instructional services 22409  
in mathematics, remedial reading instructional services, 22410  
instructional services specifically for students gifted in 22411  
mathematics or some other subject area, or instructional services 22412  
for students with a specific type of handicap. The categories of 22413  
instructional services required by the guidelines under this 22414  
division shall be the same as the categories of instructional 22415  
services used in determining cost units pursuant to division 22416  
(C)(3) of this section. 22417

(b) The numbers of students receiving support or 22418  
extracurricular services for each of the support services or 22419  
extracurricular programs offered by the school district, such as 22420  
counseling services, health services, and extracurricular sports 22421  
and fine arts programs. The categories of services required by the 22422  
guidelines under this division shall be the same as the categories 22423  
of services used in determining cost units pursuant to division 22424  
(C)(4)(a) of this section. 22425

(c) Average student grades in each subject in grades nine 22426  
through twelve; 22427

(d) Academic achievement levels as assessed by the testing of 22428  
student achievement under sections 3301.0710 and 3301.0711 of the 22429  
Revised Code; 22430

(e) The number of students designated as having a 22431  
handicapping condition pursuant to division (C)(1) of section 22432  
3301.0711 of the Revised Code; 22433

(f) The numbers of students reported to the state board 22434  
pursuant to division (C)(2) of section 3301.0711 of the Revised 22435  
Code; 22436

(g) Attendance rates and the average daily attendance for the 22437  
year. For purposes of this division, a student shall be counted as 22438



present for any field trip that is approved by the school	22439
administration.	22440
(h) Expulsion rates;	22441
(i) Suspension rates;	22442
(j) The percentage of students receiving corporal punishment;	22443
(k) Dropout rates;	22444
(l) Rates of retention in grade;	22445
(m) For pupils in grades nine through twelve, the average	22446
number of carnegie units, as calculated in accordance with state	22447
board of education rules;	22448
(n) Graduation rates, to be calculated in a manner specified	22449
by the department of education that reflects the rate at which	22450
students who were in the ninth grade three years prior to the	22451
current year complete school and that is consistent with	22452
nationally accepted reporting requirements;	22453
(o) Results of diagnostic assessments administered to	22454
kindergarten students as required under section 3301.0715 of the	22455
Revised Code to permit a comparison of the academic readiness of	22456
kindergarten students. However, no district shall be required to	22457
report to the department the results of any diagnostic assessment	22458
administered to a kindergarten student if the parent of that	22459
student requests the district not to report those results.	22460
(2) Personnel and classroom enrollment data for each school	22461
district, including:	22462
(a) The total numbers of licensed employees and nonlicensed	22463
employees and the numbers of full-time equivalent licensed	22464
employees and nonlicensed employees providing each category of	22465
instructional service, instructional support service, and	22466
administrative support service used pursuant to division (C)(3) of	22467
this section. The guidelines adopted under this section shall	22468

require these categories of data to be maintained for the school 22469  
district as a whole and, wherever applicable, for each grade in 22470  
the school district as a whole, for each school building as a 22471  
whole, and for each grade in each school building. 22472

(b) The total number of employees and the number of full-time 22473  
equivalent employees providing each category of service used 22474  
pursuant to divisions (C)(4)(a) and (b) of this section, and the 22475  
total numbers of licensed employees and nonlicensed employees and 22476  
the numbers of full-time equivalent licensed employees and 22477  
nonlicensed employees providing each category used pursuant to 22478  
division (C)(4)(c) of this section. The guidelines adopted under 22479  
this section shall require these categories of data to be 22480  
maintained for the school district as a whole and, wherever 22481  
applicable, for each grade in the school district as a whole, for 22482  
each school building as a whole, and for each grade in each school 22483  
building. 22484

(c) The total number of regular classroom teachers teaching 22485  
classes of regular education and the average number of pupils 22486  
enrolled in each such class, in each of grades kindergarten 22487  
through five in the district as a whole and in each school 22488  
building in the school district. 22489

(d) The number of master teachers employed by each school 22490  
district and each school building, once a definition of master 22491  
teacher has been developed by the educator standards board 22492  
pursuant to section 3319.61 of the Revised Code. 22493

(3)(a) Student demographic data for each school district, 22494  
including information regarding the gender ratio of the school 22495  
district's pupils, the racial make-up of the school district's 22496  
pupils, the number of limited English proficient students in the 22497  
district, and an appropriate measure of the number of the school 22498  
district's pupils who reside in economically disadvantaged 22499

households. The demographic data shall be collected in a manner to 22500  
allow correlation with data collected under division (B)(1) of 22501  
this section. Categories for data collected pursuant to division 22502  
(B)(3) of this section shall conform, where appropriate, to 22503  
standard practices of agencies of the federal government. 22504

(b) With respect to each student entering kindergarten, 22505  
whether the student previously participated in a public preschool 22506  
program, a private preschool program, or a head start program, and 22507  
the number of years the student participated in each of these 22508  
programs. 22509

(4) Any data required to be collected pursuant to federal 22510  
law. 22511

(C) The education management information system shall include 22512  
cost accounting data for each district as a whole and for each 22513  
school building in each school district. The guidelines adopted 22514  
under this section shall require the cost data for each school 22515  
district to be maintained in a system of mutually exclusive cost 22516  
units and shall require all of the costs of each school district 22517  
to be divided among the cost units. The guidelines shall require 22518  
the system of mutually exclusive cost units to include at least 22519  
the following: 22520

(1) Administrative costs for the school district as a whole. 22521  
The guidelines shall require the cost units under this division 22522  
(C)(1) to be designed so that each of them may be compiled and 22523  
reported in terms of average expenditure per pupil in formula ADM 22524  
in the school district, as determined pursuant to section 3317.03 22525  
of the Revised Code. 22526

(2) Administrative costs for each school building in the 22527  
school district. The guidelines shall require the cost units under 22528  
this division (C)(2) to be designed so that each of them may be 22529  
compiled and reported in terms of average expenditure per 22530

full-time equivalent pupil receiving instructional or support 22531  
services in each building. 22532

(3) Instructional services costs for each category of 22533  
instructional service provided directly to students and required 22534  
by guidelines adopted pursuant to division (B)(1)(a) of this 22535  
section. The guidelines shall require the cost units under 22536  
division (C)(3) of this section to be designed so that each of 22537  
them may be compiled and reported in terms of average expenditure 22538  
per pupil receiving the service in the school district as a whole 22539  
and average expenditure per pupil receiving the service in each 22540  
building in the school district and in terms of a total cost for 22541  
each category of service and, as a breakdown of the total cost, a 22542  
cost for each of the following components: 22543

(a) The cost of each instructional services category required 22544  
by guidelines adopted under division (B)(1)(a) of this section 22545  
that is provided directly to students by a classroom teacher; 22546

(b) The cost of the instructional support services, such as 22547  
services provided by a speech-language pathologist, classroom 22548  
aide, multimedia aide, or librarian, provided directly to students 22549  
in conjunction with each instructional services category; 22550

(c) The cost of the administrative support services related 22551  
to each instructional services category, such as the cost of 22552  
personnel that develop the curriculum for the instructional 22553  
services category and the cost of personnel supervising or 22554  
coordinating the delivery of the instructional services category. 22555

(4) Support or extracurricular services costs for each 22556  
category of service directly provided to students and required by 22557  
guidelines adopted pursuant to division (B)(1)(b) of this section. 22558  
The guidelines shall require the cost units under division (C)(4) 22559  
of this section to be designed so that each of them may be 22560  
compiled and reported in terms of average expenditure per pupil 22561

receiving the service in the school district as a whole and 22562  
average expenditure per pupil receiving the service in each 22563  
building in the school district and in terms of a total cost for 22564  
each category of service and, as a breakdown of the total cost, a 22565  
cost for each of the following components: 22566

(a) The cost of each support or extracurricular services 22567  
category required by guidelines adopted under division (B)(1)(b) 22568  
of this section that is provided directly to students by a 22569  
licensed employee, such as services provided by a guidance 22570  
counselor or any services provided by a licensed employee under a 22571  
supplemental contract; 22572

(b) The cost of each such services category provided directly 22573  
to students by a nonlicensed employee, such as janitorial 22574  
services, cafeteria services, or services of a sports trainer; 22575

(c) The cost of the administrative services related to each 22576  
services category in division (C)(4)(a) or (b) of this section, 22577  
such as the cost of any licensed or nonlicensed employees that 22578  
develop, supervise, coordinate, or otherwise are involved in 22579  
administering or aiding the delivery of each services category. 22580

(D)(1) The guidelines adopted under this section shall 22581  
require school districts to collect information about individual 22582  
students, staff members, or both in connection with any data 22583  
required by division (B) or (C) of this section or other reporting 22584  
requirements established in the Revised Code. The guidelines may 22585  
also require school districts to report information about 22586  
individual staff members in connection with any data required by 22587  
division (B) or (C) of this section or other reporting 22588  
requirements established in the Revised Code. The guidelines shall 22589  
not authorize school districts to request social security numbers 22590  
of individual students. The guidelines shall prohibit the 22591  
reporting under this section of a student's name, address, and 22592

social security number to the state board of education or the  
department of education. The guidelines shall also prohibit the  
reporting under this section of any personally identifiable  
information about any student, except for the purpose of assigning  
the data verification code required by division (D)(2) of this  
section, to any other person unless such person is employed by the  
school district or the data acquisition site operated under  
section 3301.075 of the Revised Code and is authorized by the  
district or acquisition site to have access to such information or  
is employed by an entity with which the department contracts for  
the scoring of tests administered under section 3301.0711 or  
3301.0712 of the Revised Code. The guidelines may require school  
districts to provide the social security numbers of individual  
staff members.

(2) The guidelines shall provide for each school district or  
community school to assign a data verification code that is unique  
on a statewide basis over time to each student whose initial Ohio  
enrollment is in that district or school and to report all  
required individual student data for that student utilizing such  
code. The guidelines shall also provide for assigning data  
verification codes to all students enrolled in districts or  
community schools on the effective date of the guidelines  
established under this section.

Individual student data shall be reported to the department  
through the data acquisition sites utilizing the code but at no  
time shall the state board or the department have access to  
information that would enable any data verification code to be  
matched to personally identifiable student data.

Each school district shall ensure that the data verification  
code is included in the student's records reported to any  
subsequent school district or community school in which the  
student enrolls. Any such subsequent district or school shall

utilize the same identifier in its reporting of data under this section. 22625  
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(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section. 22627  
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(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.358 or 3319.321 of the Revised Code. 22637  
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(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall: 22643  
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(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district; 22650  
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(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section. 22653  
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(H)(1) The state board shall, in accordance with the 22656  
procedures it adopts, annually prepare a statewide report for all 22657  
school districts and the general public that includes the profile 22658  
of each of the school districts developed pursuant to division (G) 22659  
of this section. Copies of the report shall be sent to each school 22660  
district. 22661

(2) The state board shall, in accordance with the procedures 22662  
it adopts, annually prepare an individual report for each school 22663  
district and the general public that includes the profiles of each 22664  
of the school buildings in that school district developed pursuant 22665  
to division (G) of this section. Copies of the report shall be 22666  
sent to the superintendent of the district and to each member of 22667  
the district board of education. 22668

(3) Copies of the reports received from the state board under 22669  
divisions (H)(1) and (2) of this section shall be made available 22670  
to the general public at each school district's offices. Each 22671  
district board of education shall make copies of each report 22672  
available to any person upon request and payment of a reasonable 22673  
fee for the cost of reproducing the report. The board shall 22674  
annually publish in a newspaper of general circulation in the 22675  
school district, at least twice during the two weeks prior to the 22676  
week in which the reports will first be available, a notice 22677  
containing the address where the reports are available and the 22678  
date on which the reports will be available. 22679

(I) Any data that is collected or maintained pursuant to this 22680  
section and that identifies an individual pupil is not a public 22681  
record for the purposes of section 149.43 of the Revised Code. 22682

(J) As used in this section: 22683

(1) "School district" means any city, local, exempted 22684  
village, or joint vocational school district. 22685

(2) "Cost" means any expenditure for operating expenses made 22686



by a school district excluding any expenditures for debt 22687  
retirement except for payments made to any commercial lending 22688  
institution for any loan approved pursuant to section 3313.483 of 22689  
the Revised Code. 22690

(K) Any person who removes data from the information system 22691  
established under this section for the purpose of releasing it to 22692  
any person not entitled under law to have access to such 22693  
information is subject to section 2913.42 of the Revised Code 22694  
prohibiting tampering with data. 22695

(L) Any time the department of education determines that a 22696  
school district has taken any of the actions described under 22697  
division (L)(1), (2), or (3) of this section, it shall make a 22698  
report of the actions of the district, send a copy of the report 22699  
to the superintendent of such school district, and maintain a copy 22700  
of the report in its files: 22701

(1) The school district fails to meet any deadline 22702  
established pursuant to this section for the reporting of any data 22703  
to the education management information system; 22704

(2) The school district fails to meet any deadline 22705  
established pursuant to this section for the correction of any 22706  
data reported to the education management information system; 22707

(3) The school district reports data to the education 22708  
management information system in a condition, as determined by the 22709  
department, that indicates that the district did not make a good 22710  
faith effort in reporting the data to the system. 22711

Any report made under this division shall include 22712  
recommendations for corrective action by the school district. 22713

Upon making a report for the first time in a fiscal year, the 22714  
department shall withhold ten per cent of the total amount due 22715  
during that fiscal year under Chapter 3317. of the Revised Code to 22716

the school district to which the report applies. Upon making a  
second report in a fiscal year, the department shall withhold an  
additional twenty per cent of such total amount due during that  
fiscal year to the school district to which the report applies.  
The department shall not release such funds unless it determines  
that the district has taken corrective action. However, no such  
release of funds shall occur if the district fails to take  
corrective action within forty-five days of the date upon which  
the report was made by the department.

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(M) No data acquisition site or school district shall  
acquire, change, or update its student administration software  
package to manage and report data required to be reported to the  
department unless it converts to a student software package that  
is certified by the department.

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(N) The state board of education, in accordance with sections  
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a  
license as defined under division (A) of section 3319.31 of the  
Revised Code that has been issued to any school district employee  
found to have willfully reported erroneous, inaccurate, or  
incomplete data to the education management information system.

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(O) No person shall release or maintain any information about  
any student in violation of this section. Whoever violates this  
division is guilty of a misdemeanor of the fourth degree.

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(P) The department shall disaggregate the data collected  
under division (B)(1)(o) of this section according to the race and  
socioeconomic status of the students assessed. No data collected  
under that division shall be included on the report cards required  
by section 3302.03 of the Revised Code.

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(Q) If the department cannot compile any of the information  
required by division (C)(5) of section 3302.03 of the Revised Code  
based upon the data collected under this section, the department

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shall develop a plan and a reasonable timeline for the collection 22748  
of any data necessary to comply with that division. 22749

**Sec. 3301.0715.** (A) Except as provided in division (E) of 22750  
this section, the board of education of each city, local, and 22751  
exempted village school district shall administer each applicable 22752  
diagnostic assessment developed and provided to the district in 22753  
accordance with section 3301.079 of the Revised Code to the 22754  
following: 22755

(1) Each student enrolled in a building subject to division 22756  
(E) of section 3302.04 of the Revised Code; 22757

(2) Any student who transfers into the district or to a 22758  
different school within the district if each applicable diagnostic 22759  
assessment was not administered by the district or school the 22760  
student previously attended in the current school year, within 22761  
thirty days after the date of transfer. If the district or school 22762  
into which the student transfers cannot determine whether the 22763  
student has taken any applicable diagnostic assessment in the 22764  
current school year, the district or school may administer the 22765  
diagnostic assessment to the student. 22766

(3) Each kindergarten student, not later than six weeks after 22767  
the first day of school. For the purpose of division (A)(3) of 22768  
this section, the district shall administer the kindergarten 22769  
readiness assessment provided by the department of education. The 22770  
district may administer the readiness assessment to a student 22771  
prior to the student's enrollment in kindergarten, but in no case 22772  
shall the results of the readiness assessment be used to prohibit 22773  
the student from enrolling in kindergarten. 22774

(4) Each student enrolled in first or second grade. 22775

(B) Each district board shall administer each diagnostic 22776  
assessment as the board deems appropriate. However, the board 22777

shall administer any diagnostic assessment at least once annually 22778  
to all students in the appropriate grade level. A district board 22779  
may administer any diagnostic assessment in the fall and spring of 22780  
a school year to measure the amount of academic growth 22781  
attributable to the instruction received by students during that 22782  
school year. 22783

(C) Each district board shall utilize and score any 22784  
diagnostic assessment administered under division (A) of this 22785  
section in accordance with rules established by the department. 22786  
Except as required by division (B)(1)(o) of section 3301.0714 of 22787  
the Revised Code, neither the state board of education nor the 22788  
department shall require school districts to report the results of 22789  
diagnostic assessments for any students to the department or to 22790  
make any such results available in any form to the public. After 22791  
the administration of any diagnostic assessment, each district 22792  
shall provide a student's completed diagnostic assessment, the 22793  
results of such assessment, and any other accompanying documents 22794  
used during the administration of the assessment to the parent of 22795  
that student upon the parent's request. 22796

(D) Each district board shall provide intervention services 22797  
to students whose diagnostic assessments show that they are 22798  
failing to make satisfactory progress toward attaining the 22799  
academic standards for their grade level. 22800

(E) Any district that made adequate yearly progress, as 22801  
defined in section 3302.01 of the Revised Code, in the immediately 22802  
preceding school year may assess student progress in grades one 22803  
through ~~eight~~ three using a diagnostic assessment other than the 22804  
diagnostic assessment required by division (A) of this section. 22805

(F) A district board may administer ~~any~~ the third grade 22806  
writing diagnostic assessment provided to the district in 22807  
accordance with section 3301.079 of the Revised Code to any 22808

student enrolled in a building that is not subject to division 22809  
(A)(1) of this section. Any district electing to administer the 22810  
diagnostic ~~assessments~~ assessment to students under this division 22811  
shall provide intervention services to any such student whose 22812  
diagnostic assessment shows unsatisfactory progress toward 22813  
attaining the academic standards for the student's grade level. 22814

**Sec. 3301.12.** (A) The superintendent of public instruction in 22815  
addition to the authority otherwise imposed on ~~him~~ the 22816  
superintendent, shall perform the following duties: 22817

(1) ~~He~~ The superintendent shall provide technical and 22818  
professional assistance and advice to all school districts in 22819  
reference to all aspects of education, including finance, 22820  
buildings and equipment, administration, organization of school 22821  
districts, curriculum and instruction, transportation of pupils, 22822  
personnel problems, and the interpretation of school laws and 22823  
state regulations. 22824

(2) ~~He~~ The superintendent shall prescribe and require the 22825  
preparation and filing of such financial and other reports from 22826  
school districts, officers, and employees as are necessary or 22827  
proper. ~~He~~ The superintendent shall prescribe and require the 22828  
installation by school districts of such standardized reporting 22829  
forms and accounting procedures as are essential to the 22830  
businesslike operations of the public schools of the state. 22831

(3) ~~He~~ The superintendent shall conduct such studies and 22832  
research projects as are necessary or desirable for the 22833  
improvement of public school education in Ohio, and such as may be 22834  
assigned to ~~him~~ the superintendent by the state board of 22835  
education. Such studies and projects may include analysis of data 22836  
contained in the education management information system 22837  
established under section 3301.0714 of the Revised Code. For any 22838  
study or project that requires the analysis of individual student 22839

data, the department of education or any entity with which the 22840  
superintendent or department contracts to conduct the study or 22841  
project shall maintain the confidentiality of student data at all 22842  
times. For this purpose, the department or contracting entity 22843  
shall use the data verification code assigned pursuant to division 22844  
(D)(2) of section 3301.0714 of the Revised Code for each student 22845  
whose data is analyzed. Except as otherwise provided in division 22846  
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 22847  
the superintendent, the department, the state board of education, 22848  
or any entity conducting a study or research project on the 22849  
superintendent's behalf have access to a student's name, address, 22850  
or social security number while analyzing individual student data. 22851

(4) ~~He~~ The superintendent shall prepare and submit annually 22852  
to the state board of education a report of the activities of the 22853  
department of education and the status, problems, and needs of 22854  
education in the state of Ohio. 22855

(5) ~~He~~ The superintendent shall supervise all agencies over 22856  
which the board exercises administrative control, including 22857  
schools for education of handicapped persons. 22858

(B) The superintendent of public instruction may annually 22859  
inspect and analyze the expenditures of each school district and 22860  
make a determination as to the efficiency of each district's 22861  
costs, relative to other school districts in the state, for 22862  
instructional, administrative, and student support services. The 22863  
superintendent shall notify each school district as to the nature 22864  
of, and reasons for, ~~his~~ the determination. The state board of 22865  
education shall adopt rules in accordance with Chapter 119. of the 22866  
Revised Code setting forth the procedures and standards for the 22867  
performance of the inspection and analysis. 22868

**Sec. 3301.16.** Pursuant to standards prescribed by the state 22869  
board of education as provided in division (D) of section 3301.07 22870

of the Revised Code, the state board shall classify and charter 22871  
school districts and individual schools within each district 22872  
except that no charter shall be granted to a nonpublic school 22873  
unless pursuant to division (K) of section 3301.0711 of the 22874  
Revised Code the school elects to administer the tests prescribed 22875  
by division (B) of section 3301.0710 of the Revised Code beginning 22876  
July 1, 1995. ~~The~~ 22877

In the course of considering the charter of a new school 22878  
district created under section 3311.26 or 3311.38 of the Revised 22879  
Code, the state board shall require the party proposing creation 22880  
of the district to submit to the board a map, certified by the 22881  
county auditor of the county in which the proposed new district is 22882  
located, showing the boundaries of the proposed new district. In 22883  
the case of a proposed new district located in more than one 22884  
county, the map shall be certified by the county auditor of each 22885  
county in which the proposed district is located. 22886

The state board shall revoke the charter of any school 22887  
district or school which fails to meet the standards for 22888  
elementary and high schools as prescribed by the board. The state 22889  
board shall also revoke the charter of any nonpublic school that 22890  
does not comply with section 3313.612 of the Revised Code or, on 22891  
or after July 1, 1995, does not participate in the testing program 22892  
prescribed by division (B) of section 3301.0710 of the Revised 22893  
Code. ~~In~~ 22894

In the issuance and revocation of school district or school 22895  
charters, the state board shall be governed by the provisions of 22896  
Chapter 119. of the Revised Code. 22897

No school district, or individual school operated by a school 22898  
district, shall operate without a charter issued by the state 22899  
board under this section. 22900

In case a school district charter is revoked pursuant to this 22901

section, the state board may dissolve the school district and 22902  
transfer its territory to one or more adjacent districts. An 22903  
equitable division of the funds, property, and indebtedness of the 22904  
school district shall be made by the state board among the 22905  
receiving districts. The board of education of a receiving 22906  
district shall accept such territory pursuant to the order of the 22907  
state board. Prior to dissolving the school district, the state 22908  
board shall notify the appropriate educational service center 22909  
governing board and all adjacent school district boards of 22910  
education of its intention to do so. Boards so notified may make 22911  
recommendations to the state board regarding the proposed 22912  
dissolution and subsequent transfer of territory. Except as 22913  
provided in section 3301.161 of the Revised Code, the transfer 22914  
ordered by the state board shall become effective on the date 22915  
specified by the state board, but the date shall be at least 22916  
thirty days following the date of issuance of the order. 22917

A high school is one of higher grade than an elementary 22918  
school, in which instruction and training are given in accordance 22919  
with sections 3301.07 and 3313.60 of the Revised Code and which 22920  
also offers other subjects of study more advanced than those 22921  
taught in the elementary schools and such other subjects as may be 22922  
approved by the state board of education. 22923

An elementary school is one in which instruction and training 22924  
are given in accordance with sections 3301.07 and 3313.60 of the 22925  
Revised Code and which offers such other subjects as may be 22926  
approved by the state board of education. In districts wherein a 22927  
junior high school is maintained, the elementary schools in that 22928  
district may be considered to include only the work of the first 22929  
six school years inclusive, plus the kindergarten year. 22930

**Sec. 3301.311.** (A) As used in this section, "preschool 22931  
program" has the same meaning as in section 3301.52 of the Revised 22932



Code. 22933

~~After June 30, 2001 (B)(1) Subject to division (B)(2) of this~~ 22934  
~~section, after July 1, 2005, no head start preschool program, and~~ 22935  
~~no early childhood education program or early learning program as~~ 22936  
~~defined by the department of education shall receive any funds~~ 22937  
from the state unless fifty per cent of the staff members employed 22938  
by that program as teachers are working toward an associate degree 22939  
of a type approved by the department of education. ~~After June 30,~~ 22940  
~~2003, no head start program shall receive any funds from the state~~ 22941  
~~unless each staff member employed by that program as a teacher is~~ 22942  
~~working toward an associate degree of a type approved by the~~ 22943  
~~department of education. Beginning~~ Subject to division (B)(2) of 22944  
this section, beginning in fiscal year 2008, no head start 22945  
preschool program, early childhood education program, or early 22946  
learning program, shall receive any funds from the state unless 22947  
every staff member employed by that program as a teacher has 22948  
attained such a degree. 22949

(2) After July 1, 2010, no preschool program, and no early 22950  
childhood education program or early learning program as defined 22951  
by the department of education, shall receive any funds from the 22952  
state unless fifty per cent of the staff members employed by the 22953  
program as teachers have attained a bachelor's degree of a type 22954  
approved by the department. 22955

**Sec. 3301.32.** (A)(1) The chief administrator of any head 22956  
start agency shall request the superintendent of the bureau of 22957  
criminal identification and investigation to conduct a criminal 22958  
records check with respect to any applicant who has applied to the 22959  
head start agency for employment as a person responsible for the 22960  
care, custody, or control of a child. If the applicant does not 22961  
present proof that the applicant has been a resident of this state 22962  
for the five-year period immediately prior to the date upon which 22963

the criminal records check is requested or does not provide 22964  
evidence that within that five-year period the superintendent has 22965  
requested information about the applicant from the federal bureau 22966  
of investigation in a criminal records check, the chief 22967  
administrator shall request that the superintendent obtain 22968  
information from the federal bureau of investigation as a part of 22969  
the criminal records check for the applicant. If the applicant 22970  
presents proof that the applicant has been a resident of this 22971  
state for that five-year period, the chief administrator may 22972  
request that the superintendent include information from the 22973  
federal bureau of investigation in the criminal records check. 22974

(2) Any person required by division (A)(1) of this section to 22975  
request a criminal records check shall provide to each applicant a 22976  
copy of the form prescribed pursuant to division (C)(1) of section 22977  
109.572 of the Revised Code, provide to each applicant a standard 22978  
impression sheet to obtain fingerprint impressions prescribed 22979  
pursuant to division (C)(2) of section 109.572 of the Revised 22980  
Code, obtain the completed form and impression sheet from each 22981  
applicant, and forward the completed form and impression sheet to 22982  
the superintendent of the bureau of criminal identification and 22983  
investigation at the time the chief administrator requests a 22984  
criminal records check pursuant to division (A)(1) of this 22985  
section. 22986

(3) Any applicant who receives pursuant to division (A)(2) of 22987  
this section a copy of the form prescribed pursuant to division 22988  
(C)(1) of section 109.572 of the Revised Code and a copy of an 22989  
impression sheet prescribed pursuant to division (C)(2) of that 22990  
section and who is requested to complete the form and provide a 22991  
set of fingerprint impressions shall complete the form or provide 22992  
all the information necessary to complete the form and shall 22993  
provide the impression sheets with the impressions of the 22994  
applicant's fingerprints. If an applicant, upon request, fails to 22995

provide the information necessary to complete the form or fails to 22996  
provide impressions of the applicant's fingerprints, the head 22997  
start agency shall not employ that applicant for any position for 22998  
which a criminal records check is required by division (A)(1) of 22999  
this section. 23000

(B)(1) Except as provided in rules adopted by the director of 23001  
job and family services in accordance with division (E) of this 23002  
section, no head start agency shall employ a person as a person 23003  
responsible for the care, custody, or control of a child if the 23004  
person previously has been convicted of or pleaded guilty to any 23005  
of the following: 23006

(a) A violation of section 2903.01, 2903.02, 2903.03, 23007  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 23008  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 23009  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 23010  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 23011  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 23012  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 23013  
2925.06, or 3716.11 of the Revised Code, a violation of section 23014  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 23015  
violation of section 2919.23 of the Revised Code that would have 23016  
been a violation of section 2905.04 of the Revised Code as it 23017  
existed prior to July 1, 1996, had the violation occurred prior to 23018  
that date, a violation of section 2925.11 of the Revised Code that 23019  
is not a minor drug possession offense, or felonious sexual 23020  
penetration in violation of former section 2907.12 of the Revised 23021  
Code; 23022

(b) A violation of an existing or former law of this state, 23023  
any other state, or the United States that is substantially 23024  
equivalent to any of the offenses or violations described in 23025  
division (B)(1)(a) of this section. 23026

(2) A head start agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each head start agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the chief administrator of the head start agency.

(2) A head start agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the head start agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the head start agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing

with the denial of employment to the applicant. 23059

(E) The director of job and family services shall adopt rules 23060  
pursuant to Chapter 119. of the Revised Code to implement this 23061  
section, including rules specifying circumstances under which a 23062  
head start agency may hire a person who has been convicted of an 23063  
offense listed in division (B)(1) of this section but who meets 23064  
standards in regard to rehabilitation set by the director. 23065

(F) Any person required by division (A)(1) of this section to 23066  
request a criminal records check shall inform each person, at the 23067  
time of the person's initial application for employment, that the 23068  
person is required to provide a set of impressions of the person's 23069  
fingerprints and that a criminal records check is required to be 23070  
conducted and satisfactorily completed in accordance with section 23071  
109.572 of the Revised Code if the person comes under final 23072  
consideration for appointment or employment as a precondition to 23073  
employment for that position. 23074

(G) As used in this section: 23075

(1) "Applicant" means a person who is under final 23076  
consideration for appointment or employment in a position with a 23077  
head start agency as a person responsible for the care, custody, 23078  
or control of a child. 23079

(2) "Head start agency" ~~has the same meaning as in section~~ 23080  
~~3301.31 of the Revised Code~~ means an entity in this state that has 23081  
been approved to be an agency for purposes of the "Head Start 23082  
Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended. 23083

(3) "Criminal records check" has the same meaning as in 23084  
section 109.572 of the Revised Code. 23085

(4) "Minor drug possession offense" has the same meaning as 23086  
in section 2925.01 of the Revised Code. 23087

**Sec. 3301.56.** (A) The director of each preschool program 23088

shall be responsible for the following:	23089
(1) Ensuring that the health and safety of the children are	23090
safeguarded by an organized program of school health services	23091
designed to identify child health problems and to coordinate	23092
school and community health resources for children, as evidenced	23093
by but not limited to:	23094
(a) Requiring immunization and compliance with emergency	23095
medical authorization requirements in accordance with rules	23096
adopted by the state board of education under section 3301.53 of	23097
the Revised Code;	23098
(b) Providing procedures for emergency situations, including	23099
fire drills, rapid dismissals, and tornado drills in accordance	23100
with section 3737.73 of the Revised Code, and keeping records of	23101
such drills or dismissals;	23102
(c) Posting emergency procedures in preschool rooms and	23103
making them available to school personnel, children, and parents;	23104
(d) Posting emergency numbers by each telephone;	23105
(e) Supervising grounds, play areas, and other facilities	23106
when scheduled for use by children;	23107
(f) Providing first-aid facilities and materials.	23108
(2) Maintaining cumulative records for each child;	23109
(3) Supervising each child's admission, placement, and	23110
withdrawal according to established procedures;	23111
(4) Preparing at least once annually for each group of	23112
children in the program a roster of names and telephone numbers of	23113
parents, guardians, and custodians of children in the group and,	23114
on request, furnishing the roster for each group to the parents,	23115
guardians, and custodians of children in that group. The director	23116
may prepare a similar roster of all children in the program and,	23117
on request, make it available to the parents, guardians, and	23118

custodians, of children in the program. The director shall not  
include in either roster the name or telephone number of any  
parent, guardian, or custodian who requests that the parent's,  
guardian's, or custodian's name or number not be included, and  
shall not furnish any roster to any person other than a parent,  
guardian, or custodian of a child in the program.

(5) Ensuring that clerical and custodial services are  
provided for the program;

(6) Supervising the instructional program and the daily  
operation of the program;

(7) Supervising and evaluating preschool staff members  
according to a planned sequence of observations and evaluation  
conferences, and supervising nonteaching employees.

(B)(1) In each program the maximum number of children per  
preschool staff member and the maximum group size by age category  
of children shall be as follows:

	Maximum		
Age Group	Group	Staff Member/ Child Ratio	
Birth to less than 12 months	12	1:5, or 2:12 if two preschool staff members are in the room	
12 months to less than 18 months	12	1:6	
18 months to less than 30 months	14	1:7	
30 months to less than 3 years	16	1:8	
3-year-olds	24	1:12	
4- and 5-year-olds not in school	28	1:14	

(2) When age groups are combined, the maximum number of  
children per preschool staff member shall be determined by the age  
of the youngest child in the group, except that when no more than

one child thirty months of age or older receives child care in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(1) of this section shall apply.

(3) In a room where children are napping, if all the children are at least eighteen months of age, the maximum number of children per preschool staff member shall, for a period not to exceed one and one-half hours in any twenty-four hour day, be twice the maximum number of children per preschool staff member established under division (B)(1) of this section if all the following criteria are met:

(a) At least one preschool staff member is present in the room;

(b) Sufficient preschool staff members are present on the preschool program premises to comply with division (B)(1) of this section;

(c) Naptime preparations have been completed and the children are resting or napping.

(4) Any accredited program that uses the Montessori method endorsed by the American Montessori society or the association Montessori internationale as its primary method of instruction and is licensed as a preschool program under section 3301.58 of the Revised Code may combine preschool children of ages three to five years old with children enrolled in kindergarten. Notwithstanding anything to the contrary in division (B)(2) of this section, when such age groups are combined, the maximum number of children per preschool staff member shall be twelve and the maximum group size shall be twenty-four children.

(C) In each building in which a preschool program is operated there shall be on the premises, and readily available at all



times, at least one employee who has completed a course in first 23181  
aid and in the prevention, recognition, and management of 23182  
communicable diseases which is approved by the state department of 23183  
health, and an employee who has completed a course in child abuse 23184  
recognition and prevention. 23185

(D) Any parent, guardian, or custodian of a child enrolled in 23186  
a preschool program shall be permitted unlimited access to the 23187  
school during its hours of operation to contact the parent's, 23188  
guardian's, or custodian's child, evaluate the care provided by 23189  
the program, or evaluate the premises, or for other purposes 23190  
approved by the director. Upon entering the premises, the parent, 23191  
guardian, or custodian shall report to the school office. 23192

**Sec. 3301.86.** ~~The OhioReads classroom reading improvement~~ 23193  
~~grants program is hereby established. The OhioReads council shall~~ 23194  
~~award grants under the program in accordance with the standards it~~ 23195  
~~establishes under section 3301.91 of the Revised Code. The~~ 23196  
~~OhioReads office is the fiscal agent for the program and shall pay~~ 23197  
~~the grants awarded by the council~~ Under the program, the 23198  
department of education shall award reading intervention grants to 23199  
public schools and classrooms operated by city, local, and 23200  
exempted village school districts, by community schools, and by 23201  
educational service centers. The grants shall be used to fund the 23202  
engagement of volunteers to assist struggling students in grades 23203  
kindergarten through twelve improve their reading skills, to 23204  
improve reading outcomes in low-performing schools, and to 23205  
facilitate closing the achievement gap between students of 23206  
different subgroups. 23207

**Sec. 3301.88.** (A) A recipient of a grant under section 23208  
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 23209  
~~the OhioReads council~~ may request from the bureau of criminal 23210

identification and investigation a criminal records check on any 23211  
individual, other than an individual described in division (B) of 23212  
this section, who applies to participate in providing directly to 23213  
children any program or service ~~through an entity approved by the~~ 23214  
~~OhioReads council or~~ funded in whole or in part by the grant. If a 23215  
recipient ~~or an entity approved by the OhioReads council~~ elects to 23216  
request a criminal records check, the request shall consist of a 23217  
request for the information a school district board of education 23218  
may request under division (F)(2)(a) of section 109.57 of the 23219  
Revised Code and shall be accompanied by one of the following 23220  
identification options: 23221

(1) The form and standard impression sheet prescribed by the 23222  
bureau under division (C) of section 109.572 of the Revised Code; 23223

(2) A form prescribed by the bureau on which is specified the 23224  
individual's name, social security number, and date of birth. 23225

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 23226  
~~council~~ shall not request a criminal records check under division 23227  
(A) of this section with respect to any individual who furnishes 23228  
the grant recipient ~~or an entity approved by the OhioReads council~~ 23229  
with a certified copy of a report of a criminal records check 23230  
completed by the bureau within one year prior to applying to 23231  
participate in providing programs or services ~~through an entity~~ 23232  
~~approved by the OhioReads council or~~ under an OhioReads the grant. 23233

(C) Except as provided in rules adopted under division (G)(2) 23234  
of this section, a grant recipient ~~or an entity approved by the~~ 23235  
~~OhioReads council~~ shall not allow an individual to participate in 23236  
providing directly to children any program or service ~~through an~~ 23237  
~~entity approved by the OhioReads council or~~ funded in whole or in 23238  
part by the grant if the information requested under this section 23239  
from the bureau indicates that the individual has ever pleaded 23240  
guilty to or been found guilty by a jury or court of any of the 23241  
following: 23242

(1) A felony;	23243
(2) A violation of section 2903.16, 2903.34, 2905.05,	23244
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25,	23245
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the	23246
Revised Code; a violation of section 2905.04 of the Revised Code	23247
as it existed prior to July 1, 1996; or a violation of section	23248
2919.23 of the Revised Code that would have been a violation of	23249
section 2905.04 of the Revised Code as it existed prior to July 1,	23250
1996, had it been committed prior to that date;	23251
(3) An offense of violence;	23252
(4) A theft offense, as defined in section 2913.01 of the	23253
Revised Code;	23254
(5) A drug abuse offense, as defined in section 2925.01 of	23255
the Revised Code;	23256
(6) A violation of an existing or former ordinance of a	23257
municipal corporation or law of the United States or another state	23258
that is substantively comparable to an offense listed in divisions	23259
(C)(1) to (5) of this section.	23260
(D) A grant recipient <del>or an entity approved by the OhioReads</del>	23261
<del>council</del> that elects to request criminal records checks may	23262
conditionally allow an individual to participate in providing	23263
programs or services directly to children until the criminal	23264
records check is completed and the grant recipient <del>or an entity</del>	23265
<del>approved by the OhioReads council</del> receives the results. If the	23266
results of the criminal records check indicate that the individual	23267
has been convicted of or pleaded guilty to an offense listed in	23268
division (C) of this section, the grant recipient <del>or an entity</del>	23269
<del>approved by the OhioReads council</del> shall not allow the individual	23270
to further participate in providing directly to children any	23271
program or service <del>through an entity approved by the OhioReads</del>	23272
<del>council</del> <del>or</del> funded in whole or in part by the grant, except as	23273

provided in the rules adopted under division (G)(2) of this section. 23274  
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(E) The report of any criminal records check conducted in accordance with division (F)(5) of section 109.57 of the Revised Code pursuant to a request under this section is not a public record for purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the individual who is the subject of the criminal records check or the individual's representative, the grant recipient or the grant recipient's representative ~~or an entity approved by the OhioReads council~~, and any court, hearing officer, or other necessary individual in a case dealing with the denial of the individual's participation in a program or service ~~through an entity approved by the OhioReads council or~~ funded by ~~an OhioReads~~ a grant awarded under section 3301.86 of the Revised Code. 23276  
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(F) The ~~OhioReads office~~ department of education shall reimburse each grant recipient ~~or an entity approved by the OhioReads council~~ for each criminal records check the actual amount paid by the grant recipient ~~or an entity approved by the OhioReads council~~ for the portion of the criminal records check conducted by the bureau of criminal identification and investigation. Reimbursement shall be paid under this division only for criminal records checks on individuals who apply to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council or~~ funded in whole or in part by the grant. To receive it, the grant recipient ~~or an entity approved by the OhioReads council~~ must submit information to the ~~office~~ department in the form and manner required by the ~~office~~ department. The reimbursement is in addition to the grant awarded to the recipient under section 3301.86 ~~or 3301.87~~ of the Revised Code. 23289  
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(G) The ~~department~~ state board of education shall adopt rules 23305

in accordance with Chapter 119. of the Revised Code: 23306

(1) Prescribing the form and manner in which grant recipients 23307  
~~or an entity approved by the OhioReads council~~ must submit 23308  
information to the ~~OhioReads office~~ department to receive 23309  
reimbursement under division (F) of this section; 23310

(2) Specifying circumstances under which a grant recipient ~~or~~ 23311  
~~an entity approved by the OhioReads council~~ may allow an 23312  
individual whose criminal records check report indicates that the 23313  
individual has been convicted of or pleaded guilty to an offense 23314  
listed in division (C) of this section, but who meets standards in 23315  
regard to rehabilitation set forth in the rules, to participate in 23316  
providing directly to children any program or service ~~through an~~ 23317  
~~entity approved by the OhioReads council or~~ funded in whole or in 23318  
part by the grant. 23319

**Sec. 3302.03.** (A) Annually the department of education shall 23320  
report for each school district and each school building in a 23321  
district all of the following: 23322

(1) The extent to which the school district or building meets 23323  
each of the applicable performance indicators created by the state 23324  
board of education under section 3302.02 of the Revised Code and 23325  
the number of applicable performance indicators that have been 23326  
achieved; 23327

(2) The performance index score of the school district or 23328  
building; 23329

(3) Whether the school district or building has made adequate 23330  
yearly progress; 23331

(4) Whether the school district or building is excellent, 23332  
effective, needs continuous improvement, is under an academic 23333  
watch, or is in a state of academic emergency. 23334

(B)(1) A school district or building shall be declared 23335

excellent if it fulfills one of the following requirements:	23336
(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23337 23338 23339 23340
(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23341 23342 23343 23344 23345
(2) A school district or building shall be declared effective if it fulfills one of the following requirements:	23346 23347
(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23348 23349 23350 23351
(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.	23352 23353 23354 23355 23356 23357
(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:	23358 23359 23360
(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.	23361 23362 23363 23364
(b) It does not make adequate yearly progress and either	23365

meets at least fifty per cent but less than seventy-five per cent 23366  
of the applicable state performance indicators or has a 23367  
performance index score established by the department. 23368

(4) A school district or building shall be declared to be 23369  
under an academic watch if it does not make adequate yearly 23370  
progress and either meets at least thirty-one per cent but less 23371  
than fifty per cent of the applicable state performance indicators 23372  
or has a performance index score established by the department. 23373

(5) A school district or building shall be declared to be in 23374  
a state of academic emergency if it does not make adequate yearly 23375  
progress, does not meet at least thirty-one per cent of the 23376  
applicable state performance indicators, and has a performance 23377  
index score established by the department. 23378

(C)(1) The department shall issue annual report cards for 23379  
each school district, each building within each district, and for 23380  
the state as a whole reflecting performance on the indicators 23381  
created by the state board under section 3302.02 of the Revised 23382  
Code, the performance index score, and adequate yearly progress. 23383

(2) The department shall include on the report card for each 23384  
district information pertaining to any change from the previous 23385  
year made by the school district or school buildings within the 23386  
district on any performance indicator. 23387

(3) When reporting data on student performance, the 23388  
department shall disaggregate that data according to the following 23389  
categories: 23390

(a) Performance of students by age group; 23391

(b) Performance of students by race and ethnic group; 23392

(c) Performance of students by gender; 23393

(d) Performance of students grouped by those who have been 23394  
enrolled in a district or school for three or more years; 23395

(e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;	23396 23397 23398
(f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;	23399 23400
(g) Performance of students grouped by those who are economically disadvantaged;	23401 23402
(h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;	23403 23404 23405
(i) Performance of students grouped by those who are classified as limited English proficient;	23406 23407
(j) Performance of students grouped by those who have disabilities;	23408 23409
(k) Performance of students grouped by those who are classified as migrants;	23410 23411
(l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.	23412 23413 23414
The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.	23415 23416 23417 23418 23419 23420
In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student	23421 23422 23423 23424 23425



performance data for any group identified in division (C)(3) of 23426  
this section that contains less than ten students. 23427

(4) The department may include with the report cards any 23428  
additional education and fiscal performance data it deems 23429  
valuable. 23430

(5) The department shall include on each report card a list 23431  
of additional information collected by the department that is 23432  
available regarding the district or building for which the report 23433  
card is issued. When available, such additional information shall 23434  
include student mobility data disaggregated by race and 23435  
socioeconomic status, college enrollment data, and the reports 23436  
prepared under section 3302.031 of the Revised Code. 23437

The department shall maintain a site on the world wide web. 23438  
The report card shall include the address of the site and shall 23439  
specify that such additional information is available to the 23440  
public at that site. The department shall also provide a copy of 23441  
each item on the list to the superintendent of each school 23442  
district. The district superintendent shall provide a copy of any 23443  
item on the list to anyone who requests it. 23444

(6) ~~For~~ This division does not apply to conversion community 23445  
schools that primarily enroll students between sixteen and 23446  
twenty-two years of age who dropped out of high school or are at 23447  
risk of dropping out of high school due to poor attendance, 23448  
disciplinary problems, or suspensions. 23449

For any district that sponsors a conversion community school 23450  
under Chapter 3314. of the Revised Code, the department shall 23451  
combine data regarding the academic performance of students 23452  
enrolled in the community school with comparable data from the 23453  
schools of the district for the purpose of calculating the 23454  
performance of the district as a whole on the report card issued 23455  
for the district. 23456

(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of master teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating reading, writing, mathematics, social studies, or science proficiency or achievement test passage rates used to determine school district or building performance under this section, the department shall include all students taking a test with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any test prescribed by section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by the "No Child Left Behind Act of

2001" for the calculation of adequate yearly progress, exclude for 23488  
each district or building any limited English proficient student 23489  
who has been enrolled in United States schools for less than one 23490  
full school year. 23491

Sec. 3302.10. (A) Beginning July 1, 2007, the superintendent 23492  
of public instruction shall establish an academic distress 23493  
commission for each school district that has been declared to be 23494  
in a state of academic emergency pursuant to section 3302.03 of 23495  
the Revised Code and has failed to make adequate yearly progress 23496  
for four or more consecutive school years. Each commission shall 23497  
assist the district for which it was established in improving the 23498  
district's academic performance. 23499

(B) Each academic distress commission shall consist of five 23500  
voting members, three of whom shall be appointed by the 23501  
superintendent of public instruction and two of whom shall be 23502  
appointed by the president of the board of education of the 23503  
applicable school district. 23504

(C) Each academic distress commission shall seek input from 23505  
the district board of education regarding ways to improve the 23506  
district's academic performance, but any decision of the 23507  
commission related to any authority granted to the commission 23508  
under this section shall be final. 23509

The commission may do any of the following: 23510

(1) Appoint school building administrators and reassign 23511  
administrative personnel; 23512

(2) Terminate the contracts of administrators or 23513  
administrative personnel. The commission shall not be required to 23514  
comply with section 3319.16 of the Revised Code with respect to 23515  
any contract terminated under this division. 23516

(3) Contract with a private entity to perform school or 23517

district management functions; 23518

(4) Establish a budget for the district and approve district 23519  
expenditures, unless a financial planning and supervision 23520  
commission has been established for the district pursuant to 23521  
section 3316.05 of the Revised Code. 23522

(D) If the board of education of a district for which an 23523  
academic distress commission has been established under this 23524  
section renews any collective bargaining agreement under Chapter 23525  
4117. of the Revised Code during the existence of the commission, 23526  
the district board shall not enter into any agreement that would 23527  
render any decision of the commission unenforceable. Section 23528  
3302.08 of the Revised Code does not apply to this division. 23529

Notwithstanding any provision to the contrary in Chapter 23530  
4117. of the Revised Code, if the board of education has entered 23531  
into a collective bargaining agreement after the effective date of 23532  
this section that contains stipulations relinquishing one or more 23533  
of the rights or responsibilities listed in division (C) of 23534  
section 4117.08 of the Revised Code, those stipulations are not 23535  
enforceable and the district board shall resume holding those 23536  
rights or responsibilities as if it had not relinquished them in 23537  
that agreement until such time as both the academic distress 23538  
commission ceases to exist and the district board agrees to 23539  
relinquish those rights or responsibilities in a new collective 23540  
bargaining agreement. The provisions of this paragraph apply to a 23541  
collective bargaining agreement entered into after the effective 23542  
date of this section and those provisions are deemed to be part of 23543  
that agreement regardless of whether the district satisfied the 23544  
conditions prescribed in division (A) of this section at the time 23545  
the district entered into that agreement. 23546

(E) An academic distress commission shall cease to exist when 23547  
the district for which it was established receives a performance 23548

rating under section 3302.03 of the Revised Code of in need of 23549  
continuous improvement or better for two out of three school 23550  
years; however, the superintendent of public instruction may 23551  
dissolve the commission earlier if the superintendent determines 23552  
that the district can perform adequately without the supervision 23553  
of the commission. 23554

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the 23555  
Revised Code: 23556

(A) An "eligible student" is a student who satisfies the 23557  
conditions specified in section 3310.03 of the Revised Code. 23558

(B) "Parent" has the same meaning as in section 3313.98 of 23559  
the Revised Code. 23560

(C) "Resident district" means the school district in which a 23561  
student is entitled to attend school under section 3313.64 or 23562  
3313.65 of the Revised Code. 23563

(D) "School year" has the same meaning as in section 3313.62 23564  
of the Revised Code. 23565

Sec. 3310.02. The educational choice scholarship pilot 23566  
program is hereby established. Under the program, the department 23567  
of education annually shall pay scholarships to attend chartered 23568  
nonpublic schools in accordance with section 3310.08 of the 23569  
Revised Code for up to the number of eligible students prescribed 23570  
by the general assembly. If the number of students who apply for a 23571  
scholarship exceeds the number prescribed by the general assembly, 23572  
the department first shall award scholarships to eligible students 23573  
who received scholarships in the prior school year, and then shall 23574  
give priority to eligible students with family incomes at or below 23575  
two hundred per cent of the federal poverty guidelines, as defined 23576  
in section 5101.46 of the Revised Code. After awarding 23577  
scholarships to previous recipients and to low-income eligible 23578

students, the department shall select students by lot to receive 23579  
any remaining scholarships. 23580

Sec. 3310.03. (A) A student is an "eligible student" for 23581  
purposes of the educational choice scholarship pilot program if 23582  
the student satisfies both of the following conditions: 23583

(1) The student either: 23584

(a) Is enrolled in a school building that is operated by the 23585  
student's resident district and that the department of education 23586  
declared, in the most recent rating of school buildings published 23587  
prior to the first day of July of the school year for which a 23588  
scholarship is sought and in the two preceding school years, to be 23589  
in a state of academic emergency under section 3302.03 of the 23590  
Revised Code; 23591

(b) Is eligible to enroll in kindergarten in the school year 23592  
for which a scholarship is sought and otherwise would be assigned 23593  
under section 3319.01 of the Revised Code to a school building 23594  
described in division (A)(1)(a) of this section; 23595

(c) Is enrolled in a community school established under 23596  
Chapter 3314. of the Revised Code but otherwise would be assigned 23597  
under section 3319.01 of the Revised Code to a building described 23598  
in division (A)(1)(a) of this section. 23599

(2) The student's resident district is not a school district 23600  
in which the pilot project scholarship program is operating under 23601  
sections 3313.974 to 3313.979 of the Revised Code. 23602

(B) A student who receives a scholarship under the 23603  
educational choice scholarship pilot program remains an eligible 23604  
student and may continue to receive scholarships in subsequent 23605  
school years until the student completes grade twelve, so long as 23606  
both of the following apply: 23607

(1) The student takes each state test prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school; 23608  
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(2) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician. 23611  
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(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section. 23616  
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**Sec. 3310.04.** Any eligible student who is enrolled in a chartered nonpublic school and for whom a scholarship under the educational choice scholarship pilot program has been awarded shall be entitled to transportation to and from the chartered nonpublic school by the student's resident district in the manner prescribed in section 3327.01 of the Revised Code. 23623  
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**Sec. 3310.05.** A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct. The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 23629  
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of the Revised Code is a district-wide program that may award 23638  
scholarships to students who do not attend district schools that 23639  
face academic challenges, whereas the educational choice 23640  
scholarship pilot program established under sections 3310.01 to 23641  
3310.17 of the Revised Code is limited to students of individual 23642  
district school buildings that face academic challenges. 23643

Sec. 3310.06. It is the policy adopted by the general 23644  
assembly that the educational choice scholarship pilot program 23645  
shall be construed as one of several educational options available 23646  
for students enrolled in academic emergency school buildings. 23647  
Students may be enrolled in the schools of the student's resident 23648  
district, in a community school established under Chapter 3314. of 23649  
the Revised Code, in the schools of another school district 23650  
pursuant to an open enrollment policy adopted under section 23651  
3313.98 of the Revised Code, in a chartered nonpublic school with 23652  
or without a scholarship under the educational choice scholarship 23653  
pilot program, or in other schools as the law may provide. 23654

Sec. 3310.07. Any parent, or any student who is at least 23655  
eighteen years of age, who is seeking a scholarship under the 23656  
educational choice scholarship pilot program shall notify the 23657  
department of education of the student's and parent's names and 23658  
address, the chartered nonpublic school in which the student has 23659  
been accepted for enrollment, and the tuition charged by the 23660  
school. 23661

Sec. 3310.08. (A) The amount paid for an eligible student 23662  
under the educational choice scholarship pilot program shall be 23663  
the lesser of the tuition of the chartered nonpublic school in 23664  
which the student is enrolled or the maximum amount prescribed in 23665  
section 3310.09 of the Revised Code. 23666



(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship. 23667  
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(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year. 23671  
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(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317. and, if necessary, sections 321.24 and 323.156 of the Revised Code the amount of five thousand two hundred dollars for each eligible student awarded a scholarship under the educational choice scholarship pilot program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. The amount deducted under this division funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code. 23674  
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(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student re-enrolls in the schools of the student's resident district before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section. 23685  
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(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following: 23692  
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(1) The district's state base-cost payment, as calculated 23697

under division (A)(1) of section 3317.022 of the Revised Code 23698  
prior to making the adjustments under divisions (A)(2) and (3) of 23699  
that section, with the scholarship students included in the 23700  
district's formula ADM; 23701

(2) What the district's state base-cost payment would have 23702  
been, as calculated under division (A)(1) of that section prior to 23703  
making the adjustments under divisions (A)(2) and (3) of that 23704  
section, if the scholarship students were not included in the 23705  
district's formula ADM. 23706

This comparison shall display both the aggregate difference 23707  
between the amounts described in divisions (D)(1) and (2) of this 23708  
section, and the quotient of that aggregate difference divided by 23709  
the number of eligible students for whom deductions are made under 23710  
division (C) of this section. 23711

**Sec. 3310.09.** (A) The maximum amount awarded to an eligible 23712  
student in fiscal year 2007 under the educational choice 23713  
scholarship pilot program shall be as follows: 23714

(1) For grades kindergarten through eight, four thousand two 23715  
hundred fifty dollars; 23716  
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(2) For grades nine through twelve, five thousand dollars. 23718

(B) In fiscal year 2008 and in each fiscal year thereafter, 23719  
the maximum amount awarded under the program shall be the 23720  
applicable maximum amount awarded in the previous fiscal year 23721  
increased by the same percentage by which the general assembly 23722  
increased the formula amount, as defined in section 3317.02 of the 23723  
Revised Code, from the previous fiscal year. 23724

**Sec. 3310.10.** A scholarship awarded under section 3310.08 of 23725  
the Revised Code may be used only to pay tuition to any chartered 23726

nonpublic school.

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Sec. 3310.13. (A) No chartered nonpublic school shall charge any student whose family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, a tuition fee that is greater than the total amount paid for that student under section 3310.08 of the Revised Code.

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(B) A chartered nonpublic school may charge any other student who is paid a scholarship under that section the difference between the amount of the scholarship and the regular tuition charge of the school. Each chartered nonpublic school shall permit such an eligible student's family, at the family's option, to provide volunteer services in lieu of cash payment to pay all or part of the amount of the school's tuition not covered by the scholarship paid under section 3310.08 of the Revised Code.

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Sec. 3310.14. Notwithstanding division (K) of section 3301.0711 of the Revised Code, each chartered nonpublic school that enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each scholarship student in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school shall report to the department of education the results of each test administered to each scholarship student under this section.

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Nothing in this section requires a chartered nonpublic school to administer any achievement test, except for an Ohio graduation test prescribed by division (B) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

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Sec. 3310.16. (A) The state board of education shall adopt 23757  
rules in accordance with Chapter 119. of the Revised Code 23758  
prescribing procedures for the administration of the educational 23759  
choice scholarship pilot program. 23760

(B) The state board and the department of education shall not 23761  
require chartered nonpublic schools to comply with any education 23762  
laws or rules or other requirements that are not specified in 23763  
sections 3310.01 to 3310.17 of the Revised Code and that otherwise 23764  
would not apply to a chartered nonpublic school. 23765

Sec. 3310.17. The general assembly shall prescribe the number 23766  
of students that may be selected each fiscal year for scholarships 23767  
under the educational choice scholarship pilot program. 23768

Sec. 3311.059. The procedure prescribed in this section may 23769  
be used in lieu of a transfer prescribed under section 3311.231 of 23770  
the Revised Code. 23771

(A) Subject to divisions (B) and (C) of this section, a board 23772  
of education of a local school district may by a resolution 23773  
approved by a majority of all its members propose to sever that 23774  
local school district from the territory of the educational 23775  
service center in which the local school district is currently 23776  
included and to instead annex the local school district to the 23777  
territory of another educational service center, the current 23778  
territory of which is adjacent to the territory of the educational 23779  
service center in which the local school district is currently 23780  
included. The resolution shall promptly be filed with the 23781  
governing board of each educational service center affected by the 23782  
resolution and with the superintendent of public instruction. 23783

~~(B) The resolution adopted under division (A) of this section~~ 23784  
~~shall not be effective unless it is approved by the state board of~~ 23785

~~education. In deciding whether to approve the resolution, the~~ 23786  
~~state board shall consider the impact of an annexation on both the~~ 23787  
~~school district and the educational service center to which the~~ 23788  
~~district is proposed to be annexed, including the ability of that~~ 23789  
~~service center to deliver services in a cost effective and~~ 23790  
~~efficient manner.~~ The severance of the local school district from 23791  
one educational service center and its annexation to another 23792  
educational service center under this section shall not be 23793  
effective until one year after the first day of July following the 23794  
later of the date that the ~~state board of education approves the~~ 23795  
resolution is filed pursuant to division (A) of this section or 23796  
the date the board of elections certifies the results of the 23797  
referendum election as provided in division (C) of this section. 23798

(C) Within sixty days following the date of the adoption of 23799  
the resolution under division (A) of this section, the electors of 23800  
the local school district may petition for a referendum vote on 23801  
the resolution. The question whether to approve or disapprove the 23802  
resolution shall be submitted to the electors of such school 23803  
district if a number of qualified electors equal to twenty per 23804  
cent of the number of electors in the school district who voted 23805  
for the office of governor at the most recent general election for 23806  
that office sign a petition asking that the question of whether 23807  
the resolution shall be disapproved be submitted to the electors. 23808  
The petition shall be filed with the board of elections of the 23809  
county in which the school district is located. If the school 23810  
district is located in more than one county, the petition shall be 23811  
filed with the board of elections of the county in which the 23812  
majority of the territory of the school district is located. The 23813  
board shall certify the validity and sufficiency of the signatures 23814  
on the petition. 23815

The board of elections shall immediately notify the board of 23816  
education of the local school district and the governing board of 23817

each educational service center affected by the resolution that 23818  
the petition has been filed. 23819

The effect of the resolution shall be stayed until the board 23820  
of elections certifies the validity and sufficiency of the 23821  
signatures on the petition. If the board of elections determines 23822  
that the petition does not contain a sufficient number of valid 23823  
signatures and sixty days have passed since the adoption of the 23824  
resolution, the resolution shall become effective as provided in 23825  
division (B) of this section. 23826

If the board of elections certifies that the petition 23827  
contains a sufficient number of valid signatures, the board shall 23828  
submit the question to the qualified electors of the school 23829  
district on the day of the next general or primary election held 23830  
at least seventy-five days after the board of elections certifies 23831  
the validity and sufficiency of signatures on the petition. The 23832  
election shall be conducted and canvassed and the results shall be 23833  
certified in the same manner as in regular elections for the 23834  
election of members of a board of education. 23835

If a majority of the electors voting on the question 23836  
disapprove the resolution, the resolution shall not become 23837  
effective. If a majority of the electors voting on the question 23838  
approve the resolution, the resolution shall become effective as 23839  
provided in division (B) of this section. 23840

(D) Upon the effective date of the severance of the local 23841  
school district from one educational service center and its 23842  
annexation to another educational service center as provided in 23843  
division (B) of this section, the governing board of each 23844  
educational service center shall take such steps for the election 23845  
of members of the governing board and for organization of the 23846  
governing board as prescribed in Chapter 3313. of the Revised 23847  
Code. 23848

(E) If a school district is severed from one educational service center and annexed to another service center under this section, the board of education of that school district shall not propose a subsequent severance and annexation action under this section that would be effective sooner than five years after the effective date of the next previous severance and annexation action under this section.

Sec. 3311.11. If the state board of education adopts a resolution under this chapter proposing the creation of a new city or local school district that was not in operation during the 2004-2005 school year, the district shall not be created unless both houses of the general assembly approve the creation of the district through passage of a concurrent resolution.

Sec. 3313.207. As used in sections 3313.207 to 3313.209 of the Revised Code:

(A) "Children" means children who are enrolled in kindergarten or who are of compulsory school age.

(B) "Latchkey program" means a program under which children are provided with child care during a fiscal year at any time outside of regular school hours. A program that contains any religious content, that uses any religious materials, or that in any way promotes or furthers any religious beliefs is not a latchkey program.

~~(C) "School district" means a city, local, or exempted village school district.~~

~~(D)~~ "Program provider" means any agency, organization, or individual, licensed under Chapter 5104. of the Revised Code or exempted from the licensing requirements of that chapter.

~~(E)~~(D) "Ancillary services" means any of the following:

(1) Space in a building that is owned or controlled by a school district and that is used for other school district purposes in addition to latchkey programs;

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(2) Utilities furnished in conjunction with such space;

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(3) Transportation to a latchkey program on regular school buses.

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**Sec. 3313.208.** A board of education of a school district or the governing board of an educational service center may assess the need for latchkey programs in its district or territory and determine the best and most efficient manner of providing latchkey programs to children residing in the district or territory. Prior to operating any latchkey program, making any payments, or providing any employees or ancillary services under sections 3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ shall provide notification to parents and other interested parties that the board is considering ~~district~~ participation in the provision of latchkey programs and shall adopt a policy ensuring public input on the board's decision whether or not to participate, as well as any decisions concerning the district's or service center's role in the implementation and funding of any latchkey programs if the board does decide to participate. The policy shall also include provision for regular, periodic public input in the evaluation of any school district or service center participation in the provision of latchkey programs.

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A board ~~of education~~ may ~~operate~~ provide a latchkey program, subject to the following limitations:

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(A) The program shall be maintained and operated and pupils shall be admitted pursuant to rules adopted by the board;

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(B) Fees or tuition, in amounts determined by the board, may be charged for participation in the program and shall be deposited

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in a special fund: 23908

~~(C) The board shall not expend any money from the general 23909  
fund of the district for the program, except as follows: 23910~~

~~(1) The board may expend any money in the district's general 23911  
fund resulting from an appropriation of the general assembly that 23912  
specifically permits the expenditure of such appropriated funds 23913  
for such a program. 23914~~

~~(2) The board may provide ancillary services for the program 23915  
notwithstanding the fact that some portions of such services may 23916  
be supported by money from the district's general fund. 23917~~

**Sec. 3313.209.** (A) A board of education of a school district 23918  
that does not ~~operate~~ provide a latchkey program may provide 23919  
ancillary services to and may make payments to any program 23920  
provider that operates a latchkey program that enrolls one or more 23921  
children who are residents of the school district. 23922

(B) A board of education of a school district that does not 23923  
~~operate~~ provide a latchkey program and that does not make payments 23924  
under division (A) of this section may furnish to any person or 23925  
entity that operates a latchkey program ancillary services or 23926  
employees for use solely in conjunction with the program's 23927  
operation. 23928

~~(C) No board of education shall expend any money from the 23929  
general fund of the district pursuant to division (A) or (B) of 23930  
this section, except as follows: 23931~~

~~(1) The board may expend any money in the district's general 23932  
fund resulting from an appropriation of the general assembly that 23933  
specifically permits the expenditure of such appropriated funds 23934  
for latchkey programs. 23935~~

~~(2) The board may provide ancillary services pursuant to 23936  
division (A) or (B) of this section notwithstanding the fact that 23937~~

~~some portion of such services may be supported by money from the~~ 23938  
~~district's general fund.~~ 23939

~~(D)~~ A board of education shall enter into a contract with a 23940  
program provider as a condition for making any payments or 23941  
furnishing any ancillary services or employees authorized by 23942  
division (A) or (B) of this section. 23943

**Sec. 3313.489.** (A) The superintendent of public instruction 23944  
shall examine each ~~spending plan and appropriations measure~~ 23945  
five-year projection of revenues and expenditures submitted under 23946  
section 5705.391 of the Revised Code and shall determine whether 23947  
the information contained therein, together with any other 23948  
relevant information, indicates that the district may be 23949  
financially unable to operate its instructional program on all 23950  
days set forth in its adopted school calendars and pay all 23951  
obligated expenses during the current fiscal year. If a board of 23952  
education has not adopted a school calendar for the school year 23953  
beginning on the first day of July of the current fiscal year at 23954  
the time an examination is required under this division, the 23955  
superintendent shall examine the ~~spending plan and appropriations~~ 23956  
~~measure~~ five-year projection and determine whether the district 23957  
may be financially unable to pay all obligated expenses and 23958  
operate its instructional program for the number of days on which 23959  
instruction was held in the preceding fiscal year. 23960

(B) If the superintendent of public instruction determines 23961  
pursuant to division (A) of this section that a school district 23962  
may be financially unable to operate its instructional program on 23963  
all days required by such division and pay all obligated expenses 23964  
during the current fiscal year, the superintendent shall provide 23965  
written notification of such determination to the president of the 23966  
district's board of education and the auditor of state. 23967

(C) This section does not apply to a school district declared 23968

to be under a fiscal emergency pursuant to division (B) of section 23969  
3316.03 of the Revised Code. 23970

Sec. 3313.6410. This section applies to any school that is 23971  
operated by a school district and in which the enrolled students 23972  
work primarily on assignments in nonclassroom-based learning 23973  
opportunities provided via an internet- or other computer-based 23974  
instructional method. 23975

(A) Any school to which this section applies shall withdraw 23976  
from the school any student who, for two consecutive school years, 23977  
has failed to participate in the spring administration of any test 23978  
prescribed under section 3301.0710 or 3301.0712 of the Revised 23979  
Code for the student's grade level and was not excused from the 23980  
test pursuant to division (C)(1) or (3) of section 3301.0711 of 23981  
the Revised Code. The school shall report the name of any such 23982  
student to the department of education to be added to the list 23983  
maintained by the department under section 3314.26 of the Revised 23984  
Code. 23985

(B) No school to which this section applies shall enroll any 23986  
student on the list maintained by the department under section 23987  
3314.26 of the Revised Code. 23988

**Sec. 3313.975.** As used in this section and in sections 23989  
3313.975 to 3313.979 of the Revised Code, "the pilot project 23990  
school district" or "the district" means any school district 23991  
included in the pilot project scholarship program pursuant to this 23992  
section. 23993

(A) The superintendent of public instruction shall establish 23994  
a pilot project scholarship program and shall include in such 23995  
program any school districts that are or have ever been under 23996  
federal court order requiring supervision and operational 23997  
management of the district by the state superintendent. The 23998

program shall provide for a number of students residing in any  
such district to receive scholarships to attend alternative  
schools, and for an equal number of students to receive tutorial  
assistance grants while attending public school in any such  
district.

(B) The state superintendent shall establish an application  
process and deadline for accepting applications from students  
residing in the district to participate in the scholarship  
program. In the initial year of the program students may only use  
a scholarship to attend school in grades kindergarten through  
third.

The state superintendent shall award as many scholarships and  
tutorial assistance grants as can be funded given the amount  
appropriated for the program. In no case, however, shall more than  
fifty per cent of all scholarships awarded be used by students who  
were enrolled in a nonpublic school during the school year of  
application for a scholarship.

(C)(1) The pilot project program shall continue in effect  
each year that the general assembly has appropriated sufficient  
money to fund scholarships and tutorial assistance grants. In each  
year the program continues, no new students may receive  
scholarships unless they are enrolled in grade grades  
kindergarten, ~~one, two, or three~~ to eight. However, any student  
who has received a scholarship the preceding year may continue to  
receive one until the student has completed grade ~~eight~~ ten.  
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who  
previously has received a scholarship may receive a scholarship in  
grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic  
year, a student who previously has received a scholarship may  
receive a scholarship in grade ~~ten~~ twelve.

(2) If the general assembly discontinues the scholarship

program, all students who are attending an alternative school 24030  
under the pilot project shall be entitled to continued admittance 24031  
to that specific school through all grades ~~up to the tenth grade~~ 24032  
that are provided in such school, under the same conditions as 24033  
when they were participating in the pilot project. The state 24034  
superintendent shall continue to make scholarship payments in 24035  
accordance with division (A) or (B) of section 3313.979 of the 24036  
Revised Code for students who remain enrolled in an alternative 24037  
school under this provision in any year that funds have been 24038  
appropriated for this purpose. 24039

If funds are not appropriated, the tuition charged to the 24040  
parents of a student who remains enrolled in an alternative school 24041  
under this provision shall not be increased beyond the amount 24042  
equal to the amount of the scholarship plus any additional amount 24043  
charged that student's parent in the most recent year of 24044  
attendance as a participant in the pilot project, except that 24045  
tuition for all the students enrolled in such school may be 24046  
increased by the same percentage. 24047

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 24048  
the Revised Code, if the pilot project school district experiences 24049  
a decrease in enrollment due to participation in a state-sponsored 24050  
scholarship program pursuant to sections 3313.974 to 3313.979 of 24051  
the Revised Code, the district board of education may enter into 24052  
an agreement with any teacher it employs to provide to that 24053  
teacher severance pay or early retirement incentives, or both, if 24054  
the teacher agrees to terminate the employment contract with the 24055  
district board, provided any collective bargaining agreement in 24056  
force pursuant to Chapter 4117. of the Revised Code does not 24057  
prohibit such an agreement for termination of a teacher's 24058  
employment contract. 24059

**Sec. 3313.976.** (A) No private school may receive scholarship 24060

payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving ninety per cent of the scholarship amount through the

scholarship program, pursuant to division (A) of section 3313.978 24091  
of the Revised Code, in excess of ten per cent of the scholarship 24092  
amount established pursuant to division (C)(1) of section 3313.978 24093  
of the Revised Code, excluding any increase described in division 24094  
(C)(2) of that section. The school shall permit any such tuition, 24095  
at the discretion of the parent, to be satisfied by the low-income 24096  
family's provision of in-kind contributions or services. 24097

(9) For students in grades kindergarten through eight, the 24098  
school agrees not to charge any tuition to low-income families 24099  
receiving a seventy-five per cent scholarship amount through the 24100  
scholarship program, pursuant to division (A) of section 3313.978 24101  
of the Revised Code, in excess of the difference between the 24102  
actual tuition charge of the school and seventy-five per cent of 24103  
the scholarship amount established pursuant to division (C)(1) of 24104  
section 3313.978 of the Revised Code, excluding any increase 24105  
described in division (C)(2) of that section. The school shall 24106  
permit such tuition, at the discretion of the parent, to be 24107  
satisfied by the low-income family's provision of in-kind 24108  
contributions or services. 24109

(10) The school agrees not to charge any tuition to families 24110  
of students in grades nine ~~and ten~~ through twelve receiving a 24111  
scholarship in excess of the actual tuition charge of the school 24112  
less seventy-five or ninety per cent of the scholarship amount 24113  
established pursuant to division (C)(1) of section 3313.978 of the 24114  
Revised Code, as applicable, excluding any increase described in 24115  
division (C)(2) of that section. 24116

(B) The state superintendent shall revoke the registration of 24117  
any school if, after a hearing, the superintendent determines that 24118  
the school is in violation of any of the provisions of division 24119  
(A) of this section. 24120

(C) Any public school located in a school district adjacent 24121

to the pilot project district may receive scholarship payments on 24122  
behalf of parents pursuant to section 3313.979 of the Revised Code 24123  
if the superintendent of the district in which such public school 24124  
is located notifies the state superintendent prior to the first 24125  
day of March that the district intends to admit students from the 24126  
pilot project district for the ensuing school year pursuant to 24127  
section 3327.06 of the Revised Code. 24128

(D) Any parent wishing to purchase tutorial assistance from 24129  
any person or governmental entity pursuant to the pilot project 24130  
program under sections 3313.974 to 3313.979 of the Revised Code 24131  
shall apply to the state superintendent. The state superintendent 24132  
shall approve providers who appear to possess the capability of 24133  
furnishing the instructional services they are offering to 24134  
provide. 24135

**Sec. 3313.977.** (A)(1) Each registered private school shall 24136  
admit students to kindergarten and first, second, and third grades 24137  
in accordance with the following priorities: 24138

(a) Students who were enrolled in the school during the 24139  
preceding year; 24140

(b) Siblings of students enrolled in the school during the 24141  
preceding year, at the discretion of the school; 24142

(c) Children from low-income families attending school or 24143  
residing in the school district in which the school is located 24144  
until the number of such students in each grade equals the number 24145  
that constituted twenty per cent of the total number of students 24146  
enrolled in the school during the preceding year in such grade. 24147  
Admission of such twenty per cent shall be by lot from among all 24148  
low-income family applicants who apply prior to the fifteenth day 24149  
of February prior to admission. 24150

(d) All other applicants residing anywhere, provided that all 24151



remaining available spaces shall be filled from among such 24152  
applicants by lot. 24153

Children from low-income families not selected by lot under 24154  
division (A)(1)(c) of this section shall be included in the 24155  
lottery of all remaining applicants pursuant to division (A)(1)(d) 24156  
of this section. 24157

(2) Each registered private school shall first admit to 24158  
grades four through ~~ten~~ twelve students who were enrolled in the 24159  
school during the preceding year. Any remaining spaces for 24160  
students in these grades may be filled as determined by the 24161  
school. 24162

(B) Notwithstanding division (A) of this section, except 24163  
where otherwise prohibited by federal law, a registered private 24164  
school may elect to admit students of only one gender and may deny 24165  
admission to any separately educated handicapped student. 24166

(C) If a scholarship student who has been accepted in 24167  
accordance with this section fails to enroll in the school for any 24168  
reason or withdraws from the school during the school year for any 24169  
reason, the school may elect to replace such student with another 24170  
scholarship student only by first offering the admission to any 24171  
low-income scholarship students who filed applications by the 24172  
preceding fifteenth day of February and who were not accepted at 24173  
that time due to space limitations. 24174

**Sec. 3313.978.** (A) Annually by the first day of November, the 24175  
superintendent of public instruction shall notify the pilot 24176  
project school district of the number of initial scholarships that 24177  
the state superintendent will be awarding in each of grades 24178  
kindergarten through ~~third~~ eight. 24179

The state superintendent shall provide information about the 24180  
scholarship program to all students residing in the district, 24181

shall accept applications from any such students until such date 24182  
as shall be established by the state superintendent as a deadline 24183  
for applications, and shall establish criteria for the selection 24184  
of students to receive scholarships from among all those applying 24185  
prior to the deadline, which criteria shall give preference to 24186  
students from low-income families. For each student selected, the 24187  
state superintendent shall also determine whether the student 24188  
qualifies for seventy-five or ninety per cent of the scholarship 24189  
amount. Students whose family income is at or above two hundred 24190  
per cent of the maximum income level established by the state 24191  
superintendent for low-income families shall qualify for 24192  
seventy-five per cent of the scholarship amount and students whose 24193  
family income is below two hundred per cent of that maximum income 24194  
level shall qualify for ninety per cent of the scholarship amount. 24195  
The state superintendent shall notify students of their selection 24196  
prior to the fifteenth day of January and whether they qualify for 24197  
seventy-five or ninety per cent of the scholarship amount. 24198

(1) A student receiving a pilot project scholarship may 24199  
utilize it at an alternative public school by notifying the 24200  
district superintendent, at any time before the beginning of the 24201  
school year, of the name of the public school in an adjacent 24202  
school district to which the student has been accepted pursuant to 24203  
section 3327.06 of the Revised Code. 24204

(2) A student may decide to utilize a pilot project 24205  
scholarship at a registered private school in the district if all 24206  
of the following conditions are met: 24207

(a) By the fifteenth day of February of the preceding school 24208  
year, or at any time prior to the start of the school year, the 24209  
parent makes an application on behalf of the student to a 24210  
registered private school. 24211

(b) The registered private school notifies the parent and the 24212

state superintendent as follows that the student has been 24213  
admitted: 24214

(i) By the fifteenth day of March of the preceding school 24215  
year if the student filed an application by the fifteenth day of 24216  
February and was admitted by the school pursuant to division (A) 24217  
of section 3313.977 of the Revised Code; 24218

(ii) Within one week of the decision to admit the student if 24219  
the student is admitted pursuant to division (C) of section 24220  
3313.977 of the Revised Code. 24221

(c) The student actually enrolls in the registered private 24222  
school to which the student was first admitted or in another 24223  
registered private school in the district or in a public school in 24224  
an adjacent school district. 24225

(B) The state superintendent shall also award in any school 24226  
year tutorial assistance grants to a number of students equal to 24227  
the number of students who receive scholarships under division (A) 24228  
of this section. Tutorial assistance grants shall be awarded 24229  
solely to students who are enrolled in the public schools of the 24230  
district in a grade level covered by the pilot project. Tutorial 24231  
assistance grants may be used solely to obtain tutorial assistance 24232  
from a provider approved pursuant to division (D) of section 24233  
3313.976 of the Revised Code. 24234

All students wishing to obtain tutorial assistance grants 24235  
shall make application to the state superintendent by the first 24236  
day of the school year in which the assistance will be used. The 24237  
state superintendent shall award assistance grants in accordance 24238  
with criteria the superintendent shall establish. For each student 24239  
awarded a grant, the state superintendent shall also determine 24240  
whether the student qualifies for seventy-five or ninety per cent 24241  
of the grant amount and so notify the student. Students whose 24242  
family income is at or above two hundred per cent of the maximum 24243

income level established by the state superintendent for 24244  
low-income families shall qualify for seventy-five per cent of the 24245  
grant amount and students whose family income is below two hundred 24246  
per cent of that maximum income level shall qualify for ninety per 24247  
cent of the grant amount. 24248

(C)(1) In the case of basic scholarships for students in 24249  
grades kindergarten through eight, the scholarship amount shall 24250  
not exceed the lesser of the tuition charges of the alternative 24251  
school the scholarship recipient attends or ~~an amount established~~ 24252  
~~by the state superintendent not in excess of~~ three thousand 24253  
dollars before fiscal year 2007 and three thousand four hundred 24254  
fifty dollars in fiscal year 2007 and thereafter. 24255

In the case of basic scholarships for students in grades nine 24256  
~~and ten~~ through twelve, the scholarship amount shall not exceed 24257  
the lesser of the tuition charges of the alternative school the 24258  
scholarship recipient attends or ~~an amount established by the~~ 24259  
~~state superintendent not in excess of~~ two thousand seven hundred 24260  
dollars before fiscal year 2007 and three thousand four hundred 24261  
fifty dollars in fiscal year 2007 and thereafter. 24262

(2) The state superintendent shall provide for an increase in 24263  
the basic scholarship amount in the case of any student who is a 24264  
mainstreamed handicapped student and shall further increase such 24265  
amount in the case of any separately educated handicapped child. 24266  
Such increases shall take into account the instruction, related 24267  
services, and transportation costs of educating such students. 24268

(3) In the case of tutorial assistance grants, the grant 24269  
amount shall not exceed the lesser of the provider's actual 24270  
charges for such assistance or ~~a~~: 24271

(a) Before fiscal year 2007, a percentage established by the 24272  
state superintendent, not to exceed twenty per cent, of the amount 24273  
of the pilot project school district's average basic scholarship 24274

amount;	24275
<u>(b) In fiscal year 2007 and thereafter, four hundred dollars.</u>	24276
(4) No scholarship or tutorial assistance grant shall be	24277
awarded unless the state superintendent determines that	24278
twenty-five or ten per cent, as applicable, of the amount	24279
specified for such scholarship or grant pursuant to division	24280
(C)(1), (2), or (3) of this section will be furnished by a	24281
political subdivision, a private nonprofit or for profit entity,	24282
or another person. Only seventy-five or ninety per cent of such	24283
amounts, as applicable, shall be paid from state funds pursuant to	24284
section 3313.979 of the Revised Code.	24285
(D)(1) Annually by the first day of November, the state	24286
superintendent shall estimate the maximum per-pupil scholarship	24287
amounts for the ensuing school year. The state superintendent	24288
shall make this estimate available to the general public at the	24289
offices of the district board of education together with the forms	24290
required by division (D)(2) of this section.	24291
(2) Annually by the fifteenth day of January, the chief	24292
administrator of each registered private school located in the	24293
pilot project district and the principal of each public school in	24294
such district shall complete a parental information form and	24295
forward it to the president of the board of education. The	24296
parental information form shall be prescribed by the department of	24297
education and shall provide information about the grade levels	24298
offered, the numbers of students, tuition amounts, achievement	24299
test results, and any sectarian or other organizational	24300
affiliations.	24301
<b>Sec. 3313.98.</b> Notwithstanding division (D) of section 3311.19	24302
and division (D) of section 3311.52 of the Revised Code, the	24303
provisions of this section and sections 3313.981 to 3313.983 of	24304
the Revised Code that apply to a city school district do not apply	24305

to a joint vocational or cooperative education school district	24306
unless expressly specified.	24307
(A) As used in this section and sections 3313.981 to 3313.983	24308
of the Revised Code:	24309
(1) "Parent" means either of the natural or adoptive parents	24310
of a student, except under the following conditions:	24311
(a) When the marriage of the natural or adoptive parents of	24312
the student has been terminated by a divorce, dissolution of	24313
marriage, or annulment or the natural or adoptive parents of the	24314
student are living separate and apart under a legal separation	24315
decree and the court has issued an order allocating the parental	24316
rights and responsibilities with respect to the student, "parent"	24317
means the residential parent as designated by the court except	24318
that "parent" means either parent when the court issues a shared	24319
parenting decree.	24320
(b) When a court has granted temporary or permanent custody	24321
of the student to an individual or agency other than either of the	24322
natural or adoptive parents of the student, "parent" means the	24323
legal custodian of the child.	24324
(c) When a court has appointed a guardian for the student,	24325
"parent" means the guardian of the student.	24326
(2) "Native student" means a student entitled under section	24327
3313.64 or 3313.65 of the Revised Code to attend school in a	24328
district adopting a resolution under this section.	24329
(3) "Adjacent district" means a city, exempted village, or	24330
local school district having territory that abuts the territory of	24331
a district adopting a resolution under this section.	24332
(4) "Adjacent district student" means a student entitled	24333
under section 3313.64 or 3313.65 of the Revised Code to attend	24334
school in an adjacent district.	24335

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Adjusted formula amount" means the greater of the following:

(a) The fiscal year 2005 formula amount multiplied by the fiscal year 2005 cost-of-doing-business factor for a district defined in the version of section 3317.02 of the Revised Code in effect that year;

(b) The sum of (the current formula amount times the current cost-of-doing-business factor as defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.

(9) "IEP" means an individualized education program defined by division (E) of section 3323.01 of the Revised Code.

(10) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section.

(11) "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district.

(12) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code.

(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies:

(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;

(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.



(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:	24396
	24397
	24398
(i) The establishment of district capacity limits by grade level, school building, and education program;	24399
	24400
(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;	24401
	24402
	24403
	24404
(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.	24405
	24406
(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:	24407
	24408
	24409
(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;	24410
	24411
(2) Limitations on admitting applicants because of handicapping conditions, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;	24412
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(3) A requirement that the student be proficient in the English language;	24417
	24418
(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.	24419
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(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the

students in accordance with section 3317.08 of the Revised Code. 24457  
An adjacent or other district enrolling such students may not 24458  
receive funding for those students in accordance with section 24459  
3313.981 of the Revised Code. 24460

(G) The state board of education shall monitor school 24461  
districts to ensure compliance with this section and the 24462  
districts' policies. The board may adopt rules requiring uniform 24463  
application procedures, deadlines for application, notification 24464  
procedures, and record-keeping requirements for all school boards 24465  
that adopt policies permitting the enrollment of adjacent or other 24466  
district students, as applicable. If the state board adopts such 24467  
rules, no school board shall adopt a policy that conflicts with 24468  
those rules. 24469

(H) A resolution adopted by a board of education under this 24470  
section that entirely prohibits the enrollment of students from 24471  
adjacent and from other school districts does not abrogate any 24472  
agreement entered into under section 3313.841 or 3313.92 of the 24473  
Revised Code or any contract entered into under section 3313.90 of 24474  
the Revised Code between the board of education adopting the 24475  
resolution and the board of education of any adjacent or other 24476  
district or prohibit these boards of education from entering into 24477  
any such agreement or contract. 24478

(I) Nothing in this section shall be construed to permit or 24479  
require the board of education of a city, exempted village, or 24480  
local school district to exclude any native student of the 24481  
district from enrolling in the district. 24482

**Sec. 3314.01.** (A)(1) A board of education may permit all or 24483  
part of any of the schools under its control, upon request of a 24484  
proposing person or group and provided the person or group meets 24485  
the requirements of this chapter, to become a community school. 24486

(2) Any person or group of individuals may propose the 24487  
creation of a community school pursuant to the provisions of this 24488  
chapter. No nonpublic chartered or nonchartered school in 24489  
existence on January 1, 1997, is eligible to become a community 24490  
school under this chapter. 24491

(3) No home, as defined in section 3313.64 of the Revised 24492  
Code, or any public benefit corporation affiliated with a home 24493  
shall become an internet- or computer-based community school under 24494  
this chapter. 24495

(B) A community school created under this chapter is a public 24496  
school, independent of any school district, and is part of the 24497  
state's program of education. A community school may sue and be 24498  
sued, acquire facilities as needed, contract for any services 24499  
necessary for the operation of the school, and enter into 24500  
contracts with a sponsor pursuant to this chapter. The governing 24501  
authority of a community school may carry out any act and ensure 24502  
the performance of any function that is in compliance with the 24503  
Ohio Constitution, this chapter, other statutes applicable to 24504  
community schools, and the contract entered into under this 24505  
chapter establishing the school. 24506

**Sec. 3314.013.** (A)(1) Until July 1, 2000, no more than 24507  
seventy-five contracts between start-up schools and the state 24508  
board of education may be in effect outside the pilot project area 24509  
at any time under this chapter. 24510

(2) After July 1, 2000, and until July 1, 2001, no more than 24511  
one hundred twenty-five contracts between start-up schools and the 24512  
state board of education may be in effect outside the pilot 24513  
project area at any time under this chapter. 24514

(3) This division applies only to contracts between start-up 24515  
schools and the state board of education and contracts between 24516

start-up schools and entities described in divisions (C)(1)(b) to 24517  
(f) of section 3314.02 of the Revised Code. 24518

Until July 1, 2005, not more than two hundred twenty-five 24519  
contracts to which this division applies may be in effect at any 24520  
time under this chapter. 24521

(4) This division applies only to contracts between start-up 24522  
schools and entities described in divisions (C)(1)(b) to (f) of 24523  
section 3314.02 of the Revised Code. 24524

After July 1, 2005, and until July 1, 2007, the number of 24525  
contracts to which this division applies in effect at any time 24526  
under this chapter shall be not more than twenty-five plus the 24527  
number of such contracts in effect on the effective date of this 24528  
amendment with schools that were open for operation as of May 1, 24529  
2005. However, up to five start-up schools the education program 24530  
of which, as specified under division (A)(2) of section 3314.03 of 24531  
the Revised Code, serves dropouts and students at risk of dropping 24532  
out of school shall not count toward the limit established by this 24533  
division. 24534

(5) This division applies only to contracts between a 24535  
start-up school and the board of education of the school district 24536  
in which the school is or is proposed to be located. 24537

Until July 1, 2007, the number of contracts to which this 24538  
division applies in effect at any time under this chapter shall be 24539  
not more than twenty-five plus the number of such contracts in 24540  
effect on the effective date of this amendment with schools that 24541  
were open for operation as of May 1, 2005. However, up to five 24542  
start-up schools the education program of which, as specified 24543  
under division (A)(2) of section 3314.03 of the Revised Code, 24544  
serves dropouts and students at risk of dropping out of school 24545  
shall not count toward the limit established by this division. 24546

(6) No entity described in division (C)(1) of section 3314.02 24547

of the Revised Code shall enter into a contract with an internet- 24548  
or computer-based community school between May 1, 2005, and one 24549  
year after the effective date of this amendment, except as 24550  
follows: 24551

(a) Any entity described in division (C)(1) of that section 24552  
may renew a contract that the entity entered into with an 24553  
internet- or computer-based community school prior to the 24554  
effective date of this amendment. 24555

(b) Any entity described in divisions (C)(1)(a) to (e) of 24556  
that section may assume sponsorship of an existing internet- or 24557  
computer-based community school that was formerly sponsored by 24558  
another entity and may enter into a contract with that community 24559  
school in accordance with section 3314.03 of the Revised Code. 24560

(c) Any entity described in division (C)(1)(f) of that 24561  
section may assume sponsorship of an existing internet- or 24562  
computer-based community school in accordance with division (A)(7) 24563  
of this section and may enter into a contract with that community 24564  
school in accordance with section 3314.03 of the Revised Code. 24565

(7) Until July 1, 2005, any entity described in division 24566  
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 24567  
a community school that formerly was sponsored by the state board 24568  
of education under division (C)(1)(d) of that section, as it 24569  
existed prior to April 8, 2003. After July 1, 2005, any such 24570  
entity may assume sponsorship of any existing community school, 24571  
and may sponsor any new community school that is not an internet- 24572  
or computer-based community school. Beginning one year after the 24573  
effective date of this amendment, any such entity may sponsor a 24574  
new internet- or computer-based community school. 24575

(8) Nothing in division (A) of this section prohibits a 24576  
community school from increasing the number of grade levels it 24577  
offers. 24578

(B) Within twenty-four hours of a request by any person, the superintendent of public instruction shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.

(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly.

**Sec. 3314.015.** (A) The department of education shall be responsible for the oversight of sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;

(3) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and

senate committees principally responsible for education matters 24609  
regarding the effectiveness of academic programs, operations, and 24610  
legal compliance and of the financial condition of all community 24611  
schools established under this chapter; 24612

(4) From time to time, make legislative recommendations to 24613  
the general assembly designed to enhance the operation and 24614  
performance of community schools. 24615

(B)(1) No entity listed in division (C)(1) of section 3314.02 24616  
of the Revised Code shall enter into a preliminary agreement under 24617  
division (C)(2) of section 3314.02 of the Revised Code until it 24618  
has received approval from the department of education to sponsor 24619  
community schools under this chapter and has entered into a 24620  
written agreement with the department regarding the manner in 24621  
which the entity will conduct such sponsorship. The department 24622  
shall adopt in accordance with Chapter 119. of the Revised Code 24623  
rules containing criteria, procedures, and deadlines for 24624  
processing applications for such approval, for oversight of 24625  
sponsors, for revocation of the approval of sponsors, and for 24626  
entering into written agreements with sponsors. The rules shall 24627  
require an entity to submit evidence of the entity's ability and 24628  
willingness to comply with the provisions of division (D) of 24629  
section 3314.03 of the Revised Code. The rules also shall require 24630  
entities approved as sponsors on and after the effective date of 24631  
this amendment to demonstrate a record of financial responsibility 24632  
and successful implementation of educational programs. If an 24633  
entity seeking approval on or after the effective date of this 24634  
amendment to sponsor community schools in this state sponsors or 24635  
operates schools in another state, at least one of the schools 24636  
sponsored or operated by the entity must be comparable to or 24637  
better than the performance of Ohio schools in a state of academic 24638  
watch under section 3302.03 of the Revised Code, as determined by 24639  
the department. 24640



An entity that ~~is approved to sponsor~~ sponsors community 24641  
schools may enter into ~~any number of~~ preliminary agreements and 24642  
sponsor ~~any number of~~ schools as follows, provided each school and 24643  
the contract for sponsorship meets the requirements of this 24644  
chapter: 24645

(a) An entity approved for sponsorship on or after July 1, 24646  
2005, may sponsor not more than fifteen schools, except that if 24647  
the department subsequently determines that the schools sponsored 24648  
by such an entity have demonstrated satisfactory financial, 24649  
administrative, and academic performance, the department may 24650  
permit the entity to sponsor up to fifty schools. 24651

(b) An entity approved for sponsorship prior to July 1, 2005, 24652  
or an entity not required to be approved for sponsorship under 24653  
division (B)(1) of this section, that sponsored thirty-five or 24654  
fewer schools that were open for operation as of May 1, 2005, may 24655  
sponsor not more than thirty-five schools, except that the 24656  
department on a case-by-case basis may permit such an entity to 24657  
sponsor up to fifty schools. 24658

(c) An entity approved for sponsorship prior to July 1, 2005, 24659  
or an entity not required to be approved for sponsorship under 24660  
division (B)(1) of this section, that sponsored more than 24661  
thirty-five but not more than fifty schools that were open for 24662  
operation as of May 1, 2005, may sponsor not more than the number 24663  
of schools the entity sponsored that were open for operation as of 24664  
May 1, 2005, except that the department on a case-by-case basis 24665  
may permit such an entity to sponsor up to fifty schools. 24666

(d) An entity approved for sponsorship prior to July 1, 2005, 24667  
or an entity not required to be approved for sponsorship under 24668  
division (B)(1) of this section, that sponsored more than fifty 24669  
schools that were open for operation as of May 1, 2005, may 24670  
sponsor not more than the number of schools the entity sponsored 24671

that were open for operation as of May 1, 2005. 24672

Upon approval of an entity to be a sponsor under this 24673  
division, the department shall notify the entity of the number of 24674  
schools the entity may sponsor. The limit imposed on an entity to 24675  
which division (B)(1)(a), (b), or (c) of this section applies 24676  
shall be decreased by one for each school sponsored by the entity 24677  
that permanently closes pursuant to division (C) of section 24678  
3314.36 of the Revised Code. The limit imposed on an entity to 24679  
which division (B)(1)(d) of this section applies shall be 24680  
decreased by one for each school sponsored by the entity that 24681  
permanently closes for any reason. 24682

(2) The department of education shall determine, pursuant to 24683  
criteria adopted by rule of the department, whether the mission 24684  
proposed to be specified in the contract of a community school to 24685  
be sponsored by a state university board of trustees or the 24686  
board's designee under division (C)(1)(e) of section 3314.02 of 24687  
the Revised Code complies with the requirements of that division. 24688  
Such determination of the department is final. 24689

(3) The department of education shall determine, pursuant to 24690  
criteria adopted by rule of the department, if any tax-exempt 24691  
entity under section 501(c)(3) of the Internal Revenue Code that 24692  
is proposed to be a sponsor of a community school is an 24693  
education-oriented entity for purpose of satisfying the condition 24694  
prescribed in division (C)(1)~~(e)~~~~(iv)~~(f)(iii) of section 3314.02 of 24695  
the Revised Code. Such determination of the department is final. 24696

(C) If at any time the state board of education finds that a 24697  
sponsor is not in compliance or is no longer willing to comply 24698  
with its contract with any community school or with the 24699  
department's rules for sponsorship, the state board or designee 24700  
shall conduct a hearing in accordance with Chapter 119. of the 24701  
Revised Code on that matter. If after the hearing, the state board 24702

or designee has confirmed the original finding, the department of  
education may revoke the sponsor's approval to sponsor community  
schools and may assume the sponsorship of any schools with which  
the sponsor has contracted until the earlier of the expiration of  
two school years or until a new sponsor as described in division  
(C)(1) of section 3314.02 of the Revised Code is secured by the  
school's governing authority. The department may extend the term  
of the contract in the case of a school for which it has assumed  
sponsorship under this division as necessary to accommodate the  
term of the department's authorization to sponsor the school  
specified in this division.

(D) The decision of the department to disapprove an entity  
for sponsorship of a community school or to revoke approval for  
such sponsorship, as provided in division (C) of this section, may  
be appealed by the entity in accordance with section 119.12 of the  
Revised Code.

(E) The department shall adopt procedures for use by a  
community school governing authority and sponsor when the school  
permanently closes and ceases operation, which shall include at  
least procedures for data reporting to the department, handling of  
student records, distribution of assets in accordance with section  
3314.074 of the Revised Code, and other matters related to ceasing  
operation of the school.

(F) In carrying out its duties under this chapter, the  
department shall not impose requirements on community schools or  
their sponsors that are not permitted by law or duly adopted  
rules.

**Sec. 3314.016.** (A) Not later than July 1, 2006, the  
department of education shall select not more than two entities  
that have been approved for sponsorship under division (B)(1) of  
section 3314.015 of the Revised Code to sponsor any internet- or

computer-based community school established after that date. At 24734  
least one entity selected by the department shall be the sponsor 24735  
of an existing internet- or computer-based community school. After 24736  
July 1, 2006, no new internet- or computer-based community school 24737  
shall be established under this chapter unless the school is 24738  
sponsored by an entity selected by the department under this 24739  
division. 24740

(B) If the department does not select at least one entity 24741  
under division (A) of this section, the department shall have sole 24742  
authority to sponsor any internet- or computer-based community 24743  
school established after July 1, 2006. In that case, 24744  
notwithstanding division (C) of section 3314.015 of the Revised 24745  
Code, the term of any contract between the department and the 24746  
governing authority of an internet- or computer-based community 24747  
school may be for any length of time permitted under section 24748  
3314.03 of the Revised Code. 24749

(C) Nothing in this section requires an internet- or 24750  
computer-based community school established prior to July 1, 2006, 24751  
to secure a new sponsor. 24752

**Sec. 3314.02.** (A) As used in this chapter: 24753

(1) "Sponsor" means an entity listed in division (C)(1) of 24754  
this section, which has been approved by the department of 24755  
education to sponsor community schools and with which the 24756  
governing authority of the proposed community school enters into a 24757  
contract pursuant to this section. 24758

(2) "Pilot project area" means the school districts included 24759  
in the territory of the former community school pilot project 24760  
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 24761  
the 122nd general assembly. 24762

(3) "Challenged school district" means any of the following: 24763

- (a) A school district that is part of the pilot project area; 24764
- (b) A school district that is either in a state of academic 24765  
emergency or in a state of academic watch under section 3302.03 of 24766  
the Revised Code; 24767
- (c) A big eight school district. 24768
- (4) "Big eight school district" means a school district that 24769  
for fiscal year 1997 had both of the following: 24770
- (a) A percentage of children residing in the district and 24771  
participating in the predecessor of Ohio works first greater than 24772  
thirty per cent, as reported pursuant to section 3317.10 of the 24773  
Revised Code; 24774
- (b) An average daily membership greater than twelve thousand, 24775  
as reported pursuant to former division (A) of section 3317.03 of 24776  
the Revised Code. 24777
- (5) "New start-up school" means a community school other than 24778  
one created by converting all or part of an existing public 24779  
school, as designated in the school's contract pursuant to 24780  
division (A)(17) of section 3314.03 of the Revised Code. 24781
- (6) "Urban school district" means one of the state's 24782  
twenty-one urban school districts as defined in division (O) of 24783  
section 3317.02 of the Revised Code as that section existed prior 24784  
to July 1, 1998. 24785
- (7) "Internet- or computer-based community school" means a 24786  
community school established under this chapter in which the 24787  
enrolled students work primarily from their residences on 24788  
assignments in nonclassroom-based learning opportunities provided 24789  
via an internet- or other computer-based instructional method ~~that~~ 24790  
~~does not rely on regular classroom instruction or via~~ 24791  
~~comprehensive instructional methods that include internet based,~~ 24792  
~~other computer based, and noncomputer based learning~~ 24793

opportunities. 24794

(B) Any person or group of individuals may initially propose 24795  
under this division the conversion of all or a portion of a public 24796  
school to a community school. The proposal shall be made to the 24797  
board of education of the city, local, or exempted village school 24798  
district in which the public school is proposed to be converted. 24799  
Upon receipt of a proposal, a board may enter into a preliminary 24800  
agreement with the person or group proposing the conversion of the 24801  
public school, indicating the intention of the board of education 24802  
to support the conversion to a community school. A proposing 24803  
person or group that has a preliminary agreement under this 24804  
division may proceed to finalize plans for the school, establish a 24805  
governing authority for the school, and negotiate a contract with 24806  
the board of education. Provided the proposing person or group 24807  
adheres to the preliminary agreement and all provisions of this 24808  
chapter, the board of education shall negotiate in good faith to 24809  
enter into a contract in accordance with section 3314.03 of the 24810  
Revised Code and division (C) of this section. 24811

(C)(1) Any person or group of individuals may propose under 24812  
this division the establishment of a new start-up school to be 24813  
located in a challenged school district. The proposal may be made 24814  
to any of the following entities: 24815

(a) The board of education of the district in which the 24816  
school is proposed to be located; 24817

(b) The board of education of any joint vocational school 24818  
district with territory in the county in which is located the 24819  
majority of the territory of the district in which the school is 24820  
proposed to be located; 24821

(c) The board of education of any other city, local, or 24822  
exempted village school district having territory in the same 24823  
county where the district in which the school is proposed to be 24824

located has the major portion of its territory;	24825
(d) The governing board of any educational service center;	24826
(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;	24827 24828 24829 24830 24831 24832 24833 24834 24835 24836 24837
(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:	24838 24839 24840
(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.	24841 24842
(ii) The entity has assets of at least five hundred thousand dollars.	24843 24844
(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code.	24845 24846 24847
<del>    Until July 1, 2005, any entity described in division (C)(1)(f) of this section may sponsor only schools that formerly were sponsored by the state board of education under division (C)(1)(d) of this section, as it existed prior to April 8, 2003. After July 1, 2005, such entity may sponsor any new or existing school.</del>	24848 24849 24850 24851 24852 24853
Any entity described in division (C)(1) of this section may	24854

enter into a preliminary agreement pursuant to division (C)(2) of 24855  
this section with the proposing person or group. 24856

(2) A preliminary agreement indicates the intention of an 24857  
entity described in division (C)(1) of this section to sponsor the 24858  
community school. A proposing person or group that has such a 24859  
preliminary agreement may proceed to finalize plans for the 24860  
school, establish a governing authority as described in division 24861  
(E) of this section for the school, and negotiate a contract with 24862  
the entity. Provided the proposing person or group adheres to the 24863  
preliminary agreement and all provisions of this chapter, the 24864  
entity shall negotiate in good faith to enter into a contract in 24865  
accordance with section 3314.03 of the Revised Code. 24866

(3) A new start-up school that is established in a school 24867  
district while that district is either in a state of academic 24868  
emergency or in a state of academic watch under section 3302.03 of 24869  
the Revised Code may continue in existence once the school 24870  
district is no longer in a state of academic emergency or academic 24871  
watch, provided there is a valid contract between the school and a 24872  
sponsor. 24873

(4) A copy of every preliminary agreement entered into under 24874  
this division shall be filed with the superintendent of public 24875  
instruction. 24876

(D) A majority vote of the board of a sponsoring entity and a 24877  
majority vote of the members of the governing authority of a 24878  
community school shall be required to adopt a contract and convert 24879  
the public school to a community school or establish the new 24880  
start-up school. Beginning on the effective date of this 24881  
amendment, adoption of the contract shall occur not later than the 24882  
fifteenth day of March prior to the school year in which the 24883  
school will open. Up to the statewide limit prescribed in section 24884  
3314.013 of the Revised Code, an unlimited number of community 24885



schools may be established in any school district provided that a 24886  
contract is entered into for each community school pursuant to 24887  
this chapter. 24888

(E) As used in this division, "immediate relatives" are 24889  
limited to spouses, children, parents, grandparents, siblings, and 24890  
in-laws. 24891

Each new start-up community school established under this 24892  
chapter shall be under the direction of a governing authority 24893  
which shall consist of a board of not less than five individuals 24894  
who are not owners or employees, or immediate relatives of owners 24895  
or employees, of any for-profit firm that operates or manages a 24896  
school for the governing authority. 24897

No person shall serve on the governing authority or operate 24898  
the community school under contract with the governing authority 24899  
so long as the person owes the state any money or is in a dispute 24900  
over whether the person owes the state any money concerning the 24901  
operation of a community school that has closed. 24902

(F) Nothing in this chapter shall be construed to permit the 24903  
establishment of a community school in more than one school 24904  
district under the same contract. 24905

(G) A new start-up school that is established prior to ~~the~~ 24906  
~~effective date of this amendment~~ August 15, 2003, in an urban 24907  
school district that is not also a big-eight school district may 24908  
continue to operate after ~~the effective~~ that ~~date of this~~ 24909  
~~amendment~~ and the contract between the school's governing 24910  
authority and the school's sponsor may be renewed, as provided 24911  
under this chapter, after ~~the effective~~ that ~~date of this~~ 24912  
~~amendment~~, but no additional new start-up schools may be 24913  
established in such a district unless the district is a challenged 24914  
school district as defined in this section as it exists on and 24915  
after ~~the effective~~ that ~~date of this amendment~~. 24916

**Sec. 3314.021.** (A) This section applies to any entity that is 24917  
exempt from taxation under section 501(c)(3) of the Internal 24918  
Revenue Code and that satisfies the conditions specified in 24919  
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 24920  
Revised Code but does not satisfy the condition specified in 24921  
division (C)(1)(f)(i) of that section. 24922

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 24923  
of the Revised Code, an entity described in division (A) of this 24924  
section may do both of the following without obtaining the 24925  
department of education's approval of its sponsorship under 24926  
division (B)(1) of section 3314.015 of the Revised Code: 24927

(1) Succeed the board of trustees of a state university 24928  
located in the pilot project area or that board's designee as the 24929  
sponsor of a community school established under this chapter; 24930

(2) Continue to sponsor that school in conformance with the 24931  
terms of the contract between the board of trustees or its 24932  
designee and the governing authority of the community school and 24933  
renew that contract as provided in division (E) of section 3314.03 24934  
of the Revised Code. 24935

(C) The entity that succeeds the board of trustees or the 24936  
board's designee as sponsor of a community school under division 24937  
(B) of this section also may enter into contracts to sponsor other 24938  
community schools located in any challenged school district, 24939  
without obtaining the department's approval of its sponsorship 24940  
under division (B)(1) of section 3314.015 of the Revised Code, and 24941  
not subject to the restriction of ~~the paragraph following division~~ 24942  
~~(C)(1)(f)(iii)~~ division (A)(7) of section 3314.02 3314.013 of the 24943  
Revised Code, as long as the contracts conform with and the entity 24944  
complies with all other requirements of this chapter. 24945

**Sec. 3314.03.** A copy of every contract entered into under 24946

this section shall be filed with the superintendent of public instruction. 24947  
24948

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following: 24949  
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24951

(1) That the school shall be established as either of the following: 24952  
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(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003; 24954  
24955

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003; 24956  
24957

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum; 24958  
24959  
24960  
24961

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests; 24962  
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24964

(4) Performance standards by which the success of the school will be evaluated by the sponsor~~r~~. If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division. 24965  
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(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; 24970  
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(6)(a) Dismissal procedures; 24972

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five 24973  
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consecutive hours of the learning opportunities offered to the student. ~~Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.~~

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) ~~The~~ If established prior to the effective date of this amendment, the school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year; . If established on or after the effective date of this amendment, the school will provide learning opportunities to a minimum of one hundred students for a minimum of nine hundred twenty hours per school year; however, the sponsor may waive the minimum number of students served by the school prescribed in this sentence, subject to the approval of the department of education.

(b) The governing authority will purchase liability 25008  
insurance, or otherwise provide for the potential liability of the 25009  
school; 25010

(c) The school will be nonsectarian in its programs, 25011  
admission policies, employment practices, and all other 25012  
operations, and will not be operated by a sectarian school or 25013  
religious institution; 25014

(d) The school will comply with sections 9.90, 9.91, 109.65, 25015  
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 25016  
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 25017  
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 25018  
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 25019  
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 25020  
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 25021  
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 25022  
4123., 4141., and 4167. of the Revised Code as if it were a school 25023  
district and will comply with section 3301.0714 of the Revised 25024  
Code in the manner specified in section 3314.17 of the Revised 25025  
Code; 25026

(e) The school shall comply with Chapter 102. of the Revised 25027  
Code except that nothing in that chapter shall prohibit a member 25028  
of the school's governing board from also being an employee of the 25029  
school and nothing in that chapter or section 2921.42 of the 25030  
Revised Code shall prohibit a member of the school's governing 25031  
board from having an interest in a contract into which the 25032  
governing board enters that is not a contract with a for-profit 25033  
firm for the operation or management of a school under the 25034  
auspices of the governing authority; 25035

(f) The school will comply with sections 3313.61, 3313.611, 25036  
and 3313.614 of the Revised Code, except that the requirement in 25037  
sections 3313.61 and 3313.611 of the Revised Code that a person 25038

must successfully complete the curriculum in any high school prior 25039  
to receiving a high school diploma may be met by completing the 25040  
curriculum adopted by the governing authority of the community 25041  
school rather than the curriculum specified in Title XXXVIII of the 25042  
Revised Code or any rules of the state board of education; 25043

(g) The school governing authority will submit within four 25044  
months after the end of each school year a report of its 25045  
activities and progress in meeting the goals and standards of 25046  
divisions (A)(3) and (4) of this section and its financial status 25047  
to the sponsor, the parents of all students enrolled in the 25048  
school, and the legislative office of education oversight. The 25049  
school will collect and provide any data that the legislative 25050  
office of education oversight requests in furtherance of any study 25051  
or research that the general assembly requires the office to 25052  
conduct, including the studies required under Section 50.39 of Am. 25053  
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 25054  
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 25055

(12) Arrangements for providing health and other benefits to 25056  
employees; 25057

(13) The length of the contract, which shall begin at the 25058  
beginning of an academic year. No contract shall exceed five years 25059  
unless such contract has been renewed pursuant to division (E) of 25060  
this section. 25061

(14) The governing authority of the school, which shall be 25062  
responsible for carrying out the provisions of the contract; 25063

(15) A financial plan detailing an estimated school budget 25064  
for each year of the period of the contract and specifying the 25065  
total estimated per pupil expenditure amount for each such year. 25066  
The plan shall specify for each year the base formula amount that 25067  
will be used for purposes of funding calculations under section 25068  
3314.08 of the Revised Code. This base formula amount for any year 25069

shall not exceed the formula amount defined under section 3317.02 25070  
of the Revised Code. The plan may also specify for any year a 25071  
percentage figure to be used for reducing the per pupil amount of 25072  
~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to 25073  
section 3317.029 of the Revised Code the school is to receive that 25074  
year under section 3314.08 of the Revised Code. 25075

(16) Requirements and procedures regarding the disposition of 25076  
employees of the school in the event the contract is terminated or 25077  
not renewed pursuant to section 3314.07 of the Revised Code; 25078

(17) Whether the school is to be created by converting all or 25079  
part of an existing public school or is to be a new start-up 25080  
school, and if it is a converted public school, specification of 25081  
any duties or responsibilities of an employer that the board of 25082  
education that operated the school before conversion is delegating 25083  
to the governing board of the community school with respect to all 25084  
or any specified group of employees provided the delegation is not 25085  
prohibited by a collective bargaining agreement applicable to such 25086  
employees; 25087

(18) Provisions establishing procedures for resolving 25088  
disputes or differences of opinion between the sponsor and the 25089  
governing authority of the community school; 25090

(19) A provision requiring the governing authority to adopt a 25091  
policy regarding the admission of students who reside outside the 25092  
district in which the school is located. That policy shall comply 25093  
with the admissions procedures specified in ~~section~~ sections 25094  
3314.06 and 3314.061 of the Revised Code and, at the sole 25095  
discretion of the authority, shall do one of the following: 25096

(a) Prohibit the enrollment of students who reside outside 25097  
the district in which the school is located; 25098

(b) Permit the enrollment of students who reside in districts 25099  
adjacent to the district in which the school is located; 25100

(c) Permit the enrollment of students who reside in any other district in the state. 25101  
25102

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code; 25103  
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(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code; 25107  
25108  
25109

(22) A provision recognizing both of the following: 25110

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations; 25111  
25112  
25113  
25114

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action; 25115  
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(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code; 25122  
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(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent possible, except that any action required to be taken by a school 25128  
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25130



district pursuant to that section shall be taken by the sponsor of 25131  
the school. However, the sponsor shall not be required to take any 25132  
action described in division (F) of that section. 25133

(25) Beginning in the 2006-2007 school year, the school will 25134  
open for operation not later than the thirtieth day of September 25135  
each school year, unless the mission of the school as specified 25136  
under division (A)(2) of this section is solely to serve dropouts. 25137  
In its initial year of operation, if the school fails to open by 25138  
the thirtieth day of September, or within one year after the 25139  
adoption of the contract pursuant to division (D) of section 25140  
3314.02 of the Revised Code if the mission of the school is solely 25141  
to serve dropouts, the contract shall be void. 25142

(B) The community school shall also submit to the sponsor a 25143  
comprehensive plan for the school. The plan shall specify the 25144  
following: 25145

(1) The process by which the governing authority of the 25146  
school will be selected in the future; 25147

(2) The management and administration of the school; 25148

(3) If the community school is a currently existing public 25149  
school, alternative arrangements for current public school 25150  
students who choose not to attend the school and teachers who 25151  
choose not to teach in the school after conversion; 25152

(4) The instructional program and educational philosophy of 25153  
the school; 25154

(5) Internal financial controls. 25155

(C) A contract entered into under section 3314.02 of the 25156  
Revised Code between a sponsor and the governing authority of a 25157  
community school may provide for the community school governing 25158  
authority to make payments to the sponsor, which is hereby 25159  
authorized to receive such payments as set forth in the contract 25160

between the governing authority and the sponsor. The total amount 25161  
of such payments for oversight and monitoring of the school shall 25162  
not exceed three per cent of the total amount of payments for 25163  
operating expenses that the school receives from the state. 25164  
Beginning July 1, 2006, no sponsor shall charge a community school 25165  
it sponsors a fee for any services provided to the school, except 25166  
as authorized by this division. 25167

(D) The contract shall specify the duties of the sponsor 25168  
which shall be in accordance with the written agreement entered 25169  
into with the department of education under division (B) of 25170  
section 3314.015 of the Revised Code and shall include the 25171  
following: 25172

(1) Monitor the community school's compliance with all laws 25173  
applicable to the school and with the terms of the contract; 25174

(2) Monitor and evaluate the academic and fiscal performance 25175  
and the organization and operation of the community school on at 25176  
least an annual basis; 25177

(3) Report on an annual basis the results of the evaluation 25178  
conducted under division (D)(2) of this section to the department 25179  
of education and to the parents of students enrolled in the 25180  
community school; 25181

(4) Provide technical assistance to the community school in 25182  
complying with laws applicable to the school and terms of the 25183  
contract; 25184

(5) Take steps to intervene in the school's operation to 25185  
correct problems in the school's overall performance, declare the 25186  
school to be on probationary status pursuant to section 3314.073 25187  
of the Revised Code, suspend the operation of the school pursuant 25188  
to section 3314.072 of the Revised Code, or terminate the contract 25189  
of the school pursuant to section 3314.07 of the Revised Code as 25190  
determined necessary by the sponsor; 25191

(6) Have in place a plan of action to be undertaken in the 25192  
event the community school experiences financial difficulties or 25193  
closes prior to the end of a school year. 25194

(E) Upon the expiration of a contract entered into under this 25195  
section, the sponsor of a community school may, with the approval 25196  
of the governing authority of the school, renew that contract for 25197  
a period of time determined by the sponsor, but not ending earlier 25198  
than the end of any school year, if the sponsor finds that the 25199  
school's compliance with applicable laws and terms of the contract 25200  
and the school's progress in meeting the academic goals prescribed 25201  
in the contract have been satisfactory. Any contract that is 25202  
renewed under this division remains subject to the provisions of 25203  
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 25204

(F) If a community school fails to open for operation within 25205  
one year after the contract entered into under this section is 25206  
adopted pursuant to division (D) of section 3314.02 of the Revised 25207  
Code or permanently closes prior to the expiration of the 25208  
contract, the contract shall be void and the school shall not 25209  
enter into a contract with any other sponsor. A school shall not 25210  
be considered permanently closed because the operations of the 25211  
school have been suspended pursuant to section 3314.072 of the 25212  
Revised Code. Any contract that becomes void under this division 25213  
shall not count toward any statewide limit on the number of such 25214  
contracts prescribed by section 3314.013 of the Revised Code. 25215

**Sec. 3314.06.** The governing authority of each community 25216  
school established under this chapter shall adopt admission 25217  
procedures that specify the following: 25218

(A) That except as otherwise provided in this section, 25219  
admission to the school shall be open to any individual age five 25220  
to twenty-two entitled to attend school pursuant to section 25221  
3313.64 or 3313.65 of the Revised Code in a school district in the 25222

state. 25223

(B)(1) That admission to the school may be limited to 25224  
students who have attained a specific grade level or are within a 25225  
specific age group; to students that meet a definition of 25226  
"at-risk," as defined in the contract; ~~or~~ to residents of a 25227  
specific geographic area within the district, as defined in the 25228  
contract; or to separate groups of autistic students and 25229  
nonhandicapped students, as authorized in section 3314.061 of the 25230  
Revised Code and as defined in the contract. 25231

(2) For purposes of division (B)(1) of this section, 25232  
"at-risk" students may include those students identified as gifted 25233  
students under section 3324.03 of the Revised Code. 25234

(C) Whether enrollment is limited to students who reside in 25235  
the district in which the school is located or is open to 25236  
residents of other districts, as provided in the policy adopted 25237  
pursuant to the contract. 25238

(D)(1) That there will be no discrimination in the admission 25239  
of students to the school on the basis of race, creed, color, 25240  
handicapping condition, or sex except that ~~the~~: 25241

(a) The governing authority may establish single-gender 25242  
schools for the purpose described in division (G) of this section 25243  
provided comparable facilities and learning opportunities are 25244  
offered for both boys and girls. Such comparable facilities and 25245  
opportunities may be offered for each sex at separate locations. 25246

(b) The governing authority may establish a school that 25247  
simultaneously serves a group of students identified as autistic 25248  
and a group of students who are not handicapped, as authorized in 25249  
section 3314.061 of the Revised Code. However, unless the total 25250  
capacity established for the school has been filled, no student 25251  
with any handicap shall be denied admission on the basis of that 25252  
handicap. 25253

(2) That upon admission of any handicapped student, the 25254  
community school will comply with all federal and state laws 25255  
regarding the education of handicapped students. 25256

(E) That the school may not limit admission to students on 25257  
the basis of intellectual ability, measures of achievement or 25258  
aptitude, or athletic ability, except that a school may limit its 25259  
enrollment to students as described in division (B)~~(2)~~ of this 25260  
section. 25261

(F) That the community school will admit the number of 25262  
students that does not exceed the capacity of the school's 25263  
programs, classes, grade levels, or facilities. 25264

(G) That the purpose of single-gender schools that are 25265  
established shall be to take advantage of the academic benefits 25266  
some students realize from single-gender instruction and 25267  
facilities and to offer students and parents residing in the 25268  
district the option of a single-gender education. 25269

(H) That, except as otherwise provided under division (B) of 25270  
this section or section 3314.061 of the Revised Code, if the 25271  
number of applicants exceeds the capacity restrictions of division 25272  
(F) of this section, students shall be admitted by lot from all 25273  
those submitting applications, except preference shall be given to 25274  
students attending the school the previous year and to students 25275  
who reside in the district in which the school is located. 25276  
Preference may be given to siblings of students attending the 25277  
school the previous year. 25278

Notwithstanding divisions (A) to (H) of this section, in the 25279  
event the racial composition of the enrollment of the community 25280  
school is violative of a federal desegregation order, the 25281  
community school shall take any and all corrective measures to 25282  
comply with the desegregation order. 25283

Sec. 3314.061. A governing authority may establish a 25284  
community school under this chapter that is limited to providing 25285  
simultaneously special education and related services to a 25286  
specified number of students identified as autistic and regular 25287  
educational programs to a specified number of students who are not 25288  
handicapped. The contract between the governing authority and the 25289  
school's sponsor shall specify the target ratio of number of 25290  
autistic students to number of nonhandicapped students in the 25291  
school's population, the total number of autistic students that 25292  
may be enrolled in the school, and the total number of 25293  
nonhandicapped students that may be enrolled in the school. A 25294  
school established in accordance with this section is subject to 25295  
division (H) of section 3314.06 of the Revised Code, except that 25296  
because the governing authority establishes a separate capacity 25297  
for autistic students and nonhandicapped students, if the number 25298  
of applicants among the group of autistic students or the group of 25299  
nonhandicapped students exceeds the capacity restrictions for that 25300  
group, students shall be admitted by lot from all those of that 25301  
same group submitting applications. However, unless the total 25302  
capacity established for the school has been filled, no student 25303  
with any handicap shall be denied admission on the basis of that 25304  
handicap. 25305

Sec. 3314.074. Divisions (A) and (B) of this section apply 25306  
only to the extent permitted under Chapter 1702. of the Revised 25307  
Code. 25308

(A) If any community school established under this chapter 25309  
permanently closes and ceases its operation as a community school, 25310  
the assets of that school shall be distributed first to the 25311  
retirement funds of employees of the school, employees of the 25312  
school, and private creditors who are owed compensation and then 25313  
any remaining funds shall be paid to the state treasury to the 25314

credit of the general revenue fund. 25315

(B) If a community school closes and ceases to operate as a 25316  
community school and the school has received computer hardware or 25317  
software from the former Ohio SchoolNet commission or the eTech 25318  
Ohio commission, such hardware or software shall be returned to 25319  
the eTech Ohio commission, and the eTech Ohio commission shall 25320  
redistribute the hardware and software, to the extent such 25321  
redistribution is possible, to school districts in conformance 25322  
with the provisions of the programs operated and administered by 25323  
the eTech Ohio commission. 25324

(C) If the assets of the school are insufficient to pay all 25325  
persons or entities to whom compensation is owed, the 25326  
prioritization of the distribution of the assets to individual 25327  
persons or entities within each class of payees may be determined 25328  
by decree of a court in accordance with this section and Chapter 25329  
1702. of the Revised Code. 25330

**Sec. 3314.08.** (A) As used in this section: 25331

(1) "Base formula amount" means the amount specified as such 25332  
in a community school's financial plan for a school year pursuant 25333  
to division (A)(15) of section 3314.03 of the Revised Code. 25334

(2) "Cost-of-doing-business factor" has the same meaning as 25335  
in section 3317.02 of the Revised Code. 25336

(3) "IEP" means an individualized education program as 25337  
defined in section 3323.01 of the Revised Code. 25338

(4) "Applicable special education weight" means the multiple 25339  
specified in section 3317.013 of the Revised Code for a handicap 25340  
described in that section. 25341

(5) "Applicable vocational education weight" means: 25342

(a) For a student enrolled in vocational education programs 25343

or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division; 25344  
25345

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division. 25346  
25347  
25348

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code. 25349  
25350  
25351

(7) A community school student is "included in the ~~DPIA~~ poverty student count" of a school district if the student is entitled to attend school in the district and: 25352  
25353  
25354

~~(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.~~ 25355  
25356

~~(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.~~ 25357  
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(8) "DPIA Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code. 25362  
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25364  
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25368

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code. 25369  
25370

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 25371  
25372  
25373



of section 3317.024, and sections 3317.029, ~~3317.0212, 3317.0213,~~ 25374  
3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of 25375  
the Revised Code after making the adjustments required by sections 25376  
3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ 25377  
(M), ~~and (N)~~ of section 3317.023, and division (C) of section 25378  
3317.20 of the Revised Code. 25379

(B) The state board of education shall adopt rules requiring 25380  
both of the following: 25381

(1) The board of education of each city, exempted village, 25382  
and local school district to annually report the number of 25383  
students entitled to attend school in the district who are 25384  
enrolled in grades one through twelve in a community school 25385  
established under this chapter, the number of students entitled to 25386  
attend school in the district who are enrolled in kindergarten in 25387  
a community school, the number of those kindergartners who are 25388  
enrolled in all-day kindergarten in their community school, and 25389  
for each child, the community school in which the child is 25390  
enrolled. 25391

(2) The governing authority of each community school 25392  
established under this chapter to annually report all of the 25393  
following: 25394

(a) The number of students enrolled in grades one through 25395  
twelve and the number of students enrolled in kindergarten in the 25396  
school who are not receiving special education and related 25397  
services pursuant to an IEP; 25398

(b) The number of enrolled students in grades one through 25399  
twelve and the number of enrolled students in kindergarten, who 25400  
are receiving special education and related services pursuant to 25401  
an IEP; 25402

(c) The number of students reported under division (B)(2)(b) 25403  
of this section receiving special education and related services 25404

pursuant to an IEP for a handicap described in each of divisions 25405  
(A) to (F) of section 3317.013 of the Revised Code; 25406

(d) The full-time equivalent number of students reported 25407  
under divisions (B)(2)(a) and (b) of this section who are enrolled 25408  
in vocational education programs or classes described in each of 25409  
divisions (A) and (B) of section 3317.014 of the Revised Code that 25410  
are provided by the community school; 25411

(e) Twenty per cent of the number of students reported under 25412  
divisions (B)(2)(a) and (b) of this section who are not reported 25413  
under division (B)(2)(d) of this section but who are enrolled in 25414  
vocational education programs or classes described in each of 25415  
divisions (A) and (B) of section 3317.014 of the Revised Code at a 25416  
joint vocational school district under a contract between the 25417  
community school and the joint vocational school district and are 25418  
entitled to attend school in a city, local, or exempted village 25419  
school district whose territory is part of the territory of the 25420  
joint vocational district; 25421

(f) The number of enrolled preschool handicapped students 25422  
receiving special education services in a state-funded unit; 25423

(g) The community school's base formula amount; 25424

(h) For each student, the city, exempted village, or local 25425  
school district in which the student is entitled to attend school; 25426

(i) Any ~~DPIA~~ poverty-based assistance reduction factor that 25427  
applies to a school year. 25428

(C) From the SF-3 payment made to a city, exempted village, 25429  
or local school district and, if necessary, from the payment made 25430  
to the district under sections 321.24 and 323.156 of the Revised 25431  
Code, the department of education shall annually subtract the sum 25432  
of the amounts described in divisions (C)(1) to ~~(6)~~(9) of this 25433  
section. However, when deducting payments on behalf of students 25434

enrolled in internet- or computer-based community schools, the 25435  
department shall deduct only those amounts described in divisions 25436  
(C)(1) and (2) of this section. Furthermore, the aggregate amount 25437  
deducted under this division shall not exceed the sum of the 25438  
district's SF-3 payment and its payment under sections 321.24 and 25439  
323.156 of the Revised Code. 25440

(1) An amount equal to the sum of the amounts obtained when, 25441  
for each community school where the district's students are 25442  
enrolled, the number of the district's students reported under 25443  
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 25444  
in grades one through twelve, and one-half the number of students 25445  
reported under those divisions who are enrolled in kindergarten, 25446  
in that community school is multiplied by the greater of the 25447  
following: 25448

(a) The fiscal year 2005 base formula amount of that 25449  
community school as adjusted by the school district's fiscal year 25450  
2005 cost-of-doing-business factor; 25451

(b) The sum of (the current base formula amount of that 25452  
community school times the school district's current 25453  
cost-of-doing-business factor) plus the per pupil amount of the 25454  
base funding supplements specified in divisions (C)(1) to (4) of 25455  
section 3317.012 of the Revised Code. 25456

(2) The sum of the amounts calculated under divisions 25457  
(C)(2)(a) and (b) of this section: 25458

(a) For each of the district's students reported under 25459  
division (B)(2)(c) of this section as enrolled in a community 25460  
school in grades one through twelve and receiving special 25461  
education and related services pursuant to an IEP for a handicap 25462  
described in section 3317.013 of the Revised Code, the product of 25463  
the applicable special education weight times the community 25464  
school's base formula amount; 25465

(b) For each of the district's students reported under 25466  
division (B)(2)(c) of this section as enrolled in kindergarten in 25467  
a community school and receiving special education and related 25468  
services pursuant to an IEP for a handicap described in section 25469  
3317.013 of the Revised Code, one-half of the amount calculated as 25470  
prescribed in division (C)(2)(a) of this section. 25471

(3) For each of the district's students reported under 25472  
division (B)(2)(d) of this section for whom payment is made under 25473  
division (D)(4) of this section, the amount of that payment; 25474

(4) An amount equal to the sum of the amounts obtained when, 25475  
for each community school where the district's students are 25476  
enrolled, the number of the district's students enrolled in that 25477  
community school who are included in the district's ~~DPIA~~ poverty 25478  
student count is multiplied by the per pupil amount of 25479  
~~disadvantaged pupil impact aid~~ poverty-based assistance the school 25480  
district receives that year pursuant to division (B) or (C) of 25481  
section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 25482  
poverty-based assistance reduction factor of that community 25483  
school. If the district receives ~~disadvantaged pupil impact aid~~ 25484  
poverty-based assistance under division (B) of that section, the 25485  
per pupil amount of that aid is the quotient of the amount the 25486  
district received under that division divided by the district's 25487  
~~DPIA~~ poverty student count, as defined in that section. If the 25488  
district receives ~~disadvantaged pupil impact aid~~ poverty-based 25489  
assistance under division (C) of section 3317.029 of the Revised 25490  
Code, the per pupil amount of that aid is the per pupil dollar 25491  
amount prescribed for the district in ~~division~~ divisions (C)(1) ~~or~~ 25492  
~~(2)~~ to (3) of that section. 25493

(5) An amount equal to the sum of the amounts obtained when, 25494  
for each community school where the district's students are 25495  
enrolled, the district's per pupil amount of aid received under 25496  
division (E) of section 3317.029 of the Revised Code, as adjusted 25497

by any ~~DPIA~~ poverty-based assistance reduction factor of the 25498  
community school, is multiplied by the sum of the following: 25499

(a) The number of the district's students reported under 25500  
division (B)(2)(a) of this section who are enrolled in grades one 25501  
to three in that community school and who are not receiving 25502  
special education and related services pursuant to an IEP; 25503

(b) One-half of the district's students who are enrolled in 25504  
all-day or any other kindergarten class in that community school 25505  
and who are not receiving special education and related services 25506  
pursuant to an IEP; 25507

(c) One-half of the district's students who are enrolled in 25508  
all-day kindergarten in that community school and who are not 25509  
receiving special education and related services pursuant to an 25510  
IEP. 25511

The district's per pupil amount of aid under division (E) of 25512  
section 3317.029 of the Revised Code is the quotient of the amount 25513  
the district received under that division divided by the 25514  
district's kindergarten through third grade ADM, as defined in 25515  
that section. 25516

(6) An amount equal to the sum of the amounts obtained when, 25517  
for each community school where the district's students are 25518  
enrolled, the district's per pupil amount received under division 25519  
(F) of section 3317.029 of the Revised Code, as adjusted by any 25520  
poverty-based assistance reduction factor of that community 25521  
school, is multiplied by the number of the district's students 25522  
enrolled in the community school who are identified as 25523  
limited-English proficient. 25524

The district's per pupil amount under division (F) of section 25525  
3317.029 of the Revised Code is the amount calculated under 25526  
division (F)(1) or (2) of that section, times a multiple of 0.40 25527  
in fiscal year 2006 and 0.70 in fiscal year 2007. 25528

(7) An amount equal to the sum of the amounts obtained when, 25529  
for each community school where the district's students are 25530  
enrolled, the district's per pupil amount received under division 25531  
(G) of section 3317.029 of the Revised Code, as adjusted by any 25532  
poverty-based assistance reduction factor of that community 25533  
school, is multiplied by the sum of the following: 25534

(a) The number of the district's students enrolled in grades 25535  
one through twelve in that community school; 25536

(b) One-half of the number of the district's students 25537  
enrolled in kindergarten in that community school. 25538

The district's per pupil amount under division (G) of section 25539  
3317.029 of the Revised Code is the district's amount per teacher 25540  
calculated under division (G)(1) or (2) of that section divided by 25541  
17, times a multiple of 0.40 in fiscal year 2006 and 0.70 in 25542  
fiscal year 2007. 25543

(8) An amount equal to the sum of the amounts obtained when, 25544  
for each community school where the district's students are 25545  
enrolled, the district's per pupil amount received under divisions 25546  
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 25547  
by any poverty-based assistance reduction factor of that community 25548  
school, is multiplied by the sum of the following: 25549

(a) The number of the district's students enrolled in grades 25550  
one through twelve in that community school; 25551

(b) One-half of the number of the district's students 25552  
enrolled in kindergarten in that community school. 25553

The district's per pupil amount under divisions (H) and (I) 25554  
of section 3317.029 of the Revised Code is the amount calculated 25555  
under each division divided by the district's formula ADM, as 25556  
defined in section 3317.02 of the Revised Code. 25557

(9) An amount equal to the per pupil state parity aid funding 25558

calculated for the school district under either division (C) or 25559  
(D) of section 3317.0217 of the Revised Code multiplied by the sum 25560  
of the number of students in grades one through twelve, and 25561  
one-half of the number of students in kindergarten, who are 25562  
entitled to attend school in the district and are enrolled in a 25563  
community school as reported under division (B)(1) of this 25564  
section. 25565

(D) The department shall annually pay to a community school 25566  
established under this chapter the sum of the amounts described in 25567  
divisions (D)(1) to ~~(7)~~(10) of this section. However, the 25568  
department shall calculate and pay to each internet- or 25569  
computer-based community school only the amounts described in 25570  
divisions (D)(1) to (3) of this section. Furthermore, the sum of 25571  
the payments to all community schools under divisions (D)(1), (2), 25572  
and (4), ~~(5), (6), and (7)~~ to (10) of this section for the 25573  
students entitled to attend school in any particular school 25574  
district shall not exceed the sum of that district's SF-3 payment 25575  
and its payment under sections 321.24 and 323.156 of the Revised 25576  
Code. If the sum of the payments calculated under those divisions 25577  
for the students entitled to attend school in a particular school 25578  
district exceeds the sum of that district's SF-3 payment and its 25579  
payment under sections 321.24 and 323.156 of the Revised Code, the 25580  
department shall calculate and apply a proration factor to the 25581  
payments to all community schools under those divisions for the 25582  
students entitled to attend school in that district. 25583

(1) An Subject to section 3314.085 of the Revised Code, an 25584  
amount equal to the sum of the amounts obtained when the number of 25585  
students enrolled in grades one through twelve, plus one-half of 25586  
the kindergarten students in the school, reported under divisions 25587  
(B)(2)(a), (b), and (e) of this section who are not receiving 25588  
special education and related services pursuant to an IEP for a 25589  
handicap described in section 3317.013 of the Revised Code is 25590

multiplied by the greater of the following: 25591

(a) The community school's fiscal year 2005 base formula 25592  
amount, as adjusted by the fiscal year 2005 cost-of-doing-business 25593  
factor of the school district in which the student is entitled to 25594  
attend school; 25595

(b) The sum of (the community school's current base formula 25596  
amount times the current cost-of-doing-business factor of the 25597  
school district in which the student is entitled to attend school) 25598  
plus the per pupil amount of the base funding supplements 25599  
specified in divisions (C)(1) to (4) of section 3317.012 of the 25600  
Revised Code. 25601

(2) The greater of the following: 25602

(a) The aggregate amount that the department paid to the 25603  
community school in fiscal year 1999 for students receiving 25604  
special education and related services pursuant to IEPs, excluding 25605  
federal funds and state disadvantaged pupil impact aid funds; 25606

(b) The sum of the amounts calculated under divisions 25607  
(D)(2)(b)(i) and (ii) of this section: 25608

(i) For each student reported under division (B)(2)(c) of 25609  
this section as enrolled in the school in grades one through 25610  
twelve and receiving special education and related services 25611  
pursuant to an IEP for a handicap described in section 3317.013 of 25612  
the Revised Code, the following amount+ 25613

the greater of (the community school's fiscal year 2005 base 25614  
formula amount 25615  
X the fiscal year 2005 cost-of-doing-business factor 25616  
of the district where the student 25617  
is entitled to attend school) or [(the school's current base 25618  
formula amount times the current cost-of-doing-business factor of 25619  
the school district where the student is entitled to attend 25620  
school) plus the per pupil amount of the base funding supplements 25621



specified in divisions (C)(1) to (4) of section 3317.012 of the 25622  
Revised Code + 25623  
(the applicable special education weight X 25624  
the community school's base formula amount); 25625

(ii) For each student reported under division (B)(2)(c) of 25626  
this section as enrolled in kindergarten and receiving special 25627  
education and related services pursuant to an IEP for a handicap 25628  
described in section 3317.013 of the Revised Code, one-half of the 25629  
amount calculated under the formula prescribed in division 25630  
(D)(2)(b)(i) of this section. 25631

(3) An amount received from federal funds to provide special 25632  
education and related services to students in the community 25633  
school, as determined by the superintendent of public instruction. 25634

(4) For each student reported under division (B)(2)(d) of 25635  
this section as enrolled in vocational education programs or 25636  
classes that are described in section 3317.014 of the Revised 25637  
Code, are provided by the community school, and are comparable as 25638  
determined by the superintendent of public instruction to school 25639  
district vocational education programs and classes eligible for 25640  
state weighted funding under section 3317.014 of the Revised Code, 25641  
an amount equal to the applicable vocational education weight 25642  
times the community school's base formula amount times the 25643  
percentage of time the student spends in the vocational education 25644  
programs or classes. 25645

(5) An amount equal to the sum of the amounts obtained when, 25646  
for each school district where the community school's students are 25647  
entitled to attend school, the number of that district's students 25648  
enrolled in the community school who are included in the 25649  
district's ~~DPIA~~ poverty student count is multiplied by the per 25650  
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 25651  
assistance that school district receives that year pursuant to 25652  
division (B) or (C) of section 3317.029 of the Revised Code, as 25653

adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of 25654  
the community school. The per pupil amount of aid shall be 25655  
determined as described in division (C)(4) of this section. 25656

(6) An amount equal to the sum of the amounts obtained when, 25657  
for each school district where the community school's students are 25658  
entitled to attend school, the district's per pupil amount of aid 25659  
received under division (E) of section 3317.029 of the Revised 25660  
Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction 25661  
factor of the community school, is multiplied by the sum of the 25662  
following: 25663

(a) The number of the district's students reported under 25664  
division (B)(2)(a) of this section who are enrolled in grades one 25665  
to three in that community school and who are not receiving 25666  
special education and related services pursuant to an IEP; 25667

(b) One-half of the district's students who are enrolled in 25668  
all-day or any other kindergarten class in that community school 25669  
and who are not receiving special education and related services 25670  
pursuant to an IEP; 25671

(c) One-half of the district's students who are enrolled in 25672  
all-day kindergarten in that community school and who are not 25673  
receiving special education and related services pursuant to an 25674  
IEP. 25675

The district's per pupil amount of aid under division (E) of 25676  
section 3317.029 of the Revised Code shall be determined as 25677  
described in division (C)(5) of this section. 25678

(7) An amount equal to the sum of the amounts obtained when, 25679  
for each school district where the community school's students are 25680  
entitled to attend school, the number of that district's students 25681  
enrolled in the community school who are identified as 25682  
limited-English proficient is multiplied by the district's per 25683  
pupil amount received under division (F) of section 3317.029 of 25684

the Revised Code, as adjusted by any poverty-based assistance 25685  
reduction factor of the community school. 25686

The district's per pupil amount under division (F) of section 25687  
3317.029 of the Revised Code shall be determined as described in 25688  
division (C)(6) of this section. 25689

(8) An amount equal to the sum of the amounts obtained when, 25690  
for each school district where the community school's students are 25691  
entitled to attend school, the district's per pupil amount 25692  
received under division (G) of section 3317.029 of the Revised 25693  
Code, as adjusted by any poverty-based assistance reduction factor 25694  
of the community school, is multiplied by the sum of the 25695  
following: 25696

(a) The number of the district's students enrolled in grades 25697  
one through twelve in that community school; 25698

(b) One-half of the number of the district's students 25699  
enrolled in kindergarten in that community school. 25700

The district's per pupil amount under division (G) of section 25701  
3317.029 of the Revised Code shall be determined as described in 25702  
division (C)(7) of this section. 25703

(9) An amount equal to the sum of the amounts obtained when, 25704  
for each school district where the community school's students are 25705  
entitled to attend school, the district's per pupil amount 25706  
received under divisions (H) and (I) of section 3317.029 of the 25707  
Revised Code, as adjusted by any poverty-based assistance 25708  
reduction factor of the community school, is multiplied by the sum 25709  
of the following: 25710

(a) The number of the district's students enrolled in grades 25711  
one through twelve in that community school; 25712

(b) One-half of the number of the district's students 25713  
enrolled in kindergarten in that community school. 25714

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of 25746  
education for preschool handicapped or gifted unit funding the 25747  
school would receive if it were a school district. Upon request of 25748  
its governing authority, a community school that received unit 25749  
funding as a school district-operated school before it became a 25750  
community school shall retain any units awarded to it as a school 25751  
district-operated school provided the school continues to meet 25752  
eligibility standards for the unit. 25753

A community school shall be considered a school district and 25754  
its governing authority shall be considered a board of education 25755  
for the purpose of applying to any state or federal agency for 25756  
grants that a school district may receive under federal or state 25757  
law or any appropriations act of the general assembly. The 25758  
governing authority of a community school may apply to any private 25759  
entity for additional funds. 25760

(G) A board of education sponsoring a community school may 25761  
utilize local funds to make enhancement grants to the school or 25762  
may agree, either as part of the contract or separately, to 25763  
provide any specific services to the community school at no cost 25764  
to the school. 25765

(H) A community school may not levy taxes or issue bonds 25766  
secured by tax revenues. 25767

(I) No community school shall charge tuition for the 25768  
enrollment of any student. 25769

(J)(1)(a) A community school may borrow money to pay any 25770  
necessary and actual expenses of the school in anticipation of the 25771  
receipt of any portion of the payments to be received by the 25772  
school pursuant to division (D) of this section. The school may 25773  
issue notes to evidence such borrowing. The proceeds of the notes 25774  
shall be used only for the purposes for which the anticipated 25775  
receipts may be lawfully expended by the school. 25776

(b) A school may also borrow money for a term not to exceed 25777  
fifteen years for the purpose of acquiring facilities. 25778

(2) Except for any amount guaranteed under section 3318.50 of 25779  
the Revised Code, the state is not liable for debt incurred by the 25780  
governing authority of a community school. 25781

(K) For purposes of determining the number of students for 25782  
which divisions (D)(5) and (6) of this section applies in any 25783  
school year, a community school may submit to the department of 25784  
job and family services, no later than the first day of March, a 25785  
list of the students enrolled in the school. For each student on 25786  
the list, the community school shall indicate the student's name, 25787  
address, and date of birth and the school district where the 25788  
student is entitled to attend school. Upon receipt of a list under 25789  
this division, the department of job and family services shall 25790  
determine, for each school district where one or more students on 25791  
the list is entitled to attend school, the number of students 25792  
residing in that school district who were included in the 25793  
department's report under section 3317.10 of the Revised Code. The 25794  
department shall make this determination on the basis of 25795  
information readily available to it. Upon making this 25796  
determination and no later than ninety days after submission of 25797  
the list by the community school, the department shall report to 25798  
the state department of education the number of students on the 25799  
list who reside in each school district who were included in the 25800  
department's report under section 3317.10 of the Revised Code. In 25801  
complying with this division, the department of job and family 25802  
services shall not report to the state department of education any 25803  
personally identifiable information on any student. 25804

(L) The department of education shall adjust the amounts 25805  
subtracted and paid under divisions (C) and (D) of this section to 25806  
reflect any enrollment of students in community schools for less 25807  
than the equivalent of a full school year. The state board of 25808

education within ninety days after April 8, 2003, shall adopt in  
accordance with Chapter 119. of the Revised Code rules governing  
the payments to community schools under this section including  
initial payments in a school year and adjustments and reductions  
made in subsequent periodic payments to community schools and  
corresponding deductions from school district accounts as provided  
under divisions (C) and (D) of this section. For purposes of this  
section:

(1) A student shall be considered enrolled in the community  
school for any portion of the school year the student is  
participating at a college under Chapter 3365. of the Revised  
Code.

(2) A student shall be considered to be enrolled in a  
community school during a school year for the period of time  
~~between~~ beginning on the later of the date on which the school  
both has received documentation of the student's enrollment from a  
parent and the student has commenced participation in learning  
opportunities as defined in the contract with the sponsor, or  
thirty days prior to the date on which the student is entered into  
the education management information system established under  
section 3301.0714 of the Revised Code. For purposes of applying  
this division to a community school student, "learning  
opportunities" shall be defined in the contract, which shall  
describe both classroom-based and non-classroom-based learning  
opportunities and shall be in compliance with criteria and  
documentation requirements for student participation which shall  
be established by the department. Any student's instruction time  
in non-classroom-based learning opportunities shall be certified  
by an employee of the community school. A student's enrollment  
shall be considered to cease on the date on which any of the  
following occur:

(a) The community school receives documentation from a parent

terminating enrollment of the student. 25841

(b) The community school is provided documentation of a 25842  
student's enrollment in another public or private school. 25843

(c) The community school ceases to offer learning 25844  
opportunities to the student pursuant to the terms of the contract 25845  
with the sponsor or the operation of any provision of this 25846  
chapter. 25847

(3) A student's percentage of full-time equivalency shall be 25848  
considered to be the percentage the hours of learning opportunity 25849  
offered to that student is of nine hundred and twenty hours. 25850  
However, no internet- or computer-based community school shall be 25851  
credited for any time a student spends participating in learning 25852  
opportunities beyond ten hours within any period of twenty-four 25853  
consecutive hours. 25854

(M) The department of education shall reduce the amounts paid 25855  
under division (D) of this section to reflect payments made to 25856  
colleges under division (B) of section 3365.07 of the Revised 25857  
Code. 25858

(N)(1) No student shall be considered enrolled in any 25859  
internet- or computer-based community school or, if applicable to 25860  
the student, in any community school that is required to provide 25861  
the student with a computer pursuant to division (C) of section 25862  
3314.22 of the Revised Code, unless both of the following 25863  
conditions are satisfied: 25864

(a) The student possesses or has been provided with all 25865  
required hardware and software materials and all such materials 25866  
are operational so that the student is capable of fully 25867  
participating in the learning opportunities specified in the 25868  
contract between the school and the school's sponsor as required 25869  
by division (A)(23) of section 3314.03 of the Revised Code; 25870



(b) The school is in compliance with division (A)(1) or (2) 25871  
of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such 25872  
student. 25873

(2) In accordance with policies adopted jointly by the 25874  
superintendent of public instruction and the auditor of state, the 25875  
department shall reduce the amounts otherwise payable under 25876  
division (D) of this section to any ~~internet or computer based~~ 25877  
community school that includes in its program the provision of 25878  
computer hardware and software materials to ~~each~~ any student, if 25879  
such hardware and software materials have not been delivered, 25880  
installed, and activated for ~~all students~~ each such student in a 25881  
timely manner or other educational materials or services have not 25882  
been provided according to the contract between the individual 25883  
community school and its sponsor. 25884

The superintendent of public instruction and the auditor of 25885  
state shall jointly establish a method for auditing any community 25886  
school to which this division pertains to ensure compliance with 25887  
this section. 25888

The superintendent, auditor of state, and the governor shall 25889  
jointly make recommendations to the general assembly for 25890  
legislative changes that may be required to assure fiscal and 25891  
academic accountability for such ~~internet or computer based~~ 25892  
schools. 25893

(O)(1) If the department determines that a review of a 25894  
community school's enrollment is necessary, such review shall be 25895  
completed and written notice of the findings shall be provided to 25896  
the governing authority of the community school and its sponsor 25897  
within ninety days of the end of the community school's fiscal 25898  
year, unless extended for a period not to exceed thirty additional 25899  
days for one of the following reasons: 25900

(a) The department and the community school mutually agree to 25901

the extension. 25902

(b) Delays in data submission caused by either a community 25903  
school or its sponsor. 25904

(2) If the review results in a finding that additional 25905  
funding is owed to the school, such payment shall be made within 25906  
thirty days of the written notice. If the review results in a 25907  
finding that the community school owes moneys to the state, the 25908  
following procedure shall apply: 25909

(a) Within ten business days of the receipt of the notice of 25910  
findings, the community school may appeal the department's 25911  
determination to the state board of education or its designee. 25912

(b) The board or its designee shall conduct an informal 25913  
hearing on the matter within thirty days of receipt of such an 25914  
appeal and shall issue a decision within fifteen days of the 25915  
conclusion of the hearing. 25916

(c) If the board has enlisted a designee to conduct the 25917  
hearing, the designee shall certify its decision to the board. The 25918  
board may accept the decision of the designee or may reject the 25919  
decision of the designee and issue its own decision on the matter. 25920

(d) Any decision made by the board under this division is 25921  
final. 25922

(3) If it is decided that the community school owes moneys to 25923  
the state, the department shall deduct such amount from the 25924  
school's future payments in accordance with guidelines issued by 25925  
the superintendent of public instruction. 25926

**Sec. 3314.084.** (A) As used in this section: 25927

(1) "Formula ADM" has the same meaning as in section 3317.03 25928  
of the Revised Code. 25929

(2) "Home" has the same meaning as in section 3313.64 of the 25930

Revised Code. 25931

(3) "School district of residence" has the same meaning as in 25932  
section 3323.01 of the Revised Code; however, a community school 25933  
established under this chapter is not a "school district of 25934  
residence" for purposes of this section. 25935

(B) Notwithstanding anything to the contrary in section 25936  
3314.08 or 3317.03 of the Revised Code, all of the following apply 25937  
in the case of a child who is enrolled in a community school and 25938  
is also living in a home: 25939

(1) For purposes of the report required under division (B)(1) 25940  
of section 3314.08 of the Revised Code, the child's school 25941  
district of residence, and not the school district in which the 25942  
home that the child is living in is located, shall be considered 25943  
to be the school district in which the child is entitled to attend 25944  
school. That school district of residence, therefore, shall make 25945  
the report required under division (B)(1) of section 3314.08 of 25946  
the Revised Code with respect to the child. 25947

(2) For purposes of the report required under division (B)(2) 25948  
of section 3314.08 of the Revised Code, the community school shall 25949  
report the name of the child's school district of residence. 25950

(3) The child's school district of residence shall count the 25951  
child in that district's formula ADM. 25952

(4) The school district in which the home that the child is 25953  
living in is located shall not count the child in that district's 25954  
formula ADM. 25955

(5) The Department of Education shall deduct the applicable 25956  
amounts prescribed under division (C) of section 3314.08 and 25957  
division (D) of section 3314.13 of the Revised Code from the 25958  
child's school district of residence and shall not deduct those 25959  
amounts from the school district in which the home that the child 25960

is living in is located. 25961

(6) The Department shall make the payments prescribed in 25962  
divisions (D) and (E) of section 3314.08 and sections 3314.085 and 25963  
3314.13 of the Revised Code, as applicable, to the community 25964  
school. 25965

Sec. 3314.085. (A) The general assembly has determined that 25966  
the base cost of operating an internet- or computer-based 25967  
community school, after incurring start-up costs, is less than the 25968  
base cost for other public schools. 25969

(B) A three-year pilot program is established for the payment 25970  
of state base cost funds to internet- or computer-based community 25971  
schools. The pilot program shall operate in fiscal years 2007, 25972  
2008, and 2009. In each of those fiscal years: 25973

(1) Notwithstanding division (D)(1) of section 3314.08 of the 25974  
Revised Code, the department of education shall pay each internet- 25975  
or computer-based community school eighty per cent of the amount 25976  
specified in that division instead of the full amount specified in 25977  
that division. 25978

(2) In a fiscal year that constitutes the first or second 25979  
fiscal year that an internet- or computer-based community school 25980  
is open for business providing learning opportunities, regardless 25981  
of whether the school is open for an entire school year during 25982  
either fiscal year, the department shall pay the school the 25983  
remaining twenty per cent of the amount calculated under division 25984  
(D)(1) of section 3314.08 of the Revised Code for the school's 25985  
start-up costs. 25986

(3) In each fiscal year after the second fiscal year that an 25987  
internet- or computer-based community school is open for business 25988  
providing learning opportunities, regardless of whether the school 25989  
was open for an entire school year during either of the first two 25990

fiscal years, the school may apply to the department for a grant 25991  
under division (C) of this section. 25992

(C) In each fiscal year under the pilot program, an internet- 25993  
or computer-based community school that is open providing learning 25994  
opportunities for a third or subsequent fiscal year may apply to 25995  
the department for a grant to provide services that are in 25996  
addition to or an enhancement to those required by law to be 25997  
provided by internet- or computer-based community schools and are 25998  
intended to substantially enhance student learning. The amount of 25999  
the grant or grants awarded to an internet- or computer-based 26000  
community school each fiscal year shall not exceed the remaining 26001  
twenty per cent of the amount calculated for the school under 26002  
division (D)(1) of section 3314.08 of the Revised Code. 26003

In the first fiscal year that a school applies for a grant, 26004  
the department shall award grants based on a school's proposal for 26005  
services stated in its application. Each grant awarded must 26006  
contain an agreement between the school and the department that 26007  
specifies the goal to be achieved, the actions to be taken, the 26008  
methodology to measure the achievement of the goal, and the target 26009  
to be met according to that methodology. A grant may not be 26010  
renewed for a subsequent year unless the school meets the target 26011  
specified in the grant agreement. 26012

The superintendent of public instruction shall adopt rules to 26013  
operate the grant component of the pilot program. The rules shall 26014  
specify types of services for which grants may be awarded. The 26015  
superintendent may include in the rules any other requirements the 26016  
superintendent determines necessary to operate the grant component 26017  
of the pilot program. Each internet- or computer-based community 26018  
school that applies for or receives a grant shall comply with the 26019  
rules. 26020

(D) Not later than December 1, 2008, the superintendent shall 26021

report to the general assembly the department's findings and 26022  
conclusions concerning the pilot program and recommendations for a 26023  
permanent method of calculating and paying state base cost 26024  
payments to internet- or computer-based community schools after 26025  
fiscal year 2009. 26026

**Sec. 3314.12.** On or before the first day of November each 26027  
year, the sponsor of each community school established under this 26028  
chapter shall submit to the department of education, in accordance 26029  
with guidelines adopted by the department for purposes of this 26030  
section, a report that describes the special education and related 26031  
services provided by that school to enrolled students during the 26032  
previous fiscal year and the school's expenditures for those 26033  
services. 26034

**Sec. 3314.13.** (A) As used in this section: 26035

(1) "All-day kindergarten" has the same meaning as in section 26036  
3317.029 of the Revised Code. 26037

(2) "Formula amount" has the same meaning as in section 26038  
3317.02 of the Revised Code. 26039

(B) ~~The~~ Except as provided in division (C) of this section, 26040  
the department of education annually shall pay each community 26041  
school established under this chapter one-half of the formula 26042  
amount for each student to whom both of the following apply: 26043

(1) The student is entitled to attend school under section 26044  
3313.64 or 3313.65 of the Revised Code in a school district that 26045  
is eligible to receive a payment under division (D) of section 26046  
3317.029 of the Revised Code if it provides all-day kindergarten; 26047

(2) The student is reported by the community school as 26048  
enrolled in all-day kindergarten at the community school. 26049

(C) The department shall make no payments under this section 26050

to any internet- or computer-based community school. 26051

(D) If a student for whom payment is made under division (B) 26052  
of this section is entitled to attend school in a district that 26053  
receives any payment for all-day kindergarten under division (D) 26054  
of section 3317.029 of the Revised Code, the department shall 26055  
deduct the payment to the community school under this section from 26056  
the amount paid that school district under that division. If that 26057  
school district does not receive payment for all-day kindergarten 26058  
under that division because it does not provide all-day 26059  
kindergarten, the department shall pay the community school from 26060  
state funds appropriated generally for ~~disadvantaged pupil impact~~ 26061  
~~aid~~ poverty-based assistance to school districts. 26062

~~(D)~~(E) The department shall adjust the amounts deducted from 26063  
school districts and paid to community schools under this section 26064  
to reflect any enrollments of students in all-day kindergarten in 26065  
community schools for less than the equivalent of a full school 26066  
year. 26067

**Sec. 3314.17.** (A) Each community school established under 26068  
this chapter shall participate in the statewide education 26069  
management information system established under section 3301.0714 26070  
of the Revised Code. All provisions of that section and the rules 26071  
adopted under that section apply to each community school as if it 26072  
were a school district, except as modified for community schools 26073  
under division (B) of this section. 26074

(B) The rules adopted by the state board of education under 26075  
section 3301.0714 of the Revised Code may distinguish methods and 26076  
timelines for community schools to annually report data, which 26077  
methods and timelines differ from those prescribed for school 26078  
districts. Any methods and timelines prescribed for community 26079  
schools shall be appropriate to the academic schedule and 26080  
financing of community schools. The guidelines, however, shall not 26081

modify the actual data required to be reported under that section.

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~~(C) Each fiscal officer appointed under section 3314.011 of the Revised Code is responsible for annually reporting the community school's data under section 3301.0714 of the Revised Code. If the superintendent of public instruction determines that a community school fiscal officer has willfully failed to report data or has willfully reported erroneous, inaccurate, or incomplete data in any year, or has negligently reported erroneous, inaccurate, or incomplete data in the current and any previous year, the superintendent may impose a civil penalty of one hundred dollars on the fiscal officer after providing the officer with notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. The superintendent's Any time the department of education determines that a community school has taken any of the actions described under division (C)(1), (2), or (3) of this section, it shall make a report of the actions of the school, send a copy of the report to the sponsor of the school, and maintain a copy of the report in its files:~~

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(1) The community school fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;

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(2) The community school fails to meet any deadline established by the state board of education for the correction of any data reported to the education management information system;

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(3) The community school reports data to the education management information system in a condition, as determined by the department, that indicates that the school did not make a good faith effort in reporting the data to the system.

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Any report made under this division shall include recommendations for corrective action by the school.

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Upon making a report for the first time in a fiscal year, the

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department shall withhold ten per cent of the total amount due 26113  
during that fiscal year under sections 3314.08 and 3314.13 of the 26114  
Revised Code to the community school to which the report applies. 26115  
Upon making a second report in a fiscal year, the department shall 26116  
withhold an additional twenty per cent of such total amount due 26117  
during that fiscal year to the school to which the report applies. 26118  
The department shall not release such funds unless it determines 26119  
that the school has taken corrective action. However, no such 26120  
release of funds shall occur if the school fails to take 26121  
corrective action within forty-five days of the date upon which 26122  
the report was made by the department. 26123

(D) The authority to ~~impose civil penalties~~ withhold funds 26124  
under this division (C) of this section does not preclude the 26125  
state board of education from suspending or revoking the license 26126  
of a community school employee under division (N) of section 26127  
3301.0714 of the Revised Code. 26128

~~(D)~~(E) No community school shall acquire, change, or update 26129  
its student administration software package to manage and report 26130  
data required to be reported to the department unless it converts 26131  
to a student software package that is certified by the department. 26132

**Sec. 3314.18.** Each community school established under this 26133  
chapter shall participate in project SOAR implemented by battelle 26134  
for kids for the purpose of collecting information on the amount 26135  
of student academic growth attributable to the instruction 26136  
provided by the school. Each community school shall comply with 26137  
all requirements for participation in project SOAR, including the 26138  
administration of tests and the submission of student performance 26139  
data. 26140

The department of education shall negotiate the cost of 26141  
community school participation in project SOAR with battelle for 26142  
kids. In fiscal year 2006, each community school shall pay the 26143

cost of its participation in project SOAR. Beginning in fiscal 26144  
year 2007, the department shall pay the cost of that 26145  
participation. All payments, by either a community school or the 26146  
department, shall be made directly to battelle for kids. No 26147  
community school shall be required to contribute to the cost of 26148  
its participation in project SOAR under this section. after fiscal 26149  
year 2006. 26150

Sec. 3314.19. The department of education annually shall 26151  
examine the data reported by each community school under sections 26152  
3301.0714 and 3314.17 of the Revised Code about scores attained on 26153  
the state proficiency and achievement tests, prescribed under 26154  
section 3301.0710 of the Revised Code, by each student enrolled in 26155  
the school at the end of the school year. If the department 26156  
determines that any of that data is incomplete or inaccurate, the 26157  
department shall notify the school of the incompleteness or 26158  
inaccuracy and shall provide technical assistance to the school so 26159  
that the school may revise its reports to completely and 26160  
accurately reflect student test scores in sufficient time to be 26161  
included in the department's report card for the school issued 26162  
under section 3314.012 of the Revised Code. 26163

Sec. ~~3314.031~~ 3314.21. (A) As used in this section: 26164

(1) "Harmful to juveniles" has the same meaning as in section 26165  
2907.01 of the Revised Code. 26166

(2) "Obscene" has the same meaning as in division (F) of 26167  
section 2907.01 of the Revised Code as that division has been 26168  
construed by the supreme court of this state. 26169

(3) "Teacher of record" means a teacher who is responsible 26170  
for the overall academic development and achievement of a student 26171  
and not merely the student's instruction in any single subject. 26172

(B) ~~It is the intent of the general assembly that teachers~~ 26173

~~employed by internet or computer based community schools conduct~~ 26174  
~~visits with their students in person throughout the school year~~ 26175  
(1) Each internet- or computer-based community school shall retain 26176  
an affiliation with at least one full-time teacher of record 26177  
licensed in accordance with division (A)(10) of section 3314.03 of 26178  
the Revised Code and shall not rely exclusively on teachers 26179  
engaged by any person or company from which the school has 26180  
purchased its curriculum. 26181

(2) Each student enrolled in an internet- or computer-based 26182  
community school shall be assigned to at least one teacher of 26183  
record. No teacher of record shall be primarily responsible for 26184  
the academic development and achievement of more than one hundred 26185  
twenty-five students enrolled in the internet- or computer-based 26186  
community school that has retained that teacher. 26187

(3) Each internet- or computer-based community school shall 26188  
provide each student enrolled in the school with an in-person 26189  
visit with a teacher, licensed in accordance with division (A)(10) 26190  
of section 3314.03 of the Revised Code, for not less than one hour 26191  
after every two hundred thirty hours of learning opportunities 26192  
provided to that student by the school. 26193

(C) For any internet- or computer-based community school, the 26194  
contract between the sponsor and the governing authority of the 26195  
school described in section 3314.03 of the Revised Code shall 26196  
specify each of the following: 26197

(1) A requirement that the school use a filtering device or 26198  
install filtering software that protects against internet access 26199  
to materials that are obscene or harmful to juveniles on each 26200  
computer provided to students for instructional use. The school 26201  
shall provide such device or software at no cost to any student 26202  
who works primarily from the student's residence on a computer 26203  
obtained from a source other than the school. 26204

(2) A plan for fulfilling the ~~intent of the general assembly~~ requirement specified in division (B)(3) of this section. The plan shall indicate the number of times teachers will visit each student throughout the school year and the manner in which those visits will be conducted.

(3) That the school will set up a central base of operation and the sponsor will maintain a representative within fifty miles of that base of operation to provide monitoring and assistance.

**Sec. ~~3314.032~~ 3314.22.** (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to the effective date of this amendment and is not intended to change that meaning in any way.

(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single ~~household~~ residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the ~~household~~ residence. The parent may amend the decision to accept less than one computer per child anytime during the school year, and, in such case, within thirty days after the parent notifies the school of such amendment, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section.

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already

enrolled in the school a written notice of the provisions 26236  
prescribed in divisions (A)(1) and (2) of this section. 26237

(C) If a community school that is not an internet- or 26238  
computer-based community school provides any of its enrolled 26239  
students with nonclassroom-based learning opportunities provided 26240  
via an internet- or other computer-based instructional method and 26241  
requires such students to participate in any of those learning 26242  
opportunities from their residences, the school shall be subject 26243  
to this section and division (C)(1) of section 3314.21 of the 26244  
Revised Code relative to each such student in the same manner as 26245  
an internet- or computer-based community school, unless both of 26246  
the following conditions apply to the student: 26247

(1) The nonclassroom-based learning opportunities in which 26248  
the student is required to participate from the student's 26249  
residence are supplemental or remedial in nature or do not 26250  
constitute a significant portion of the total classroom-based and 26251  
nonclassroom-based learning opportunities provided to the student 26252  
by the school; 26253

(2) The student's residence is equipped with a computer 26254  
available for the student's use. 26255

**Sec. ~~3314.033~~ 3314.23.** (A) Not later than ~~September 30, 2003~~ 26256  
~~June 30, 2006~~, the state board of education shall ~~recommend to the~~ 26257  
~~general assembly~~ adopt rules in accordance with Chapter 119. of 26258  
the Revised Code establishing standards governing the operation of 26259  
internet- or computer-based community schools, as defined in 26260  
section 3314.02 of the Revised Code, and other educational courses 26261  
delivered primarily via electronic media. The standards adopted by 26262  
rule under this division may be the same standards recommended to 26263  
the general assembly pursuant to the version of section 3314.033 26264  
of the Revised Code in effect prior to the effective date of this 26265  
amendment. 26266

(B) Each internet- or computer-based community school in operation on or after the effective date of this amendment shall comply with the rules adopted by the state board under division (A) of this section regardless of whether the school's contract with its sponsor contains a stipulation requiring compliance with those rules. 26267  
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**Sec. ~~3314.034~~ 3314.24.** (A) On or after July 1, 2004, no internet- or computer-based community school shall enter into a contract with a nonpublic school to use or rent any facility space at the nonpublic school for the provision of instructional services to students enrolled in the internet- or computer-based community school. 26273  
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(B) If, on or after July 1, 2004, an internet- or computer-based community school has a contract with a nonpublic school as described in division (A) of this section, the department of education shall not make any payments under section 3314.08 of the Revised Code to the internet- or computer-based community school for any student who is enrolled in the internet- or computer-based community school and receives any instructional services from the internet- or computer-based community school at the nonpublic school. 26279  
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**Sec. 3314.25.** Each internet- or computer-based community school shall provide its students a location within a fifty-mile radius of the student's residence at which to complete the statewide achievement tests and diagnostic assessments prescribed under sections 3301.079 and 3301.0710 of the Revised Code. 26288  
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**Sec. 3314.26.** (A) Each internet- or computer-based community school shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any test prescribed under section 3301.0710 or 26293  
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3301.0712 of the Revised Code for the student's grade level and 26297  
was not excused from the test pursuant to division (C)(1) or (3) 26298  
of section 3301.0711 of the Revised Code. The school shall report 26299  
the name of any such student to the department of education. The 26300  
department shall maintain a list of all students reported under 26301  
this division and section 3313.6410 of the Revised Code and 26302  
provide that list to each internet- or computer-based community 26303  
school and to each school to which section 3313.6410 of the 26304  
Revised Code applies. 26305

(B) No internet- or computer-based community school shall 26306  
enroll any student on the list maintained by the department under 26307  
division (A) of this section. 26308

**Sec. 3314.27.** No student enrolled in an internet- or 26309  
computer-based community school may participate in more than ten 26310  
hours of learning opportunities in any period of twenty-four 26311  
consecutive hours. Any time such a student participates in 26312  
learning opportunities beyond the limit prescribed in this section 26313  
shall not count toward the annual minimum number of hours required 26314  
to be provided to that student as prescribed in division 26315  
(A)(11)(a) of section 3314.03 of the Revised Code. If any 26316  
internet- or computer-based community school requires its students 26317  
to participate in learning opportunities on the basis of days 26318  
rather than hours, one day shall consist of a minimum of five 26319  
hours of such participation. 26320

**Sec. 3314.28.** (A) Each internet- or computer-based community 26321  
school established under this chapter shall submit to the school's 26322  
sponsor a plan for providing special education and related 26323  
services to disabled students enrolled in the school in accordance 26324  
with division (A)(1) or (2) of this section. 26325

(1) If the school was established prior to the effective date 26326

of this section, the plan shall be submitted to the sponsor on or 26327  
before September 1, 2005, and on or before the first day of 26328  
September in each year thereafter that the school is in operation. 26329

(2) If the school is established after the effective date of 26330  
this section, the plan shall be submitted to the sponsor prior to 26331  
the school's receipt of its first payment under this chapter and 26332  
on or before the first day of September in each year thereafter 26333  
that the school is in operation. 26334

(B) Within thirty days after receiving the plan prescribed in 26335  
division (A) of this section, the sponsor of each internet- or 26336  
computer-based community school shall certify all of the following 26337  
to the department of education: 26338

(1) A statement of whether the plan received is satisfactory 26339  
to the sponsor; 26340

(2) If the plan received is not satisfactory to the sponsor, 26341  
the sponsor's assurance that it will promptly assist the school in 26342  
developing a plan that is satisfactory to the sponsor; 26343

(3) The sponsor's assurance that it will monitor the 26344  
implementation of the plan; 26345

(4) The sponsor's assurance that it will take any necessary 26346  
corrective action to ensure that the school's plan is properly and 26347  
fully implemented. 26348

(C) The department shall develop guidelines for the content 26349  
and format of the plan required under this section. 26350

**Sec. 3314.35.** (A) This section applies to any community 26351  
school established under this chapter that meets one or more of 26352  
the following criteria: 26353

(1) The school is declared to be in need of continuous 26354  
improvement, under an academic watch, or in a state of academic 26355



emergency pursuant to section 3302.03 of the Revised Code. 26356

(2) The school has not been in operation for at least two full school years. 26357  
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(3) The school does not offer any grade level for which an achievement test is prescribed under section 3301.0710 of the Revised Code or the number of students enrolled in each grade level offered by the school for which an achievement test is prescribed is too small to yield statistically reliable data about student performance, as determined by the department of education. 26359  
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(B) Beginning in the 2006-2007 school year, each community school to which this section applies shall administer a reading and mathematics assessment approved by the department in the fall and spring of the school year to each student who is enrolled in any of grades one through twelve to measure the academic progress made by students during the school year. For each grade level, the community school shall administer the same assessment in the spring that the school administers in the fall. 26365  
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(C) Each community school that administers the assessments required by division (B) of this section shall be responsible for all costs associated with the administration and scoring of the assessments. Each community school shall report the scores of all students taking the assessments to the department in a manner prescribed by the department. 26373  
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(D) The department shall establish a list of nationally normed assessments in reading and mathematics that it approves for use by community schools under this section. The department may approve assessments in other subject areas, but no community school shall be required to administer an assessment in a subject area other than reading or mathematics under this section. 26379  
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(E) The sponsor of any community school to which this section does not apply may elect to have the school administer reading and 26385  
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mathematics assessments in accordance with this section. 26387

Sec. 3314.36. (A) Not later than July 1, 2006, the state 26388  
board of education shall adopt rules establishing reasonable 26389  
standards for expected gains in student achievement between the 26390  
fall and spring administrations of the reading and mathematics 26391  
assessments administered under section 3314.35 of the Revised Code 26392  
and for expected gains in the graduation rate. The standards may 26393  
establish different levels of expected gains to correspond with 26394  
differences in the baseline academic achievement levels of the 26395  
students being assessed. 26396

(B) Any community school that is declared to be under an 26397  
academic watch or in a state of academic emergency pursuant to 26398  
section 3302.03 of the Revised Code after July 1, 2006, or to 26399  
which division (A)(3) of section 3314.35 of the Revised Code 26400  
applies shall be subject to division (C) of this section if either 26401  
of the following apply to the school: 26402

(1) The percentage of the school's total student population 26403  
showing the expected gains in student achievement established 26404  
under division (A) of this section on the reading or mathematics 26405  
assessments administered most recently under section 3314.35 of 26406  
the Revised Code is less than the following, as applicable: 26407

(a) Fifty-five per cent for any school that has been in 26408  
operation for two school years; 26409

(b) Sixty per cent for any school that has been in operation 26410  
for three school years; 26411

(c) Sixty-five per cent for any school that has been in 26412  
operation for four or more school years. 26413

(2) The school offers a high school diploma but is not 26414  
showing the expected gains in the graduation rate established 26415  
under division (A) of this section. 26416

A community school that has been in operation for one school year shall not be subject to division (C) of this section. 26417  
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(C)(1) In the first school year that a community school is subject to division (C) of this section, the school shall develop and implement an improvement plan to address the school's poor academic performance. The sponsor of the school shall assist in the development of the improvement plan and shall approve the plan prior to implementation. The school shall file a copy of the improvement plan with the department of education. 26419  
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(2) In the second consecutive school year that a community school is subject to division (C) of this section, the sponsor of the school shall pay to the department one-half of the total amount of the payments made by the school's governing authority to the sponsor under division (C) of section 3314.03 of the Revised Code for the school year or five thousand dollars, whichever is greater. 26426  
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(3) In the third consecutive school year that a community school is subject to division (C) of this section, all of the following shall occur: 26433  
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(a) The school shall be permanently closed at the conclusion of the school year. 26436  
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(b) The sponsor of the school shall pay to the department the total amount of the payments made by the school's governing authority to the sponsor under division (C) of section 3314.03 of the Revised Code for the school year. 26438  
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(c) The limit on the number of schools with which the sponsor may enter into a contract for sponsorship under division (B)(1) of section 3314.015 of the Revised Code shall be decreased by one. 26442  
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(D) The sponsor of any community school that is declared to be in need of continuous improvement, effective, or excellent 26445  
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pursuant to section 3302.03 of the Revised Code and offers one or 26447  
more grade levels for which an achievement test is prescribed 26448  
under section 3301.0710 of the Revised Code may elect to evaluate 26449  
the performance of the school in accordance with division (B) of 26450  
this section, provided the school administers reading and 26451  
mathematics assessments under section 3314.35 of the Revised Code. 26452  
If the sponsor so elects, the evaluation method shall be used for 26453  
a minimum of three school years and shall be specified in the 26454  
contract required by section 3314.03 of the Revised Code. Nothing 26455  
in this division requires the sponsor of a community school that 26456  
elects to evaluate the school in accordance with division (B) of 26457  
this section to take any action specified in division (C) of this 26458  
section, unless the contract requires such action. 26459

(E) In calculating the gains in student achievement 26460  
demonstrated by a community school for the purposes of division 26461  
(B) of this section, the department shall include the scores of 26462  
all students who participated in the fall and spring 26463  
administrations of the assessments administered under section 26464  
3314.35 of the Revised Code. If the school's participation rate 26465  
for any grade level is less than ninety-five per cent, the 26466  
department shall calculate the gains in academic achievement 26467  
demonstrated by the students in that grade level as if the 26468  
participation rate was ninety-five per cent by assuming a score of 26469  
zero for each student that it is necessary to add to the 26470  
participation rate to make that rate equal ninety-five per cent. 26471

**Sec. 3315.17.** (A) The board of education of each city, 26472  
exempted village, local, and joint vocational school district 26473  
shall establish a textbook and instructional materials fund. Each 26474  
board annually shall deposit into that fund an amount derived from 26475  
revenues received by the district for operating expenses that is 26476  
equal to three per cent of the formula amount for the preceding 26477

fiscal year, as defined in section 3317.02 of the Revised Code, or 26478  
another percentage if established by the auditor of state under 26479  
division (C) of this section, multiplied by the district's student 26480  
population for the preceding fiscal year. Money in the fund shall 26481  
be used solely for textbooks, instructional software, and 26482  
instructional materials, supplies, and equipment. Any money in the 26483  
fund that is not used in any fiscal year shall carry forward to 26484  
the next fiscal year. 26485

(B)(1) Notwithstanding division (A) of this section, if in a 26486  
fiscal year a district board deposits in the textbook and 26487  
instructional materials fund an amount of money greater than the 26488  
amount required to be deposited by this section or the rules 26489  
adopted under division (C) of this section, the board may deduct 26490  
the excess amount of money from the amount of money required to be 26491  
deposited in succeeding fiscal years. 26492

(2) Notwithstanding division (A) of this section, in any year 26493  
a district is in fiscal emergency status as declared pursuant to 26494  
section 3316.03 of the Revised Code, the district may deposit an 26495  
amount less than required by division (A) of this section, or make 26496  
no deposit, into the district textbook and instructional materials 26497  
fund for that year. 26498

(C) The state superintendent of public instruction and the 26499  
auditor of state jointly shall adopt rules in accordance with 26500  
Chapter 119. of the Revised Code defining what constitutes 26501  
textbooks, instructional software, and instructional materials, 26502  
supplies, and equipment for which money in a school district's 26503  
textbook and instructional materials fund may be used. The auditor 26504  
of state also may designate a percentage, other than three per 26505  
cent, of the formula amount multiplied by the district's student 26506  
population that must be deposited into the fund. 26507

(D) Notwithstanding division (A) of this section, a district 26508

board of education in any fiscal year may appropriate money in the 26509  
district textbook and instructional materials fund for purposes 26510  
other than those permitted by that division if both of the 26511  
following occur during that fiscal year: 26512

(1) All of the following certify to the district board in 26513  
writing that the district has sufficient textbooks, instructional 26514  
software, and instructional materials, supplies, and equipment to 26515  
ensure a thorough and efficient education within the district: 26516

(a) The district superintendent; 26517

(b) In districts required to have a business advisory 26518  
council, a person designated by vote of the business advisory 26519  
council; 26520

(c) If the district teachers are represented by an exclusive 26521  
bargaining representative for purposes of Chapter 4117. of the 26522  
Revised Code, the president of that organization or the 26523  
president's designee. 26524

(2) The district board adopts, by unanimous vote of all 26525  
members of the board, a resolution stating that the district has 26526  
sufficient textbooks, instructional software, and instructional 26527  
materials, supplies, and equipment to ensure a thorough and 26528  
efficient education within the district. 26529

(E) Notwithstanding any provision to the contrary in Chapter 26530  
4117. of the Revised Code, the requirements of this section 26531  
prevail over any conflicting provisions of agreements between 26532  
employee organizations and public employers entered into on or 26533  
after November 21, 1997. 26534

(F) As used in this section and in section 3315.18 of the 26535  
Revised Code, "student population" means the average, daily, 26536  
full-time-equivalent number of students in kindergarten through 26537  
twelfth grade receiving any educational services from the school 26538

district during the first full school week in October, excluding 26539  
students enrolled in adult education classes, but including all of 26540  
the following: 26541

(1) Adjacent or other district students enrolled in the 26542  
district under an open enrollment policy pursuant to section 26543  
3313.98 of the Revised Code; 26544

(2) Students receiving services in the district pursuant to a 26545  
compact, cooperative education agreement, or a contract, but who 26546  
are entitled to attend school in another district pursuant to 26547  
section 3313.64 or 3313.65 of the Revised Code; 26548

(3) Students for whom tuition is payable pursuant to sections 26549  
3317.081 and 3323.141 of the Revised Code. 26550

The department of education shall determine a district's 26551  
student population using data reported to it under section 3317.03 26552  
of the Revised Code for the applicable fiscal year. 26553

**Sec. 3315.18.** (A) The board of education of each city, 26554  
exempted village, local, and joint vocational school district 26555  
shall establish a capital and maintenance fund. Each board 26556  
annually shall deposit into that fund an amount derived from 26557  
revenues received by the district that would otherwise have been 26558  
deposited in the general fund that is equal to three per cent of 26559  
the formula amount for the preceding fiscal year, as defined in 26560  
section 3317.02 of the Revised Code, or another percentage if 26561  
established by the auditor of state under division (B) of this 26562  
section, multiplied by the district's student population for the 26563  
preceding fiscal year, except that money received from a permanent 26564  
improvement levy authorized by section 5705.21 of the Revised Code 26565  
may replace general revenue moneys in meeting the requirements of 26566  
this section. Money in the fund shall be used solely for 26567  
acquisition, replacement, enhancement, maintenance, or repair of 26568

permanent improvements, as that term is defined in section 5705.01 26569  
of the Revised Code. Any money in the fund that is not used in any 26570  
fiscal year shall carry forward to the next fiscal year. 26571

(B) The state superintendent of public instruction and the 26572  
auditor of state jointly shall adopt rules in accordance with 26573  
Chapter 119. of the Revised Code defining what constitutes 26574  
expenditures permitted by division (A) of this section. The 26575  
auditor of state may designate a percentage, other than three per 26576  
cent, of the formula amount multiplied by the district's student 26577  
population that must be deposited into the fund. 26578

(C) Within its capital and maintenance fund, a school 26579  
district board of education may establish a separate account 26580  
solely for the purpose of depositing funds transferred from the 26581  
district's reserve balance account established under former 26582  
division (H) of section 5705.29 of the Revised Code. After ~~the~~ 26583  
~~effective date of this amendment~~ April 10, 2001, a board may 26584  
deposit all or part of the funds formerly included in such reserve 26585  
balance account in the separate account established under this 26586  
section. Funds deposited in this separate account and interest on 26587  
such funds shall be utilized solely for the purpose of providing 26588  
the district's portion of the basic project costs of any project 26589  
undertaken in accordance with Chapter 3318. of the Revised Code. 26590

(D) Notwithstanding division (A) of this section, in any year 26591  
a district is in fiscal emergency status as declared pursuant to 26592  
section 3316.03 of the Revised Code, the district may deposit an 26593  
amount less than required by division (A) of this section, or make 26594  
no deposit, into the district capital and maintenance fund for 26595  
that year. 26596

(E) Notwithstanding any provision to the contrary in Chapter 26597  
4117. of the Revised Code, the requirements of this section 26598  
prevail over any conflicting provisions of agreements between 26599  
employee organizations and public employers entered into after 26600



November 21, 1997.

26601

**Sec. 3315.37.** The board of education of a school district may establish a teacher education loan program and may expend school funds for the program. The program shall be for the purpose of making loans to students who are residents of the school district or graduates of schools in the school district, who are enrolled in teacher preparation programs at institutions approved by the state board pursuant to section 3319.23 of the Revised Code, and who indicate an intent to teach in the school district providing the loan. The district board may forgive the obligation to repay any or all of the principal and interest on the loan if the borrower teaches in that school district.

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The district board shall adopt rules establishing eligibility criteria, application procedures, procedures for review of applications, loan amounts, interest, repayment schedules, conditions under which principal and interest obligations incurred under the program will be forgiven, and any other matter incidental to the operation of the program.

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The board may contract with a private, nonprofit foundation, one or more institutions of higher education, or other educational agencies to administer the program.

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The receipt of a loan under this section does not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.122, 3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised Code, but the board's rules may provide for taking such assistance into consideration when determining a student's eligibility for a loan under this section.

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**Sec. 3316.043.** Upon the approval by the superintendent of public instruction of an initial financial plan under section

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3316.04 of the Revised Code or a financial recovery plan under 26631  
section 3316.06 of the Revised Code, the board of education of the 26632  
school district for which the plan was approved shall revise the 26633  
district's five-year projection of revenues and expenditures in 26634  
accordance with rules adopted under section 5705.391 of the 26635  
Revised Code so that the five-year projection is consistent with 26636  
the financial plan or financial recovery plan. In the case of a 26637  
school district declared to be in a state of fiscal emergency, the 26638  
five-year projection shall be revised by the financial planning 26639  
and supervision commission for that district. 26640

**Sec. 3316.06.** (A) Within one hundred twenty days after the 26641  
first meeting of a school district financial planning and 26642  
supervision commission, the commission shall adopt a financial 26643  
recovery plan regarding the school district for which the 26644  
commission was created. During the formulation of the plan, the 26645  
commission shall seek appropriate input from the school district 26646  
board and from the community. This plan shall contain the 26647  
following: 26648

(1) Actions to be taken to: 26649

(a) Eliminate all fiscal emergency conditions declared to 26650  
exist pursuant to division (B) of section 3316.03 of the Revised 26651  
Code; 26652

(b) Satisfy any judgments, past-due accounts payable, and all 26653  
past-due and payable payroll and fringe benefits; 26654

(c) Eliminate the deficits in all deficit funds, except that 26655  
any prior year deficits in the textbook and instructional 26656  
materials fund established pursuant to section 3315.17 of the 26657  
Revised Code and the capital and maintenance fund established 26658  
pursuant to section 3315.18 of the Revised Code shall be forgiven; 26659

(d) Restore to special funds any moneys from such funds that 26660

were used for purposes not within the purposes of such funds, or  
borrowed from such funds by the purchase of debt obligations of  
the school district with the moneys of such funds, or missing from  
the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds,  
and maintain on a current basis payments of payroll, fringe  
benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market  
long-term general obligation bonds under provisions of law  
applicable to school districts generally.

(2) The management structure that will enable the school  
district to take the actions enumerated in division (A)(1) of this  
section. The plan shall specify the level of fiscal and management  
control that the commission will exercise within the school  
district during the period of fiscal emergency, and shall  
enumerate respectively, the powers and duties of the commission  
and the powers and duties of the school board during that period.  
The commission may elect to assume any of the powers and duties of  
the school board it considers necessary, including all powers  
related to personnel, curriculum, and legal issues in order to  
successfully implement the actions described in division (A)(1) of  
this section.

(3) The target dates for the commencement, progress upon, and  
completion of the actions enumerated in division (A)(1) of this  
section and a reasonable period of time expected to be required to  
implement the plan. The commission shall prepare a reasonable time  
schedule for progress toward and achievement of the requirements  
for the plan, and the plan shall be consistent with that time  
schedule.

(4) The amount and purpose of any issue of debt obligations

that will be issued, together with assurances that any such debt 26692  
obligations that will be issued will not exceed debt limits 26693  
supported by appropriate certifications by the fiscal officer of 26694  
the school district and the county auditor. Debt obligations 26695  
issued pursuant to section 133.301 of the Revised Code shall 26696  
include assurances that such debt shall be in an amount not to 26697  
exceed the amount certified under division (B) of such section. If 26698  
the commission considers it necessary in order to maintain or 26699  
improve educational opportunities of pupils in the school 26700  
district, the plan may include a proposal to restructure or 26701  
refinance outstanding debt obligations incurred by the board under 26702  
section 3313.483 of the Revised Code contingent upon the approval, 26703  
during the period of the fiscal emergency, by district voters of a 26704  
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 26705  
5748.02, or 5748.08 of the Revised Code, that is not a renewal or 26706  
replacement levy and that will provide new operating revenue. 26707  
Notwithstanding any provision of Chapter 133. or sections 3313.483 26708  
to 3313.4811 of the Revised Code, following the required approval 26709  
of the district voters and with the approval of the commission, 26710  
the school district may issue securities to evidence the 26711  
restructuring or refinancing. Those securities may extend the 26712  
original period for repayment, not to exceed ten years, and may 26713  
alter the frequency and amount of repayments, interest or other 26714  
financing charges, and other terms of agreements under which the 26715  
debt originally was contracted, at the discretion of the 26716  
commission, provided that any loans received pursuant to section 26717  
3313.483 of the Revised Code shall be paid from funds the district 26718  
would otherwise receive under sections 3317.022 to 3317.025 of the 26719  
Revised Code, as required under division (E)(3) of section 26720  
3313.483 of the Revised Code. The securities issued for the 26721  
purpose of restructuring or refinancing the debt shall be repaid 26722  
in equal payments and at equal intervals over the term of the debt 26723  
and are not eligible to be included in any subsequent proposal for 26724

the purpose of restructuring or refinancing debt under this 26725  
section. 26726

(B) Any financial recovery plan may be amended subsequent to 26727  
its adoption. Each financial recovery plan shall be updated 26728  
annually. 26729

(C) Each school district financial planning and supervision 26730  
commission shall submit the financial recovery plan it adopts or 26731  
updates under this section to the state superintendent of public 26732  
instruction for approval immediately following its adoption or 26733  
updating. The state superintendent shall evaluate the plan and 26734  
either approve or disapprove it within thirty calendar days from 26735  
the date of its submission. If the plan is disapproved, the state 26736  
superintendent shall recommend modifications that will render it 26737  
acceptable. No financial planning and supervision commission shall 26738  
implement a financial recovery plan that is adopted or updated on 26739  
or after ~~the effective date of this amendment~~ April 10, 2001, 26740  
unless the state superintendent has approved it. 26741

**Sec. 3316.16.** (A) A school district financial planning and 26742  
supervision commission, with respect to its functions under this 26743  
chapter, shall continue in existence until such time as a 26744  
determination is made under division (B) of this section that all 26745  
of the following have occurred: 26746

(1) An effective financial accounting and reporting system in 26747  
accordance with section 3316.10 of the Revised Code is in the 26748  
process of being implemented, and it is reasonably expected that 26749  
this implementation will be completed within two years. 26750

(2) All of the fiscal emergency conditions determined 26751  
pursuant to division (B) of section 3316.03 of the Revised Code 26752  
have been corrected or eliminated, and no new fiscal emergency 26753  
conditions have occurred. 26754

(3) The objectives of the financial recovery plan described 26755  
in section 3316.06 of the Revised Code are being met. 26756

(4) The school district board has prepared a financial 26757  
forecast for a five-year period in accordance with the standards 26758  
issued by the auditor of state and an opinion has been rendered by 26759  
the auditor of state that the financial forecast is considered to 26760  
be nonadverse. The forecast shall display the district's projected 26761  
compliance with sections 3315.17 and 3315.18 of the Revised Code 26762  
beginning in the year the commission is proposed for termination. 26763

(B) The determination that all conditions listed in division 26764  
(A) of this section for the termination of the existence of the 26765  
commission and its functions exist may be made either by the 26766  
auditor of state or by the commission and shall be certified to 26767  
the commission, the auditor of state, the governor, the director 26768  
of budget and management, and the budget commission, whereupon 26769  
such commission and its functions under this chapter shall 26770  
terminate. This determination shall be made by the auditor of 26771  
state upon the filing with the auditor of state of a written 26772  
request for such a determination by the school district board, the 26773  
governor, or the commission, or may be made by the auditor of 26774  
state upon the auditor of state's own initiative. 26775

(C) The commission shall prepare and submit at the time of 26776  
such certification a final report of its activities, in such form 26777  
as is appropriate for the purpose of providing a record of its 26778  
activities and assisting other commissions created under this 26779  
chapter in the conduct of their functions. All of the books and 26780  
records of the commission shall be delivered to the auditor of 26781  
state for retention and safekeeping. 26782

(D) Upon receipt of the certification provided for in 26783  
division (B) of this section, the director of budget and 26784  
management shall follow the procedures set forth in section 126.29 26785

of the Revised Code.

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(E) If, at the time of termination of the commission, an effective financial accounting and reporting system has not been fully implemented, the auditor of state shall monitor the progress of implementation and shall exercise authority under this section and Chapter 117. of the Revised Code to secure full implementation at the earliest time feasible but within two years after such termination.

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Sec. 3317.012. (A) The general assembly, having deliberated on the model with which to calculate the base cost of an adequate education per pupil, has made a policy decision to calculate that amount as consisting of the following building blocks:

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(1) Base classroom teachers;

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(2) Other personnel support, which includes additional teachers, such as music, arts, and physical education teachers funded by state, local, or federal funds or other funds that are above the base cost funding level, and other school personnel including administrators;

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(3) Nonpersonnel support.

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This model reflects policy decisions made by the general assembly concerning the cost of base classroom teachers, which decisions entail two policy variables: the number of students per base classroom teacher necessary for an adequate education and the average compensation for a base classroom teacher necessary for an adequate education. The model requires the general assembly to decide the amount of other personnel support necessary for an adequate education, and increase that amount from year to year by the same percentage as it increases the average compensation for base classroom teachers. The model finally requires the general assembly to decide the nonpersonnel costs necessary for an

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adequate education and to inflate the nonpersonnel costs from year 26816  
to year using the projected inflationary measure for the gross 26817  
domestic product deflator (all items) prepared by the bureau of 26818  
labor statistics of the United States department of labor. 26819

(B)(1) For fiscal year 2006, the general assembly has 26820  
resolved that a ratio of one base classroom teacher per twenty 26821  
students is necessary for an adequate education. The general 26822  
assembly has made a policy decision that the average compensation 26823  
for base classroom teachers is \$53,680 for fiscal year 2006, which 26824  
includes an amount for the value of fringe benefits. For fiscal 26825  
year 2007, the general assembly has resolved that a ratio of one 26826  
base classroom teacher per twenty students is necessary for an 26827  
adequate education. The general assembly has made a policy 26828  
decision that the average compensation for base classroom teachers 26829  
is \$54,941, which includes an amount for the value of fringe 26830  
benefits. Based on a ratio of twenty students per base classroom 26831  
teacher, these amounts equal \$2,684 per pupil in fiscal year 2006 26832  
and \$2,747 per pupil in fiscal year 2007. 26833

(2) The general assembly has made a policy decision that the 26834  
per pupil cost of salary and benefits of other personnel support 26835  
is \$1,807 in fiscal year 2006. Based on the percentage increase 26836  
for the average compensation of base classroom teachers from 26837  
fiscal year 2006 to fiscal year 2007, the per pupil cost of other 26838  
personnel support is \$1,850 in fiscal year 2007. 26839

(3) The general assembly has made a policy decision that the 26840  
per pupil cost of nonpersonnel support is \$792 in fiscal year 2006 26841  
and \$806 in fiscal year 2007. The amount for fiscal year 2007 26842  
reflects the projected inflationary measure for the gross domestic 26843  
product deflator (all items) of 1.80%. 26844

(4) Based on the determinations specified in divisions (B)(1) 26845  
to (3) of this section, the per-pupil base cost is \$5,283 in 26846



fiscal year 2006 and \$5,403 in fiscal year 2007. 26847

(C) In addition to the per-pupil base cost as determined 26848  
under divisions (A) and (B) of this section, the general assembly 26849  
determines that the following base funding supplements shall be 26850  
paid to each school district: 26851

(1) Base funding for large-group academic intervention for 26852  
all students, based on 25 hours per group of students per year at 26853  
an hourly rate of \$20.00 in fiscal year 2006 and \$20.40 in fiscal 26854  
year 2007, as follows: 26855

large-group intervention units X 25 hours X hourly rate 26856

Where: 26857

(a) "Large-group intervention units" equals the district's 26858  
formula ADM divided by 20; 26859

(b) "Hourly rate" equals \$20.00 in fiscal year 2006 and 26860  
\$20.40 in fiscal year 2007. 26861

(2) Base funding for professional development, phased in 26862  
according to the following formula: 26863

district's teacher factor X 0.045 X 26864  
formula amount X phase-in percentage 26865

Where: 26866

(a) For each school district, the district's "teacher factor" 26867  
is the district's formula ADM divided by 17; 26868

(b) "Phase-in percentage" equals 0.25 in fiscal year 2006 and 26869  
0.50 in fiscal year 2007. 26870

(3) Base funding for data-based decision making, calculated 26871  
according to the following formula: 26872

0.001 X formula amount X formula ADM 26873

(4) Base funding for professional development regarding 26874  
data-based decision making, calculated according to the following 26875

formula: 26876

(0.20 X the district's teacher factor X 0.08 X formula amount) + 26877

(the district's principal factor X 26878

0.08 X formula amount) 26879

Where: 26880

(a) For each school district, the district's "teacher factor" 26881

is the district's formula ADM divided by 17; 26882

(b) For each school district, the district's "principal 26883

factor" is the district's formula ADM divided by 340. 26884

(D) The general assembly intends that school districts spend 26885

the state funds calculated and paid for each component of the 26886

building blocks methodology described in divisions (B)(1) to (3) 26887

and (C)(1) to (4) of this section according to the purposes 26888

described in those divisions. 26889

**Sec. 3317.013.** This section does not apply to handicapped 26890

preschool students. 26891

Analysis of special education cost data has resulted in a 26892

finding that the average special education additional cost per 26893

pupil, including the costs of related services, can be expressed 26894

as a multiple of the base cost per pupil calculated under section 26895

3317.012 of the Revised Code. The multiples for the following 26896

categories of special education programs, as these programs are 26897

defined for purposes of Chapter 3323. of the Revised Code, and 26898

adjusted as provided in this section, are as follows: 26899

(A) A multiple of 0.2892 for students whose primary or only 26900

identified handicap is a speech and language handicap, as this 26901

term is defined pursuant to Chapter 3323. of the Revised Code; 26902

(B) A multiple of 0.3691 for students identified as specific 26903

learning disabled or developmentally handicapped, as these terms 26904

are defined pursuant to Chapter 3323. of the Revised Code, or 26905

other health handicapped-minor; 26906

(C) A multiple of 1.7695 for students identified as hearing 26907  
handicapped, vision impaired, or severe behavior handicapped, as 26908  
these terms are defined pursuant to Chapter 3323. of the Revised 26909  
Code; 26910

(D) A multiple of 2.3646 for students identified as 26911  
orthopedically handicapped, as this term is defined pursuant to 26912  
Chapter 3323. of the Revised Code or other health handicapped - 26913  
major; 26914

(E) A multiple of 3.1129 for students identified as 26915  
multihandicapped, as this term is defined pursuant to Chapter 26916  
3323. of the Revised Code; 26917

(F) A multiple of 4.7342 for students identified as autistic, 26918  
having traumatic brain injuries, or as both visually and hearing 26919  
disabled, as these terms are defined pursuant to Chapter 3323. of 26920  
the Revised Code. 26921

In fiscal year 2004, the multiples specified in divisions (A) 26922  
to (F) of this section shall be adjusted by multiplying them by 26923  
0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples 26924  
specified in those divisions shall be adjusted by multiplying them 26925  
by 0.90. 26926

Not later than the thirtieth day of May 30, in 2004, ~~and May~~ 26927  
~~30, 2005, 2006, and 2007,~~ the department shall submit to the 26928  
office of budget and management a report that specifies for each 26929  
city, local, exempted village, and joint vocational school 26930  
district the fiscal year allocation of the state and local shares 26931  
of special education and related services additional weighted 26932  
funding and federal special education funds passed through to the 26933  
district. 26934

Sec. 3317.016. In addition to its form SF-3, or any successor 26935

to that form, the department of education shall publish on its web 26936  
site a spreadsheet for each school district that specifies the 26937  
constituent components of the district's "building blocks" funds, 26938  
as follows: 26939

(A) For compensation of base classroom teachers, as described 26940  
in division (B)(1) of section 3317.012 of the Revised Code, each 26941  
spreadsheet shall specify the district's aggregate and per pupil 26942  
amounts of state funds and of combined state and local funds, the 26943  
average compensation decided by the general assembly for base 26944  
classroom teachers, as specified in that division, and the number 26945  
of base classroom teachers attributable to the district based on 26946  
the student-teacher ratio decided by the general assembly, as 26947  
specified in that division. 26948

(B) Each spreadsheet shall specify the district's aggregate 26949  
and per pupil amounts of state funds and of combined state and 26950  
local funds for each of the following: 26951

(1) Other personnel support, as described in division (B)(2) 26952  
of section 3317.012 of the Revised Code; 26953

(2) Nonpersonnel support, as described in division (B)(3) of 26954  
that section; 26955

(3) Academic intervention services, as described in division 26956  
(C)(1) of that section; 26957

(4) Professional development, as described in division (C)(2) 26958  
of that section; 26959

(5) Data-based decision making, as described in division 26960  
(C)(3) of that section; 26961

(6) Professional development for data-based decision making, 26962  
as described in division (C)(4) of that section. 26963

(C) Each spreadsheet shall separately specify the district's 26964  
aggregate and per pupil state funds for each of the following 26965

<u>components of poverty-based assistance under section 3317.029 of</u>	26966
<u>the Revised Code:</u>	26967
<u>(1) Poverty-based assistance guarantee payment under division</u>	26968
<u>(B) of that section;</u>	26969
<u>(2) Academic intervention funding under division (C) of that</u>	26970
<u>section;</u>	26971
<u>(3) All-day kindergarten under division (D) of that section;</u>	26972
<u>(4) Class-size reduction under division (E) of that section;</u>	26973
<u>(5) Services to limited English proficient students under</u>	26974
<u>division (F) of that section;</u>	26975
<u>(6) Professional development, under division (G) of that</u>	26976
<u>section;</u>	26977
<u>(7) Dropout prevention under division (H) of that section;</u>	26978
<u>(8) Community outreach under division (I) of that section.</u>	26979
<u>Sec. 3317.017. (A) Not later than July 1, 2006, the</u>	26980
<u>superintendent of public instruction shall adopt a rule under</u>	26981
<u>which the superintendent may issue an order with respect to the</u>	26982
<u>spending, by a school district declared to be under an academic</u>	26983
<u>watch or in a state of academic emergency under section 3302.03 of</u>	26984
<u>the Revised Code, of the following state building block funds</u>	26985
<u>intended to pay instructional-related costs:</u>	26986
<u>(1) State funds for compensation of base classroom teachers,</u>	26987
<u>as described in division (B)(1) of section 3317.012 of the Revised</u>	26988
<u>Code;</u>	26989
<u>(2) State funds for academic intervention services under</u>	26990
<u>division (C)(1) of section 3317.012 and division (C) of section</u>	26991
<u>3317.029 of the Revised Code;</u>	26992
<u>(3) State funds for professional development under divisions</u>	26993

<u>(C)(2) and (4) of section 3317.012 and division (G) of section 3317.029 of the Revised Code;</u>	26994 26995
<u>(4) State funds for data based decision making under division (C)(3) of section 3317.012 of the Revised Code;</u>	26996 26997
<u>(5) The poverty-based assistance guarantee payment under division (B) of section 3317.029 of the Revised Code;</u>	26998 26999
<u>(6) State funds for all-day kindergarten under division (D) of section 3317.029 of the Revised Code;</u>	27000 27001
<u>(7) State funds for class-size reduction under division (E) of section 3317.029 of the Revised Code;</u>	27002 27003
<u>(8) State funds for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code;</u>	27004 27005 27006
<u>(9) State funds for dropout prevention under division (H) of section 3317.029 of the Revised Code;</u>	27007 27008
<u>(10) State funds for community outreach under division (I) of section 3317.029 of the Revised Code.</u>	27009 27010
<u>(B) The rule shall authorize the superintendent of public instruction to issue an order that does one or a combination of the following:</u>	27011 27012 27013
<u>(1) Requires the school district to periodically report to the superintendent of public instruction on its spending of the state funds paid for each building blocks component described in divisions (A)(1) to (10) of this section;</u>	27014 27015 27016 27017
<u>(2) Requires the district to establish a separate account for each of the building blocks components described in divisions (A)(1) to (10) of this section to which the district shall credit the state funds paid for each;</u>	27018 27019 27020 27021
<u>(3) Directs the district's spending of any or all of the</u>	27022

state funds paid for the components described in divisions (A)(1) to (10) of this section in accordance with the descriptions and requirements of sections 3317.012 and 3317.029 of the Revised Code. 27023  
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(C) The rule shall specify situations in which the superintendent may issue an order and the types of orders the superintendent will issue for each of those situations. The rule, however, shall authorize the superintendent to issue orders in situations that are not enumerated or described in the rule. 27027  
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(D) The board of education of each school district to which the superintendent of public instruction issues an order pursuant to the rule adopted under this section shall comply with that order. 27032  
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**Sec. 3317.02.** As used in this chapter: 27036

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts. 27037  
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(B) "Formula amount" means the base cost for the fiscal year specified in division (B)(4) of section 3317.012 of the Revised Code. 27039  
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(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM. 27042  
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(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted village school district, the number reported pursuant to division (A) of section 3317.03 of the Revised Code, and for a joint 27050  
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vocational school district, the number reported pursuant to 27053  
division (D) of ~~that~~ section 3317.03 of the Revised Code. 27054

~~(2)(E)~~ "Three-year average formula ADM" means the average of 27055  
formula ADMs for the current and preceding two fiscal years. 27056  
~~However, as applicable in fiscal years 1999 and 2000, the~~ 27057  
~~three year average for city, local, and exempted village school~~ 27058  
~~districts shall be determined utilizing the FY 1997 ADM or FY 1998~~ 27059  
~~ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal~~ 27060  
~~years 2000 and 2001, the three year average for joint vocational~~ 27061  
~~school districts shall be determined utilizing the average daily~~ 27062  
~~membership reported in fiscal years 1998 and 1999 under division~~ 27063  
~~(D) of section 3317.03 of the Revised Code in lieu of formula ADM~~ 27064  
~~for fiscal years 1998 and 1999.~~ 27065

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school~~ 27066  
~~district's average daily membership reported for the applicable~~ 27067  
~~fiscal year under the version of division (A) of section 3317.03~~ 27068  
~~of the Revised Code in effect during that fiscal year, adjusted as~~ 27069  
~~follows:~~ 27070

~~(1) Minus the average daily membership of handicapped~~ 27071  
~~preschool children;~~ 27072

~~(2) Minus one half of the average daily membership attending~~ 27073  
~~kindergarten;~~ 27074

~~(3) Minus three fourths of the average daily membership~~ 27075  
~~attending a joint vocational school district;~~ 27076

~~(4) Plus the average daily membership entitled under section~~ 27077  
~~3313.64 or 3313.65 of the Revised Code to attend school in the~~ 27078  
~~district but receiving educational services in approved units from~~ 27079  
~~an educational service center or another school district under a~~ 27080  
~~compact or a cooperative education agreement, as determined by the~~ 27081  
~~department;~~ 27082

~~(5) Minus the average daily membership receiving educational~~ 27083



~~services from the district in approved units but entitled under 27084~~  
~~section 3313.64 or 3313.65 of the Revised Code to attend school in 27085~~  
~~another school district, as determined by the department. 27086~~

(F)(1) "Category one special education ADM" means the average 27087  
daily membership of handicapped children receiving special 27088  
education services for the handicap specified in division (A) of 27089  
section 3317.013 of the Revised Code and reported under division 27090  
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 27091

(2) "Category two special education ADM" means the average 27092  
daily membership of handicapped children receiving special 27093  
education services for those handicaps specified in division (B) 27094  
of section 3317.013 of the Revised Code and reported under 27095  
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 27096  
Code. 27097

(3) "Category three special education ADM" means the average 27098  
daily membership of students receiving special education services 27099  
for those handicaps specified in division (C) of section 3317.013 27100  
of the Revised Code, and reported under division (B)(7) or 27101  
(D)(2)(d) of section 3317.03 of the Revised Code. 27102

(4) "Category four special education ADM" means the average 27103  
daily membership of students receiving special education services 27104  
for those handicaps specified in division (D) of section 3317.013 27105  
of the Revised Code and reported under division (B)(8) or 27106  
(D)(2)(e) of section 3317.03 of the Revised Code. 27107

(5) "Category five special education ADM" means the average 27108  
daily membership of students receiving special education services 27109  
for the handicap specified in division (E) of section 3317.013 of 27110  
the Revised Code and reported under division (B)(9) or (D)(2)(f) 27111  
of section 3317.03 of the Revised Code. 27112

(6) "Category six special education ADM" means the average 27113  
daily membership of students receiving special education services 27114

for the handicap specified in division (F) of section 3317.013 of	27115
the Revised Code and reported under division (B)(10) or (D)(2)(g)	27116
of section 3317.03 of the Revised Code.	27117
(7) "Category one vocational education ADM" means the average	27118
daily membership of students receiving vocational education	27119
services described in division (A) of section 3317.014 of the	27120
Revised Code and reported under division (B)(11) or (D)(2)(h) of	27121
section 3317.03 of the Revised Code.	27122
(8) "Category two vocational education ADM" means the average	27123
daily membership of students receiving vocational education	27124
services described in division (B) of section 3317.014 of the	27125
Revised Code and reported under division (B)(12) or (D)(2)(i) of	27126
section 3317.03 of the Revised Code.	27127
(G) "Handicapped preschool child" means a handicapped child,	27128
as defined in section 3323.01 of the Revised Code, who is at least	27129
age three but is not of compulsory school age, as defined in	27130
section 3321.01 of the Revised Code, and who is not currently	27131
enrolled in kindergarten.	27132
(H) "County MR/DD board" means a county board of mental	27133
retardation and developmental disabilities.	27134
(I) "Recognized valuation" means the amount calculated for a	27135
school district pursuant to section 3317.015 of the Revised Code.	27136
(J) "Transportation ADM" means the number of children	27137
reported under division (B)(13) of section 3317.03 of the Revised	27138
Code.	27139
(K) "Average efficient transportation use cost per student"	27140
means a statistical representation of transportation costs as	27141
calculated under division (D)(2) of section 3317.022 of the	27142
Revised Code.	27143
(L) "Taxes charged and payable" means the taxes charged and	27144

payable against real and public utility property after making the 27145  
reduction required by section 319.301 of the Revised Code, plus 27146  
the taxes levied against tangible personal property. 27147

(M) "Total taxable value" means the sum of the amounts 27148  
certified for a city, local, exempted village, or joint vocational 27149  
school district under divisions (A)(1) and (2) of section 3317.021 27150  
of the Revised Code. 27151

(N)(1) "Cost-of-doing-business factor" means the amount 27152  
indicated in this division for the county in which a city, local, 27153  
exempted village, or joint vocational school district is located, 27154  
adjusted in accordance with division (N)(2) of this section. If a 27155  
city, local, or exempted village school district is located in 27156  
more than one county, the factor is the amount indicated for the 27157  
county to which the district is assigned by the state department 27158  
of education. If a joint vocational school district is located in 27159  
more than one county, the factor is the amount indicated for the 27160  
county in which the joint vocational school with the greatest 27161  
formula ADM operated by the district is located. 27162

COST-OF-DOING-BUSINESS 27163

COUNTY	FACTOR	AMOUNT	
Adams	1.0035		27165
Allen	1.0206		27166
Ashland	1.0297		27167
Ashtabula	1.0397		27168
Athens	1.0014		27169
Auglaize	1.0247		27170
Belmont	1.0064		27171
Brown	1.0177		27172
Butler	1.0646		27173
Carroll	1.0137		27174
Champaign	1.0446		27175
Clark	1.0447		27176

Clermont	1.0541	27177
Clinton	1.0329	27178
Columbiana	1.0214	27179
Coshocton	1.0173	27180
Crawford	1.0164	27181
Cuyahoga	1.0626	27182
Darke	1.0338	27183
Defiance	1.0146	27184
Delaware	1.0528	27185
Erie	1.0388	27186
Fairfield	1.0366	27187
Fayette	1.0319	27188
Franklin	1.0608	27189
Fulton	1.0330	27190
Gallia	1.0000	27191
Geauga	1.0501	27192
Greene	1.0444	27193
Guernsey	1.0066	27194
Hamilton	1.0750	27195
Hancock	1.0215	27196
Hardin	1.0356	27197
Harrison	1.0074	27198
Henry	1.0318	27199
Highland	1.0148	27200
Hocking	1.0188	27201
Holmes	1.0178	27202
Huron	1.0293	27203
Jackson	1.0138	27204
Jefferson	1.0073	27205
Knox	1.0279	27206
Lake	1.0524	27207
Lawrence	1.0081	27208
Licking	1.0381	27209

Logan	1.0385	27210
Lorain	1.0515	27211
Lucas	1.0390	27212
Madison	1.0488	27213
Mahoning	1.0346	27214
Marion	1.0306	27215
Medina	1.0536	27216
Meigs	1.0026	27217
Mercer	1.0203	27218
Miami	1.0411	27219
Monroe	1.0050	27220
Montgomery	1.0453	27221
Morgan	1.0089	27222
Morrow	1.0301	27223
Muskingum	1.0127	27224
Noble	1.0073	27225
Ottawa	1.0486	27226
Paulding	1.0115	27227
Perry	1.0160	27228
Pickaway	1.0391	27229
Pike	1.0103	27230
Portage	1.0472	27231
Preble	1.0442	27232
Putnam	1.0216	27233
Richland	1.0199	27234
Ross	1.0151	27235
Sandusky	1.0321	27236
Scioto	1.0012	27237
Seneca	1.0223	27238
Shelby	1.0278	27239
Stark	1.0255	27240
Summit	1.0542	27241
Trumbull	1.0351	27242

Tuscarawas	1.0089	27243
Union	1.0500	27244
Van Wert	1.0133	27245
Vinton	1.0095	27246
Warren	1.0658	27247
Washington	1.0060	27248
Wayne	1.0348	27249
Williams	1.0228	27250
Wood	1.0360	27251
Wyandot	1.0171	27252

(2) As used in this division, "multiplier" means the number 27253  
for the corresponding fiscal year as follows: 27254

<u>FISCAL YEAR OF THE</u>	<u>MULTIPLIER</u>	27255
<u>COMPUTATION</u>		
<u>2006</u>	<u>5.0/7.5</u>	27256
<u>2007</u>	<u>2.5/7.5</u>	27257
<u>2008 and thereafter</u>	<u>0</u>	27258

Beginning in fiscal year 2006, the department annually shall 27259  
adjust the cost-of-doing-business factor for each county in 27260  
accordance with the following formula: 27261

[(the cost-of-doing-business factor specified in division 27262  
(N)(1) of this section - 1) X multiplier] + 1 27263

The result of the calculation is the cost-of-doing-business 27264  
factor. 27265

(O) "Tax exempt value" of a school district means the amount 27266  
certified for a school district under division (A)(4) of section 27267  
3317.021 of the Revised Code. 27268

(P) "Potential value" of a school district means the 27269  
recognized valuation of a school district plus the tax exempt 27270  
value of the district. 27271

(Q) "District median income" means the median Ohio adjusted 27272

gross income certified for a school district. On or before the 27273  
first day of July of each year, the tax commissioner shall certify 27274  
to the department of education for each city, exempted village, 27275  
and local school district the median Ohio adjusted gross income of 27276  
the residents of the school district determined on the basis of 27277  
tax returns filed for the second preceding tax year by the 27278  
residents of the district. 27279

(R) "Statewide median income" means the median district 27280  
median income of all city, exempted village, and local school 27281  
districts in the state. 27282

(S) "Income factor" for a city, exempted village, or local 27283  
school district means the quotient obtained by dividing that 27284  
district's median income by the statewide median income. 27285

(T) "Medically fragile child" means a child to whom all of 27286  
the following apply: 27287

(1) The child requires the services of a doctor of medicine 27288  
or osteopathic medicine at least once a week due to the 27289  
instability of the child's medical condition. 27290

(2) The child requires the services of a registered nurse on 27291  
a daily basis. 27292

(3) The child is at risk of institutionalization in a 27293  
hospital, skilled nursing facility, or intermediate care facility 27294  
for the mentally retarded. 27295

(U) A child may be identified as "other health 27296  
handicapped-major" if the child's condition meets the definition 27297  
of "other health impaired" established in rules adopted by the 27298  
state board of education prior to July 1, 2001, and if either of 27299  
the following apply: 27300

(1) The child is identified as having a medical condition 27301  
that is among those listed by the superintendent of public 27302

instruction as conditions where a substantial majority of cases 27303  
fall within the definition of "medically fragile child." The 27304  
superintendent of public instruction shall issue an initial list 27305  
no later than September 1, 2001. 27306

(2) The child is determined by the superintendent of public 27307  
instruction to be a medically fragile child. A school district 27308  
superintendent may petition the superintendent of public 27309  
instruction for a determination that a child is a medically 27310  
fragile child. 27311

(V) A child may be identified as "other health 27312  
handicapped-minor" if the child's condition meets the definition 27313  
of "other health impaired" established in rules adopted by the 27314  
state board of education prior to July 1, 2001, but the child's 27315  
condition does not meet either of the conditions specified in 27316  
division (U)(1) or (2) of this section. 27317

(W) "SF-3 payment" means the sum of the payments to a school 27318  
district in a fiscal year under divisions (A), (C)(1), (C)(4), 27319  
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 27320  
of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 27321  
3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after 27322  
making the adjustments required by sections 3313.981 and 3313.979 27323  
of the Revised Code, divisions (B), (C), (D), (E), (K), (L), (M), 27324  
and (N) of section 3317.023, and division (C) of section 3317.20 27325  
of the Revised Code. 27326

**Sec. 3317.021.** (A) On or before the first day of June of each 27327  
year, the tax commissioner shall certify to the department of 27328  
education the following information for each city, exempted 27329  
village, and local school district, and the information required 27330  
by divisions (A)(1) and (2) of this section for each joint 27331  
vocational school district, and it shall be used, along with the 27332  
information certified under division (B) of this section, in 27333



making the computations for the district under sections 3317.022 27334  
and 3317.0217 or section 3317.16 of the Revised Code: 27335

(1) The taxable value of real and public utility real 27336  
property in the school district subject to taxation in the 27337  
preceding tax year, by class and by county of location; 27338

(2) The taxable value of tangible personal property, 27339  
including public utility personal property, subject to taxation by 27340  
the district for the preceding tax year; 27341

(3)(a) The total property tax rate and total taxes charged 27342  
and payable for the current expenses for the preceding tax year 27343  
for each city, local, and exempted village school district, 27344  
including the total property tax rate and the total taxes charged 27345  
and payable to a joint vocational district for the preceding tax 27346  
year that are limited to or to the extent apportioned to current 27347  
expenses; 27348

(b) The portion of the amount of taxes charged and payable 27349  
reported for each city, local, and exempted village school 27350  
district under division (A)(3)(a) of this section excluding those 27351  
taxes attributable to a joint vocational school district. 27352

(4) The value of all real and public utility real property in 27353  
the school district exempted from taxation minus both of the 27354  
following: 27355

(a) The value of real and public utility real property in the 27356  
district owned by the United States government and used 27357  
exclusively for a public purpose; 27358

(b) The value of real and public utility real property in the 27359  
district exempted from taxation under Chapter 725. or 1728. or 27360  
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 27361  
5709.73, or 5709.78 of the Revised Code. 27362

(5) The total federal adjusted gross income of the residents 27363

of the school district, based on tax returns filed by the 27364  
residents of the district, for the most recent year for which this 27365  
information is available. 27366

(B) On or before the first day of May each year, the tax 27367  
commissioner shall certify to the department of education the 27368  
total taxable real property value of railroads and, separately, 27369  
the total taxable tangible personal property value of all public 27370  
utilities for the preceding tax year, by school district and by 27371  
county of location. 27372

(C) If a public utility has properly and timely filed a 27373  
petition for reassessment under section 5727.47 of the Revised 27374  
Code with respect to an assessment issued under section 5727.23 of 27375  
the Revised Code affecting taxable property apportioned by the tax 27376  
commissioner to a school district, the taxable value of, and taxes 27377  
charged and payable on, public utility tangible personal property 27378  
included in the certification under divisions (A)(2), (A)(3), and 27379  
(B) of this section for the school district shall include only the 27380  
amount of taxable value on the basis of which the public utility 27381  
paid tax for the preceding year as provided in division (B)(1) or 27382  
(2) of section 5727.47 of the Revised Code for a certification 27383  
under divisions (A)(2) and (B) of this section, and shall include 27384  
only the amount of taxes charged and payable that the public 27385  
utility paid for the preceding year as provided in division (B)(1) 27386  
or (2) of section 5727.47 of the Revised Code for a certification 27387  
under division (A)(3) of this section. 27388

(D) If on the basis of the information certified under 27389  
division (A) of this section, the department determines that any 27390  
district fails in any year to meet the qualification requirement 27391  
specified in division (A) of section 3317.01 of the Revised Code, 27392  
the department shall immediately request the tax commissioner to 27393  
determine the extent to which any school district income tax 27394  
levied by the district under Chapter 5748. of the Revised Code 27395

shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

**Sec. 3317.022.** (A)~~(1)~~ The department of education shall compute and distribute state base cost funding to each school district for the fiscal year ~~in accordance with the following formula, making any adjustment required by division (A)(2) of this section and~~ using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins.

(1) Compute the following for each eligible district:

[(cost-of-doing-business factor X

the formula amount X

formula ADM) + the sum of the base funding supplements prescribed 27426  
in divisions (C)(1) to (4) of section 3317.012 of the Revised 27427  
Code] - 27428  
(.023 X recognized valuation) 27429

If the difference obtained is a negative number, the 27430  
district's computation shall be zero. 27431

(2) Compute both of the following for each school district: 27432

(a) The difference of (i) the district's fiscal year 2005 27433  
base cost payment under the version of division (A)(1) of this 27434  
section in effect in fiscal year 2005, minus (ii) the amount 27435  
computed for the district for the current fiscal year under 27436  
current division (A)(1) of this section; 27437

(b) The following amount: 27438

[(fiscal year 2005 base cost payment/fiscal year 2005 formula 27439  
ADM) X current year formula ADM] minus the amount computed for the 27440  
district under current division (A)(1) of this section 27441

If one of the amounts computed under division (A)(2)(a) or 27442  
(b) of this section is a positive amount, the department shall pay 27443  
the district that amount in addition to the amount calculated 27444  
under division (A)(1) of this section. If both amounts are 27445  
positive amounts, the department shall pay the district the lesser 27446  
of the two amounts in addition to the amount calculated under 27447  
division (A)(1) of this section. 27448

(3)(a) For each school district for which the tax exempt 27449  
value of the district equals or exceeds twenty-five per cent of 27450  
the potential value of the district, the department of education 27451  
shall calculate the difference between the district's tax exempt 27452  
value and twenty-five per cent of the district's potential value. 27453

(b) For each school district to which division (A)~~(2)~~(3)(a) 27454  
of this section applies, the department shall adjust the 27455  
recognized valuation used in the calculation under division (A)(1) 27456

of this section by subtracting from it the amount calculated under 27457  
division (A)~~(2)~~(3)(a) of this section. 27458

(B) As used in this section: 27459

(1) The "total special education weight" for a district means 27460  
the sum of the following amounts: 27461

(a) The district's category one special education ADM 27462  
multiplied by the multiple specified in division (A) of section 27463  
3317.013 of the Revised Code; 27464

(b) The district's category two special education ADM 27465  
multiplied by the multiple specified in division (B) of section 27466  
3317.013 of the Revised Code; 27467

(c) The district's category three special education ADM 27468  
multiplied by the multiple specified in division (C) of section 27469  
3317.013 of the Revised Code; 27470

(d) The district's category four special education ADM 27471  
multiplied by the multiple specified in division (D) of section 27472  
3317.013 of the Revised Code; 27473

(e) The district's category five special education ADM 27474  
multiplied by the multiple specified in division (E) of section 27475  
3317.013 of the Revised Code; 27476

(f) The district's category six special education ADM 27477  
multiplied by the multiple specified in division (F) of section 27478  
3317.013 of the Revised Code. 27479

(2) "State share percentage" means the percentage calculated 27480  
for a district as follows: 27481

(a) Calculate the state base cost funding amount for the 27482  
district for the fiscal year under division (A) of this section. 27483  
If the district would not receive any state base cost funding for 27484  
that year under that division, the district's state share 27485  
percentage is zero. 27486

(b) If the district would receive state base cost funding 27487  
under that division, divide that amount by an amount equal to the 27488  
following: 27489

(Cost-of-doing-business factor X 27490  
the formula amount X 27491  
formula ADM) + the sum of the base funding supplements prescribed 27492  
in divisions (C)(1) to (4) of section 3317.012 of the Revised Code 27493

The resultant number is the district's state share 27494  
percentage. 27495

(3) "Related services" includes: 27496

(a) Child study, special education supervisors and 27497  
coordinators, speech and hearing services, adaptive physical 27498  
development services, occupational or physical therapy, teacher 27499  
assistants for handicapped children whose handicaps are described 27500  
in division (B) of section 3317.013 or division (F)(3) of section 27501  
3317.02 of the Revised Code, behavioral intervention, interpreter 27502  
services, work study, nursing services, and specialized 27503  
integrative services as those terms are defined by the department; 27504

(b) Speech and language services provided to any student with 27505  
a handicap, including any student whose primary or only handicap 27506  
is a speech and language handicap; 27507

(c) Any related service not specifically covered by other 27508  
state funds but specified in federal law, including but not 27509  
limited to, audiology and school psychological services; 27510

(d) Any service included in units funded under former 27511  
division (O)(1) of section 3317.023 of the Revised Code; 27512

(e) Any other related service needed by handicapped children 27513  
in accordance with their individualized education plans. 27514

(4) The "total vocational education weight" for a district 27515  
means the sum of the following amounts: 27516

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage  
X the formula amount for the year  
for which the aid is calculated  
X the district's total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X  
the district's total special education weight X  
the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost; 27548  
27549

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage. 27550  
27551  
27552

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals: 27553  
27554

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 ~~and~~, twenty-five thousand seven hundred dollars in fiscal years 2003, 2004, and 2005, and twenty-six thousand five hundred dollars in fiscal years 2006 and 2007; 27555  
27556  
27557  
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27559  
27560

(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, thirty thousand eight hundred forty dollars in fiscal years 2003, 2004, and 2005, and thirty-one thousand eight hundred dollars in fiscal years 2006 and 2007. 27561  
27562  
27563  
27564  
27565

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount. 27566  
27567  
27568  
27569  
27570  
27571  
27572

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, ~~and~~, 2005, 2006, and 2007. 27573  
27574  
27575

(b) For the provision of speech language pathology services to students, including students who do not have individualized 27576  
27577



education programs prepared for them under Chapter 3323. of the 27578  
Revised Code, and for no other purpose, the department of 27579  
education shall pay each school district an amount calculated 27580  
under the following formula: 27581

(formula ADM divided by 2000) X 27582

the personnel allowance X the state share percentage 27583

(5) In any fiscal year, a school district shall spend for 27584  
purposes that the department designates as approved for special 27585  
education and related services expenses at least the amount 27586  
calculated as follows: 27587

(cost-of-doing-business factor X 27588

formula amount X the sum of categories 27589

one through six special education ADM) + 27590

(total special education weight X formula amount) 27591

The purposes approved by the department for special education 27592  
expenses shall include, but shall not be limited to, 27593  
identification of handicapped children, compliance with state 27594  
rules governing the education of handicapped children and 27595  
prescribing the continuum of program options for handicapped 27596  
children, provision of speech language pathology services, and the 27597  
portion of the school district's overall administrative and 27598  
overhead costs that are attributable to the district's special 27599  
education student population. 27600

The department shall require school districts to report data 27601  
annually to allow for monitoring compliance with division (C)(5) 27602  
of this section. The department shall annually report to the 27603  
governor and the general assembly the amount of money spent by 27604  
each school district for special education and related services. 27605

(6) In any fiscal year, a school district shall spend for the 27606  
provision of speech language pathology services not less than the 27607  
sum of the amount calculated under division (C)(1) of this section 27608

for the students in the district's category one special education 27609  
ADM and the amount calculated under division (C)(4) of this 27610  
section. 27611

(D)(1) As used in this division: 27612

(a) "Daily bus miles per student" equals the number of bus 27613  
miles traveled per day, divided by transportation base. 27614

(b) "Transportation base" equals total student count as 27615  
defined in section 3301.011 of the Revised Code, minus the number 27616  
of students enrolled in preschool handicapped units, plus the 27617  
number of nonpublic school students included in transportation 27618  
ADM. 27619

(c) "Transported student percentage" equals transportation 27620  
ADM divided by transportation base. 27621

(d) "Transportation cost per student" equals total operating 27622  
costs for board-owned or contractor-operated school buses divided 27623  
by transportation base. 27624

(2) Analysis of student transportation cost data has resulted 27625  
in a finding that an average efficient transportation use cost per 27626  
student can be calculated by means of a regression formula that 27627  
has as its two independent variables the number of daily bus miles 27628  
per student and the transported student percentage. For fiscal 27629  
year 1998 transportation cost data, the average efficient 27630  
transportation use cost per student is expressed as follows: 27631

51.79027 + (139.62626 X daily bus miles per student) + 27632

(116.25573 X transported student percentage) 27633

The department of education shall annually determine the 27634  
average efficient transportation use cost per student in 27635  
accordance with the principles stated in division (D)(2) of this 27636  
section, updating the intercept and regression coefficients of the 27637  
regression formula modeled in this division, based on an annual 27638

statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE
2000	52.5%
2001	55%
2002	57.5%
2003 and thereafter	The greater of 60% or the district's state share percentage

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply:

(a) Its county rough road percentage is higher than the 27669  
statewide rough road percentage, as those terms are defined in 27670  
division (D)(5) of this section; 27671

(b) Its district student density is lower than the statewide 27672  
student density, as those terms are defined in that division. 27673

(5) The rough road subsidy paid to each district meeting the 27674  
qualifications of division (D)(4) of this section shall be 27675  
calculated in accordance with the following formula: 27676

(per rough mile subsidy X total rough road miles) X 27677  
density multiplier 27678

where: 27679

(a) "Per rough mile subsidy" equals the amount calculated in 27680  
accordance with the following formula: 27681

$0.75 - \{0.75 \times [(\text{maximum rough road percentage} -$  27682  
 $\text{county rough road percentage}) / (\text{maximum rough road percentage} -$  27683  
 $\text{statewide rough road percentage})]\}$  27684

(i) "Maximum rough road percentage" means the highest county 27685  
rough road percentage in the state. 27686

(ii) "County rough road percentage" equals the percentage of 27687  
the mileage of state, municipal, county, and township roads that 27688  
is rated by the department of transportation as type A, B, C, E2, 27689  
or F in the county in which the school district is located or, if 27690  
the district is located in more than one county, the county to 27691  
which it is assigned for purposes of determining its 27692  
cost-of-doing-business factor. 27693

(iii) "Statewide rough road percentage" means the percentage 27694  
of the statewide total mileage of state, municipal, county, and 27695  
township roads that is rated as type A, B, C, E2, or F by the 27696  
department of transportation. 27697

(b) "Total rough road miles" means a school district's total 27698

bus miles traveled in one year times its county rough road  
percentage. 27699  
27700

(c) "Density multiplier" means a figure calculated in 27701  
accordance with the following formula: 27702

1 - [(minimum student density - district student 27703  
density)/(minimum student density - 27704  
statewide student density)] 27705

(i) "Minimum student density" means the lowest district 27706  
student density in the state. 27707

(ii) "District student density" means a school district's 27708  
transportation base divided by the number of square miles in the 27709  
district. 27710

(iii) "Statewide student density" means the sum of the 27711  
transportation bases for all school districts divided by the sum 27712  
of the square miles in all school districts. 27713

(6) In addition to funds paid under divisions (D)(2) to (5) 27714  
of this section, each district shall receive in accordance with 27715  
rules adopted by the state board of education a payment for 27716  
students transported by means other than board-owned or 27717  
contractor-operated buses and whose transportation is not funded 27718  
under division (J) of section 3317.024 of the Revised Code. The 27719  
rules shall include provisions for school district reporting of 27720  
such students. 27721

(E)(1) The department shall compute and distribute state 27722  
vocational education additional weighted costs funds to each 27723  
school district in accordance with the following formula: 27724

state share percentage X 27725  
the formula amount X 27726  
total vocational education weight 27727

In any fiscal year, a school district receiving funds under 27728

division (E)(1) of this section shall spend those funds only for 27729  
the purposes that the department designates as approved for 27730  
vocational education expenses. Vocational educational expenses 27731  
approved by the department shall include only expenses connected 27732  
to the delivery of career-technical programming to 27733  
career-technical students. The department shall require the school 27734  
district to report data annually so that the department may 27735  
monitor the district's compliance with the requirements regarding 27736  
the manner in which funding received under division (E)(1) of this 27737  
section may be spent. 27738

(2) The department shall compute for each school district 27739  
state funds for vocational education associated services in 27740  
accordance with the following formula: 27741

state share percentage X .05 X 27742

the formula amount X the sum of categories one and two 27743

vocational education ADM 27744

In any fiscal year, a school district receiving funds under 27745  
division (E)(2) of this section, or through a transfer of funds 27746  
pursuant to division (L) of section 3317.023 of the Revised Code, 27747  
shall spend those funds only for the purposes that the department 27748  
designates as approved for vocational education associated 27749  
services expenses, which may include such purposes as 27750  
apprenticeship coordinators, coordinators for other vocational 27751  
education services, vocational evaluation, and other purposes 27752  
designated by the department. The department may deny payment 27753  
under division (E)(2) of this section to any district that the 27754  
department determines is not operating those services or is using 27755  
funds paid under division (E)(2) of this section, or through a 27756  
transfer of funds pursuant to division (L) of section 3317.023 of 27757  
the Revised Code, for other purposes. 27758

(F) The actual local share in any fiscal year for the 27759  
combination of special education and related services additional 27760

weighted costs funding calculated under division (C)(1) of this 27761  
section, transportation funding calculated under divisions (D)(2) 27762  
and (3) of this section, and vocational education and associated 27763  
services additional weighted costs funding calculated under 27764  
divisions (E)(1) and (2) of this section shall not exceed for any 27765  
school district the product of three and three-tenths mills times 27766  
the district's recognized valuation. The department annually shall 27767  
pay each school district as an excess cost supplement any amount 27768  
by which the sum of the district's attributed local shares for 27769  
that funding exceeds that product. For purposes of calculating the 27770  
excess cost supplement: 27771

(1) The attributed local share for special education and 27772  
related services additional weighted costs funding is the amount 27773  
specified in division (C)(2) of this section. 27774

(2) The attributed local share of transportation funding 27775  
equals the difference of the total amount calculated for the 27776  
district using the formula developed under division (D)(2) of this 27777  
section minus the actual amount paid to the district after 27778  
applying the percentage specified in division (D)(3) of this 27779  
section. 27780

(3) The attributed local share of vocational education and 27781  
associated services additional weighted costs funding is the 27782  
amount determined as follows: 27783

(1 - state share percentage) X 27784  
[(total vocational education weight X the formula amount) + 27785  
the payment under division (E)(2) of this section] 27786

**Sec. 3317.023.** (A) Notwithstanding section 3317.022 of the 27787  
Revised Code, the amounts required to be paid to a district under 27788  
this chapter shall be adjusted by the amount of the computations 27789  
made under divisions (B) to ~~(M)~~(N) of this section. 27790

As used in this section: 27791

(1) "Classroom teacher" means a licensed employee who 27792  
provides direct instruction to pupils, excluding teachers funded 27793  
from money paid to the district from federal sources; educational 27794  
service personnel; and vocational and special education teachers. 27795

(2) "Educational service personnel" shall not include such 27796  
specialists funded from money paid to the district from federal 27797  
sources or assigned full-time to vocational or special education 27798  
students and classes and may only include those persons employed 27799  
in the eight specialist areas in a pattern approved by the 27800  
department of education under guidelines established by the state 27801  
board of education. 27802

(3) "Annual salary" means the annual base salary stated in 27803  
the state minimum salary schedule for the performance of the 27804  
teacher's regular teaching duties that the teacher earns for 27805  
services rendered for the first full week of October of the fiscal 27806  
year for which the adjustment is made under division (C) of this 27807  
section. It shall not include any salary payments for supplemental 27808  
teachers contracts. 27809

(4) "Regular student population" means the formula ADM plus 27810  
the number of students reported as enrolled in the district 27811  
pursuant to division (A)(1) of section 3313.981 of the Revised 27812  
Code; minus the number of students reported under division (A)(2) 27813  
of section 3317.03 of the Revised Code; minus the FTE of students 27814  
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 27815  
of that section who are enrolled in a vocational education class 27816  
or receiving special education; and minus twenty per cent of the 27817  
students enrolled concurrently in a joint vocational school 27818  
district. 27819

(5) "State share percentage" has the same meaning as in 27820  
section 3317.022 of the Revised Code. 27821



(6) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

(7) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the

district's mean salary under this division, those full-time 27852  
equivalent classroom teachers with the highest training level 27853  
shall be counted first, those with the next highest training level 27854  
second, and so on, in descending order. Within the respective 27855  
training levels, teachers with the highest years of service shall 27856  
be counted first, the next highest years of service second, and so 27857  
on, in descending order. 27858

(D) This division does not apply to a school district that 27859  
has entered into an agreement under division (A) of section 27860  
3313.42 of the Revised Code. Deduct the amount obtained from the 27861  
following computations if the district employs fewer than five 27862  
full-time equivalent educational service personnel, including 27863  
elementary school art, music, and physical education teachers, 27864  
counselors, librarians, visiting teachers, school social workers, 27865  
and school nurses for each one thousand pupils in the regular 27866  
student population: 27867

(1) Divide the number of full-time equivalent educational 27868  
service personnel employed by the district by five 27869  
one-thousandths; 27870

(2) Subtract the quotient in (1) from the district's regular 27871  
student population; 27872

(3) Multiply the difference in (2) by ninety-four dollars. 27873

(E) If a local school district, or a city or exempted village 27874  
school district to which a governing board of an educational 27875  
service center provides services pursuant to section 3313.843 of 27876  
the Revised Code, deduct the amount of the payment required for 27877  
the reimbursement of the governing board under section 3317.11 of 27878  
the Revised Code. 27879

(F)(1) If the district is required to pay to or entitled to 27880  
receive tuition from another school district under division (C)(2) 27881  
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 27882

or if the superintendent of public instruction is required to 27883  
determine the correct amount of tuition and make a deduction or 27884  
credit under section 3317.08 of the Revised Code, deduct and 27885  
credit such amounts as provided in division (J) of section 3313.64 27886  
or section 3317.08 of the Revised Code. 27887

(2) For each child for whom the district is responsible for 27888  
tuition or payment under division (A)(1) of section 3317.082 or 27889  
section 3323.091 of the Revised Code, deduct the amount of tuition 27890  
or payment for which the district is responsible. 27891

(G) If the district has been certified by the superintendent 27892  
of public instruction under section 3313.90 of the Revised Code as 27893  
not in compliance with the requirements of that section, deduct an 27894  
amount equal to ten per cent of the amount computed for the 27895  
district under section 3317.022 of the Revised Code. 27896

(H) If the district has received a loan from a commercial 27897  
lending institution for which payments are made by the 27898  
superintendent of public instruction pursuant to division (E)(3) 27899  
of section 3313.483 of the Revised Code, deduct an amount equal to 27900  
such payments. 27901

(I)(1) If the district is a party to an agreement entered 27902  
into under division (D), (E), or (F) of section 3311.06 or 27903  
division (B) of section 3311.24 of the Revised Code and is 27904  
obligated to make payments to another district under such an 27905  
agreement, deduct an amount equal to such payments if the district 27906  
school board notifies the department in writing that it wishes to 27907  
have such payments deducted. 27908

(2) If the district is entitled to receive payments from 27909  
another district that has notified the department to deduct such 27910  
payments under division (I)(1) of this section, add the amount of 27911  
such payments. 27912

(J) If the district is required to pay an amount of funds to 27913

a cooperative education district pursuant to a provision described 27914  
by division (B)(4) of section 3311.52 or division (B)(8) of 27915  
section 3311.521 of the Revised Code, deduct such amounts as 27916  
provided under that provision and credit those amounts to the 27917  
cooperative education district for payment to the district under 27918  
division (B)(1) of section 3317.19 of the Revised Code. 27919

(K)(1) If a district is educating a student entitled to 27920  
attend school in another district pursuant to a shared education 27921  
contract, compact, or cooperative education agreement other than 27922  
an agreement entered into pursuant to section 3313.842 of the 27923  
Revised Code, credit to that educating district on an FTE basis 27924  
both of the following: 27925

(a) An amount equal to the greater of the following: 27926

(i) The fiscal year 2005 formula amount times the fiscal year 27927  
2005 cost of doing business factor of the school district where 27928  
the student is entitled to attend school pursuant to section 27929  
3313.64 or 3313.65 of the Revised Code; 27930

(ii) The sum of (the current formula amount times the current 27931  
cost-of-doing-business factor of the school district when the 27932  
student is entitled to attend school pursuant to section 3313.64 27933  
or 3313.65 of the Revised Code) plus the per pupil amount of the 27934  
base funding supplements specified in divisions (C)(1) to (4) of 27935  
section 3317.012 of the Revised Code. 27936

(b) An amount equal to the current formula amount times the 27937  
state share percentage times any multiple applicable to the 27938  
student pursuant to section 3317.013 or 3317.014 of the Revised 27939  
Code. 27940

(2) Deduct any amount credited pursuant to division (K)(1) of 27941  
this section from amounts paid to the school district in which the 27942  
student is entitled to attend school pursuant to section 3313.64 27943  
or 3313.65 of the Revised Code. 27944

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(N)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

**Sec. 3317.024.** In addition to the moneys paid to eligible

school districts pursuant to section 3317.022 of the Revised Code, 27975  
moneys appropriated for the education programs in divisions (A) to 27976  
(H), (J) to (L), (O), (P), and (R) of this section shall be 27977  
distributed to school districts meeting the requirements of 27978  
section 3317.01 of the Revised Code; in the case of divisions (J) 27979  
and (P) of this section, to educational service centers as 27980  
provided in section 3317.11 of the Revised Code; in the case of 27981  
divisions (E), (M), and (N) of this section, to county MR/DD 27982  
boards; in the case of division (R) of this section, to joint 27983  
vocational school districts; in the case of division (K) of this 27984  
section, to cooperative education school districts; and in the 27985  
case of division (Q) of this section, to the institutions defined 27986  
under section 3317.082 of the Revised Code providing elementary or 27987  
secondary education programs to children other than children 27988  
receiving special education under section 3323.091 of the Revised 27989  
Code. The following shall be distributed monthly, quarterly, or 27990  
annually as may be determined by the state board of education: 27991

(A) A per pupil amount to each school district that 27992  
establishes a summer school remediation program that complies with 27993  
rules of the state board of education. 27994

(B) An amount for each island school district and each joint 27995  
state school district for the operation of each high school and 27996  
each elementary school maintained within such district and for 27997  
capital improvements for such schools. Such amounts shall be 27998  
determined on the basis of standards adopted by the state board of 27999  
education. 28000

(C) An amount for each school district operating classes for 28001  
children of migrant workers who are unable to be in attendance in 28002  
an Ohio school during the entire regular school year. The amounts 28003  
shall be determined on the basis of standards adopted by the state 28004  
board of education, except that payment shall be made only for 28005  
subjects regularly offered by the school district providing the 28006

classes. 28007

(D) An amount for each school district with guidance, 28008  
testing, and counseling programs approved by the state board of 28009  
education. The amount shall be determined on the basis of 28010  
standards adopted by the state board of education. 28011

(E) An amount for the emergency purchase of school buses as 28012  
provided for in section 3317.07 of the Revised Code; 28013

(F) An amount for each school district required to pay 28014  
tuition for a child in an institution maintained by the department 28015  
of youth services pursuant to section 3317.082 of the Revised 28016  
Code, provided the child was not included in the calculation of 28017  
the district's average daily membership for the preceding school 28018  
year. 28019

(G) In fiscal year 2000 only, an amount to each school 28020  
district for supplemental salary allowances for each licensed 28021  
employee except those licensees serving as superintendents, 28022  
assistant superintendents, principals, or assistant principals, 28023  
whose term of service in any year is extended beyond the term of 28024  
service of regular classroom teachers, as described in section 28025  
3301.0725 of the Revised Code; 28026

(H) An amount for adult basic literacy education for each 28027  
district participating in programs approved by the state board of 28028  
education. The amount shall be determined on the basis of 28029  
standards adopted by the state board of education. 28030

(I) Notwithstanding section 3317.01 of the Revised Code, but 28031  
only until June 30, 1999, to each city, local, and exempted 28032  
village school district, an amount for conducting driver education 28033  
courses at high schools for which the state board of education 28034  
prescribes minimum standards and to joint vocational and 28035  
cooperative education school districts and educational service 28036  
centers, an amount for conducting driver education courses to 28037

pupils enrolled in a high school for which the state board 28038  
prescribes minimum standards. No payments shall be made under this 28039  
division after June 30, 1999. 28040

(J) An amount for the approved cost of transporting 28041  
developmentally handicapped eligible pupils with disabilities 28042  
attending a special education program approved by the department 28043  
of education whom it is impossible or impractical to transport by 28044  
regular school bus in the course of regular route transportation 28045  
provided by the district or service center. No district or service 28046  
center is eligible to receive a payment under this division for 28047  
the cost of transporting any pupil whom it transports by regular 28048  
school bus and who is included in the district's transportation 28049  
ADM. The state board of education shall establish standards and 28050  
guidelines for use by the department of education in determining 28051  
the approved cost of such transportation for each district or 28052  
service center. 28053

(K) An amount to each school district, including each 28054  
cooperative education school district, pursuant to section 3313.81 28055  
of the Revised Code to assist in providing free lunches to needy 28056  
children and an amount to assist needy school districts in 28057  
purchasing necessary equipment for food preparation. The amounts 28058  
shall be determined on the basis of rules adopted by the state 28059  
board of education. 28060

(L) An amount to each school district, for each pupil 28061  
attending a chartered nonpublic elementary or high school within 28062  
the district. The amount shall equal the amount appropriated for 28063  
the implementation of section 3317.06 of the Revised Code divided 28064  
by the average daily membership in grades kindergarten through 28065  
twelve in nonpublic elementary and high schools within the state 28066  
as determined during the first full week in October of each school 28067  
year. 28068



(M) An amount for each county MR/DD board, distributed on the 28069  
basis of standards adopted by the state board of education, for 28070  
the approved cost of transportation required for children 28071  
attending special education programs operated by the county MR/DD 28072  
board under section 3323.09 of the Revised Code; 28073

(N) An amount for each county MR/DD board, distributed on the 28074  
basis of standards adopted by the state board of education, for 28075  
supportive home services for preschool children; 28076

(O) An amount for each school district that establishes a 28077  
mentor teacher program that complies with rules of the state board 28078  
of education. No school district shall be required to establish or 28079  
maintain such a program in any year unless sufficient funds are 28080  
appropriated to cover the district's total costs for the program. 28081

(P) An amount to each school district or educational service 28082  
center for the total number of gifted units approved pursuant to 28083  
section 3317.05 of the Revised Code. The amount for each such unit 28084  
shall be the sum of the minimum salary for the teacher of the 28085  
unit, calculated on the basis of the teacher's training level and 28086  
years of experience pursuant to the salary schedule prescribed in 28087  
the version of section 3317.13 of the Revised Code in effect prior 28088  
to July 1, 2001, plus fifteen per cent of that minimum salary 28089  
amount, plus two thousand six hundred seventy-eight dollars. 28090

(Q) An amount to each institution defined under section 28091  
3317.082 of the Revised Code providing elementary or secondary 28092  
education to children other than children receiving special 28093  
education under section 3323.091 of the Revised Code. This amount 28094  
for any institution in any fiscal year shall equal the total of 28095  
all tuition amounts required to be paid to the institution under 28096  
division (A)(1) of section 3317.082 of the Revised Code. 28097

(R) A grant to each school district and joint vocational 28098  
school district that operates a "graduation, reality, and 28099

dual-role skills" (GRADS) program for pregnant and parenting 28100  
students that is approved by the department. The amount of the 28101  
payment shall be the district's state share percentage, as defined 28102  
in section 3317.022 or 3317.16 of the Revised Code, times the 28103  
GRADS personnel allowance times the full-time-equivalent number of 28104  
GRADS teachers approved by the department. The GRADS personnel 28105  
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 28106  
2007. 28107

The state board of education or any other board of education 28108  
or governing board may provide for any resident of a district or 28109  
educational service center territory any educational service for 28110  
which funds are made available to the board by the United States 28111  
under the authority of public law, whether such funds come 28112  
directly or indirectly from the United States or any agency or 28113  
department thereof or through the state or any agency, department, 28114  
or political subdivision thereof. 28115

**Sec. 3317.026.** (A) As used in this section, "refunded taxes" 28116  
means taxes charged and payable from real and tangible personal 28117  
property, including public utility property, that have been found 28118  
to have been overpaid as the result of reductions in the taxable 28119  
value of such property and that have been refunded, including any 28120  
interest or penalty refunded with those taxes. If taxes are 28121  
refunded over a period of time pursuant to division (B)(2), (3), 28122  
or (4) of section 319.36 or division (C) of section 5727.471 of 28123  
the Revised Code, the total amount of taxes required to be 28124  
refunded, excluding any interest accruing after the day the 28125  
undertaking is entered into, shall be considered to have been 28126  
refunded on the day the first portion of the overpayment is paid 28127  
or credited. 28128

(B) Not later than the last day of February each year, each 28129  
county auditor shall certify to the tax commissioner, for each 28130

school district in the county, the amount of refunded taxes 28131  
refunded in the preceding calendar year and the reductions in 28132  
taxable value that resulted in those refunds, except for 28133  
reductions in taxable value that previously have been reported to 28134  
the tax commissioner on an abstract. If the tax commissioner 28135  
determines that the amount of refunded taxes certified for a 28136  
school district exceeds three per cent of the total taxes charged 28137  
and payable for current expenses of the school district for the 28138  
calendar year in which those taxes were refunded, the tax 28139  
commissioner shall certify the reductions in taxable value that 28140  
resulted in those refunds on or before the first day of June to 28141  
the department of education. Upon receiving the certification by 28142  
the tax commissioner, the department of education shall reduce the 28143  
total taxable value of the school district, as defined in section 28144  
3317.02 of the Revised Code, by the total amount of the reductions 28145  
in taxable value that resulted in those refunds for the purpose of 28146  
computing the ~~state aid~~ SF-3 payment for the school district for 28147  
the current fiscal year ~~under section 3317.022 of the Revised~~ 28148  
~~Code~~. The increase in the amount of such aid resulting from the 28149  
adjustment required by this section shall be paid to the school 28150  
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 28151  
of the ~~current~~ following fiscal year. 28152

If an adjustment is made under this division in the amount of 28153  
state aid paid to a school district, the tax value reductions from 28154  
which that adjustment results shall not be used in recomputing aid 28155  
to a school district under section 3317.027 of the Revised Code. 28156

~~(D)~~(C) If a school district received a grant from the 28157  
catastrophic expenditures account pursuant to division (C) of 28158  
section 3316.20 of the Revised Code on the basis of the same 28159  
circumstances for which an adjustment is made under this section, 28160  
the amount of the adjustment shall be reduced and transferred in 28161  
accordance with division (C) of section 3316.20 of the Revised 28162

Code. 28163

(D) Not later than the first day of June each year, the tax 28164  
commissioner shall certify to the department of education for each 28165  
school district the total of the increases in taxable value above 28166  
the amount of taxable value on which tax was paid, as provided in 28167  
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 28168  
determined by the commissioner, and for which a notification was 28169  
sent pursuant to section 5727.471 of the Revised Code, in the 28170  
preceding calendar year. Upon receiving the certification, the 28171  
department shall increase the total taxable value, as defined in 28172  
section 3317.02 of the Revised Code, of the school district by the 28173  
total amount of the increase in taxable value certified by the 28174  
commissioner for the school district for the purpose of computing 28175  
the school district's ~~state aid~~ SF-3 payment for the following 28176  
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 28177  
~~Code.~~ 28178

**Sec. 3317.027.** On or before the fifteenth day of May of each 28179  
year, the tax commissioner shall certify to the department of 28180  
education: 28181

(A) The amount by which applications filed under section 28182  
5713.38 of the Revised Code or complaints filed under section 28183  
5715.19 of the Revised Code resulted in a reduction in the second 28184  
preceding year's taxable value in each school district in which 28185  
such a reduction occurred, and the amount by which such reduction 28186  
reduced the district's taxes charged and payable for such year; 28187  
and 28188

(B) The taxes charged and payable for the second preceding 28189  
tax year that were remitted under section 5713.081 of the Revised 28190  
Code and the taxable value against which such taxes were imposed. 28191

Upon receipt of such certifications, the department shall 28192  
recompute the ~~state aid for such year under section 3317.022 of~~ 28193

~~the Revised Code~~ district's SF-3 payment and determine the amount 28194  
~~of aid that~~ the SF-3 payment would have been paid had the taxable 28195  
value not been used in the computation made under division (A)(1) 28196  
of section 3317.021 of the Revised Code and had the taxes charged 28197  
and payable not been included in the certification made under 28198  
division (A)(3) of such section. The department shall ~~adjust~~ 28199  
calculate the amount that the remainder of the fiscal year's 28200  
~~payments so the district's total payments~~ should have been for the 28201  
fiscal year ~~equal~~ including the amount of the ~~recomputation~~ SF-3 28202  
payment as recomputed. The increase or decrease in the amount of 28203  
aid resulting from the adjustment required under this section 28204  
shall be paid to the school district on or before the thirty-first 28205  
day of July of the following fiscal year. 28206

If a school district received a grant from the catastrophic 28207  
expenditures account pursuant to division (C) of section 3316.20 28208  
of the Revised Code on the basis of the same circumstances for 28209  
which a recomputation is made under this section, the amount of 28210  
the recomputation shall be reduced and transferred in accordance 28211  
with division (C) of section 3316.20 of the Revised Code. 28212

**Sec. 3317.028.** (A) On or before the fifteenth day of May in 28213  
each calendar year prior to calendar year 2007, the tax 28214  
commissioner shall determine for each school district whether the 28215  
taxable value of all tangible personal property, including utility 28216  
tangible personal property, subject to taxation by the district in 28217  
the preceding tax year was less or greater than the taxable value 28218  
of such property during the second preceding tax year. If any such 28219  
decrease exceeds five per cent of the district's tangible personal 28220  
property taxable value included in the total taxable value used in 28221  
computing the district's ~~state-aid computation~~ SF-3 payment for 28222  
the fiscal year that ends in the current calendar year, or if any 28223  
such increase exceeds five per cent of the district's total 28224  
taxable value used in computing the district's ~~state-aid~~ 28225

~~computation SF-3 payment~~ for the fiscal year that ends in the 28226  
current calendar year, the tax commissioner shall certify both of 28227  
the following to the department of education: 28228

(1) The taxable value of the tangible personal property 28229  
increase or decrease, including utility tangible personal property 28230  
increase or decrease, which shall be considered a change in 28231  
valuation; 28232

(2) The decrease or increase in taxes charged and payable on 28233  
such change in taxable value calculated in the same manner as in 28234  
division (A)(3) of section 3317.021 of the Revised Code. 28235

~~(B) Notwithstanding division (A) of this section, when~~ 28236  
~~determining under that division in calendar year 2002 whether the~~ 28237  
~~taxable value of tangible personal property subject to taxation by~~ 28238  
~~each school district in the preceding tax year was less or greater~~ 28239  
~~than the taxable value of such property during the second~~ 28240  
~~preceding tax year, the tax commissioner shall exclude from the~~ 28241  
~~taxable value for both years the tax value loss, as defined in~~ 28242  
~~section 5727.84 of the Revised Code~~ On or before May 15, 2007, and 28243  
the fifteenth day of May in each calendar year thereafter, the tax 28244  
commissioner shall determine for each school district whether the 28245  
taxable value of all utility tangible personal property subject to 28246  
taxation by the district in the preceding tax year was less or 28247  
greater than the taxable value of such property during the second 28248  
preceding tax year. If any decrease exceeds five per cent of the 28249  
district's tangible personal property taxable value included in 28250  
the total taxable value used in the district's state aid 28251  
computation for the fiscal year that ends in the current calendar 28252  
year, or if any increase exceeds five per cent of the district's 28253  
total taxable value used in the district's state aid computation 28254  
for the fiscal year that ends in the current calendar year, the 28255  
tax commissioner shall certify both of the following to the 28256  
department of education: 28257

(1) The taxable value of the utility tangible personal property increase or decrease, which shall be considered a change in valuation; 28258  
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(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code. 28261  
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(C) Upon receipt of ~~such a~~ certification specified in this section, the department of education shall reduce or increase by the respective amounts certified, and the taxable value and the taxes charged and payable that were used in computing the district's ~~state aid computation under section 3317.022 of the Revised Code~~ SF-3 payment for the fiscal year that ends in the current calendar year and shall recompute the ~~state aid~~ SF-3 payment for such fiscal year. ~~During the last six months of the fiscal year, the~~ The department shall pay the district a sum equal to one-half of the recomputed payments in lieu of the payments otherwise required under ~~such sections~~ that section on or before the thirty-first day of July of the following fiscal year. 28264  
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(D) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code. 28276  
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**Sec. 3317.029.** (A) As used in this section: 28283

(1) "~~DP~~PIA Poverty percentage" means: 28284

~~(a) In fiscal years prior to fiscal year 2004,~~ the quotient obtained by dividing the five-year average number of children ages five to seventeen residing in the school district and living in a 28285  
28286  
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family receiving assistance under the Ohio works first program or 28288  
an antecedent program known as TANF or ADC, as certified or 28289  
adjusted under section 3317.10 of the Revised Code, by the 28290  
district's three-year average formula ADM. 28291

~~(b) Beginning in fiscal year 2004, the unduplicated number of 28292  
children ages five to seventeen residing in the school district 28293  
and living in a family that has family income not exceeding the 28294  
federal poverty guidelines and that receives family assistance, as 28295  
certified or adjusted under section 3317.10 of the Revised Code, 28296  
divided by the district's three-year average formula ADM. 28297~~

~~(2) "Family assistance" means assistance received under one 28298  
of the following: 28299~~

~~(a) The Ohio works first program; 28300~~

~~(b) The food stamp program; 28301~~

~~(c) The medical assistance program, including the healthy 28302  
start program, established under Chapter 5111. of the Revised 28303  
Code; 28304~~

~~(d) The children's health insurance program part I 28305  
established under section 5101.50 of the Revised Code or, prior to 28306  
fiscal year 2000, an executive order issued under section 107.17 28307  
of the Revised Code; 28308~~

~~(e) The disability financial assistance program established 28309  
under Chapter 5115. of the Revised Code; 28310~~

~~(f) The disability medical assistance program established 28311  
under Chapter 5115. of the Revised Code. 28312~~

~~(3) "Statewide DPIA poverty percentage" means: 28313~~

~~(a) In fiscal years prior to fiscal year 2004, the five-year 28314  
average of the total number of children ages five to seventeen 28315  
years residing in the state and receiving assistance under the 28316  
Ohio works first program or an antecedent program known as TANF or 28317~~



ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state. 28318  
28319

~~(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.~~ 28320  
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~~(4)(3) "DPIA Poverty index" means the quotient obtained by dividing the school district's DPIA poverty percentage by the statewide DPIA poverty percentage.~~ 28326  
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~~(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.~~ 28329  
28330

~~(6)(4) "DPIA Poverty student count" means:~~ 28331

~~(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code;~~ 28332  
28333  
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~~(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code.~~ 28338  
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~~(7)(5) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten, excluding any kindergarten students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.~~ 28343  
28344  
28345  
28346

~~(8)(6) "Kindergarten through third grade ADM" means the~~ 28347

amount calculated as follows: 28348

(a) Multiply the kindergarten ADM by the sum of one plus the 28349  
all-day kindergarten percentage; 28350

(b) Add the number of students in grades one through three; 28351

(c) Subtract from the sum calculated under division (A)(6)(b) 28352  
of this section the number of special education students in grades 28353  
kindergarten through three. 28354

~~(9) "Statewide average teacher salary" means forty two 28355  
thousand four hundred sixty nine dollars in fiscal year 2002, and 28356  
forty three thousand six hundred fifty eight dollars in fiscal 28357  
year 2003, which includes an amount for the value of fringe 28358  
benefits. 28359~~

~~(10) "Kindergarten through third grade ADM" shall not include 28360  
any students reported under division (B)(3)(e) or (f) of section 28361  
3317.03 of the Revised Code. 28362~~

(7) "All-day kindergarten" means a kindergarten class that is 28363  
in session five days per week for not less than the same number of 28364  
clock hours each day as for pupils in grades one through six. 28365

~~(11)(8) "All-day kindergarten percentage" means the 28366  
percentage of a district's actual total number of students 28367  
enrolled in kindergarten who are enrolled in all-day kindergarten. 28368~~

~~(12)(9) "Buildings with the highest concentration of need" 28369  
means+ 28370~~

~~(a) In fiscal years prior to fiscal year 2004, the school 28371  
buildings in a district with percentages of students in grades 28372  
kindergarten through three receiving assistance under Ohio works 28373  
first at least as high as the district-wide percentage of students 28374  
receiving such assistance. 28375~~

~~(b) Beginning in fiscal year 2004, the school buildings in a 28376  
district with percentages of students in grades kindergarten 28377~~

~~through three receiving family assistance at least as high as the~~ 28378  
~~district wide percentage of students receiving family assistance.~~ 28379

~~(e)~~ If, in any fiscal year, the information provided by the 28380  
department of job and family services under section 3317.10 of the 28381  
Revised Code is insufficient to determine the Ohio works first ~~or~~ 28382  
~~family assistance~~ percentage in each building, "buildings with the 28383  
highest concentration of need" has the meaning given in rules that 28384  
the department of education shall adopt. The rules shall base the 28385  
definition of "buildings with the highest concentration of need" 28386  
on family income of students in grades kindergarten through three 28387  
in a manner that, to the extent possible with available data, 28388  
approximates the intent of this division and division ~~(G)~~(K) of 28389  
this section to designate buildings where the Ohio works first ~~or~~ 28390  
~~family assistance~~ percentage in those grades equals or exceeds the 28391  
district-wide Ohio works first ~~or family assistance~~ percentage. 28392

(B) In addition to the amounts required to be paid to a 28393  
school district under section 3317.022 of the Revised Code, a the 28394  
department of education shall compute and distribute to each 28395  
school district ~~shall receive~~ for poverty-based assistance the 28396  
greater of the following: 28397

(1) The amount the district received in fiscal year 1998 2005 28398  
for disadvantaged pupil impact aid pursuant to division (B) of 28399  
section 3317.023 of the Revised Code as it existed at that time or 28400  
the Section 41.10 of Am. Sub. H.B. 95 of the 125th General 28401  
Assembly, as amended, minus the amount deducted from the district 28402  
under Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly 28403  
that year for payments to internet- and computer-based community 28404  
schools; 28405

(2) The sum of the computations made under divisions (C) to 28406  
~~(E)~~(I) of this section. 28407

(C) A ~~supplemental~~ payment that may be utilized for measures 28408

~~related to safety and security and for remediation or similar~~ 28409  
~~academic intervention programs, if the district's poverty index is~~ 28410  
~~greater than or equal to 0.25, calculated as follows:~~ 28411

~~(1) If the DPIA index of the school district is greater than~~ 28412  
~~or equal to thirty five hundredths, but less than one, an amount~~ 28413  
~~obtained by multiplying the district's DPIA student count by two~~ 28414  
~~hundred thirty dollars;~~ 28415

~~(2) If the DPIA index of the school district is greater than~~ 28416  
~~or equal to one, an amount obtained by multiplying the DPIA index~~ 28417  
~~by two hundred thirty dollars and multiplying that product by the~~ 28418  
~~district's DPIA student count.~~ 28419

~~Except as otherwise provided in division (F) of this section,~~ 28420  
~~beginning with the school year that starts July 1, 2002, each~~ 28421  
~~school district annually shall use at least twenty per cent of the~~ 28422  
~~funds calculated for the district under this division for~~ 28423  
~~intervention services required by section 3313.608 of the Revised~~ 28424  
~~Code.~~ 28425

~~(1) If the district's poverty index is greater than or equal~~ 28426  
~~to 0.25, calculate the district's level one amount for large-group~~ 28427  
~~academic intervention for all students as follows:~~ 28428

~~(a) If the district's poverty index is greater than or equal~~ 28429  
~~to 0.25 but less than 0.75:~~ 28430

~~large-group intervention units X hourly rate X~~ 28431

~~level one hours X [(poverty index - 0.25)/0.5]~~ 28432

~~X phase-in percentage~~ 28433

~~Where:~~ 28434

~~(i) "Large-group intervention units" equals the district's~~ 28435  
~~formula ADM divided by 20;~~ 28436

~~(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and~~ 28437  
~~\$20.40 in fiscal year 2007;~~ 28438

(iii) "Level one hours" equals 25 in fiscal year 2006 and 30 28439  
in fiscal year 2007; 28440

(iv) "Phase-in percentage" equals 0.60 in fiscal year 2006 28441  
and 0.85 in fiscal year 2007. 28442

(b) If the district's poverty index is greater than or equal 28443  
to 0.75: 28444

large-group intervention units X hourly rate X level one hours 28445  
X phase-in percentage 28446

Where "large-group intervention units," "hourly rate," "level 28447  
one hours," and "phase-in percentage" have the same meanings as in 28448  
division (C)(1)(a) of this section. 28449

(2) If the district's poverty index is greater than or equal 28450  
to 0.75, calculate the district's level two amount for 28451  
medium-group academic intervention for impoverished students as 28452  
follows: 28453

(a) If the district's poverty index is greater than or equal 28454  
to 0.75 but less than 1.50: 28455

medium-group intervention units X hourly rate X 28456  
{level one hours + [75 hours X ((poverty index - 0.75)/0.75)]} 28457  
X phase-in percentage 28458

Where: 28459

(i) "Medium group intervention units" equals the district's 28460  
poverty student count divided by 10; 28461

(ii) "Hourly rate," "level one hours," and "phase-in 28462  
percentage" have the same meanings as in division (C)(1)(a) of 28463  
this section. 28464

28465

(b) If the district's poverty index is greater than or equal 28466  
to 1.50: 28467

medium-group intervention units X hourly rate X level two hours 28468

X phase-in percentage 28469

Where: 28470

(i) "Medium group intervention units" has the same meaning as in division (C)(2)(a)(i) of this section; 28471  
28472

(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section; 28473  
28474

(iii) "Level two hours" equals 100 hours in fiscal year 2006 and 105 hours in fiscal year 2007. 28475  
28476

(3) If the district's poverty index is greater than or equal to 1.50, calculate the district's level three amount for small-group academic intervention for impoverished students as follows: 28477  
28478  
28479  
28480

(a) If the district's poverty index is greater than or equal to 1.50 but less than 2.50: 28481  
28482

small group intervention units X hourly rate X 28483  
{level one hours + [level three hours X (poverty index - 1.50)]} 28484  
X phase-in percentage 28485

Where: 28486

(i) "Small group intervention units" equals the district's poverty student count divided by five; 28487  
28488

(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section; 28489  
28490  
28491

(iii) "Level three hours" equals 350 hours in fiscal year 2006 and 385 hours in fiscal year 2007. 28492  
28493

(b) If the district's poverty index is greater than or equal to 2.50: 28494  
28495

small group intervention units X hourly rate X level three hours 28496  
X phase-in percentage 28497

<u>Where:</u>	28498
<u>(i) "Small group intervention units" has the same meaning as in division (C)(3)(a)(i) of this section;</u>	28499 28500
<u>(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;</u>	28501 28502
<u>(iii) "Level three hours" equals 375 hours in fiscal year 2006 and 415 hours in fiscal year 2007.</u>	28503 28504
<u>Any district that receives funds under division (C)(2) or (3) of this section annually shall submit to the department of education by a date established by the department a plan describing how the district will deploy those funds. The deployment measures described in that plan shall comply with any applicable spending requirements prescribed in division (J)(6) of this section or with any order issued by the superintendent of public instruction under section 3317.017 of the Revised Code.</u>	28505 28506 28507 28508 28509 28510 28511 28512
<u>(D) A payment for all-day kindergarten if the DPIA poverty index of the school district is greater than or equal to <del>one</del> 1.0 or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, <del>calculated</del>. In addition, the department shall make a payment under this division to any school district that, in a prior fiscal year, qualified for this payment and provided all-day kindergarten, regardless of changes to the district's poverty index. The department shall calculate the payment under this division by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.</u>	28513 28514 28515 28516 28517 28518 28519 28520 28521 28522 28523
<u>(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:</u>	28524 28525 28526
<u>(1) Determine or calculate a formula number of teachers per</u>	28527

one thousand students based on the ~~DPIA~~ poverty index of the 28528  
school district as follows: 28529

(a) If the ~~DPIA~~ poverty index of the school district is less 28530  
than ~~six-tenths~~ 1.0, the formula number of teachers is ~~43.478~~ 28531  
50.0, which is the number of teachers per one thousand students at 28532  
a student-teacher ratio of ~~twenty-three~~ twenty to one; 28533

(b) If the ~~DPIA~~ poverty index of the school district is 28534  
greater than or equal to ~~six-tenths~~ 1.0, but less than ~~two-and~~ 28535  
~~one-half~~ 1.5, the formula number of teachers is calculated as 28536  
follows: 28537

$$\frac{43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}}{50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\}}$$

28538  
28539

Where ~~43.478~~ 50.0 is the number of teachers per one thousand 28540  
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 28541  
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six-tenths~~ 28542  
1.0 to a ~~DPIA~~ poverty index of ~~two-and one-half~~ 1.5; and ~~23.188~~ 28543  
16.667 is the difference in the number of teachers per one 28544  
thousand students at a student-teacher ratio of fifteen to one and 28545  
the number of teachers per one thousand students at a 28546  
student-teacher ratio of ~~twenty-three~~ twenty to one. 28547

(c) If the ~~DPIA~~ poverty index of the school district is 28548  
greater than or equal to ~~two-and one-half~~ 1.5, the formula number 28549  
of teachers is 66.667, which is the number of teachers per one 28550  
thousand students at a student-teacher ratio of fifteen to one. 28551

(2) Multiply the formula number of teachers determined or 28552  
calculated in division (E)(1) of this section by the kindergarten 28553  
through third grade ADM for the district and divide that product 28554  
by one thousand; 28555

(3) Calculate the number of new teachers as follows: 28556

(a) Multiply the kindergarten through third grade ADM by 28557



~~43.478~~ 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one, and divide that product by one thousand;

(b) Subtract the quotient obtained in division (E)(3)(a) of this section from the product in division (E)(2) of this section.

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers ~~salary~~ compensation. For this purpose, the "statewide average teacher compensation" is \$53,680 in fiscal year 2006 and \$54,941 in fiscal year 2007, which includes an amount for the value of fringe benefits.

(F) A payment for services to limited English proficient students, if the district's poverty index is greater than or equal to 1.0 and the proportion of its students who are limited English proficient, as reported in 2003 on its school district report issued under section 3302.03 of the Revised Code for the 2002-2003 school year, is greater than or equal to 2.0%, calculated as follows:

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per limited English proficient student as follows:

{0.125 + [0.125 X ((poverty index - 1.0)/0.75)]} X formula amount

(2) If the district's poverty index is greater than or equal to 1.75, the amount per limited English proficient student equals:

0.25 X formula amount

(3) Multiply the per student amount determined for the district under division (F)(1) or (2) of this section by the number of the district's limited English proficient students, times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007. For purposes of this calculation, the number of limited English proficient students for each district shall be

the number determined by the department when it calculated the 28589  
district's percentage of limited English students for its school 28590  
district report card issued in 2003 for the 2002-2003 school year. 28591

Not later than December 31, 2006, the department of education 28592  
shall recommend to the general assembly and the director of budget 28593  
and management a method of identifying the number of limited 28594  
English proficient students for purposes of calculating payments 28595  
under this division after fiscal year 2007. 28596

(G) A payment for professional development of teachers, if 28597  
the district's poverty index is greater than or equal to 1.0, 28598  
calculated as follows: 28599

(1) If the district's poverty index is greater than or equal 28600  
to 1.0, but less than 1.75, determine the amount per teacher as 28601  
follows: 28602

[(poverty index - 1.0)/ 0.75] X 0.045 X formula amount 28603

(2) If the district's poverty index is greater than or equal 28604  
to 1.75, the amount per teacher equals: 28605

0.045 X formula amount 28606

(3) Determine the number of teachers, as follows: 28607

(formula ADM/17) 28608

(4) Multiply the per teacher amount determined for the 28609  
district under division (G)(1) or (2) of this section by the 28610  
number of teachers determined under division (G)(3) of this 28611  
section, times a phase-in percentage of 0.40 in fiscal year 2006 28612  
and 0.70 in fiscal year 2007. 28613

(H) A payment for dropout prevention, if the district is a 28614  
big eight school district as defined in section 3314.02 of the 28615  
Revised Code, calculated as follows: 28616

0.005 X formula amount X poverty index 28617

X formula ADM X phase-in percentage 28618

Where "phase-in percentage" equals 0.40 in fiscal year 2006 28619  
and 0.70 in fiscal year 2007. 28620

(I) An amount for community outreach, if the district is an 28621  
urban school district as defined in section 3314.02 of the Revised 28622  
Code, calculated as follows: 28623

0.005 X formula amount X poverty index X 28624

formula ADM X phase-in percentage 28625

Where "phase-in percentage" equals 0.40 in fiscal year 2006 28626  
and 0.70 in fiscal year 2007. 28627

(J) This division applies only to school districts whose DPIA 28628  
poverty index is ~~one~~ 1.0 or greater. 28629

(1) Each school district subject to this division shall first 28630  
utilize funds received under this section so that, when combined 28631  
with other funds of the district, sufficient funds exist to 28632  
provide all-day kindergarten to at least the number of children in 28633  
the district's all-day kindergarten percentage. 28634

~~(2) Up to an amount equal to the district's DPIA index~~ 28635  
~~multiplied by its DPIA student count multiplied by two hundred~~ 28636  
~~thirty dollars of the money distributed under this section may be~~ 28637  
~~utilized~~ Each school district shall use its payment under division 28638  
(F) of this section for one or more of the following purposes: 28639

(a) To hire teachers for limited English proficient students 28640  
or other personnel to provide intervention services for those 28641  
students; 28642

(b) To contract for intervention services for those students; 28643

(c) To provide other services to assist those students in 28644  
passing the third-grade reading achievement test, and to provide 28645  
for those students the intervention services required by section 28646  
3313.608 of the Revised Code. 28647

(3) Each school district shall use its payment under division 28648

(G) of this section for professional development of teachers or 28649  
other licensed personnel providing educational services to 28650  
students only in one or more of the following areas: 28651

(a) Data-based decision making; 28652

(b) Standards-based curriculum models; 28653

(c) Job-embedded professional development activities that are 28654  
research-based, as defined in federal law. 28655

In addition, each district shall use the payment only to 28656  
implement programs identified on a list of eligible professional 28657  
development programs provided by the department of education. The 28658  
department annually shall provide the list to each district 28659  
receiving a payment under division (G) of this section. However, a 28660  
district may apply to the department for a waiver to implement an 28661  
alternative professional development program in one or more of the 28662  
areas specified in divisions (J)(3)(a) to (c) of this section. If 28663  
the department grants the waiver, the district may use its payment 28664  
under division (G) of this section to implement the alternative 28665  
program. 28666

(4) Each big eight school district shall use its payment 28667  
under division (H) of this section either for preventing at-risk 28668  
students from dropping out of school, for safety and security 28669  
measures described in division (J)(5)(b) of this section, for 28670  
academic intervention services described in division (J)(6) of 28671  
this section, or for a combination of those purposes. Not later 28672  
than September 1, 2005, the department of education shall provide 28673  
each big eight school district with a list of dropout prevention 28674  
programs that it has determined are successful. The department 28675  
subsequently may update the list. Each district that elects to use 28676  
its payment under division (H) of this section for dropout 28677  
prevention shall use the payment only to implement a dropout 28678  
prevention program specified on the department's list. However, a 28679

district may apply to the department for a waiver to implement an 28680  
alternative dropout prevention program. If the department grants 28681  
the waiver, the district may use its payment under division (H) of 28682  
this section to implement the alternative program. 28683

(5) Each urban school district that has a poverty index 28684  
greater than or equal to 1.0 shall use its payment under division 28685  
(I) of this section for one or a combination of the following 28686  
purposes: 28687

(a) To hire or contract for community liaison officers, 28688  
attendance or truant officers, or safety and security personnel; 28689

(b) To implement programs designed to ensure that schools are 28690  
free of drugs and violence and have a disciplined environment 28691  
conducive to learning; 28692

(c) To implement academic intervention services described in 28693  
division (J)(6) of this section. 28694

(6) Each school district with a poverty index greater than or 28695  
equal to 1.0 shall use the amount of its payment under division 28696  
(C) of this section, and may use any amount of its payment under 28697  
division (H) or (I) of this section, for one or both of the 28698  
following: 28699

~~(a) Programs designed to ensure that schools are free of~~ 28700  
~~drugs and violence and have a disciplined environment conducive to~~ 28701  
~~learning;~~ 28702

~~(b) Remediation academic intervention services for students~~ 28703  
~~who have failed or are in danger of failing any of the tests~~ 28704  
~~administered pursuant to section 3301.0710 of the Revised Code.~~ 28705

~~Beginning with the school year that starts on July 1, 2002,~~ 28706  
~~each school district shall use at least twenty per cent of the~~ 28707  
~~funds set aside for the purposes of divisions (F)(2)(a) and (b) of~~ 28708  
~~this section to provide, including intervention services required~~ 28709

by section 3313.608 of the Revised Code. No district shall spend 28710  
any portion of its payment under division (C) of this section for 28711  
any other purpose. Notwithstanding any provision to the contrary 28712  
in Chapter 4117. of the Revised Code, no collective bargaining 28713  
agreement entered into after the effective date of this amendment 28714  
shall require use of the payment for any other purpose. 28715

~~(3)(7)~~ Except as otherwise required by division ~~(G)(K)~~ or 28716  
permitted under division ~~(K)(O)~~ of this section, all ~~other~~ 28717  
~~remaining~~ funds distributed under this section to districts 28718  
~~subject to this division with a poverty index greater than or~~ 28719  
~~equal to 1.0~~ shall be utilized for the purpose of the third grade 28720  
guarantee. The third grade guarantee consists of increasing the 28721  
amount of instructional attention received per pupil in 28722  
kindergarten through third grade, either by reducing the ratio of 28723  
students to instructional personnel or by increasing the amount of 28724  
instruction and curriculum-related activities by extending the 28725  
length of the school day or the school year. 28726

School districts may implement a reduction of the ratio of 28727  
students to instructional personnel through any or all of the 28728  
following methods: 28729

(a) Reducing the number of students in a classroom taught by 28730  
a single teacher; 28731

(b) Employing full-time educational aides or educational 28732  
paraprofessionals issued a permit or license under section 28733  
3319.088 of the Revised Code; 28734

(c) Instituting a team-teaching method that will result in a 28735  
lower student-teacher ratio in a classroom. 28736

Districts may extend the school day either by increasing the 28737  
amount of time allocated for each class, increasing the number of 28738  
classes provided per day, offering optional academic-related 28739  
after-school programs, providing curriculum-related extra 28740

curricular activities, or establishing tutoring or remedial 28741  
services for students who have demonstrated an educational need. 28742  
In accordance with section 3319.089 of the Revised Code, a 28743  
district extending the school day pursuant to this division may 28744  
utilize a participant of the work experience program who has a 28745  
child enrolled in a public school in that district and who is 28746  
fulfilling the work requirements of that program by volunteering 28747  
or working in that public school. If the work experience program 28748  
participant is compensated, the school district may use the funds 28749  
distributed under this section for all or part of the 28750  
compensation. 28751

Districts may extend the school year either through adding 28752  
regular days of instruction to the school calendar or by providing 28753  
summer programs. 28754

~~(G)~~(K) Each district ~~subject to division (F) of this section~~ 28755  
shall not expend any funds received under division (E) of this 28756  
section in any school buildings that are not buildings with the 28757  
highest concentration of need, unless there is a ratio of 28758  
instructional personnel to students of no more than fifteen to one 28759  
in each kindergarten and first grade class in all buildings with 28760  
the highest concentration of need. This division does not require 28761  
that the funds used in buildings with the highest concentration of 28762  
need be spent solely to reduce the ratio of instructional 28763  
personnel to students in kindergarten and first grade. A school 28764  
district may spend the funds in those buildings in any manner 28765  
permitted by division ~~(F)~~(3)(J)(7) of this section, but may not 28766  
spend the money in other buildings unless the fifteen-to-one ratio 28767  
required by this division is attained. 28768

~~(H)~~(L)(1) By the first day of August of each fiscal year, 28769  
each school district wishing to receive any funds under division 28770  
(D) of this section shall submit to the department of education an 28771  
estimate of its all-day kindergarten percentage. Each district 28772

shall update its estimate throughout the fiscal year in the form 28773  
and manner required by the department, and the department shall 28774  
adjust payments under this section to reflect the updates. 28775

(2) Annually by the end of December, the department of 28776  
education, utilizing data from the information system established 28777  
under section 3301.0714 of the Revised Code and after consultation 28778  
with the legislative office of education oversight, shall 28779  
determine for each school district subject to division ~~(F)~~(J) of 28780  
this section whether in the preceding fiscal year the district's 28781  
ratio of instructional personnel to students and its number of 28782  
kindergarten students receiving all-day kindergarten appear 28783  
reasonable, given the amounts of money the district received for 28784  
that fiscal year pursuant to divisions (D) and (E) of this 28785  
section. If the department is unable to verify from the data 28786  
available that students are receiving reasonable amounts of 28787  
instructional attention and all-day kindergarten, given the funds 28788  
the district has received under this section and that class-size 28789  
reduction funds are being used in school buildings with the 28790  
highest concentration of need as required by division ~~(G)~~(K) of 28791  
this section, the department shall conduct a more intensive 28792  
investigation to ensure that funds have been expended as required 28793  
by this section. The department shall file an annual report of its 28794  
findings under this division with the chairpersons of the 28795  
committees in each house of the general assembly dealing with 28796  
finance and education. 28797

~~(I) Any~~ (M)(1) Each school district with a ~~DPIA~~ poverty index 28798  
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 28799  
seventeen thousand five hundred shall first utilize funds received 28800  
under this section so that, when combined with other funds of the 28801  
district, sufficient funds exist to provide all-day kindergarten 28802  
to at least the number of children in the district's all-day 28803  
kindergarten percentage. ~~Such a district~~ 28804



(2) Each school district with a poverty index less than 1.0 28805  
that receives a payment under division (C) of this section shall 28806  
use its payment under that division in accordance with all 28807  
requirements of division (J)(6) of this section. 28808

(3) Each school district with a poverty index less than 1.0 28809  
that receives a payment under division (I) of this section shall 28810  
use its payment under that division for one or a combination of 28811  
the following purposes: 28812

(a) To hire or contract for community liaison officers, 28813  
attendance or truant officers, or safety and security personnel; 28814

(b) To implement programs designed to ensure that schools are 28815  
free of drugs and violence and have a disciplined environment 28816  
conducive to learning; 28817

(c) To implement academic intervention services described in 28818  
division (J)(6) of this section. 28819

(4) Each school district to which division (M)(1), (2), or 28820  
(3) of this section applies shall expend at least seventy per cent 28821  
of the remaining funds received under this section, and any other 28822  
district with a DPIA poverty index less than one 1.0 shall expend 28823  
at least seventy per cent of all funds received under this 28824  
section, for any of the following purposes: 28825

+1+(a) The purchase of technology for instructional purposes 28826  
for remediation; 28827

+2+(b) All-day kindergarten; 28828

+3+(c) Reduction of class sizes in grades kindergarten 28829  
through three, as described in division (J)(7) of this section; 28830

+4+(d) Summer school remediation; 28831

+5+(e) Dropout prevention programs approved by the department 28832  
of education under division (J)(4) of this section; 28833

<del>(6)</del> (f) Guaranteeing that all third graders are ready to progress to more advanced work;	28834 28835
<del>(7)</del> (g) Summer education and work programs;	28836
<del>(8)</del> (h) Adolescent pregnancy programs;	28837
<del>(9)</del> (i) Head start <del>or</del> , <u>preschool, early childhood education, or early learning</u> programs;	28838 28839
<del>(10)</del> (j) Reading improvement <u>and remediation</u> programs described by the department of education;	28840 28841
<del>(11)</del> (k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;	28842 28843 28844
<del>(12)</del> (l) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;	28845 28846 28847 28848 28849 28850
<del>(13)</del> (m) School breakfasts provided pursuant to section 3313.813 of the Revised Code.	28851 28852
<del>Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.</del>	28853 28854 28855
<del>(J)</del> (N) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.	28856 28857 28858 28859 28860 28861 28862 28863

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

~~(K)~~(O)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division ~~(F)~~~~(3)~~(J)(7) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

**Sec. 3317.0216.** (A) As used in this section:

(1) "Total taxes charged and payable for current expenses" means the sum of the taxes charged and payable as certified under division (A)(3)(a) of section 3317.021 of the Revised Code less any amounts reported under division (A)(3)(b) of that section, and the tax distribution for the preceding year under any school district income tax levied by the district pursuant to Chapter 5748. of the Revised Code to the extent the revenue from the income tax is allocated or apportioned to current expenses.

(2) "Charge-off amount" means the product obtained by

multiplying two and three-tenths per cent by recognized valuation. 28894

(3) Until fiscal year 2003, the "actual local share of 28895  
special education, transportation, and vocational education 28896  
funding" for any school district means the sum of the district's 28897  
attributed local shares described in divisions (F)(1) to (3) of 28898  
section 3317.022 of the Revised Code. Beginning in fiscal year 28899  
2003, the "actual local share of special education, 28900  
transportation, and vocational education funding" means that sum 28901  
minus the amount of any excess cost supplement payment calculated 28902  
for the district under division (F) of section 3317.022 of the 28903  
Revised Code. 28904

(4) "Current expense revenues from the tangible property tax 28905  
replacement fund" means payments received from the school district 28906  
tangible property tax replacement fund or the general revenue fund 28907  
under section 5751.21 of the Revised Code for fixed-rate levies 28908  
for current expenses and for fixed-sum levies for current 28909  
expenses, including school district emergency levies under 28910  
sections 5705.194 to 5705.197 of the Revised Code. 28911

(B) Upon receiving the certifications under section 3317.021 28912  
of the Revised Code, the department of education shall determine 28913  
for each city, local, and exempted village school district whether 28914  
the district's charge-off amount is greater than the sum of the 28915  
district's total taxes charged and payable for current expenses 28916  
and current expense revenues from the tangible property tax 28917  
replacement fund, and if ~~it~~ the charge-off amount is greater, 28918  
shall pay the district the amount of the difference. A payment 28919  
shall not be made to any school district for which the computation 28920  
under division (A) of section 3317.022 of the Revised Code equals 28921  
zero. 28922

(C)(1) If a district's charge-off amount is equal to or 28923  
greater than the sum of its total taxes charged and payable for 28924

current expenses and current expense revenues from the tangible 28925  
property tax replacement fund, the department shall, in addition 28926  
to the payment required under division (B) of this section, pay 28927  
the district the amount of its actual local share of special 28928  
education, transportation, and vocational education funding. 28929

(2) If a district's charge-off amount is less than the sum of 28930  
its total taxes charged and payable for current expenses and 28931  
current expense revenues from the tangible property tax 28932  
replacement fund, the department shall pay the district any amount 28933  
by which its actual local share of special education, 28934  
transportation, and vocational education funding exceeds the sum 28935  
of its total taxes charged and payable for current expenses and 28936  
current expense revenues from the tangible property tax 28937  
replacement fund minus its charge-off amount. 28938

(D) If a school district that received a payment under 28939  
division (B) or (C) of this section in the prior fiscal year is 28940  
ineligible for payment under those divisions in the current fiscal 28941  
year, the department shall determine if the ineligibility is the 28942  
result of a property tax or income tax levy approved by the 28943  
district's voters to take effect in tax year 2005 or thereafter. 28944  
If the department determines that is the case, and calculates that 28945  
the levy causing the ineligibility exceeded by at least one mill 28946  
the equivalent millage of the prior year's payment under divisions 28947  
(B) and (C) of this section, the department shall make a payment 28948  
to the district for the first three years that the district loses 28949  
eligibility for payment under divisions (B) and (C) of this 28950  
section, as follows: 28951

(1) In the first year of ineligibility, the department shall 28952  
pay the district seventy-five per cent of the amount it last paid 28953  
the district under divisions (B) and (C) of this section. 28954

(2) In the second year of ineligibility, the department shall 28955  
pay the district fifty per cent of the amount it last paid the 28956

<u>district under those divisions.</u>	28957
<u>(3) In the third year of ineligibility, the department shall</u>	28958
<u>pay the district twenty-five per cent of the amount it last paid</u>	28959
<u>the district under those divisions.</u>	28960
<u>(E) A district that receives payment under division (D) of</u>	28961
<u>this section and subsequently qualifies for payment under division</u>	28962
<u>(B) or (C) of this section is ineligible for future payments under</u>	28963
<u>division (D) of this section.</u>	28964
<b>Sec. 3317.0217.</b> The department of education shall annually	28965
compute and pay state parity aid to school districts, as follows:	28966
(A) Calculate the local wealth per pupil of each school	28967
district, which equals the following sum:	28968
(1) Two-thirds times the quotient of (a) the district's	28969
recognized valuation divided by (b) its formula ADM; plus	28970
(2) One-third times the quotient of (a) the average of the	28971
total federal adjusted gross income of the school district's	28972
residents for the three years most recently reported under section	28973
3317.021 of the Revised Code divided by (b) its formula ADM.	28974
(B) Rank all school districts in order of local wealth per	28975
pupil, from the district with the lowest local wealth per pupil to	28976
the district with the highest local wealth per pupil.	28977
(C) Compute the per pupil state parity aid funding for each	28978
school district in accordance with the following formula:	28979
<del>Payment percentage</del> X (threshold local wealth	28980
per pupil - the district's local	28981
wealth per pupil) X <del>0.0095</del> <u>0.0075</u>	28982
Where:	28983
(1) <del>"Payment percentage," for purposes of division (C) of</del>	28984
<del>this section, equals 20% in fiscal year 2002, 40% in fiscal year</del>	28985

2003, 58% in fiscal year 2004, 76% in fiscal year 2005, and 100%  
after fiscal year 2005. 28986  
28987

~~(2) Nine and one half mills (0.0095) is the general  
assembly's determination of the average number of effective  
operating mills that districts in the seventieth to ninetieth  
percentiles of valuations per pupil collected in fiscal year 2001  
above the revenues required to finance their attributed local  
shares of the calculated cost of an adequate education. This was  
determined by (a) adding the district revenues from operating  
property tax levies and income tax levies, (b) subtracting from  
that total the sum of (i) twenty three mills times adjusted  
recognized valuation plus (ii) the attributed local shares of  
special education, transportation, and vocational education  
funding as described in divisions (F)(1) to (3) of section  
3317.022 of the Revised Code, and (c) converting the result to an  
effective operating property tax rate Seven and one-half mills  
(0.0075) is an adjustment to the original parity aid standard of  
nine and one-half mills, to account for the general assembly's  
policy decision to phase-out use of the cost-of-doing-business  
factor in the base cost formula.~~ 28988  
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~~(3)(2) The "threshold local wealth per pupil" is the local  
wealth per pupil of the school district with the  
four-hundred-ninetieth lowest local wealth per pupil.~~ 29006  
29007  
29008

If the result of the calculation for a school district under  
division (C) of this section is less than zero, the district's per  
pupil parity aid shall be zero. 29009  
29010  
29011

(D) Compute the per pupil alternative parity aid for each  
school district that has a combination of an income factor of 1.0  
or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year  
2005 cost-of-doing-business factor of 1.0375 or greater, in  
accordance with the following formula: 29012  
29013  
29014  
29015  
29016

Payment percentage X \$60,000 X 29017

(1 - income factor) X 4/15 X 0.023 29018

Where: 29019

(1) "DPIA Poverty index" has the same meaning as in section 29020  
3317.029 of the Revised Code. 29021

(2) "Payment percentage," for purposes of division (D) of 29022  
this section, equals 50% in fiscal year 2002 and 100% after fiscal 29023  
year 2002. 29024

(E) Pay each district that has a combination of an income 29025  
factor of of 1.0 or less, a DPIA poverty index of 1.0 or greater, and 29026  
a fiscal year 2005 cost-of-doing-business factor of 1.0375 or 29027  
greater, the greater of the following: 29028

(1) The product of the district's per pupil parity aid 29029  
calculated under division (C) of this section times its net 29030  
formula ADM; 29031

(2) The product of its per pupil alternative parity aid 29032  
calculated under division (D) of this section times its net 29033  
formula ADM. 29034

(F) Pay every other district the product of its per pupil 29035  
parity aid calculated under division (C) of this section times its 29036  
net formula ADM. 29037

(G) As used in divisions (E) and (F) of this section, "net 29038  
formula ADM" means formula ADM minus the number of internet- and 29039  
computer-based community school students and scholarship students 29040  
reported under divisions (B)(3)(e) and (f) of section 3317.03 of 29041  
the Revised Code. 29042

**Sec. 3317.03.** Notwithstanding divisions (A)(1), (B)(1), and 29043  
(C) of this section, any student enrolled in kindergarten more 29044  
than half time shall be reported as one-half student under this 29045  
section. 29046



(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 29077  
3313.979 of the Revised Code as described in division (I)(2)(a) or 29078  
(b) of this section; 29079

(c) A college pursuant to Chapter 3365. of the Revised Code, 29080  
except when the student is enrolled in the college while also 29081  
enrolled in a community school pursuant to Chapter 3314. of the 29082  
Revised Code; 29083

(d) An adjacent or other school district under an open 29084  
enrollment policy adopted pursuant to section 3313.98 of the 29085  
Revised Code; 29086

(e) An educational service center or cooperative education 29087  
district; 29088

(f) Another school district under a cooperative education 29089  
agreement, compact, or contract; 29090

(g) A chartered nonpublic school with a scholarship paid 29091  
under section 3310.08 of the Revised Code. 29092

(3) Twenty per cent of the number of students enrolled in a 29093  
joint vocational school district or under a vocational education 29094  
compact, excluding any students entitled to attend school in the 29095  
district under section 3313.64 or 3313.65 of the Revised Code who 29096  
are enrolled in another school district through an open enrollment 29097  
policy as reported under division (A)(2)(d) of this section and 29098  
then enroll in a joint vocational school district or under a 29099  
vocational education compact; 29100

(4) The number of handicapped children, other than 29101  
handicapped preschool children, entitled to attend school in the 29102  
district pursuant to section 3313.64 or 3313.65 of the Revised 29103  
Code who are placed with a county MR/DD board, minus the number of 29104  
such children placed with a county MR/DD board in fiscal year 29105  
1998. If this calculation produces a negative number, the number 29106

reported under division (A)(4) of this section shall be zero. 29107

(B) To enable the department of education to obtain the data 29108  
needed to complete the calculation of payments pursuant to this 29109  
chapter, in addition to the formula ADM, each superintendent shall 29110  
report separately the following student counts for the same week 29111  
for which formula ADM is certified: 29112

(1) The total average daily membership in regular day classes 29113  
included in the report under division (A)(1) or (2) of this 29114  
section for kindergarten, and each of grades one through twelve in 29115  
schools under the superintendent's supervision; 29116

(2) The number of all handicapped preschool children enrolled 29117  
as of the first day of December in classes in the district that 29118  
are eligible for approval under division (B) of section 3317.05 of 29119  
the Revised Code and the number of those classes, which shall be 29120  
reported not later than the fifteenth day of December, in 29121  
accordance with rules adopted under that section; 29122

(3) The number of children entitled to attend school in the 29123  
district pursuant to section 3313.64 or 3313.65 of the Revised 29124  
Code who are participating: 29125

(a) Participating in a pilot project scholarship program 29126  
established under sections 3313.974 to 3313.979 of the Revised 29127  
Code as described in division (I)(2)(a) or (b) of this section, 29128  
~~are enrolled;~~ 29129

(b) Enrolled in a college under Chapter 3365. of the Revised 29130  
Code, except when the student is enrolled in the college while 29131  
also enrolled in a community school pursuant to Chapter 3314. of 29132  
the Revised Code, ~~are enrolled;~~ 29133

(c) Enrolled in an adjacent or other school district under 29134  
section 3313.98 of the Revised Code, ~~are enrolled;~~ 29135

(d) Enrolled in a community school established under Chapter 29136

3314. of the Revised Code <u>that is not an internet- or</u>	29137
<u>computer-based community school as defined in section 3314.02 of</u>	29138
<u>the Revised Code</u> , including any participation in a college	29139
pursuant to Chapter 3365. of the Revised Code while enrolled in	29140
such community school, <del>or are participating;</del>	29141
<u>(e) Enrolled in an internet- or computer-based community</u>	29142
<u>school, as defined in section 3314.02 of the Revised Code,</u>	29143
<u>including any participation in a college pursuant to Chapter 3365.</u>	29144
<u>of the Revised Code while enrolled in the school;</u>	29145
<u>(f) Enrolled in a chartered nonpublic school with a</u>	29146
<u>scholarship paid under section 3310.08 of the Revised Code;</u>	29147
<u>(g) Participating</u> in a program operated by a county MR/DD	29148
board or a state institution;	29149
(4) The number of pupils enrolled in joint vocational	29150
schools;	29151
(5) The average daily membership of handicapped children	29152
reported under division (A)(1) or (2) of this section receiving	29153
special education services for the category one handicap described	29154
in division (A) of section 3317.013 of the Revised Code;	29155
(6) The average daily membership of handicapped children	29156
reported under division (A)(1) or (2) of this section receiving	29157
special education services for category two handicaps described in	29158
division (B) of section 3317.013 of the Revised Code;	29159
(7) The average daily membership of handicapped children	29160
reported under division (A)(1) or (2) of this section receiving	29161
special education services for category three handicaps described	29162
in division (C) of section 3317.013 of the Revised Code;	29163
(8) The average daily membership of handicapped children	29164
reported under division (A)(1) or (2) of this section receiving	29165
special education services for category four handicaps described	29166

in division (D) of section 3317.013 of the Revised Code;	29167
(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	29168 29169 29170 29171
(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;	29172 29173 29174 29175
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, <u>excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;</u>	29176 29177 29178 29179 29180 29181 29182 29183 29184 29185
(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, <u>excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;</u>	29186 29187 29188 29189 29190 29191 29192 29193 29194 29195
(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses,	29196 29197

reported in accordance with rules adopted by the department of education;	29198 29199
(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;	29200 29201 29202
(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	29203 29204 29205 29206 29207
(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;	29208 29209 29210 29211 29212
(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	29213 29214 29215 29216 29217
(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	29218 29219 29220 29221 29222
(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	29223 29224 29225 29226 29227

(g) The number of handicapped children, other than 29228  
handicapped preschool children, placed with a county MR/DD board 29229  
in the current fiscal year to receive special education services 29230  
for category six handicaps described in division (F) of section 29231  
3317.013 of the Revised Code. 29232

(C)(1) Except as otherwise provided in this section for 29233  
kindergarten students, the average daily membership in divisions 29234  
(B)(1) to (12) of this section shall be based upon the number of 29235  
full-time equivalent students. The state board of education shall 29236  
adopt rules defining full-time equivalent students and for 29237  
determining the average daily membership therefrom for the 29238  
purposes of divisions (A), (B), and (D) of this section. 29239

(2) A student enrolled in a community school established 29240  
under Chapter 3314. of the Revised Code shall be counted in the 29241  
formula ADM and, if applicable, the category one, two, three, 29242  
four, five, or six special education ADM of the school district in 29243  
which the student is entitled to attend school under section 29244  
3313.64 or 3313.65 of the Revised Code for the same proportion of 29245  
the school year that the student is counted in the enrollment of 29246  
the community school for purposes of section 3314.08 of the 29247  
Revised Code. 29248

(3) No child shall be counted as more than a total of one 29249  
child in the sum of the average daily memberships of a school 29250  
district under division (A), divisions (B)(1) to (12), or division 29251  
(D) of this section, except as follows: 29252

(a) A child with a handicap described in section 3317.013 of 29253  
the Revised Code may be counted both in formula ADM and in 29254  
category one, two, three, four, five, or six special education ADM 29255  
and, if applicable, in category one or two vocational education 29256  
ADM. As provided in division (C) of section 3317.02 of the Revised 29257  
Code, such a child shall be counted in category one, two, three, 29258

four, five, or six special education ADM in the same proportion 29259  
that the child is counted in formula ADM. 29260

(b) A child enrolled in vocational education programs or 29261  
classes described in section 3317.014 of the Revised Code may be 29262  
counted both in formula ADM and category one or two vocational 29263  
education ADM and, if applicable, in category one, two, three, 29264  
four, five, or six special education ADM. Such a child shall be 29265  
counted in category one or two vocational education ADM in the 29266  
same proportion as the percentage of time that the child spends in 29267  
the vocational education programs or classes. 29268

(4) Based on the information reported under this section, the 29269  
department of education shall determine the total student count, 29270  
as defined in section 3301.011 of the Revised Code, for each 29271  
school district. 29272

(D)(1) The superintendent of each joint vocational school 29273  
district shall certify to the superintendent of public instruction 29274  
on or before the fifteenth day of October in each year for the 29275  
first full school week in October the formula ADM, which, except 29276  
as otherwise provided in this division, shall consist of the 29277  
average daily membership during such week, on an FTE basis, of the 29278  
number of students receiving any educational services from the 29279  
district, including students enrolled in a community school 29280  
established under Chapter 3314. of the Revised Code who are 29281  
attending the joint vocational district under an agreement between 29282  
the district board of education and the governing authority of the 29283  
community school and are entitled to attend school in a city, 29284  
local, or exempted village school district whose territory is part 29285  
of the territory of the joint vocational district. 29286

The following categories of students shall not be included in 29287  
the determination made under division (D)(1) of this section: 29288

(a) Students enrolled in adult education classes; 29289



(b) Adjacent or other district joint vocational students	29290
enrolled in the district under an open enrollment policy pursuant	29291
to section 3313.98 of the Revised Code;	29292
(c) Students receiving services in the district pursuant to a	29293
compact, cooperative education agreement, or a contract, but who	29294
are entitled to attend school in a city, local, or exempted	29295
village school district whose territory is not part of the	29296
territory of the joint vocational district;	29297
(d) Students for whom tuition is payable pursuant to sections	29298
3317.081 and 3323.141 of the Revised Code.	29299
(2) To enable the department of education to obtain the data	29300
needed to complete the calculation of payments pursuant to this	29301
chapter, in addition to the formula ADM, each superintendent shall	29302
report separately the average daily membership included in the	29303
report under division (D)(1) of this section for each of the	29304
following categories of students <u>for the same week for which</u>	29305
<u>formula ADM is certified:</u>	29306
(a) Students enrolled in each grade included in the joint	29307
vocational district schools;	29308
(b) Handicapped children receiving special education services	29309
for the category one handicap described in division (A) of section	29310
3317.013 of the Revised Code;	29311
(c) Handicapped children receiving special education services	29312
for the category two handicaps described in division (B) of	29313
section 3317.013 of the Revised Code;	29314
(d) Handicapped children receiving special education services	29315
for category three handicaps described in division (C) of section	29316
3317.013 of the Revised Code;	29317
(e) Handicapped children receiving special education services	29318
for category four handicaps described in division (D) of section	29319

3317.013 of the Revised Code;	29320
(f) Handicapped children receiving special education services	29321
for the category five handicap described in division (E) of	29322
section 3317.013 of the Revised Code;	29323
(g) Handicapped children receiving special education services	29324
for category six handicaps described in division (F) of section	29325
3317.013 of the Revised Code;	29326
(h) Students receiving category one vocational education	29327
services, described in division (A) of section 3317.014 of the	29328
Revised Code;	29329
(i) Students receiving category two vocational education	29330
services, described in division (B) of section 3317.014 of the	29331
Revised Code.	29332
The superintendent of each joint vocational school district	29333
shall also indicate the city, local, or exempted village school	29334
district in which each joint vocational district pupil is entitled	29335
to attend school pursuant to section 3313.64 or 3313.65 of the	29336
Revised Code.	29337
(E) In each school of each city, local, exempted village,	29338
joint vocational, and cooperative education school district there	29339
shall be maintained a record of school membership, which record	29340
shall accurately show, for each day the school is in session, the	29341
actual membership enrolled in regular day classes. For the purpose	29342
of determining average daily membership, the membership figure of	29343
any school shall not include any pupils except those pupils	29344
described by division (A) of this section. The record of	29345
membership for each school shall be maintained in such manner that	29346
no pupil shall be counted as in membership prior to the actual	29347
date of entry in the school and also in such manner that where for	29348
any cause a pupil permanently withdraws from the school that pupil	29349
shall not be counted as in membership from and after the date of	29350

such withdrawal. There shall not be included in the membership of  
any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a  
public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district  
during the previous school year when tests were administered under  
section 3301.0711 of the Revised Code but did not take one or more  
of the tests required by that section and was not excused pursuant  
to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years,  
except for veterans of the armed services whose attendance was  
interrupted before completing the recognized twelve-year course of  
the public schools by reason of induction or enlistment in the  
armed forces and who apply for reenrollment in the public school  
system of their residence not later than four years after  
termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this  
section elects to enroll in special courses organized for veterans  
for whom tuition is paid under the provisions of federal laws, or  
otherwise, that veteran shall not be included in average daily  
membership.

Notwithstanding division (E)(3) of this section, the  
membership of any school may include a pupil who did not take a  
test required by section 3301.0711 of the Revised Code if the  
superintendent of public instruction grants a waiver from the  
requirement to take the test to the specific pupil. The  
superintendent may grant such a waiver only for good cause in  
accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this

section, the average daily membership figure of any local, city, 29381  
exempted village, or joint vocational school district shall be 29382  
determined by dividing the figure representing the sum of the 29383  
number of pupils enrolled during each day the school of attendance 29384  
is actually open for instruction during the ~~first full school~~ week 29385  
~~in October~~ for which the formula ADM is being certified by the 29386  
total number of days the school was actually open for instruction 29387  
during that week. For purposes of state funding, "enrolled" 29388  
persons are only those pupils who are attending school, those who 29389  
have attended school during the current school year and are absent 29390  
for authorized reasons, and those handicapped children currently 29391  
receiving home instruction. 29392

The average daily membership figure of any cooperative 29393  
education school district shall be determined in accordance with 29394  
rules adopted by the state board of education. 29395

(F)(1) If the formula ADM for the first full school week in 29396  
February is at least three per cent greater than that certified 29397  
for the first full school week in the preceding October, the 29398  
superintendent of schools of any city, exempted village, or joint 29399  
vocational school district or educational service center shall 29400  
certify such increase to the superintendent of public instruction. 29401  
Such certification shall be submitted no later than the fifteenth 29402  
day of February. For the balance of the fiscal year, beginning 29403  
with the February payments, the superintendent of public 29404  
instruction shall use the increased formula ADM in calculating or 29405  
recalculating the amounts to be allocated in accordance with 29406  
section 3317.022 or 3317.16 of the Revised Code. In no event shall 29407  
the superintendent use an increased membership certified to the 29408  
superintendent after the fifteenth day of February. 29409

(2) If on the first school day of April the total number of 29410  
classes or units for handicapped preschool children that are 29411  
eligible for approval under division (B) of section 3317.05 of the 29412

Revised Code exceeds the number of units that have been approved 29413  
for the year under that division, the superintendent of schools of 29414  
any city, exempted village, or cooperative education school 29415  
district or educational service center shall make the 29416  
certifications required by this section for that day. If the 29417  
department determines additional units can be approved for the 29418  
fiscal year within any limitations set forth in the acts 29419  
appropriating moneys for the funding of such units, the department 29420  
shall approve additional units for the fiscal year on the basis of 29421  
such average daily membership. For each unit so approved, the 29422  
department shall pay an amount computed in the manner prescribed 29423  
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 29424  
Code. 29425

(3) If a student attending a community school under Chapter 29426  
3314. of the Revised Code is not included in the formula ADM 29427  
certified for the first full school week of October for the school 29428  
district in which the student is entitled to attend school under 29429  
section 3313.64 or 3313.65 of the Revised Code, the department of 29430  
education shall adjust the formula ADM of that school district to 29431  
include the community school student in accordance with division 29432  
(C)(2) of this section, and shall recalculate the school 29433  
district's payments under this chapter for the entire fiscal year 29434  
on the basis of that adjusted formula ADM. This requirement 29435  
applies regardless of whether the student was enrolled, as defined 29436  
in division (E) of this section, in the community school during 29437  
the first full school week in October. 29438

(G)(1)~~(a)~~ The superintendent of an institution operating a 29439  
special education program pursuant to section 3323.091 of the 29440  
Revised Code shall, for the programs under such superintendent's 29441  
supervision, certify to the state board of education ~~the, in the~~ 29442  
manner prescribed by the superintendent of public instruction, 29443  
both of the following: 29444

(a) The average daily membership of all handicapped children other than handicapped preschool children receiving services at the institution for each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code; 29445  
29446  
29447  
29448

(b) The average daily membership of all handicapped preschool children in classes or programs approved annually by the department of education, in the manner prescribed by the superintendent of public instruction for unit funding under section 3317.05 of the Revised Code. 29449  
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29453

~~(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.~~ 29454  
29455  
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(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following: 29460  
29461  
29462  
29463

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes; 29464  
29465  
29466  
29467

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes. 29468  
29469  
29470  
29471  
29472

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under 29473  
29474  
29475

division (B) of section 3317.05 of the Revised Code is greater 29476  
than the number of units approved for the year under that 29477  
division, the superintendent shall make the certification required 29478  
by this section for that day. 29479

(b) If the department determines that additional classes or 29480  
units can be approved for the fiscal year within any limitations 29481  
set forth in the acts appropriating moneys for the funding of the 29482  
classes and units described in division (G)(3)(a) of this section, 29483  
the department shall approve and fund additional units for the 29484  
fiscal year on the basis of such average daily membership. For 29485  
each unit so approved, the department shall pay an amount computed 29486  
in the manner prescribed in sections 3317.052 and 3317.053 of the 29487  
Revised Code. 29488

(H) Except as provided in division (I) of this section, when 29489  
any city, local, or exempted village school district provides 29490  
instruction for a nonresident pupil whose attendance is 29491  
unauthorized attendance as defined in section 3327.06 of the 29492  
Revised Code, that pupil's membership shall not be included in 29493  
that district's membership figure used in the calculation of that 29494  
district's formula ADM or included in the determination of any 29495  
unit approved for the district under section 3317.05 of the 29496  
Revised Code. The reporting official shall report separately the 29497  
average daily membership of all pupils whose attendance in the 29498  
district is unauthorized attendance, and the membership of each 29499  
such pupil shall be credited to the school district in which the 29500  
pupil is entitled to attend school under division (B) of section 29501  
3313.64 or section 3313.65 of the Revised Code as determined by 29502  
the department of education. 29503

(I)(1) A city, local, exempted village, or joint vocational 29504  
school district admitting a scholarship student of a pilot project 29505  
district pursuant to division (C) of section 3313.976 of the 29506  
Revised Code may count such student in its average daily 29507

membership. 29508

(2) In any year for which funds are appropriated for pilot 29509  
project scholarship programs, a school district implementing a 29510  
state-sponsored pilot project scholarship program that year 29511  
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 29512  
count in average daily membership: 29513

(a) All children residing in the district and utilizing a 29514  
scholarship to attend kindergarten in any alternative school, as 29515  
defined in section 3313.974 of the Revised Code; 29516

(b) All children who were enrolled in the district in the 29517  
preceding year who are utilizing a scholarship to attend any such 29518  
alternative school. 29519

(J) The superintendent of each cooperative education school 29520  
district shall certify to the superintendent of public 29521  
instruction, in a manner prescribed by the state board of 29522  
education, the applicable average daily memberships for all 29523  
students in the cooperative education district, also indicating 29524  
the city, local, or exempted village district where each pupil is 29525  
entitled to attend school under section 3313.64 or 3313.65 of the 29526  
Revised Code. 29527

**Sec. 3317.031.** A membership record shall be kept by grade 29528  
level in each city, local, exempted village, joint vocational, and 29529  
cooperative education school district and such a record shall be 29530  
kept by grade level in each educational service center that 29531  
provides academic instruction to pupils, classes for handicapped 29532  
pupils, or any other direct instructional services to pupils. Such 29533  
membership record shall show the following information for each 29534  
pupil enrolled: Name, date of birth, name of parent, date entered 29535  
school, date withdrawn from school, days present, days absent, and 29536  
the number of days school was open for instruction while the pupil 29537



was enrolled. At the end of the school year this membership record 29538  
shall show the total days present, the total days absent, and the 29539  
total days due for all pupils in each grade. Such membership 29540  
record shall show the pupils that are transported to and from 29541  
school and it shall also show the pupils that are transported 29542  
living within one mile of the school attended. This membership 29543  
record shall also show any other information prescribed by the 29544  
state board of education. 29545

This membership record shall be kept intact for at least five 29546  
years and shall be made available to the state board of education 29547  
or its representative in making an audit of the average daily 29548  
membership or the transportation of the district or educational 29549  
service center. The membership records of local school districts 29550  
shall be filed at the close of each school year in the office of 29551  
the educational service center superintendent. 29552

The state board of education may withhold any money due any 29553  
school district or educational service center under sections 29554  
3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 3317.17, or 29555  
3317.19 of the Revised Code until it has satisfactory evidence 29556  
that the board of education or educational service center 29557  
governing board has fully complied with all of the provisions of 29558  
this section. 29559

Nothing in this section shall require any person to release, 29560  
or to permit access to, public school records in violation of 29561  
section 3319.321 of the Revised Code. 29562

**Sec. 3317.05.** (A) ~~For~~ The department of education shall 29563  
assign units under this division until July 1, 2005. 29564

For the purpose of calculating payments under sections 29565  
3317.052 and 3317.053 of the Revised Code, the department of 29566  
education shall determine for each institution, by the last day of 29567  
January of each year and based on information certified under 29568

section 3317.03 of the Revised Code, the number of vocational 29569  
education units or fractions of units approved by the department 29570  
on the basis of standards and rules adopted by the state board of 29571  
education. As used in this division, "institution" means an 29572  
institution operated by a department specified in section 3323.091 29573  
of the Revised Code and that provides vocational education 29574  
programs under the supervision of the division of vocational 29575  
education of the department that meet the standards and rules for 29576  
these programs, including licensure of professional staff involved 29577  
in the programs, as established by the state board. 29578

(B) For the purpose of calculating payments under sections 29579  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 29580  
department shall determine, based on information certified under 29581  
section 3317.03 of the Revised Code, the following by the last day 29582  
of January of each year for each educational service center, for 29583  
each school district, including each cooperative education school 29584  
district, for each institution eligible for payment under section 29585  
3323.091 of the Revised Code, and for each county MR/DD board: the 29586  
number of classes operated by the school district, service center, 29587  
institution, or county MR/DD board for handicapped preschool 29588  
children, or fraction thereof, including in the case of a district 29589  
or service center that is a funding agent, classes taught by a 29590  
licensed teacher employed by that district or service center under 29591  
section 3313.841 of the Revised Code, approved annually by the 29592  
department on the basis of standards and rules adopted by the 29593  
state board. 29594

(C) For the purpose of calculating payments under sections 29595  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 29596  
department shall determine, based on information certified under 29597  
section 3317.03 of the Revised Code, the following by the last day 29598  
of January of each year for each school district, including each 29599  
cooperative education school district, for each institution 29600

eligible for payment under section 3323.091 of the Revised Code, 29601  
and for each county MR/DD board: the number of preschool 29602  
handicapped ~~related services~~ units for ~~child study, occupational,~~ 29603  
~~physical, or speech and hearing therapy, special education~~ 29604  
~~supervisors, and special education coordinators~~ related services, 29605  
as defined in section 3323.01 of the Revised Code, approved 29606  
annually by the department on the basis of standards and rules 29607  
adopted by the state board. 29608

(D) ~~For the purpose of calculating payments under sections~~ 29609  
~~3317.052 and 3317.053 of the Revised Code, the department shall~~ 29610  
~~determine, based on information certified under section 3317.03 of~~ 29611  
~~the Revised Code, the following by the last day of January of each~~ 29612  
~~year for each institution eligible for payment under section~~ 29613  
~~3323.091 of the Revised Code:~~ 29614

~~(1) The number of classes operated by an institution for~~ 29615  
~~handicapped children other than handicapped preschool children, or~~ 29616  
~~fraction thereof, approved annually by the department on the basis~~ 29617  
~~of standards and rules adopted by the state board;~~ 29618

~~(2) The number of related services units for children other~~ 29619  
~~than handicapped preschool children for child study, occupational,~~ 29620  
~~physical, or speech and hearing therapy, special education~~ 29621  
~~supervisors, and special education coordinators approved annually~~ 29622  
~~by the department on the basis of standards and rules adopted by~~ 29623  
~~the state board.~~ 29624

~~(E)~~ All of the arithmetical calculations made under this 29625  
section shall be carried to the second decimal place. The total 29626  
number of units for school districts, service centers, and 29627  
institutions approved annually under this section shall not exceed 29628  
the number of units included in the estimate of cost for these 29629  
units and appropriations made for them by the general assembly. 29630

~~In the case of units described in division (D)(1) of this~~ 29631

~~section operated by institutions eligible for payment under~~ 29632  
~~section 3323.091 of the Revised Code, the department shall approve~~ 29633  
~~only units for persons who are under age twenty two on the first~~ 29634  
~~day of the academic year, but not less than six years of age on~~ 29635  
~~the thirtieth day of September of that year, except that such a~~ 29636  
~~unit may include one or more children who are under six years of~~ 29637  
~~age on the thirtieth day of September if such children have been~~ 29638  
~~admitted to the unit pursuant to rules of the state board. In the~~ 29639  
~~case of handicapped preschool units described in division (B) of~~ 29640  
~~this section, the department shall approve only preschool units~~ 29641  
~~for children who are under age six on the thirtieth day of~~ 29642  
~~September of the academic year, or on the first day of August of~~ 29643  
~~the academic year if the school district in which the child is~~ 29644  
~~enrolled has adopted a resolution under division (A)(3) of section~~ 29645  
~~3321.01 of the Revised Code, but not less than age three on the~~ 29646  
~~first day of December of the academic year, except that such a~~ 29647  
~~unit may include one or more children who are under age three or~~ 29648  
~~are age six or over on the ~~first day of December~~ applicable date,~~ 29649  
~~as reported under division (B)(2) or (G)(2)(b) of section 3317.03~~ 29650  
~~of the Revised Code, if such children have been admitted to the~~ 29651  
~~unit pursuant to rules of the state board. The number of units for~~ 29652  
~~county MR/DD boards and institutions eligible for payment under~~ 29653  
~~section 3323.091 of the Revised Code approved under this section~~ 29654  
~~shall not exceed the number that can be funded with appropriations~~ 29655  
~~made for such purposes by the general assembly.~~ 29656

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) 29657  
of this section unless a plan has been submitted and approved 29658  
under Chapter 3323. of the Revised Code. 29659

~~(F)~~(E) The department shall approve units or fractions 29660  
thereof for gifted children on the basis of standards and rules 29661  
adopted by the state board. 29662

Sec. 3317.052. As used in this section, "institution" means 29663  
an institution operated by a department specified in division (A) 29664  
of section 3323.091 of the Revised Code. 29665

(A)(1) The department of education shall pay each school 29666  
district, educational service center, institution eligible for 29667  
payment under section 3323.091 of the Revised Code, or county 29668  
MR/DD board an amount for the total of all classroom units for 29669  
handicapped preschool children approved under division (B) of 29670  
section 3317.05 of the Revised Code. For each unit, the amount 29671  
shall be the sum of the minimum salary for the teacher of the 29672  
unit, calculated on the basis of the teacher's training level and 29673  
years of experience pursuant to the salary schedule prescribed in 29674  
the version of section 3317.13 of the Revised Code in effect prior 29675  
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 29676  
per cent of that minimum salary amount, and eight thousand 29677  
twenty-three dollars. 29678

(2) The department shall pay each school district, 29679  
educational service center, institution eligible for payment under 29680  
section 3323.091 of the Revised Code, or county MR/DD board an 29681  
amount for the total of all related services units for handicapped 29682  
preschool children approved under division (C) of section 3317.05 29683  
of the Revised Code. For each such unit, the amount shall be the 29684  
sum of the minimum salary for the teacher of the unit calculated 29685  
on the basis of the teacher's training level and years of 29686  
experience pursuant to the salary schedule prescribed in the 29687  
version of section 3317.13 of the Revised Code in effect prior to 29688  
~~the effective date of this amendment~~ July 1, 2001, fifteen per 29689  
cent of that minimum salary amount, and two thousand one hundred 29690  
thirty-two dollars. 29691

(B) If a school district, educational service center, or 29692  
county MR/DD board has had additional handicapped preschool units 29693

approved for the year under division (F)(2) or (G)(3) of section 29694  
3317.03 of the Revised Code, the district, educational service 29695  
center, or board shall receive an additional amount during the 29696  
last half of the fiscal year. For each district, center, or board, 29697  
the additional amount for each unit shall equal fifty per cent of 29698  
the amounts computed for the unit in the manner prescribed by 29699  
division (A) of this section and division (C) of section 3317.053 29700  
of the Revised Code. 29701

~~(C)(1) The department shall pay each institution eligible for 29702  
payment under section 3323.091 of the Revised Code or county MR/DD 29703  
board an amount for the total of all special education units 29704  
approved under division (D)(1) of section 3317.05 of the Revised 29705  
Code. The amount for each unit shall be the sum of the minimum 29706  
salary for the teacher of the unit, calculated on the basis of the 29707  
teacher's training level and years of experience pursuant to the 29708  
salary schedule prescribed in the version of section 3317.13 of 29709  
the Revised Code in effect prior to the effective date of this 29710  
amendment, plus fifteen per cent of that minimum salary amount, 29711  
and eight thousand twenty three dollars. 29712~~

~~(2) The department shall pay each institution eligible for 29713  
payment under section 3323.091 of the Revised Code an amount for 29714  
the total of all related services units approved under division 29715  
(D)(2) of section 3317.05 of the Revised Code. The amount for each 29716  
unit shall be the sum of the minimum salary for the teacher of the 29717  
unit, calculated on the basis of the teacher's training level and 29718  
years of experience pursuant to the salary schedule prescribed in 29719  
the version of section 3317.13 of the Revised Code in effect prior 29720  
to the effective date of this amendment, plus fifteen per cent of 29721  
that minimum salary amount, and two thousand one hundred 29722  
thirty two dollars. 29723~~

~~(D) The department shall may pay each institution approved 29724  
for vocational education units under division (A) of section 29725~~

~~3317.05 of the Revised Code an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and nine thousand five hundred ten dollars~~ a grant amount based on the institution's submission of a comprehensive plan for a program to provide vocational education services. Each institution that receives a grant under this division annually shall report to the department on the delivery of services and the performance of students and any other information required by the department to evaluate the institution's vocational education program.

**Sec. 3317.053.** (A) As used in this section:

(1) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$8,334
Division (C) of that section	\$3,234
Division <del>(F)</del> (E) of that section	\$5,550

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$7,799

Division (C) of that section	\$2,966	29757
Division <del>(F)</del> (E) of that section	\$5,251	29758

(B) In the case of each unit described in division (B), (C), 29759  
or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to 29760  
a city, local, or exempted village school district, the department 29761  
of education, in addition to the amounts specified in division (P) 29762  
of section 3317.024 and sections 3317.052 and 3317.19 of the 29763  
Revised Code, shall pay a supplemental unit allowance equal to the 29764  
sum of the following amounts: 29765

(1) An amount equal to 50% of the average unit amount for the 29766  
unit; 29767

(2) An amount equal to the percentage of the dollar amount 29768  
for the unit that equals the district's state share percentage. 29769

If, prior to the fifteenth day of May of a fiscal year, a 29770  
school district's aid computed under section 3317.022 of the 29771  
Revised Code is recomputed pursuant to section 3317.027 or 29772  
3317.028 of the Revised Code, the department shall also recompute 29773  
the district's entitlement to payment under this section utilizing 29774  
a new state share percentage. Such new state share percentage 29775  
shall be determined using the district's recomputed basic aid 29776  
amount pursuant to section 3317.027 or 3317.028 of the Revised 29777  
Code. During the last six months of the fiscal year, the 29778  
department shall pay the district a sum equal to one-half of the 29779  
recomputed payment in lieu of one-half the payment otherwise 29780  
calculated under this section. 29781

(C)(1) In the case of each unit allocated to an institution 29782  
pursuant to division (A) of section 3317.05 of the Revised Code, 29783  
the department, in addition to the amount specified in section 29784  
3317.052 of the Revised Code, shall pay a supplemental unit 29785  
allowance of \$7,227. 29786

(2) In the case of each unit described in division (B) ~~or~~ 29787



~~(D)~~(1) of section 3317.05 of the Revised Code that is allocated to 29788  
any entity other than a city, exempted village, or local school 29789  
district, the department, in addition to the amount specified in 29790  
section 3317.052 of the Revised Code, shall pay a supplemental 29791  
unit allowance of \$7,799. 29792

(3) In the case of each unit described in division (C) ~~or~~ 29793  
~~(D)~~(2) of section 3317.05 of the Revised Code and allocated to any 29794  
entity other than a city, exempted village, or local school 29795  
district, the department, in addition to the amounts specified in 29796  
section 3317.052 of the Revised Code, shall pay a supplemental 29797  
unit allowance of \$2,966. 29798

(4) In the case of each unit described in division ~~(F)~~(E) of 29799  
section 3317.05 of the Revised Code and allocated to an 29800  
educational service center, the department, in addition to the 29801  
amounts specified in division (P) of section 3317.024 of the 29802  
Revised Code, shall pay a supplemental unit allowance of \$5,251. 29803

**Sec. 3317.06.** Moneys paid to school districts under division 29804  
(L) of section 3317.024 of the Revised Code shall be used for the 29805  
following independent and fully severable purposes: 29806

(A) To purchase such secular textbooks or electronic 29807  
textbooks as have been approved by the superintendent of public 29808  
instruction for use in public schools in the state and to loan 29809  
such textbooks or electronic textbooks to pupils attending 29810  
nonpublic schools within the district or to their parents and to 29811  
hire clerical personnel to administer such lending program. Such 29812  
loans shall be based upon individual requests submitted by such 29813  
nonpublic school pupils or parents. Such requests shall be 29814  
submitted to the school district in which the nonpublic school is 29815  
located. Such individual requests for the loan of textbooks or 29816  
electronic textbooks shall, for administrative convenience, be 29817  
submitted by the nonpublic school pupil or the pupil's parent to 29818

the nonpublic school, which shall prepare and submit collective  
summaries of the individual requests to the school district. As  
used in this section:

(1) "Textbook" means any book or book substitute that a pupil  
uses as a consumable or nonconsumable text, text substitute, or  
text supplement in a particular class or program in the school the  
pupil regularly attends.

(2) "Electronic textbook" means computer software,  
interactive videodisc, magnetic media, CD-ROM, computer  
courseware, local and remote computer assisted instruction,  
on-line service, electronic medium, or other means of conveying  
information to the student or otherwise contributing to the  
learning process through electronic means.

(B) To provide speech and hearing diagnostic services to  
pupils attending nonpublic schools within the district. Such  
service shall be provided in the nonpublic school attended by the  
pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric  
services to pupils attending nonpublic schools within the  
district. Such services shall be provided in the school attended  
by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils  
attending nonpublic schools within the district. Such services  
shall be provided in the school attended by the pupil receiving  
the service.

(E) To provide therapeutic psychological and speech and  
hearing services to pupils attending nonpublic schools within the  
district. Such services shall be provided in the public school, in  
nonpublic schools, in public centers, or in mobile units located  
on or off of the nonpublic premises. If such services are provided  
in the public school or in public centers, transportation to and

from such facilities shall be provided by the school district in 29850  
which the nonpublic school is located. 29851

(F) To provide guidance and counseling services to pupils 29852  
attending nonpublic schools within the district. Such services 29853  
shall be provided in the public school, in nonpublic schools, in 29854  
public centers, or in mobile units located on or off of the 29855  
nonpublic premises. If such services are provided in the public 29856  
school or in public centers, transportation to and from such 29857  
facilities shall be provided by the school district in which the 29858  
nonpublic school is located. 29859

(G) To provide remedial services to pupils attending 29860  
nonpublic schools within the district. Such services shall be 29861  
provided in the public school, in nonpublic schools, in public 29862  
centers, or in mobile units located on or off of the nonpublic 29863  
premises. If such services are provided in the public school or in 29864  
public centers, transportation to and from such facilities shall 29865  
be provided by the school district in which the nonpublic school 29866  
is located. 29867

(H) To supply for use by pupils attending nonpublic schools 29868  
within the district such standardized tests and scoring services 29869  
as are in use in the public schools of the state; 29870

(I) To provide programs for children who attend nonpublic 29871  
schools within the district and are handicapped children as 29872  
defined in division (A) of section 3323.01 of the Revised Code or 29873  
gifted children. Such programs shall be provided in the public 29874  
school, in nonpublic schools, in public centers, or in mobile 29875  
units located on or off of the nonpublic premises. If such 29876  
programs are provided in the public school or in public centers, 29877  
transportation to and from such facilities shall be provided by 29878  
the school district in which the nonpublic school is located. 29879

(J) To hire clerical personnel to assist in the 29880

administration of programs pursuant to divisions (B), (C), (D), 29881  
(E), (F), (G), and (I) of this section and to hire supervisory 29882  
personnel to supervise the providing of services and textbooks 29883  
pursuant to this section. 29884

(K) To purchase or lease any secular, neutral, and 29885  
nonideological computer software (including site-licensing), 29886  
prerecorded video laserdiscs, digital video on demand (DVD), 29887  
compact discs, and video cassette cartridges, wide area 29888  
connectivity and related technology as it relates to internet 29889  
access, mathematics or science equipment and materials, 29890  
instructional materials, and school library materials that are in 29891  
general use in the public schools of the state and loan such items 29892  
to pupils attending nonpublic schools within the district or to 29893  
their parents, and to hire clerical personnel to administer the 29894  
lending program. Only such items that are incapable of diversion 29895  
to religious use and that are susceptible of loan to individual 29896  
pupils and are furnished for the use of individual pupils shall be 29897  
purchased and loaned under this division. As used in this section, 29898  
"instructional materials" means prepared learning materials that 29899  
are secular, neutral, and nonideological in character and are of 29900  
benefit to the instruction of school children, and may include 29901  
educational resources and services developed by the eTech Ohio 29902  
~~schoolnet~~ commission. 29903

(L) To purchase or lease instructional equipment, including 29904  
computer hardware and related equipment in general use in the 29905  
public schools of the state, for use by pupils attending nonpublic 29906  
schools within the district and to loan such items to pupils 29907  
attending nonpublic schools within the district or to their 29908  
parents, and to hire clerical personnel to administer the lending 29909  
program. 29910

(M) To purchase mobile units to be used for the provision of 29911  
services pursuant to divisions (E), (F), (G), and (I) of this 29912

section and to pay for necessary repairs and operating costs 29913  
associated with these units. 29914

Clerical and supervisory personnel hired pursuant to division 29915  
(J) of this section shall perform their services in the public 29916  
schools, in nonpublic schools, public centers, or mobile units 29917  
where the services are provided to the nonpublic school pupil, 29918  
except that such personnel may accompany pupils to and from the 29919  
service sites when necessary to ensure the safety of the children 29920  
receiving the services. 29921

All services provided pursuant to this section may be 29922  
provided under contract with educational service centers, the 29923  
department of health, city or general health districts, or private 29924  
agencies whose personnel are properly licensed by an appropriate 29925  
state board or agency. 29926

Transportation of pupils provided pursuant to divisions (E), 29927  
(F), (G), and (I) of this section shall be provided by the school 29928  
district from its general funds and not from moneys paid to it 29929  
under division (L) of section 3317.024 of the Revised Code unless 29930  
a special transportation request is submitted by the parent of the 29931  
child receiving service pursuant to such divisions. If such an 29932  
application is presented to the school district, it may pay for 29933  
the transportation from moneys paid to it under division (L) of 29934  
section 3317.024 of the Revised Code. 29935

No school district shall provide health or remedial services 29936  
to nonpublic school pupils as authorized by this section unless 29937  
such services are available to pupils attending the public schools 29938  
within the district. 29939

Materials, equipment, computer hardware or software, 29940  
textbooks, electronic textbooks, and health and remedial services 29941  
provided for the benefit of nonpublic school pupils pursuant to 29942  
this section and the admission of pupils to such nonpublic schools 29943

shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers. 29944  
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No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity. 29946  
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As used in this section, "parent" includes a person standing in loco parentis to a child. 29950  
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Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division (L) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board. 29952  
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The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district. 29959  
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Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used. 29965  
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The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and 29971  
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services, and under which any unexpended balance of the amounts 29975  
appropriated by the general assembly to implement this section may 29976  
be transferred to the auxiliary services personnel unemployment 29977  
compensation fund established pursuant to section 4141.47 of the 29978  
Revised Code. The department shall also adopt guidelines and 29979  
procedures limiting the purchase and loan of the items described 29980  
in division (K) of this section to items that are in general use 29981  
in the public schools of the state, that are incapable of 29982  
diversion to religious use, and that are susceptible to individual 29983  
use rather than classroom use. Within thirty days after the end of 29984  
each biennium, each board of education shall remit to the 29985  
department all moneys paid to it under division (L) of section 29986  
3317.024 of the Revised Code and any interest earned on those 29987  
moneys that are not required to pay expenses incurred under this 29988  
section during the biennium for which the money was appropriated 29989  
and during which the interest was earned. If a board of education 29990  
subsequently determines that the remittal of moneys leaves the 29991  
board with insufficient money to pay all valid expenses incurred 29992  
under this section during the biennium for which the remitted 29993  
money was appropriated, the board may apply to the department of 29994  
education for a refund of money, not to exceed the amount of the 29995  
insufficiency. If the department determines the expenses were 29996  
lawfully incurred and would have been lawful expenditures of the 29997  
refunded money, it shall certify its determination and the amount 29998  
of the refund to be made to the director of job and family 29999  
services who shall make a refund as provided in section 4141.47 of 30000  
the Revised Code. 30001

**Sec. 3317.063.** The superintendent of public instruction, in 30002  
accordance with rules adopted by the department of education, 30003  
shall annually reimburse each chartered nonpublic school for the 30004  
actual mandated service administrative and clerical costs incurred 30005  
by such school during the preceding school year in preparing, 30006

maintaining, and filing reports, forms, and records, and in 30007  
providing such other administrative and clerical services that are 30008  
not an integral part of the teaching process as may be required by 30009  
state law or rule or by requirements duly promulgated by city, 30010  
exempted village, or local school districts. The mandated service 30011  
costs reimbursed pursuant to this section shall include, but are 30012  
not limited to, the preparation, filing and maintenance of forms, 30013  
reports, or records and other clerical and administrative services 30014  
relating to state chartering or approval of the nonpublic school, 30015  
pupil attendance, pupil health and health testing, transportation 30016  
of pupils, federally funded education programs, pupil appraisal, 30017  
pupil progress, educator licensure, unemployment and workers' 30018  
compensation, transfer of pupils, and such other education related 30019  
data which are now or hereafter shall be required of such 30020  
nonpublic school by state law or rule, or by requirements of the 30021  
state department of education, other state agencies, or city, 30022  
exempted village, or local school districts. 30023

The reimbursement required by this section shall be for 30024  
school years beginning on or after July 1, 1981. 30025

Each nonpublic school which seeks reimbursement pursuant to 30026  
this section shall submit to the superintendent of public 30027  
instruction an application together with such additional reports 30028  
and documents as the department of education may require. Such 30029  
application, reports, and documents shall contain such information 30030  
as the department of education may prescribe in order to carry out 30031  
the purposes of this section. No payment shall be made until the 30032  
superintendent of public instruction has approved such 30033  
application. 30034

Each nonpublic school which applies for reimbursement 30035  
pursuant to this section shall maintain a separate account or 30036  
system of accounts for the expenses incurred in rendering the 30037



required services for which reimbursement is sought. Such accounts 30038  
shall contain such information as is required by the department of 30039  
education and shall be maintained in accordance with rules adopted 30040  
by the department of education. 30041

Reimbursement payments to a nonpublic school pursuant to this 30042  
section shall not exceed an amount for each school year equal to 30043  
two hundred ~~fifty~~ seventy-five dollars per pupil enrolled in that 30044  
nonpublic school. 30045

The superintendent of public instruction may, from time to 30046  
time, examine any and all accounts and records of a nonpublic 30047  
school which have been maintained pursuant to this section in 30048  
support of an application for reimbursement, for the purpose of 30049  
determining the costs to such school of rendering the services for 30050  
which reimbursement is sought. If after such audit it is 30051  
determined that any school has received funds in excess of the 30052  
actual cost of providing such services, said school shall 30053  
immediately reimburse the state in such excess amount. 30054

Any payments made to chartered nonpublic schools under this 30055  
section may be disbursed without submission to and approval of the 30056  
controlling board. 30057

**Sec. 3317.07.** The state board of education shall establish 30058  
rules for the purpose of distributing subsidies for the purchase 30059  
of school buses under division (E) of section 3317.024 of the 30060  
Revised Code. 30061

No school bus subsidy payments shall be paid to any district 30062  
unless such district can demonstrate that pupils residing more 30063  
than one mile from the school could not be transported without 30064  
such additional aid. 30065

The amount paid to a county MR/DD board for buses purchased 30066  
for transportation of children in special education programs 30067

operated by the board shall be ~~one hundred per cent of the board's~~ 30068  
~~net cost~~ based on a per pupil allocation for eligible students. 30069

The amount paid to a school district for buses purchased for 30070  
transportation of handicapped and nonpublic school pupils shall be 30071  
~~one hundred per cent of the school district's net cost~~ determined 30072  
by a per pupil allocation based on the number of special education 30073  
and nonpublic school pupils for whom transportation is provided. 30074

The state board of education shall adopt a formula to 30075  
determine the amount of payments that shall be distributed to 30076  
school districts to purchase school buses for pupils other than 30077  
handicapped or nonpublic school pupils. 30078

If any district or MR/DD board obtains bus services for pupil 30079  
transportation pursuant to a contract, such district or board may 30080  
use payments received under this section to defray the costs of 30081  
contracting for bus services in lieu of for purchasing buses. 30082

If the department of education determines that a county MR/DD 30083  
board no longer needs a school bus because the board no longer 30084  
transports children to a special education program operated by the 30085  
board, or if the department determines that a school district no 30086  
longer needs a school bus to transport pupils to a nonpublic 30087  
school or special education program, the department may reassign a 30088  
bus that was funded with payments provided pursuant to this 30089  
section for the purpose of transporting such pupils. The 30090  
department may reassign a bus to a county MR/DD board or school 30091  
district that transports children to a special education program 30092  
designated in the children's individualized education plans, or to 30093  
a school district that transports pupils to a nonpublic school, 30094  
and needs an additional school bus. 30095

**Sec. 3317.081.** (A) Tuition shall be computed in accordance 30096  
with this section if: 30097

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount that district would have received for the child pursuant to sections 3317.022, 3317.023, and 3317.025 to ~~3317.0213~~ 3317.0211 of the Revised Code during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

**Sec. 3317.09.** All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance ~~to the clerk of the senate and the chief administrative officer of the house of representatives, to the Ohio legislative service commission to be available for examination by any member of either house,~~ to each school district and educational service center, ~~and to the governor.~~

~~On or before the first day of September in each year, a copy of the annual statistical report required in section 3319.33 of the Revised Code shall be filed by the state board of education with the clerk of the senate and the chief administrative officer~~

~~of the house of representatives, the Ohio legislative service~~ 30129  
~~commission, the governor, and the auditor of state. The report~~ 30130  
~~shall contain an analysis for the prior fiscal year on an accrual~~ 30131  
~~basis of revenue receipts from all sources and expenditures for~~ 30132  
~~all purposes for each school district, including each joint~~ 30133  
~~vocational and cooperative education school district, in the~~ 30134  
~~state. If any board of education fails to make the report required~~ 30135  
~~in section 3319.33 of the Revised Code, the superintendent of~~ 30136  
~~public instruction shall be without authority to distribute funds~~ 30137  
~~to that school district or educational service center pursuant to~~ 30138  
~~sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16,~~ 30139  
~~3317.17, or 3317.19 of the Revised Code until such time as the~~ 30140  
~~required reports are filed with all specified officers, boards, or~~ 30141  
~~agencies.~~ 30142

**Sec. 3317.10.** (A) On or before the first day of March of each 30143  
year, the department of job and family services shall certify to 30144  
the state board of education the unduplicated number of children 30145  
ages five through seventeen residing in each school district and 30146  
living in a family that, during the preceding October, ~~had family~~ 30147  
~~income not exceeding the federal poverty guidelines as defined in~~ 30148  
~~section 5101.46 of the Revised Code and participated in one of the~~ 30149  
~~following:~~ 30150

~~(1) Ohio works first;~~ 30151

~~(2) The food stamp program;~~ 30152

~~(3) The medical assistance program, including the healthy~~ 30153  
~~start program, established under Chapter 5111. of the Revised~~ 30154  
~~Code;~~ 30155

~~(4) The children's health insurance program part I~~ 30156  
~~established under section 5101.50 of the Revised Code;~~ 30157

~~(5) The disability financial assistance program established~~ 30158

~~under Chapter 5115. of the Revised Code;~~ 30159

~~(6) The disability medical assistance program established 30160  
under Chapter 5115. of the Revised Code. 30161~~

The department of job and family services shall certify this 30162  
information according to the school district of residence for each 30163  
child. Except as provided under division (B) of this section, the 30164  
number of children so certified in any year shall be used by the 30165  
department of education in calculating the distribution of moneys 30166  
for the ensuing fiscal year as provided in section 3317.029 of the 30167  
Revised Code. 30168

(B) Upon the transfer of part of the territory of one school 30169  
district to the territory of one or more other school districts, 30170  
the department of education may adjust the number of children 30171  
certified under division (A) of this section for any district 30172  
gaining or losing territory in such a transfer in order to take 30173  
into account the effect of the transfer on the number of such 30174  
children who reside in the district. Within sixty days of receipt 30175  
of a request for information from the department of education, the 30176  
department of job and family services shall provide any 30177  
information the department of education determines is necessary to 30178  
make such adjustments. The department of education may use the 30179  
adjusted number for any district for the applicable fiscal year, 30180  
in lieu of the number certified for the district for that fiscal 30181  
year under division (A) of this section, in the calculation of the 30182  
distribution of moneys provided in section 3317.029 of the Revised 30183  
Code. 30184

**Sec. 3317.16.** (A) As used in this section: 30185

(1) "State share percentage" means the percentage calculated 30186  
for a joint vocational school district as follows: 30187

(a) Calculate the state base cost funding amount for the 30188

district under division (B) of this section. If the district would 30189  
not receive any base cost funding for that year under that 30190  
division, the district's state share percentage is zero. 30191

(b) If the district would receive base cost funding under 30192  
that division, divide that base cost amount by an amount equal to 30193  
the following: 30194

cost-of-doing-business factor X 30195  
the formula amount X 30196  
formula ADM 30197

The resultant number is the district's state share 30198  
percentage. 30199

(2) The "total special education weight" for a joint 30200  
vocational school district shall be calculated in the same manner 30201  
as prescribed in division (B)(1) of section 3317.022 of the 30202  
Revised Code. 30203

(3) The "total vocational education weight" for a joint 30204  
vocational school district shall be calculated in the same manner 30205  
as prescribed in division (B)(4) of section 3317.022 of the 30206  
Revised Code. 30207

(4) The "total recognized valuation" of a joint vocational 30208  
school district shall be determined by adding the recognized 30209  
valuations of all its constituent school districts for the 30210  
applicable fiscal year. 30211

(5) "Resident district" means the city, local, or exempted 30212  
village school district in which a student is entitled to attend 30213  
school under section 3313.64 or 3313.65 of the Revised Code. 30214

(6) "Community school" means a community school established 30215  
under Chapter 3314. of the Revised Code. 30216

(B) The department of education shall compute and distribute 30217  
state base cost funding to each joint vocational school district 30218

for the fiscal year in accordance with division (B) of this 30219  
section. 30220

(1) Compute the following formula for each eligible district: 30221  
    (cost-of-doing-business factor X 30222  
        formula amount X 30223  
        formula ADM) - 30224  
    (.0005 X total recognized valuation) 30225

If the difference obtained under this division is a negative 30226  
number, the district's computation shall be zero. 30227

(2) Compute both of the following for each district: 30228

(a) The difference of (i) the district's fiscal year 2005 30229  
base cost payment under the version of division (B) of this 30230  
section in effect in fiscal year 2005, minus (ii) the amount 30231  
computed for the district for the current fiscal year under 30232  
current division (B)(1) of this section; 30233

(b) The following amount: 30234  
[(fiscal year 2005 base cost payment/fiscal year 2005 formula 30235  
ADM) X current year formula ADM] minus the amount computed for 30236  
the district under current division (B)(1) of this section 30237

If one of the amounts computed under division (B)(2)(a) or 30238  
(b) of this section is a positive amount, the department shall pay 30239  
the district that amount in addition to the amount calculated 30240  
under division (B)(1) of this section. If both amounts are 30241  
positive amounts, the department shall pay the district the lesser 30242  
of the two amounts in addition to the amount calculated under 30243  
division (B)(1) of this section. 30244

(C)(1) The department shall compute and distribute state 30245  
vocational education additional weighted costs funds to each joint 30246  
vocational school district in accordance with the following 30247  
formula: 30248

state share percentage X formula amount X 30249

total vocational education weight 30250

In each fiscal year, a joint vocational school district 30251  
receiving funds under division (C)(1) of this section shall spend 30252  
those funds only for the purposes the department designates as 30253  
approved for vocational education expenses. Vocational educational 30254  
expenses approved by the department shall include only expenses 30255  
connected to the delivery of career-technical programming to 30256  
career-technical students. The department shall require the joint 30257  
vocational school district to report data annually so that the 30258  
department may monitor the district's compliance with the 30259  
requirements regarding the manner in which funding received under 30260  
division (C)(1) of this section may be spent. 30261

(2) The department shall compute for each joint vocational 30262  
school district state funds for vocational education associated 30263  
services costs in accordance with the following formula: 30264

state share percentage X .05 X 30265

the formula amount X the sum of 30266

categories one and two vocational 30267

education ADM 30268

In any fiscal year, a joint vocational school district 30269  
receiving funds under division (C)(2) of this section, or through 30270  
a transfer of funds pursuant to division (L) of section 3317.023 30271  
of the Revised Code, shall spend those funds only for the purposes 30272  
that the department designates as approved for vocational 30273  
education associated services expenses, which may include such 30274  
purposes as apprenticeship coordinators, coordinators for other 30275  
vocational education services, vocational evaluation, and other 30276  
purposes designated by the department. The department may deny 30277  
payment under division (C)(2) of this section to any district that 30278  
the department determines is not operating those services or is 30279  
using funds paid under division (C)(2) of this section, or through 30280



a transfer of funds pursuant to division (L) of section 3317.023 30281  
of the Revised Code, for other purposes. 30282

(D)(1) The department shall compute and distribute state 30283  
special education and related services additional weighted costs 30284  
funds to each joint vocational school district in accordance with 30285  
the following formula: 30286

state share percentage X formula amount X 30287  
total special education weight 30288

(2)(a) As used in this division, the "personnel allowance" 30289  
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 30290  
~~and~~ 2005, 2006, and 2007. 30291

(b) For the provision of speech language pathology services 30292  
to students, including students who do not have individualized 30293  
education programs prepared for them under Chapter 3323. of the 30294  
Revised Code, and for no other purpose, the department shall pay 30295  
each joint vocational school district an amount calculated under 30296  
the following formula: 30297

(formula ADM divided by 2000) X the personnel 30298  
allowance X state share percentage 30299

(3) In any fiscal year, a joint vocational school district 30300  
shall spend for purposes that the department designates as 30301  
approved for special education and related services expenses at 30302  
least the amount calculated as follows: 30303

(cost-of-doing-business factor X formula amount 30304  
X the sum of categories one through 30305  
six special education ADM) + 30306  
(total special education weight X 30307  
formula amount) 30308

The purposes approved by the department for special education 30309  
expenses shall include, but shall not be limited to, compliance 30310  
with state rules governing the education of handicapped children, 30311

providing services identified in a student's individualized 30312  
education program as defined in section 3323.01 of the Revised 30313  
Code, provision of speech language pathology services, and the 30314  
portion of the district's overall administrative and overhead 30315  
costs that are attributable to the district's special education 30316  
student population. 30317

The department shall require joint vocational school 30318  
districts to report data annually to allow for monitoring 30319  
compliance with division (D)(3) of this section. The department 30320  
shall annually report to the governor and the general assembly the 30321  
amount of money spent by each joint vocational school district for 30322  
special education and related services. 30323

(4) In any fiscal year, a joint vocational school district 30324  
shall spend for the provision of speech language pathology 30325  
services not less than the sum of the amount calculated under 30326  
division (D)(1) of this section for the students in the district's 30327  
category one special education ADM and the amount calculated under 30328  
division (D)(2) of this section. 30329

(E)(1) If a joint vocational school district's costs for a 30330  
fiscal year for a student in its categories two through six 30331  
special education ADM exceed the threshold catastrophic cost for 30332  
serving the student, as specified in division (C)(3)(b) of section 30333  
3317.022 of the Revised Code, the district may submit to the 30334  
superintendent of public instruction documentation, as prescribed 30335  
by the superintendent, of all of its costs for that student. Upon 30336  
submission of documentation for a student of the type and in the 30337  
manner prescribed, the department shall pay to the district an 30338  
amount equal to the sum of the following: 30339

(a) One-half of the district's costs for the student in 30340  
excess of the threshold catastrophic cost; 30341

(b) The product of one-half of the district's costs for the 30342

student in excess of the threshold catastrophic cost multiplied by 30343  
the district's state share percentage. 30344

(2) The district shall only report under division (E)(1) of 30345  
this section, and the department shall only pay for, the costs of 30346  
educational expenses and the related services provided to the 30347  
student in accordance with the student's individualized education 30348  
program. Any legal fees, court costs, or other costs associated 30349  
with any cause of action relating to the student may not be 30350  
included in the amount. 30351

(F) Each fiscal year, the department shall pay each joint 30352  
vocational school district an amount for adult technical and 30353  
vocational education and specialized consultants. 30354

(G)(1) A joint vocational school district's local share of 30355  
special education and related services additional weighted costs 30356  
equals: 30357

(1 - state share percentage) X 30358  
Total special education weight X 30359  
the formula amount 30360

(2) For each handicapped student receiving special education 30361  
and related services under an individualized education program, as 30362  
defined in section 3323.01 of the Revised Code, at a joint 30363  
vocational district, the resident district or, if the student is 30364  
enrolled in a community school, the community school shall be 30365  
responsible for the amount of any costs of providing those special 30366  
education and related services to that student that exceed the sum 30367  
of the amount calculated for those services attributable to that 30368  
student under divisions (B), (D), (E), and (G)(1) of this section. 30369

Those excess costs shall be calculated by subtracting the sum 30370  
of the following from the actual cost to provide special education 30371  
and related services to the student: 30372

(a) The product of the formula amount times the 30373

cost-of-doing-business factor; 30374

(b) The product of the formula amount times the applicable 30375  
multiple specified in section 3317.013 of the Revised Code; 30376

(c) Any funds paid under division (E) of this section for the 30377  
student; 30378

(d) Any other funds received by the joint vocational school 30379  
district under this chapter to provide special education and 30380  
related services to the student, not including the amount 30381  
calculated under division (G)(2) of this section. 30382

(3) The board of education of the joint vocational school 30383  
district ~~shall~~ may report the excess costs calculated under 30384  
division (G)(2) of this section to the department of education. 30385

(4) ~~The~~ If the board of education of the joint vocational 30386  
school district reports excess costs under division (G)(3) of this 30387  
section, the department shall pay the amount of excess cost 30388  
calculated under division (G)(2) of this section to the joint 30389  
vocational school district and shall deduct that amount as 30390  
provided in division (G)(4)(a) or (b) of this section, as 30391  
applicable: 30392

(a) If the student is not enrolled in a community school, the 30393  
department shall deduct the amount from the account of the 30394  
student's resident district pursuant to division (M) of section 30395  
3317.023 of the Revised Code. 30396

(b) If the student is enrolled in a community school, the 30397  
department shall deduct the amount from the account of the 30398  
community school pursuant to section 3314.083 of the Revised Code. 30399

~~(H) In any fiscal year, if the total of all payments made to~~ 30400  
~~a joint vocational school district under divisions (B) to (D) of~~ 30401  
~~this section and division (R) of section 3317.024 of the Revised~~ 30402  
~~Code is less than the amount that district received in fiscal year~~ 30403

1999 under the version of this section in effect that year, plus  
the amount that district received under the version of section  
3317.162 of the Revised Code in effect that year and minus the  
amounts received that year for driver education and adult  
education, the department shall pay the district an additional  
amount equal to the difference between those two amounts.

**Sec. 3317.20.** This section does not apply to handicapped  
preschool children.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in  
section 3317.013 of the Revised Code for a handicap described in  
that section.

(2) "Child's school district" means the school district in  
which a child is entitled to attend school pursuant to section  
3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage  
of the child's school district as defined in section 3317.022 of  
the Revised Code.

(B) Except as provided in division (C) of this section, the  
department shall annually pay each county MR/DD board ~~an amount~~  
~~calculated under the following formula~~ for each handicapped child,  
other than a handicapped preschool child, for whom the county  
MR/DD board provides special education and related services the  
greater of the amount calculated under division (B)(1) or (2) of  
this section:

~~(formula amount X the cost of doing business factor~~  
~~for the child's school district) +~~  
~~(state share percentage X formula amount X~~  
~~the applicable weight)~~

(1) (The formula amount for fiscal year 2005 X the

cost-of-doing-business factor for the child's school district for 30434  
fiscal year 2005) + (state share percentage for fiscal year 2005 X 30435  
formula amount for fiscal year 2005 X the applicable weight); 30436

(2) (The current formula amount times the current 30437  
cost-of-doing-business factor for the child's school district) + 30438  
(state share percentage X current formula amount X the applicable 30439  
weight). 30440

(C) If any school district places with a county MR/DD board 30441  
more handicapped children than it had placed with a county MR/DD 30442  
board in fiscal year 1998, the department shall not make a payment 30443  
under division (B) of this section for the number of children 30444  
exceeding the number placed in fiscal year 1998. The department 30445  
instead shall deduct from the district's payments under this 30446  
chapter, and pay to the county MR/DD board, an amount calculated 30447  
in accordance with the formula prescribed in division (B) of this 30448  
section for each child over the number of children placed in 30449  
fiscal year 1998. 30450

(D) The department shall calculate for each county MR/DD 30451  
board receiving payments under divisions (B) and (C) of this 30452  
section the following amounts: 30453

(1) The amount received by the county MR/DD board for 30454  
approved special education and related services units, other than 30455  
preschool handicapped units, in fiscal year 1998, divided by the 30456  
total number of children served in the units that year; 30457

(2) The product of the quotient calculated under division 30458  
(D)(1) of this section times the number of children for whom 30459  
payments are made under divisions (B) and (C) of this section. 30460

If the amount calculated under division (D)(2) of this 30461  
section is greater than the total amount calculated under 30462  
divisions (B) and (C) of this section, the department shall pay 30463  
the county MR/DD board one hundred per cent of the difference in 30464

addition to the payments under divisions (B) and (C) of this section. 30465  
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Sec. 3317.201. This section does not apply to handicapped preschool children. 30467  
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(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts: 30469  
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(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (A) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30471  
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(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (B) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30476  
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(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (C) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30481  
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(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (D) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30486  
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(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (E) of section 3317.013 of the Revised Code multiplied by the multiple 30491  
30492  
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specified in that division; 30495

(6) The number of children reported by the institution under 30496  
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 30497  
receiving services for a handicap described in division (F) of 30498  
section 3317.013 of the Revised Code multiplied by the multiple 30499  
specified in that division. 30500

(B) The department of education annually shall pay each state 30501  
institution required to provide special education services under 30502  
division (A) of section 3323.091 of the Revised Code an amount 30503  
equal to the greater of: 30504

(1) The formula amount times the institution's total special 30505  
education weight; 30506

(2) The aggregate amount of special education and related 30507  
services unit funding the institution received for all handicapped 30508  
children other than handicapped preschool children in fiscal year 30509  
2005 under sections 3317.052 and 3317.053 of the Revised Code, as 30510  
those sections existed prior to the effective date of this 30511  
section. 30512

**Sec. 3317.50.** The eTech Ohio ~~schoolnet~~ telecommunity 30513  
education fund is hereby created in the state treasury. The fund 30514  
shall consist of certain excess local exchange telephone company 30515  
contributions transferred from the reserve fund of the Ohio 30516  
telecommunications advisory board pursuant to an agreement between 30517  
the public utilities commission of Ohio and the Ohio department of 30518  
education. The fund shall be used to finance technology grants to 30519  
state-chartered elementary and secondary schools. Investment 30520  
earnings of the fund shall be credited to the fund. 30521

**Sec. 3317.51.** (A) The distance learning fund is hereby 30522  
created in the state treasury. The fund shall consist of moneys 30523  
paid to the eTech Ohio ~~SchoolNet~~ commission by any telephone 30524



company as a part of a settlement agreement between such company 30525  
and the public utilities commission in fiscal year 1995 in part to 30526  
establish distance learning throughout the state. The ~~authority~~ 30527  
commission shall administer the fund and expend moneys from it to 30528  
finance technology grants to eligible schools chartered by the 30529  
state board of education to establish distance learning in those 30530  
schools. Chartered schools are eligible for funds if they are 30531  
within the service area of the telephone company. Investment 30532  
earnings of the fund shall be credited to the fund. 30533

(B) For purposes of this section, "distance learning" means 30534  
the creation of a learning environment involving a school setting 30535  
and at least one other location outside of the school which allows 30536  
for information available at one site to be accessed at the other 30537  
through the use of such educational applications as one-way or 30538  
two-way transmission of data, voice, and video, singularly or in 30539  
appropriate combinations. 30540

**Sec. 3318.091.** (A) Promptly after the written agreement 30541  
between the school district board and the Ohio school facilities 30542  
commission has been entered into, the school district board shall 30543  
proceed with the issuance of its bonds or notes in anticipation 30544  
thereof pursuant to the provision of such agreement required by 30545  
division (A) of section 3318.08 of the Revised Code and the 30546  
deposit of the proceeds thereof in the school district's project 30547  
construction fund pursuant to the provision of such agreement 30548  
required by division (B) of section 3318.08 of the Revised Code, 30549  
and the school district board, with the approval of the commission 30550  
shall employ a qualified professional person or firm to prepare 30551  
preliminary plans, working drawings, specifications, estimates of 30552  
cost, and such data as the school district board and the 30553  
commission consider necessary for the project. When the 30554  
preliminary plans and preliminary estimates of cost have been 30555  
prepared, and approved by the school district board, they shall be 30556

submitted to the commission for approval, modification, or 30557  
rejection. The commission shall ensure that the plans and 30558  
materials proposed for use in the project comply with 30559  
specifications for plans and materials that shall be established 30560  
by the commission. When such preliminary plans and preliminary 30561  
estimates of cost and any modifications thereof have been approved 30562  
by the commission and the school district board, the school 30563  
district board shall cause such qualified professional person or 30564  
firm to prepare the working drawings, specifications, and 30565  
estimates of cost. 30566

(B) Whenever project plans submitted to the commission for 30567  
approval under division (A) of this section propose to locate a 30568  
facility on a state route or United States highway or within one 30569  
mile of a state route or United States highway, the commission 30570  
shall send a copy of the plans to the director of transportation. 30571  
The director of transportation shall review the plans to determine 30572  
the feasibility of the proposed ingress and egress to the 30573  
facility, the traffic circulation pattern on roadways around the 30574  
facility, and any improvements that would be necessary to conform 30575  
the roadways to provisions of the manual adopted by the department 30576  
of transportation pursuant to section 4511.09 of the Revised Code 30577  
or state or federal law. The director of transportation shall 30578  
provide a written summary of the director's findings to the 30579  
commission in a timely manner. The commission shall consider the 30580  
findings in deciding whether to approve the plans. 30581

Sec. 3318.18. (A) As used in this section: 30582

(1) "Valuation" of a school district means the sum of the 30583  
amounts described in divisions (A)(1) and (2) of section 3317.021 30584  
of the Revised Code as most recently certified for the district 30585  
before the annual computation is made under division (B) of this 30586  
section. 30587

(2) "Valuation per pupil" of a school district means the district's valuation divided by the district's formula ADM as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (B) of this section. 30588  
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(3) "Statewide average valuation per pupil" means the total of the valuations of all school districts divided by the total of the formula ADMs of all school districts as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (C) of this section. 30593  
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(4) "Maintenance levy requirement" means the tax required to be levied pursuant to division (C)(2)(a) of section 3318.08 and division (B) of section 3318.05 of the Revised Code or the application of proceeds of another levy to paying the costs of maintaining classroom facilities pursuant to division (A)(2) of section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, or division (D)(2) of section 3318.36 of the Revised Code, or a combination thereof. 30598  
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(5) "Project agreement" means an agreement between a school district and the Ohio school facilities commission under section 3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 30606  
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(B) On or before July 1, 2006, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district, and provide them to the Ohio school facilities commission. On or before the first day of July each year beginning in 2007, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district that has not already entered into a project agreement, and provide the results of those computations to the commission. 30609  
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(C)(1) At the time the Ohio school facilities commission 30618

enters into a project agreement with a school district, the 30619  
commission shall compute the difference between the district's 30620  
valuation per pupil and the statewide average valuation per pupil 30621  
as most recently provided to the commission under division (B) of 30622  
this section. If the school district's valuation per pupil is less 30623  
than the average statewide valuation per pupil, the commission 30624  
shall multiply the difference between those amounts by one-half 30625  
mill times the formula ADM of the district as most recently 30626  
reported to the department of education for October under division 30627  
(A) of section 3317.03 of the Revised Code. The commission shall 30628  
certify the resulting product to the department of education, 30629  
along with the date on which the maintenance levy requirement 30630  
terminates as provided in the project agreement between the school 30631  
district board and the commission. 30632

(2) In the case of a school district that entered into a 30633  
project agreement after July 1, 1997, but before July 1, 2006, the 30634  
commission shall make the computation described in division (C)(1) 30635  
of this section on the basis of the district's valuation per pupil 30636  
and the statewide average valuation per pupil computed as of 30637  
September 1, 2006, and the district's formula ADM reported for 30638  
October 2005. 30639

(3) The amount computed for a school district under division 30640  
(C)(1) or (2) of this section shall not change for the period 30641  
during which payments are made to the district under division (D) 30642  
of this section. 30643

(4) A computation need not be made under division (C)(1) or 30644  
(2) of this section for a school district that certified a 30645  
resolution to the commission under division (D)(3) of section 30646  
3318.36 of the Revised Code until the district becomes eligible 30647  
for state assistance as provided in that division. 30648

(D) In the fourth quarter of each fiscal year, for each 30649

school district for which a computation has been made under 30650  
division (C) of this section, the department of education shall 30651  
pay the amount computed to each such school district. Payments 30652  
shall be made to a school district each year until and including 30653  
the tax year in which the district's maintenance levy requirement 30654  
terminates. Payments shall be paid from the half-mill equalization 30655  
fund, subject to appropriation by the general assembly. 30656

(E) Payments made to a school district under this section 30657  
shall be credited to the district's classroom facilities 30658  
maintenance fund and shall be used only for the purpose of 30659  
maintaining facilities constructed or renovated under the project 30660  
agreement. 30661

(F) There is hereby created in the state treasury the 30662  
half-mill equalization fund. The fund shall receive transfers 30663  
pursuant to section 5727.85 of the Revised Code. The fund shall be 30664  
used first to make annual payments under division (D) of this 30665  
section. If a balance remains in the fund after such payments are 30666  
made in full for a year, the Ohio school facilities commission may 30667  
request the controlling board to transfer a reasonable amount from 30668  
such remaining balance to the public school building fund created 30669  
under section 3318.15 of the Revised Code for the purposes of this 30670  
chapter. 30671

All investment earnings arising from investment of money in 30672  
the half-mill equalization fund shall be credited to the fund. 30673

**Sec. 3318.33.** (A) There is hereby created in the state 30674  
treasury the Ohio school facilities commission fund, which shall 30675  
consist of transfers of moneys authorized by the general assembly 30676  
and revenues received by the Ohio school facilities commission 30677  
under section 3318.31 of the Revised Code. Investment earnings on 30678  
moneys in the fund shall be credited to the fund. Moneys in the 30679  
fund may be used by the commission to pay personnel and other 30680

administrative expenses, to pay the cost of conducting evaluations 30681  
of classroom facilities, to pay the cost of preparing building 30682  
design specifications, to pay the cost of providing project 30683  
management services, and for other purposes determined by the 30684  
commission to be necessary to fulfill its duties under ~~Chapter~~ 30685  
~~3318. of the Revised Code~~ this chapter. 30686

(B) The director of budget and management may transfer to the 30687  
Ohio school facilities commission fund the investment earnings on 30688  
the public school building fund, created in section 3318.15 of the 30689  
Revised Code, the investment earnings on the education facilities 30690  
trust fund created in section 183.26 of the Revised Code, or both. 30691  
The director of budget and management may transfer to the Ohio 30692  
school facilities commission fund the investment earnings on the 30693  
school building program assistance fund, created under section 30694  
3318.25 of the Revised Code, in excess of the amounts needed to 30695  
meet estimated federal arbitrage rebate requirements. 30696

**Sec. ~~3317.21~~ 3318.47.** There is hereby created in the state 30697  
treasury the ~~vocational~~ career-technical school building 30698  
assistance fund. Money in the fund shall be used solely to provide 30699  
interest-free loans to school districts, including joint 30700  
vocational school districts, under sections ~~3317.22~~ 3318.48 and 30701  
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 30702  
construction of new vocational classroom facilities, the 30703  
renovation of existing vocational classroom facilities, or the 30704  
purchase of vocational education equipment or facilities. Moneys 30705  
in the fund shall consist of transfers made to the fund, any 30706  
interest earned by the fund, and repayments of loans made under 30707  
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 30708  
Investment earnings of the fund shall be credited to the fund. 30709

**Sec. ~~3317.22~~ 3318.48.** The ~~state board of education~~ Ohio 30710  
school facilities commission shall adopt rules in accordance with 30711

Chapter 119. of the Revised Code under which, in any fiscal year 30712  
that funds are appropriated from the ~~vocational~~ career-technical 30713  
school building assistance fund for such purpose, the ~~state board~~ 30714  
commission may make interest-free loans to school districts. The 30715  
rules shall include all of the following: 30716

(A) Application procedures, including the date by which 30717  
applications shall be made; 30718

(B) Eligibility criteria, which shall include at least the 30719  
following provisions: 30720

(1) A requirement that an applicant district demonstrate 30721  
financial need for the loan. Indicators of need may include, but 30722  
need not be limited to, levels of assessed valuation, enrollment 30723  
levels and enrollment changes, ability of the district to maintain 30724  
minimum educational standards, and demonstrated good faith efforts 30725  
by the district to secure funds from sources other than the state. 30726

(2) A requirement that an applicant district demonstrate the 30727  
ability to repay the loan within the maximum period permitted by 30728  
division (D) of this section; 30729

(3) A requirement that an applicant district is not eligible 30730  
for a loan, other than a loan for the purchase of any vocational 30731  
education equipment that is not an approved project cost under 30732  
this chapter, if the district, on the date of application for the 30733  
loan, has at any time received any state assistance under sections 30734  
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 30735  
3318.40 to 3318.45 of the Revised Code or is reasonably expected 30736  
to receive state assistance under any of those sections within 30737  
three fiscal years; 30738

(4) A requirement that an applicant district agree to comply 30739  
with all applicable design specifications and policies of the 30740  
commission established pursuant to this chapter in the 30741  
construction, renovation, or purchase of facilities or equipment 30742

paid for with the loan, unless such specifications or policies are 30743  
waived by the commission. 30744

(C) Loan approval procedures and criteria, including criteria 30745  
for prioritizing eligible applications. Criteria for such 30746  
prioritization shall include: 30747

(1) Preference for applicant districts that demonstrate 30748  
commitment and innovative approaches to the implementation of the 30749  
department of education's vocational education modernization plan 30750  
pursuant to section 3313.901 of the Revised Code; 30751

(2) Preference for applicant districts that have entered into 30752  
or are in the process of entering into cooperative agreements with 30753  
technical colleges or other institutions of higher education 30754  
either to coordinate secondary vocational education and 30755  
post-secondary technical education programs, or to share 30756  
facilities and equipment. 30757

(D) Provisions governing the repayment of loans, including a 30758  
provision that loans for construction, acquisition, or renovation 30759  
of facilities shall be repaid within a maximum of fifteen years 30760  
and loans for vocational education equipment shall be repaid 30761  
within a maximum of five years; 30762

(E) A requirement that no loan shall be applied to the local 30763  
resources a district expends as a condition of participation in a 30764  
program established under section 3318.36 or 3318.46 of the 30765  
Revised Code. 30766

**Sec. ~~3317.23~~ 3318.49.** The ~~state board of education~~ Ohio 30767  
school facilities commission shall enter into a loan agreement 30768  
with each school district it approves for a loan under section 30769  
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 30770  
the amount of the loan, the purposes for which it is to be used, 30771  
the duration of the loan, and the repayment schedule. Every such 30772



agreement shall contain a provision ~~authorizing~~ directing the 30773  
state board of education, upon the request of the executive 30774  
director of the commission, to deduct from payments due to the 30775  
district under Chapter 3317. of the Revised Code or from any other 30776  
funds appropriated to the district by the general assembly, the 30777  
amount of any scheduled loan payment due but not paid by the 30778  
district and, within ten days, to transfer that amount to the 30779  
commission. 30780

A copy of each loan agreement shall be furnished to the 30781  
controlling board. No money shall be released from the ~~vocational~~ 30782  
career-technical school building assistance fund without the 30783  
approval of the controlling board. 30784

**Sec. 3319.06.** (A) The board of education of each city, 30785  
exempted village, or local school district may create the position 30786  
of internal auditor. Any person employed by the board as an 30787  
internal auditor shall hold a valid permit issued under section 30788  
4701.10 of the Revised Code to practice as a certified public 30789  
accountant or a public accountant. 30790

(B) The board shall execute a written contract of employment 30791  
with each internal auditor it employs. The contract shall specify 30792  
the internal auditor's duties, the salary and other compensation 30793  
to be paid for performance of those duties, the number of days to 30794  
be worked, the number of days of vacation leave, if any, and any 30795  
paid holidays in the contractual year. The salary and other 30796  
compensation prescribed by the contract may be increased by the 30797  
board during the term of the contract but shall not be reduced 30798  
during that term unless such reduction is part of a uniform plan 30799  
affecting employees of the entire district. The term of the 30800  
initial contract shall not exceed three years. Any renewal of the 30801  
contract shall be for a term of not less than two years and not 30802  
more than five years. 30803

The internal auditor shall be directly responsible to the board for the performance of all duties outlined in the contract. If the board does not intend to renew the contract upon its expiration, the board shall provide written notice to the internal auditor of its intention not to renew the contract not later than the last day of March of the year in which the contract expires. If the board does not provide such notice by that date, the internal auditor shall be deemed reemployed for a term of one year at the same salary plus any increments that may be authorized by the board. Termination of an internal auditor's contract shall be pursuant to section 3319.16 of the Revised Code.

(C) Each board that employs an internal auditor shall adopt procedures for the evaluation of the internal auditor and shall evaluate the internal auditor in accordance with those procedures. The evaluation based upon the procedures shall be considered by the board in deciding whether to renew the internal auditor's contract of employment. The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in this section shall prevent the board from making the final determination regarding the renewal or nonrenewal of the contract of an internal auditor.

**Sec. 3319.081.** Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided 30835  
in division (A) of this section, if the contract of a nonteaching 30836  
employee is renewed, the employee shall be continued in 30837  
employment, and the salary provided in the contract may be 30838  
increased but not reduced unless such reduction is a part of a 30839  
uniform plan affecting the nonteaching employees of the entire 30840  
district. 30841

(C) The contracts as provided for in this section may be 30842  
terminated by a majority vote of the board of education. ~~Such~~ 30843  
Except as provided in sections 3319.0810 and 3319.172 of the 30844  
Revised Code, the contracts may be terminated only for violation 30845  
of written rules and regulations as set forth by the board of 30846  
education or for incompetency, inefficiency, dishonesty, 30847  
drunkenness, immoral conduct, insubordination, discourteous 30848  
treatment of the public, neglect of duty, or any other acts of 30849  
misfeasance, malfeasance, or nonfeasance. In addition to the right 30850  
of the board of education to terminate the contract of an 30851  
employee, the board may suspend an employee for a definite period 30852  
of time or demote the employee for the reasons set forth in this 30853  
division. The action of the board of education terminating the 30854  
contract of an employee or suspending or demoting ~~him~~ the employee 30855  
shall be served upon the employee by certified mail. Within ten 30856  
days following the receipt of such notice by the employee, the 30857  
employee may file an appeal, in writing, with the court of common 30858  
pleas of the county in which such school board is situated. After 30859  
hearing the appeal the common pleas court may affirm, disaffirm, 30860  
or modify the action of the school board. 30861

A violation of division (A)(7) of section 2907.03 of the 30862  
Revised Code is grounds for termination of employment of a 30863  
nonteaching employee under this division. 30864

(D) All employees who have been employed by a school district 30865  
where the provisions of Chapter 124. of the Revised Code do not 30866

apply, for a period of at least three years on November 24, 1967,  
shall hold continuing contracts of employment pursuant to this  
section.

(E) Any nonteaching school employee may terminate ~~his~~ the  
nonteaching school employee's contract of employment thirty days  
subsequent to the filing of a written notice of such termination  
with the treasurer of the board.

(F) A person hired exclusively for the purpose of replacing a  
nonteaching school employee while such employee is on leave of  
absence granted under section 3319.13 of the Revised Code is not a  
regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this  
section and Chapter 124. of the Revised Code shall be paid for all  
time lost when the schools in which they are employed are closed  
owing to an epidemic or other public calamity. Nothing in this  
division shall be construed as requiring payment in excess of an  
employee's regular wage rate or salary for any time worked while  
the school in which ~~he~~ the employee is employed is officially  
closed for the reasons set forth in this division.

**Sec. 3319.0810.** (A) The board of education of any school  
district wherein the provisions of Chapter 124. of the Revised  
Code do not apply may terminate any of its transportation staff  
positions for reasons of economy and efficiency if the board  
instead of employing its own staff to transport some or all of the  
students enrolled in the district schools enters into a contract  
with an independent agent for the provision of transportation  
services for such students. Such a contract may be entered into  
only if all of the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee  
organization representing the employees whose positions are

terminated under this section and the board has expired or will 30897  
expire within sixty days and has not been renewed in conformance 30898  
with provisions of that agreement and with Chapter 4117. of the 30899  
Revised Code, or the agreement contains provisions permitting the 30900  
termination of positions for reasons of economy and efficiency 30901  
while the agreement is in force and the board is in conformance 30902  
with those provisions. 30903

(2) The board permits any employee whose position is 30904  
terminated under this section to fill any vacancy within the 30905  
district's organization for which the employee is qualified. The 30906  
board shall select from among similarly qualified employees to 30907  
fill such vacancies pursuant to procedures established under any 30908  
collective bargaining agreement between the employee organization 30909  
representing the terminated employees and the board that is in 30910  
force at the time of the termination, or in absence of such 30911  
provisions on the basis of seniority of employment by the board 30912  
with the employee with the greatest seniority having highest 30913  
priority. 30914

(3) Unless a collective bargaining agreement between the 30915  
employee organization representing the terminated employees and 30916  
the board that is in force at the time of the termination provides 30917  
otherwise, the board permits any employee whose position is 30918  
terminated under this section to fill the employee's former 30919  
position in the event that the board reinstates that position 30920  
within one year after the date the position is terminated under 30921  
this section. 30922

(4) The board permits any employee whose position is 30923  
terminated under this section to appeal in accordance with section 30924  
119.12 of the Revised Code the board's decision to terminate the 30925  
employee's position, not to hire that employee for another 30926  
position pursuant to division (A)(2) of this section, or not to 30927  
rehire that employee for the position if it is reinstated within 30928

one year after the position is terminated pursuant to division 30929  
(A)(3) of this section. 30930

(5) The contract entered into by the board and an independent 30931  
agent for the provision of transportation services contains a 30932  
stipulation requiring the agent to consider hiring any employees 30933  
of the school district whose positions are terminated under this 30934  
section for similar positions within the agent's organization. 30935

(6) The contract entered into by the board and an independent 30936  
agent for the provision of transportation services contains a 30937  
stipulation requiring the agent to recognize for purposes of 30938  
employee representation in collective bargaining any employee 30939  
organization that represented the employees whose positions are 30940  
terminated under this section in collective bargaining with the 30941  
board at the time of the termination provided: 30942

(a) A majority of all employees in the bargaining unit agree 30943  
to such representation; 30944

(b) Such representation is not prohibited by federal law, 30945  
including any ruling of the national labor relations board; 30946

(c) The employee organization is not prohibited from 30947  
representing nonpublic employees by other provisions of law or its 30948  
own governing instruments. 30949

However, any employee whose position is terminated under this 30950  
section shall not be compelled to be included in such bargaining 30951  
unit if there is another bargaining unit within the agent's 30952  
organization that is applicable to the employee. 30953

(B) If after terminating any positions of employment under 30954  
this section the board fails to comply with any condition 30955  
prescribed in division (A) of this section or fails to enforce on 30956  
the agent its contractual obligations prescribed in divisions 30957  
(A)(5) and (6) of this section, the terminations shall be void and 30958

the board shall reinstate the positions and fill them with the 30959  
employees who filled those positions just prior to the 30960  
terminations. Such employees shall be compensated at a rate equal 30961  
to their rate of compensation in those positions just prior to the 30962  
terminations plus any increases paid since the terminations to 30963  
other nonteaching employees. The employees shall also be entitled 30964  
to back pay at such rate for the period from the date of the 30965  
terminations to the date of the reinstatements minus any pay 30966  
received by the employees during any time the board was in 30967  
compliance with such conditions or during any time the board 30968  
enforced those obligations. 30969

Any employee aggrieved by the failure of the board to comply 30970  
with any condition prescribed in division (A) of this section or 30971  
to enforce on the agent its contractual obligations prescribed in 30972  
divisions (A)(5) and (6) of this section shall have the right to 30973  
sue the board for reinstatement of the employee's former position 30974  
as provided for in this division in the court of common pleas for 30975  
the county in which the school district is located or, if the 30976  
school district is located in more than one county, in the court 30977  
of common pleas for the county in which the majority of the 30978  
territory of the school district is located. 30979

**Sec. 3319.17.** (A) As used in this section, "interdistrict 30980  
contract" means any contract or agreement entered into by an 30981  
educational service center governing board and another board or 30982  
other public entity pursuant to section 3313.17, 3313.841, 30983  
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 30984  
including any such contract or agreement for the provision of 30985  
services funded under division (L) of section 3317.024 of the 30986  
Revised Code or provided in any unit approved under section 30987  
3317.05 of the Revised Code. 30988

(B) When, for any of the following reasons that apply to any 30989

city, exempted village, local, or joint vocational school district 30990  
or any educational service center, the board decides that it will 30991  
be necessary to reduce the number of teachers it employs, it may 30992  
make a reasonable reduction: 30993

(1) In the case of any district or service center, return to 30994  
duty of regular teachers after leaves of absence including leaves 30995  
provided pursuant to division (B) of section 3314.10 of the 30996  
Revised Code, suspension of schools, ~~or~~ territorial changes 30997  
affecting the district or center, or financial reasons; 30998

(2) In the case of any city, exempted village, local, or 30999  
joint vocational school district, decreased enrollment of pupils 31000  
in the district; 31001

(3) In the case of any governing board of a service center 31002  
providing any particular service directly to pupils pursuant to 31003  
one or more interdistrict contracts requiring such service, 31004  
reduction in the total number of pupils the governing board is 31005  
required to provide with the service under all interdistrict 31006  
contracts as a result of the termination or nonrenewal of one or 31007  
more of these interdistrict contracts; 31008

(4) In the case of any governing board providing any 31009  
particular service that it does not provide directly to pupils 31010  
pursuant to one or more interdistrict contracts requiring such 31011  
service, reduction in the total level of the service the governing 31012  
board is required to provide under all interdistrict contracts as 31013  
a result of the termination or nonrenewal of one or more of these 31014  
interdistrict contracts. 31015

(C) In making any such reduction, any city, exempted village, 31016  
local, or joint vocational school board shall proceed to suspend 31017  
contracts in accordance with the recommendation of the 31018  
superintendent of schools who shall, within each teaching field 31019  
affected, give preference first to teachers on continuing 31020



contracts and then to teachers who have greater seniority. In 31021  
making any such reduction, any governing board of a service center 31022  
shall proceed to suspend contracts in accordance with the 31023  
recommendation of the superintendent who shall, within each 31024  
teaching field or service area affected, give preference first to 31025  
teachers on continuing contracts and then to teachers who have 31026  
greater seniority. 31027

On a case-by-case basis, in lieu of suspending a contract in 31028  
whole, a board may suspend a contract in part, so that an 31029  
individual is required to work a percentage of the time the 31030  
employee otherwise is required to work under the contract and 31031  
receives a commensurate percentage of the full compensation the 31032  
employee otherwise would receive under the contract. 31033

The teachers whose continuing contracts are suspended by any 31034  
board pursuant to this section shall have the right of restoration 31035  
to continuing service status by that board in the order of 31036  
seniority of service in the district or service center if and when 31037  
teaching positions become vacant or are created for which any of 31038  
such teachers are or become qualified. No teacher whose continuing 31039  
contract has been suspended pursuant to this section shall lose 31040  
that right of restoration to continuing service status by reason 31041  
of having declined recall to a position that is less than 31042  
full-time or, if the teacher was not employed full-time just prior 31043  
to suspension of the teacher's continuing contract, to a position 31044  
requiring a lesser percentage of full-time employment than the 31045  
position the teacher last held while employed in the district or 31046  
service center. 31047

(D) Notwithstanding any provision to the contrary in Chapter 31048  
4117. of the Revised Code, the requirements of this section 31049  
prevail over any conflicting provisions of agreements between 31050  
employee organizations and public employers entered into after the 31051  
effective date of this amendment. 31052

Sec. 3319.172. The board of education of each school district 31053  
wherein the provisions of Chapter 124. of the Revised Code do not 31054  
apply and the governing board of each educational service center 31055  
may adopt a resolution ordering reasonable reductions in the 31056  
number of nonteaching employees for any of the reasons for which 31057  
the board of education or governing board may make reductions in 31058  
teaching employees, as set forth in division (B) of section 31059  
3319.17 of the Revised Code. 31060

In making any reduction under this section, the board of 31061  
education or governing board shall proceed to suspend contracts in 31062  
accordance with the recommendation of the superintendent of the 31063  
district or service center who shall, within each pay 31064  
classification affected, give preference first to employees under 31065  
continuing contracts and then to employees on the basis of 31066  
seniority. On a case-by-case basis, in lieu of suspending a 31067  
contract in whole, a board may suspend a contract in part, so that 31068  
an individual is required to work a percentage of the time the 31069  
employee otherwise is required to work under the contract and 31070  
receives a commensurate percentage of the full compensation the 31071  
employee otherwise would receive under the contract. 31072

Any nonteaching employee whose continuing contract is 31073  
suspended under this section shall have the right of restoration 31074  
to continuing service status by the board of education or 31075  
governing board that suspended that contract in order of seniority 31076  
of service in the district or service center, if and when a 31077  
nonteaching position for which the employee is qualified becomes 31078  
vacant or is created. No nonteaching employee whose continuing 31079  
contract has been suspended under this section shall lose that 31080  
right of restoration to continuing service status by reason of 31081  
having declined recall to a position requiring fewer regularly 31082  
scheduled hours of work than required by the position the employee 31083

last held while employed in the district or service center. 31084

Notwithstanding any provision to the contrary in Chapter 31085  
4117. of the Revised Code, the requirements of this section 31086  
prevail over any conflicting provisions of agreements between 31087  
employee organizations and public employers entered into after the 31088  
effective date of this section. 31089

**Sec. 3319.22.** (A)(1) The state board of education shall adopt 31090  
rules establishing the standards and requirements for obtaining 31091  
temporary, associate, provisional, and professional educator 31092  
licenses of any categories, types, and levels the board elects to 31093  
provide. However, no educator license shall be required for 31094  
teaching children two years old or younger. 31095

(2) If the state board requires any examinations for educator 31096  
licensure, the department of education shall provide the results 31097  
of such examinations received by the department to the Ohio board 31098  
of regents, in the manner and to the extent permitted by state and 31099  
federal law. 31100

(B) Any rules the state board of education adopts, amends, or 31101  
rescinds for educator licenses under this section, division (D) of 31102  
section 3301.07 of the Revised Code, or any other law shall be 31103  
adopted, amended, or rescinded under Chapter 119. of the Revised 31104  
Code except as follows: 31105

(1) Notwithstanding division (D) of section 119.03 and 31106  
division (A)(1) of section 119.04 of the Revised Code, in the case 31107  
of the adoption of any rule or the amendment or rescission of any 31108  
rule that necessitates institutions' offering teacher preparation 31109  
programs that are approved by the state board of education under 31110  
section 3319.23 of the Revised Code to revise the curriculum of 31111  
those programs, the effective date shall not be as prescribed in 31112  
division (D) of section 119.03 and division (A)(1) of section 31113

119.04 of the Revised Code. Instead, the effective date of such 31114  
rules, or the amendment or rescission of such rules, shall be the 31115  
date prescribed by section 3319.23 of the Revised Code. 31116

(2) Notwithstanding the authority to adopt, amend, or rescind 31117  
emergency rules in division (F) of section 119.03 of the Revised 31118  
Code, this authority shall not apply to the state board of 31119  
education with regard to rules for educator licenses. 31120

(C)(1) The rules adopted under this section establishing 31121  
standards requiring additional coursework for the renewal of any 31122  
educator license shall require a school district and a chartered 31123  
nonpublic school to establish local professional development 31124  
committees. In a nonpublic school, the chief administrative 31125  
officer shall establish the committees in any manner acceptable to 31126  
such officer. The committees established under this division shall 31127  
determine whether coursework that a district or chartered 31128  
nonpublic school teacher proposes to complete meets the 31129  
requirement of the rules. The department of education shall 31130  
provide technical assistance and support to committees as the 31131  
committees incorporate the professional development standards 31132  
adopted by the state board of education pursuant to section 31133  
3319.61 of the Revised Code into their review of coursework that 31134  
is appropriate for license renewal. The rules shall establish a 31135  
procedure by which a teacher may appeal the decision of a local 31136  
professional development committee. 31137

(2) In any school district in which there is no exclusive 31138  
representative established under Chapter 4117. of the Revised 31139  
Code, the professional development committees shall be established 31140  
as described in division (C)(2) of this section. 31141

Not later than the effective date of the rules adopted under 31142  
this section, the board of education of each school district shall 31143  
establish the structure for one or more local professional 31144

development committees to be operated by such school district. The 31145  
committee structure so established by a district board shall 31146  
remain in effect unless within thirty days prior to an anniversary 31147  
of the date upon which the current committee structure was 31148  
established, the board provides notice to all affected district 31149  
employees that the committee structure is to be modified. 31150  
Professional development committees may have a district-level or 31151  
building-level scope of operations, and may be established with 31152  
regard to particular grade or age levels for which an educator 31153  
license is designated. 31154

Each professional development committee shall consist of at 31155  
least three classroom teachers employed by the district, one 31156  
principal employed by the district, and one other employee of the 31157  
district appointed by the district superintendent. For committees 31158  
with a building-level scope, the teacher and principal members 31159  
shall be assigned to that building, and the teacher members shall 31160  
be elected by majority vote of the classroom teachers assigned to 31161  
that building. For committees with a district-level scope, the 31162  
teacher members shall be elected by majority vote of the classroom 31163  
teachers of the district, and the principal member shall be 31164  
elected by a majority vote of the principals of the district, 31165  
unless there are two or fewer principals employed by the district, 31166  
in which case the one or two principals employed shall serve on 31167  
the committee. If a committee has a particular grade or age level 31168  
scope, the teacher members shall be licensed to teach such grade 31169  
or age levels, and shall be elected by majority vote of the 31170  
classroom teachers holding such a license and the principal shall 31171  
be elected by all principals serving in buildings where any such 31172  
teachers serve. The district superintendent shall appoint a 31173  
replacement to fill any vacancy that occurs on a professional 31174  
development committee, except in the case of vacancies among the 31175  
elected classroom teacher members, which shall be filled by vote 31176

of the remaining members of the committee so selected. 31177

Terms of office on professional development committees shall 31178  
be prescribed by the district board establishing the committees. 31179  
The conduct of elections for members of professional development 31180  
committees shall be prescribed by the district board establishing 31181  
the committees. A professional development committee may include 31182  
additional members, except that the majority of members on each 31183  
such committee shall be classroom teachers employed by the 31184  
district. Any member appointed to fill a vacancy occurring prior 31185  
to the expiration date of the term for which a predecessor was 31186  
appointed shall hold office as a member for the remainder of that 31187  
term. 31188

The initial meeting of any professional development 31189  
committee, upon election and appointment of all committee members, 31190  
shall be called by a member designated by the district 31191  
superintendent. At this initial meeting, the committee shall 31192  
select a chairperson and such other officers the committee deems 31193  
necessary, and shall adopt rules for the conduct of its meetings. 31194  
Thereafter, the committee shall meet at the call of the 31195  
chairperson or upon the filing of a petition with the district 31196  
superintendent signed by a majority of the committee members 31197  
calling for the committee to meet. 31198

(3) In the case of a school district in which an exclusive 31199  
representative has been established pursuant to Chapter 4117. of 31200  
the Revised Code, professional development committees shall be 31201  
established in accordance with any collective bargaining agreement 31202  
in effect in the district that includes provisions for such 31203  
committees. 31204

If the collective bargaining agreement does not specify a 31205  
different method for the selection of teacher members of the 31206  
committees, the exclusive representative of the district's 31207

teachers shall select the teacher members. 31208

If the collective bargaining agreement does not specify a 31209  
different structure for the committees, the board of education of 31210  
the school district shall establish the structure, including the 31211  
number of committees and the number of teacher and administrative 31212  
members on each committee; the specific administrative members to 31213  
be part of each committee; whether the scope of the committees 31214  
will be district levels, building levels, or by type of grade or 31215  
age levels for which educator licenses are designated; the lengths 31216  
of terms for members; the manner of filling vacancies on the 31217  
committees; and the frequency and time and place of meetings. 31218  
However, in all cases, except as provided in division (C)(4) of 31219  
this section, there shall be a majority of teacher members of any 31220  
professional development committee, there shall be at least five 31221  
total members of any professional development committee, and the 31222  
exclusive representative shall designate replacement members in 31223  
the case of vacancies among teacher members, unless the collective 31224  
bargaining agreement specifies a different method of selecting 31225  
such replacements. 31226

(4) Whenever an administrator's coursework plan is being 31227  
discussed or voted upon, the local professional development 31228  
committee shall, at the request of one of its administrative 31229  
members, cause a majority of the committee to consist of 31230  
administrative members by reducing the number of teacher members 31231  
voting on the plan. 31232

(D)(1) The department of education, educational service 31233  
centers, county boards of mental retardation and developmental 31234  
disabilities, regional professional development centers, special 31235  
education regional resource centers, college and university 31236  
departments of education, head start programs, the eTech Ohio 31237  
~~SchoolNet~~ commission, and the Ohio education computer network may 31238  
establish local professional development committees to determine 31239

whether the coursework proposed by their employees who are 31240  
licensed or certificated under this section or section 3319.222 of 31241  
the Revised Code meet the requirements of the rules adopted under 31242  
this section. They may establish local professional development 31243  
committees on their own or in collaboration with a school district 31244  
or other agency having authority to establish them. 31245

Local professional development committees established by 31246  
county boards of mental retardation and developmental disabilities 31247  
shall be structured in a manner comparable to the structures 31248  
prescribed for school districts in divisions (C)(2) and (3) of 31249  
this section, as shall the committees established by any other 31250  
entity specified in division (D)(1) of this section that provides 31251  
educational services by employing or contracting for services of 31252  
classroom teachers licensed or certificated under this section or 31253  
section 3319.222 of the Revised Code. All other entities specified 31254  
in division (D)(1) of this section shall structure their 31255  
committees in accordance with guidelines which shall be issued by 31256  
the state board. 31257

(2) Any public agency that is not specified in division 31258  
(D)(1) of this section but provides educational services and 31259  
employs or contracts for services of classroom teachers licensed 31260  
or certificated under this section or section 3319.222 of the 31261  
Revised Code may establish a local professional development 31262  
committee, subject to the approval of the department of education. 31263  
The committee shall be structured in accordance with guidelines 31264  
issued by the state board. 31265

**Sec. 3319.235.** (A) The standards for the preparation of 31266  
teachers adopted under section 3319.23 of the Revised Code shall 31267  
require any institution that provides a course of study for the 31268  
training of teachers to ensure that graduates of such course of 31269  
study are skilled at integrating educational technology in the 31270



instruction of children, as evidenced by the graduate having 31271  
either demonstrated proficiency in such skills in a manner 31272  
prescribed by the department of education or completed a course 31273  
that includes training in such skills. 31274

(B) The ~~eTech Ohio SchoolNet~~ commission, ~~established pursuant~~ 31275  
~~to section 3301.80 of the Revised Code,~~ shall establish model 31276  
professional development programs to assist teachers who completed 31277  
their teacher preparation prior to the effective date of division 31278  
(A) of this section to become skilled at integrating educational 31279  
technology in the instruction of children. The commission shall 31280  
provide technical assistance to school districts wishing to 31281  
establish such programs. 31282

**Sec. 3319.55.** (A) A grant program is hereby established to 31283  
recognize and reward teachers in public and chartered nonpublic 31284  
schools who hold valid teaching certificates or licenses issued by 31285  
the national board for professional teaching standards. The 31286  
superintendent of public instruction shall administer this program 31287  
in accordance with this section and rules which the state board of 31288  
education shall adopt in accordance with Chapter 119. of the 31289  
Revised Code. 31290

In each fiscal year that the general assembly appropriates 31291  
funds for purposes of this section, the superintendent of public 31292  
instruction shall award a grant to each person who, by the first 31293  
day of April of that year and in accordance with the rules adopted 31294  
under this section, submits to the superintendent evidence 31295  
indicating all of the following: 31296

(1) The person holds a valid certificate or license issued by 31297  
the national board for professional teaching standards; 31298

(2) The person has been employed full-time as a teacher by 31299  
the board of education of a school district or by a chartered 31300  
nonpublic school in this state during the current school year; 31301

(3) The date the person was accepted into the national board certification or licensure program. 31302  
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An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section. No person may receive a grant after the expiration of the person's initial certification or license issued by the national board. 31304  
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(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following: 31309  
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(1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004; 31312  
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(2) One thousand dollars for any other teacher issued a certificate or license by the national board. 31316  
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However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person. 31318  
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**Sec. 3323.021.** As used in this section, "participating county MR/DD board" means a county board of mental retardation and developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code. 31323  
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(A) When a school district, educational service center, or participating county MR/DD board enters into an agreement or contract with another school district, educational service center, or participating county MR/DD board to provide educational 31328  
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services to a disabled child during a school year, both of the 31332  
following shall apply: 31333

(1) Beginning with fiscal year 1999, if the provider of the 31334  
services intends to increase the amount it charges for some or all 31335  
of those services during the next school year or if the provider 31336  
intends to cease offering all or part of those services during the 31337  
next school year, the provider shall notify the entity for which 31338  
the services are provided of these intended changes no later than 31339  
the first day of March of the current fiscal year. 31340

(2) Beginning with fiscal year 1999, if the entity for which 31341  
services are provided intends to cease obtaining those services 31342  
from the provider for the next school year or intends to change 31343  
the type or amount of services it obtains from the provider for 31344  
the next school year, the entity shall notify the service provider 31345  
of these intended changes no later than the first day of March of 31346  
the current fiscal year. 31347

(B) School districts, educational service centers, 31348  
participating county MR/DD boards, and other applicable 31349  
governmental entities shall collaborate where possible to maximize 31350  
federal sources of revenue, ~~including the community alternative~~ 31351  
~~funding system of the medical assistance program established under~~ 31352  
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 31353  
special education related services for disabled children. 31354  
Annually, each school district shall report to the department of 31355  
education any amounts of money the district received through such 31356  
medical assistance program. 31357

(C) The state board of education, the department of mental 31358  
retardation and developmental disabilities, and the department of 31359  
job and family services shall develop working agreements for 31360  
pursuing additional funds for services for disabled children. 31361

Sec. 3323.091. (A) The department of mental health, the 31362  
department of mental retardation and developmental disabilities, 31363  
the department of youth services, and the department of 31364  
rehabilitation and correction shall establish and maintain special 31365  
education programs for handicapped children in institutions under 31366  
their jurisdiction according to standards adopted by the state 31367  
board of education. ~~The~~ 31368

(B) The superintendent of each state institution required to 31369  
provide services under division (A) of this section, and each 31370  
county MR/DD board, providing special education for handicapped 31371  
preschool children under this chapter may apply to the state 31372  
department of education for unit funding, which shall be paid in 31373  
accordance with sections 3317.052 and 3317.053 of the Revised 31374  
Code. 31375

~~(B) On~~ The superintendent of each state institution required 31376  
to provide services under division (A) of this section may apply 31377  
to the department of education for special education and related 31378  
services weighted funding for handicapped children other than 31379  
handicapped preschool children, calculated in accordance with 31380  
section 3317.201 of the Revised Code. 31381

Each county MR/DD board providing special education for 31382  
handicapped children other than handicapped preschool children may 31383  
apply to the department of education for base cost and special 31384  
education and related services weighted funding calculated in 31385  
accordance with section 3317.20 of the Revised Code. 31386

(C) In addition to the authorization to apply for state 31387  
funding described in division (B) of this section, each state 31388  
institution required to provide services under division (A) of 31389  
this section is entitled to tuition payments calculated in the 31390  
manner described in division (C) of this section. 31391

On or before the thirtieth day of June of each year, the 31392

superintendent of each institution that during the school year 31393  
provided special education pursuant to this section shall prepare 31394  
a statement for each handicapped child under twenty-two years of 31395  
age who has received special education. The statement shall 31396  
contain the child's name and the name of the child's school 31397  
district of residence. Within sixty days after receipt of such 31398  
statement, the department of education shall perform one of the 31399  
following: 31400

(1) For any child except a handicapped preschool child 31401  
described in division ~~(B)~~(C)(2) of this section, pay to the 31402  
institution submitting the statement an amount equal to the 31403  
tuition calculated under division (A) of section 3317.08 of the 31404  
Revised Code for the period covered by the statement, and deduct 31405  
the same from the amount of state funds, if any, payable under 31406  
sections 3317.022 and 3317.023 of the Revised Code, to the child's 31407  
school district of residence or, if the amount of such state funds 31408  
is insufficient, require the child's school district of residence 31409  
to pay the institution submitting the statement an amount equal to 31410  
the amount determined under this division. 31411

(2) For any handicapped preschool child not included in a 31412  
unit approved under division (B) of section 3317.05 of the Revised 31413  
Code, perform the following: 31414

(a) Pay to the institution submitting the statement an amount 31415  
equal to the tuition calculated under division (B) of section 31416  
3317.08 of the Revised Code for the period covered by the 31417  
statement, except that in calculating the tuition under that 31418  
section the operating expenses of the institution submitting the 31419  
statement under this section shall be used instead of the 31420  
operating expenses of the school district of residence; 31421

(b) Deduct from the amount of state funds, if any, payable 31422  
under sections 3317.022 and 3317.023 of the Revised Code to the 31423  
child's school district of residence an amount equal to the amount 31424

paid under division ~~(B)~~(C)(2)(a) of this section.

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**Sec. 3323.14.** This section does not apply to any handicapped preschool child except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

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(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay ~~directly~~ to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the district concerned at the time the district providing such special education accepts the child for enrollment. The department of education shall certify the amount of the payments under Chapter 3317. of the Revised Code for such handicapped pupils for each school year ending on the thirtieth day of July.

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(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the

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district may report the amount calculated under this division to 31456  
the department. 31457

(C) If a district providing special education for a child 31458  
reports an amount for the excess cost of those services, as 31459  
authorized and calculated under division (A) or (B) of this 31460  
section, the department shall pay that amount of excess cost to 31461  
the district providing the services and shall deduct that amount 31462  
from the child's district of residence in accordance with division 31463  
(N) of section 3317.023 of the Revised Code. 31464

**Sec. 3323.16.** No unit for deaf children shall be disapproved 31465  
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 31466  
Revised Code on the basis of the methods of instruction used in 31467  
educational programs in the school district or institution to 31468  
teach deaf children to communicate, and no preference in approving 31469  
units for funding shall be given for teaching deaf children by the 31470  
oral, manual, total communication, or other method of instruction. 31471

**Sec. ~~41.36~~ 3323.19.** ~~(A) In the 2004-2005 and 2005-2006 school~~ 31472  
~~years, within~~ Within three months after a student identified with 31473  
disabilities begins receiving services for the first time under an 31474  
individualized education program, ~~as defined in section 3323.01 of~~ 31475  
~~the Revised Code,~~ the school district in which that student is 31476  
enrolled shall require the student to undergo a comprehensive eye 31477  
examination performed either by an optometrist licensed under 31478  
Chapter 4725. of the Revised Code or by a physician authorized 31479  
under Chapter 4731. of the Revised Code to practice medicine and 31480  
surgery or osteopathic medicine and surgery who is comprehensively 31481  
trained and educated in the treatment of the human eye, eye 31482  
disease, or comprehensive vision services, unless the student 31483  
underwent such an examination within the nine-month period 31484  
immediately prior to being identified with disabilities. 31485

However, no student who has not undergone the eye examination 31486  
required under this section shall be prohibited from initiating, 31487  
receiving, or continuing to receive services prescribed in the 31488  
student's individualized education program. 31489

(B) The superintendent of each school district or the 31490  
superintendent's designee may determine fulfillment of the 31491  
requirement prescribed in division (A) of this section based on 31492  
any special circumstances of the student, the student's parent, 31493  
guardian, or family that may prevent the student from undergoing 31494  
the eye examination prior to beginning special education services. 31495

(C) Except for a student who may be entitled to a 31496  
comprehensive eye examination in the identification of the 31497  
student's disabilities, in the development of the student's 31498  
individualized education program, or as a related service under 31499  
the student's individualized education program, neither the state 31500  
nor any school district shall be responsible for paying for the 31501  
eye examination required by this section. 31502

Sec. 3323.20. On or before the first day of January of each 31503  
year, the department of education shall report to the general 31504  
assembly the number of handicapped preschool children receiving 31505  
services as reported to the United States department of education 31506  
during the previous December. 31507

Sec. 3323.30. The Ohio center for autism and low incidence is 31508  
hereby established within the department of education's office for 31509  
exceptional children, or any successor of that office. The center 31510  
shall administer programs and coordinate services for infants, 31511  
preschool and school-age children, and adults with autism and low 31512  
incidence disabilities. The center's principal focus shall be 31513  
programs and services for persons with autism. The center shall be 31514  
under the direction of an executive director, appointed by the 31515



superintendent of public instruction in consultation with the 31516  
advisory board established under section 3323.31 of the Revised 31517  
Code. The department shall use state and federal funds 31518  
appropriated to the department for operation of the center. 31519

As used in this section and in sections 3323.31 to 3323.33 of 31520  
the Revised Code, "autism and low incidence disabilities" includes 31521  
any of the following: 31522

(A) Autism; 31523

(B) Deafness or hearing handicap; 31524

(C) Multihandicap; 31525

(D) Orthopedic handicap; 31526

(E) Other health handicap; 31527

(F) Traumatic brain injury; 31528

(G) Visual disability. 31529

**Sec. 3323.31.** The superintendent of public instruction shall 31530  
establish an advisory board to assist and advise the department of 31531  
education in the operation of the Ohio center for autism and low 31532  
incidence. As determined by the superintendent, the advisory board 31533  
shall consist of individuals who are stakeholders in the service 31534  
to persons with autism and low incidence disabilities, including, 31535  
but not limited to, the following: 31536

(A) Persons with autism and low incidence disabilities; 31537

(B) Parents and family members; 31538

(C) Educators and other professionals; 31539

(D) Higher education instructors; 31540

(E) Representatives of state agencies. 31541

The advisory board shall be organized as determined by the 31542

<u>superintendent.</u>	31543
<u>Members of the advisory board shall receive no compensation</u>	31544
<u>for their services.</u>	31545
<u>Sec. 3323.32. The Ohio center for autism and low incidence</u>	31546
<u>shall do all of the following:</u>	31547
<u>(A) Collaborate and consult with state agencies that serve</u>	31548
<u>persons with autism and low incidence disabilities;</u>	31549
<u>(B) Collaborate and consult with institutions of higher</u>	31550
<u>education in development and implementation of courses for</u>	31551
<u>educators and other professionals serving persons with autism and</u>	31552
<u>low incidence disabilities;</u>	31553
<u>(C) Collaborate with parent and professional organizations;</u>	31554
<u>(D) Create and implement programs for professional</u>	31555
<u>development, technical assistance, intervention services, and</u>	31556
<u>research in the treatment of persons with autism and low incidence</u>	31557
<u>disabilities;</u>	31558
<u>(E) Create a regional network for communication and</u>	31559
<u>dissemination of information among educators and professionals</u>	31560
<u>serving persons with autism and low incidence disabilities. The</u>	31561
<u>regional network shall address educational services, evaluation,</u>	31562
<u>diagnosis, assistive technology, family support, leisure and</u>	31563
<u>recreational activities, transition, employment and adult</u>	31564
<u>services, and medical care for persons with autism and low</u>	31565
<u>incidence disabilities.</u>	31566
<u>(F) Develop a statewide clearinghouse for information about</u>	31567
<u>autism spectrum disorders and low incidence disabilities, as</u>	31568
<u>described in section 3323.33 of the Revised Code.</u>	31569
<u>Sec. 3323.33. In developing a clearinghouse for information</u>	31570
<u>about autism spectrum disorders and low incidence disabilities, as</u>	31571

required under section 3323.32 of the Revised Code, the Ohio 31572  
center for autism and low incidence shall do all of the following: 31573

(A) Maintain a collection of resources for public 31574  
distribution; 31575

(B) Monitor information on resources, trends, policies, 31576  
services, and current educational interventions; 31577

(C) Respond to requests for information from parents and 31578  
educators of children with autism and low incidence disabilities. 31579

Sec. 3325.10. The state school for the blind may receive and 31580  
administer any federal funds relating to the education of blind or 31581  
visually impaired students. The school for the blind also may 31582  
accept and administer any gifts, donations, or bequests made to it 31583  
for programs or services relating to the education of blind or 31584  
visually impaired students. 31585

Sec. 3325.11. There is hereby created in the state treasury 31586  
the state school for the blind student activity and work-study 31587  
fund. Moneys received from donations, bequests, the school 31588  
vocational program, and any other moneys designated for deposit in 31589  
the fund by the superintendent of the state school for the blind 31590  
shall be credited to the fund. Notwithstanding section 3325.01 of 31591  
the Revised Code, the approval of the state board of education is 31592  
not required to designate money for deposit into the fund. The 31593  
school for the blind shall use money in the fund for school 31594  
operating expenses, including, but not limited to, personal 31595  
services, maintenance, and equipment related to student support, 31596  
activities, and vocational programs, and for providing 31597  
scholarships to students for further training upon graduation. 31598

Sec. 3325.12. There is hereby created the state school for 31599

the blind student account fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all moneys received from the parents or guardians of students attending the state school for the blind that are designated for use by the respective students in activities of their choice. The treasurer of state may invest any portion of the fund not needed for immediate use in the same manner as, and subject to laws regarding the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the superintendent of the state school for the blind or the superintendent's designee. All investment earnings of the fund shall be credited to the fund and allocated among the student accounts in proportion to the amount invested from each student's account.

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Sec. 3325.15. The state school for the deaf may receive and administer any federal funds relating to the education of deaf or hearing-impaired students. The school for the deaf also may accept and administer any gifts, donations, or bequests given to it for programs or services relating to the education of deaf or hearing-impaired students.

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Sec. 3325.16. There is hereby created in the state treasury the state school for the deaf educational program expenses fund. Moneys received by the school from donations, bequests, student fundraising activities, fees charged for camps and workshops, gate receipts from athletic contests, and the student work experience program operated by the school, and any other moneys designated for deposit in the fund by the superintendent of the school, shall be credited to the fund. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The state

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school for the deaf shall use moneys in the fund for educational 31630  
programs, after-school activities, and expenses associated with 31631  
student activities and clubs. 31632

Sec. 3325.17. There is hereby created the state school for 31633  
the deaf student account fund, which shall be in the custody of 31634  
the treasurer of state but shall not be part of the state 31635  
treasury. The fund shall consist of all moneys received from the 31636  
parents or guardians of students attending the state school for 31637  
the deaf that are designated for use by the respective students in 31638  
activities of their choice. The treasurer of state may invest any 31639  
portion of the fund not needed for immediate use in the same 31640  
manner as, and subject to laws regarding the investment of, state 31641  
funds. The treasurer of state shall disburse money from the fund 31642  
on order of the superintendent of the state school for the deaf or 31643  
the superintendent's designee. All investment earnings of the fund 31644  
shall be credited to the fund and allocated among the student 31645  
accounts in proportion to the amount invested from each student's 31646  
account. 31647

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 31648  
and division (D) of section 3311.52 of the Revised Code, this 31649  
section and sections 3327.011, 3327.012, and 3327.02 of the 31650  
Revised Code do not apply to any joint vocational or cooperative 31651  
education school district. 31652

In all city, local, and exempted village school districts 31653  
where resident school pupils in grades kindergarten through eight 31654  
live more than two miles from the school for which the state board 31655  
of education prescribes minimum standards pursuant to division (D) 31656  
of section 3301.07 of the Revised Code and to which they are 31657  
assigned by the board of education of the district of residence or 31658  
to and from the nonpublic or community school which they attend 31659

the board of education shall provide transportation for such 31660  
pupils to and from such school except as provided in section 31661  
3327.02 of the Revised Code. 31662

In all city, local, and exempted village school districts 31663  
where pupil transportation is required under a career-technical 31664  
plan approved by the state board of education under section 31665  
3313.90 of the Revised Code, for any student attending a 31666  
career-technical program operated by another school district, 31667  
including a joint vocational school district, as prescribed under 31668  
that section, the board of education of the student's district of 31669  
residence shall provide transportation from the public high school 31670  
operated by that district to which the student is assigned to the 31671  
career-technical program. 31672

In all city, local, and exempted village school districts the 31673  
board may provide transportation for resident school pupils in 31674  
grades nine through twelve to and from the high school to which 31675  
they are assigned by the board of education of the district of 31676  
residence or to and from the nonpublic or community high school 31677  
which they attend for which the state board of education 31678  
prescribes minimum standards pursuant to division (D) of section 31679  
3301.07 of the Revised Code. 31680

A board of education shall not be required to transport 31681  
elementary or high school pupils to and from a nonpublic or 31682  
community school where such transportation would require more than 31683  
thirty minutes of direct travel time as measured by school bus 31684  
from the public school building to which the pupils would be 31685  
assigned if attending the public school designated by the district 31686  
of residence. 31687

Where it is impractical to transport a pupil by school 31688  
conveyance, a board of education may offer payment, in lieu of 31689  
providing such transportation in accordance with section 3327.02 31690

of the Revised Code. 31691

In all city, local, and exempted village school districts the 31692  
board shall provide transportation for all children who are so 31693  
crippled that they are unable to walk to and from the school for 31694  
which the state board of education prescribes minimum standards 31695  
pursuant to division (D) of section 3301.07 of the Revised Code 31696  
and which they attend. In case of dispute whether the child is 31697  
able to walk to and from the school, the health commissioner shall 31698  
be the judge of such ability. In all city, exempted village, and 31699  
local school districts the board shall provide transportation to 31700  
and from school or special education classes for educable mentally 31701  
retarded children in accordance with standards adopted by the 31702  
state board of education. 31703

When transportation of pupils is provided the conveyance 31704  
shall be run on a time schedule that shall be adopted and put in 31705  
force by the board not later than ten days after the beginning of 31706  
the school term. 31707

The cost of any transportation service authorized by this 31708  
section shall be paid first out of federal funds, if any, 31709  
available for the purpose of pupil transportation, and secondly 31710  
out of state appropriations, in accordance with regulations 31711  
adopted by the state board of education. 31712

No transportation of any pupils shall be provided by any 31713  
board of education to or from any school which in the selection of 31714  
pupils, faculty members, or employees, practices discrimination 31715  
against any person on the grounds of race, color, religion, or 31716  
national origin. 31717

**Sec. 3332.092.** Any school subject to this chapter receiving 31718  
money under section 3333.12 or 3333.122 of the Revised Code on 31719  
behalf of a student who is determined by the state board of career 31720

colleges and schools to be ineligible under such section because 31721  
the program in which the student is enrolled does not lead to an 31722  
associate or baccalaureate degree, shall be liable to the state 31723  
for the amount specified in section 3333.12 or 3333.122 of the 31724  
Revised Code. The state board of career colleges and schools shall 31725  
suspend the certificate of registration of a school receiving 31726  
money under section 3333.12 or 3333.122 of the Revised Code for 31727  
such ineligible student until such time as the money is repaid to 31728  
the Ohio board of regents. 31729

**Sec. 3333.04.** The Ohio board of regents shall: 31730

(A) Make studies of state policy in the field of higher 31731  
education and formulate a master plan for higher education for the 31732  
state, considering the needs of the people, the needs of the 31733  
state, and the role of individual public and private institutions 31734  
within the state in fulfilling these needs; 31735

(B)(1) Report annually to the governor and the general 31736  
assembly on the findings from its studies and the master plan for 31737  
higher education for the state; 31738

(2) Report at least semiannually to the general assembly and 31739  
the governor the enrollment numbers at each state-assisted 31740  
institution of higher education. 31741

(C) Approve or disapprove the establishment of new branches 31742  
or academic centers of state colleges and universities; 31743

(D) Approve or disapprove the establishment of state 31744  
technical colleges or any other state institution of higher 31745  
education; 31746

(E) Recommend the nature of the programs, undergraduate, 31747  
graduate, professional, state-financed research, and public 31748  
services which should be offered by the state colleges, 31749  
universities, and other state-assisted institutions of higher 31750



education in order to utilize to the best advantage their 31751  
facilities and personnel; 31752

(F) Recommend to the state colleges, universities, and other 31753  
state-assisted institutions of higher education graduate or 31754  
professional programs, including, but not limited to, doctor of 31755  
philosophy, doctor of education, and juris doctor programs, that 31756  
could be eliminated because they constitute unnecessary 31757  
duplication, as shall be determined using the process developed 31758  
pursuant to this section, or for other good and sufficient cause. 31759  
For purposes of determining the amounts of any state instructional 31760  
subsidies paid to these colleges, universities, and institutions, 31761  
the board may exclude students enrolled in any program that the 31762  
board has recommended for elimination pursuant to this division 31763  
except that the board shall not exclude any such student who 31764  
enrolled in the program prior to the date on which the board 31765  
initially commences to exclude students under this division. The 31766  
board of regents and these colleges, universities, and 31767  
institutions shall jointly develop a process for determining which 31768  
existing graduate or professional programs constitute unnecessary 31769  
duplication. 31770

(G) Recommend to the state colleges, universities, and other 31771  
state-assisted institutions of higher education programs which 31772  
should be added to their present programs; 31773

(H) Conduct studies for the state colleges, universities, and 31774  
other state-assisted institutions of higher education to assist 31775  
them in making the best and most efficient use of their existing 31776  
facilities and personnel; 31777

(I) Make recommendations to the governor and general assembly 31778  
concerning the development of state-financed capital plans for 31779  
higher education; the establishment of new state colleges, 31780  
universities, and other state-assisted institutions of higher 31781

education; and the establishment of new programs at the existing 31782  
state colleges, universities, and other institutions of higher 31783  
education; 31784

(J) Review the appropriation requests of the public community 31785  
colleges and the state colleges and universities and submit to the 31786  
office of budget and management and to the chairpersons of the 31787  
finance committees of the house of representatives and of the 31788  
senate its recommendations in regard to the biennial higher 31789  
education appropriation for the state, including appropriations 31790  
for the individual state colleges and universities and public 31791  
community colleges. For the purpose of determining the amounts of 31792  
instructional subsidies to be paid to state-assisted colleges and 31793  
universities, the board shall define "full-time equivalent 31794  
student" by program per academic year. The definition may take 31795  
into account the establishment of minimum enrollment levels in 31796  
technical education programs below which support allowances will 31797  
not be paid. Except as otherwise provided in this section, the 31798  
board shall make no change in the definition of "full-time 31799  
equivalent student" in effect on November 15, 1981, which would 31800  
increase or decrease the number of subsidy-eligible full-time 31801  
equivalent students, without first submitting a fiscal impact 31802  
statement to the president of the senate, the speaker of the house 31803  
of representatives, ~~the legislative budget office of the~~ 31804  
legislative service commission, and the director of budget and 31805  
management. The board shall work in close cooperation with the 31806  
director of budget and management in this respect and in all other 31807  
matters concerning the expenditures of appropriated funds by state 31808  
colleges, universities, and other institutions of higher 31809  
education. 31810

(K) Seek the cooperation and advice of the officers and 31811  
trustees of both public and private colleges, universities, and 31812  
other institutions of higher education in the state in performing 31813

its duties and making its plans, studies, and recommendations;	31814
(L) Appoint advisory committees consisting of persons	31815
associated with public or private secondary schools, members of	31816
the state board of education, or personnel of the state department	31817
of education;	31818
(M) Appoint advisory committees consisting of college and	31819
university personnel, or other persons knowledgeable in the field	31820
of higher education, or both, in order to obtain their advice and	31821
assistance in defining and suggesting solutions for the problems	31822
and needs of higher education in this state;	31823
(N) Approve or disapprove all new degrees and new degree	31824
programs at all state colleges, universities, and other	31825
state-assisted institutions of higher education;	31826
(O) Adopt such rules as are necessary to carry out its duties	31827
and responsibilities;	31828
(P) Establish and submit to the governor and the general	31829
assembly a clear and measurable set of goals and timetables for	31830
their achievement for each program under the supervision of the	31831
board that is designed to accomplish any of the following:	31832
(1) Increased access to higher education;	31833
(2) Job training;	31834
(3) Adult literacy;	31835
(4) Research;	31836
(5) Excellence in higher education;	31837
(6) Reduction in the number of graduate programs within the	31838
same subject area.	31839
In July of each odd-numbered year, the board of regents shall	31840
submit to the governor and the general assembly a report on	31841
progress made toward these goals.	31842

(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.27, and 5910.02 of the Revised Code;

(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the board by those sections;

(T) Administer contracts under sections 3702.74 and 3702.75 of the Revised Code in accordance with rules adopted by the director of health under section 3702.79 of the Revised Code;

(U) Conduct enrollment audits of state-supported institutions of higher education;

(V) Appoint consortiums of college and university personnel to participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the board shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated to the board for consortiums shall be distributed to the fiscal agents for the operation of the consortiums. A consortium shall follow the rules of the college or university that serves as its fiscal agent.

**Sec. 3333.044.** (A) The Ohio board of regents may contract

with any consultants that are necessary for the discharge of the board's duties under this chapter. 31873  
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(B) The Ohio board of regents may purchase, upon the terms that the board determines to be advisable, one or more policies of insurance from insurers authorized to do business in this state that insure consultants who have contracted with the board under division (A) of this section or members of an advisory committee appointed under section 3333.04 of the Revised Code, with respect to the activities of the consultants or advisory committee members in the course of the performance of their responsibilities as consultants or advisory committee members. 31875  
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(C) Subject to the approval of the controlling board, the Ohio board of regents may contract with any entities for the discharge of the board's duties and responsibilities under any of the programs established pursuant to sections 3333.12, 3333.122, 3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 5910. of the Revised Code. The board shall not enter into a contract under this division unless the proposed contractor demonstrates that its primary purpose is to promote access to higher education by providing student financial assistance through loans, grants, or scholarships, and by providing high quality support services and information to students and their families with regard to such financial assistance. 31884  
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Chapter 125. of the Revised Code does not apply to contracts entered into pursuant to this section. In awarding contracts under this division, the board shall consider factors such as the cost of the administration of the contract, the experience of the contractor, and the contractor's ability to properly execute the contract. 31896  
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Sec. 3333.047. With regard to any state student financial aid program established in this chapter, Chapter 5910., or section 31902  
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5919.34 of the Revised Code, the Ohio board of regents shall 31904  
conduct audits to: 31905

(A) Determine the validity of information provided by 31906  
students and parents regarding eligibility for state student 31907  
financial aid. If the board determines that eligibility data has 31908  
been reported incorrectly or inaccurately, and where the board 31909  
determines an adjustment to be appropriate, the institution of 31910  
higher education shall adjust the financial aid awarded to the 31911  
student. 31912

(B) Ensure that institutions of higher education are in 31913  
compliance with the board's rules governing state student 31914  
financial aid programs. An institution that fails to comply with 31915  
the board's rules in the administration of any state student 31916  
financial aid program shall be fully liable to reimburse the board 31917  
for the unauthorized use of student financial aid funds. 31918

**Sec. 3333.12.** (A) As used in this section: 31919

(1) "Eligible student" means an undergraduate student who is: 31920

(a) An Ohio resident enrolled in an undergraduate program 31921  
before the 2006-2007 academic year; 31922

(b) Enrolled in either of the following: 31923

(i) An accredited institution of higher education in this 31924  
state that meets the requirements of Title VI of the Civil Rights 31925  
Act of 1964 and is state-assisted, is nonprofit and has a 31926  
certificate of authorization from the Ohio board of regents 31927  
pursuant to Chapter 1713. of the Revised Code, has a certificate 31928  
of registration from the state board of career colleges and 31929  
schools and program authorization to award an associate or 31930  
bachelor's degree, or is a private institution exempt from 31931  
regulation under Chapter 3332. of the Revised Code as prescribed 31932

in section 3333.046 of the Revised Code. Students who attend an  
institution that holds a certificate of registration shall be  
enrolled in a program leading to an associate or bachelor's degree  
for which associate or bachelor's degree program the institution  
has program authorization issued under section 3332.05 of the  
Revised Code.

(ii) A technical education program of at least two years  
duration sponsored by a private institution of higher education in  
this state that meets the requirements of Title VI of the Civil  
Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less  
than full-time student for the term expected to be the student's  
final term of enrollment and is enrolled for the number of credit  
hours necessary to complete the requirements of the program in  
which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income  
of the parents, the student, and the student's spouse, except  
income derived from an Ohio academic scholarship, income earned by  
the student between the last day of the spring term and the first  
day of the fall term, and other income exclusions designated by  
the board. Gross income may be verified to the board by the  
institution in which the student is enrolled using the federal  
financial aid eligibility verification process or by other means  
satisfactory to the board.

(3) "Resident," "full-time student," "dependent,"  
"financially independent," and "accredited" shall be defined by  
rules adopted by the board.

(B) The Ohio board of regents shall establish and administer  
an instructional grant program and may adopt rules to carry out  
this section. The general assembly shall support the instructional  
grant program by such sums and in such manner as it may provide,

but the board may also receive funds from other sources to support 31964  
the program. If the amounts available for support of the program 31965  
are inadequate to provide grants to all eligible students, 31966  
preference in the payment of grants shall be given in terms of 31967  
income, beginning with the lowest income category of gross income 31968  
and proceeding upward by category to the highest gross income 31969  
category. 31970

An instructional grant shall be paid to an eligible student 31971  
through the institution in which the student is enrolled, except 31972  
that no instructional grant shall be paid to any person serving a 31973  
term of imprisonment. Applications for such grants shall be made 31974  
as prescribed by the board, and such applications may be made in 31975  
conjunction with and upon the basis of information provided in 31976  
conjunction with student assistance programs funded by agencies of 31977  
the United States government or from financial resources of the 31978  
institution of higher education. The institution shall certify 31979  
that the student applicant meets the requirements set forth in 31980  
divisions (A)(1)(b) and (c) of this section. Instructional grants 31981  
shall be provided to an eligible student only as long as the 31982  
student is making appropriate progress toward a nursing diploma or 31983  
an associate or bachelor's degree. No student shall be eligible to 31984  
receive a grant for more than ten semesters, fifteen quarters, or 31985  
the equivalent of five academic years. A grant made to an eligible 31986  
student on the basis of less than full-time enrollment shall be 31987  
based on the number of credit hours for which the student is 31988  
enrolled and shall be computed in accordance with a formula 31989  
adopted by the board. No student shall receive more than one grant 31990  
on the basis of less than full-time enrollment. 31991

An instructional grant shall not exceed the total 31992  
instructional and general charges of the institution. 31993

(C) The tables in this division prescribe the maximum grant 31994  
amounts covering two semesters, three quarters, or a comparable 31995



portion of one academic year. Grant amounts for additional terms 31996  
in the same academic year shall be determined under division (D) 31997  
of this section. 31998

For a full-time student who is a dependent and enrolled in a 31999  
nonprofit educational institution that is not a state-assisted 32000  
institution and that has a certificate of authorization issued 32001  
pursuant to Chapter 1713. of the Revised Code, the amount of the 32002  
instructional grant for two semesters, three quarters, or a 32003  
comparable portion of the academic year shall be determined in 32004  
accordance with the following table: 32005

Private Institution 32006

Table of Grants 32007

Maximum Grant \$5,466 32008

Gross Income Number of Dependents 32009

	1	2	3	4	5 or more	
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	32010
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	32011
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	32012
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	32013
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	32014
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	32015
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	32016
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	32017
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	32018
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	32019
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	32020
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	32021
\$34,001 - \$35,000	444	888	984	1,080	1,344	32022
\$35,001 - \$36,000	--	444	888	984	1,080	32023
\$36,001 - \$37,000	--	--	444	888	984	32024
\$37,001 - \$38,000	--	--	--	444	888	32025
						32026

\$38,001 - \$39,000                    --                    --                    --                    --                    444                    32027

For a full-time student who is financially independent and                    32028  
 enrolled in a nonprofit educational institution that is not a                    32029  
 state-assisted institution and that has a certificate of                    32030  
 authorization issued pursuant to Chapter 1713. of the Revised                    32031  
 Code, the amount of the instructional grant for two semesters,                    32032  
 three quarters, or a comparable portion of the academic year shall                    32033  
 be determined in accordance with the following table:                    32034

Private Institution                    32035

Table of Grants                    32036

Maximum Grant \$5,466                    32037

Gross Income                    Number of Dependents                    32038

	0	1	2	3	4	5 or	32039
						more	

\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	32040
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	32041
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	32042
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	32043
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	32044
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	32045
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	32046
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	32047
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	32048
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	32049
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	32050
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	32051
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	32052
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	32053
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	32054
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	32055
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	32056
\$30,301 - \$35,300	--	492	540	672	816	1,314	32057

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution							32066
Table of Grants							32067
Maximum Grant \$4,632							32068
Gross Income	Number of Dependents						32069
	1	2	3	4	5 or more		32070
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632		32071
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632		32072
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632		32073
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632		32074
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632		32075
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182		32076
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684		32077
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222		32078
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790		32079
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292		32080
\$32,001 - \$33,000	852	906	1,134	1,416	1,854		32081
\$33,001 - \$34,000	750	852	906	1,134	1,416		32082
\$34,001 - \$35,000	372	750	852	906	1,134		32083
\$35,001 - \$36,000	--	372	750	852	906		32084
\$36,001 - \$37,000	--	--	372	750	852		32085
\$37,001 - \$38,000	--	--	--	372	750		32086
\$38,001 - \$39,000	--	--	--	--	372		32087

For a full-time student who is financially independent and 32088

enrolled in an educational institution that holds a certificate of 32089  
 registration from the state board of career colleges and schools 32090  
 or a private institution exempt from regulation under Chapter 32091  
 3332. of the Revised Code as prescribed in section 3333.046 of the 32092  
 Revised Code, the amount of the instructional grant for two 32093  
 semesters, three quarters, or a comparable portion of the academic 32094  
 year shall be determined in accordance with the following table: 32095

Career Institution 32096

Table of Grants 32097

Maximum Grant \$4,632 32098

Gross Income Number of Dependents 32099

	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	32100
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	32101
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632	32102
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632	32103
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632	32104
\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632	32105
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410	32106
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158	32107
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930	32108
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714	32109
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462	32110
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246	32111
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024	32112
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886	32113
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544	32114
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268	32115
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986	32116
\$30,301 - \$35,300	--	426	456	570	708	1,116	32117

For a full-time student who is a dependent and enrolled in a 32118

state-assisted educational institution, the amount of the 32120  
 instructional grant for two semesters, three quarters, or a 32121  
 comparable portion of the academic year shall be determined in 32122  
 accordance with the following table: 32123

Public Institution 32124

Table of Grants 32125

Maximum Grant \$2,190 32126

Gross Income Number of Dependents 32127

	1	2	3	4	5 or more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	32128
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	32129
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	32130
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	32131
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	32132
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	32133
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	32134
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	32135
\$28,001 - \$31,000	522	648	864	1,080	1,320	32136
\$31,001 - \$32,000	420	522	648	864	1,080	32137
\$32,001 - \$33,000	384	420	522	648	864	32138
\$33,001 - \$34,000	354	384	420	522	648	32139
\$34,001 - \$35,000	174	354	384	420	522	32140
\$35,001 - \$36,000	--	174	354	384	420	32141
\$36,001 - \$37,000	--	--	174	354	384	32142
\$37,001 - \$38,000	--	--	--	174	354	32143
\$38,001 - \$39,000	--	--	--	--	174	32144

For a full-time student who is financially independent and 32145  
 enrolled in a state-assisted educational institution, the amount 32146  
 of the instructional grant for two semesters, three quarters, or a 32147  
 comparable portion of the academic year shall be determined in 32148  
 accordance with the following table: 32149  
 32150

	Public Institution						32151
	Table of Grants						32152
	Maximum Grant \$2,190						32153
Gross Income	Number of Dependents						32154
	0	1	2	3	4	5 or more	32155
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	32156
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	32157
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190	32158
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190	32159
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190	32160
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190	32161
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082	32162
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968	32163
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866	32164
\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758	32165
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638	32166
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530	32167
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422	32168
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356	32169
\$19,301 - \$22,300	--	540	750	948	1,062	1,200	32170
\$22,301 - \$25,300	--	432	540	750	948	1,062	32171
\$25,301 - \$30,300	--	324	432	540	750	948	32172
\$30,301 - \$35,300	--	192	210	264	324	522	32173

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section

shall not affect that student's eligibility to receive a grant 32214  
when enrolled in another institution. 32215

(G) Institutions of higher education that enroll students 32216  
receiving instructional grants under this section shall report to 32217  
the board all students who have received instructional grants but 32218  
are no longer eligible for all or part of such grants and shall 32219  
refund any moneys due the state within thirty days after the 32220  
beginning of the quarter or term immediately following the quarter 32221  
or term in which the student was no longer eligible to receive all 32222  
or part of the student's grant. There shall be an interest charge 32223  
of one per cent per month on all moneys due and payable after such 32224  
thirty-day period. The board shall immediately notify the office 32225  
of budget and management and the legislative service commission of 32226  
all refunds so received. 32227

**Sec. 3333.121.** There is hereby established in the state 32228  
treasury the ~~instructional grant~~ state need-based financial aid 32229  
reconciliation fund, which shall consist of refunds of 32230  
instructional grant payments made pursuant to section 3333.12 of 32231  
the Revised Code and refunds of state need-based financial aid 32232  
payments made pursuant to section 3333.122 of the Revised Code. 32233  
Revenues credited to the fund shall be used by the Ohio board of 32234  
regents to pay to higher education institutions any outstanding 32235  
obligations from the prior year owed for the Ohio instructional 32236  
grant program and the Ohio college opportunity grant program that 32237  
are identified through the annual reconciliation and financial 32238  
audit. Any amount in the fund that is in excess of the amount 32239  
certified to the director of budget and management by the board of 32240  
regents as necessary to reconcile prior year payments under the 32241  
program shall be transferred to the general revenue fund. 32242

**Sec. 3333.122.** (A) As used in this section: 32243



<u>(1) "Eligible student" means a student who is:</u>	32244
<u>(a) An Ohio resident who first enrolls in an undergraduate program in the 2006-2007 academic year or thereafter;</u>	32245
<u>(b) Enrolled in either of the following:</u>	32247
<u>(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.</u>	32248
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<u>(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.</u>	32263
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	32266
<u>(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded from eligibility for a need based grant under this section.</u>	32267
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<u>(3) "Resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time</u>	32273
	32274

student," "one-quarter-time student," and "accredited" shall be 32275  
defined by rules adopted by the board. 32276

(B) The Ohio board of regents shall establish and administer 32277  
a needs-based financial aid program based on the United States 32278  
department of education's method of determining financial need and 32279  
may adopt rules to carry out this section. The program shall be 32280  
known as the Ohio college opportunity grant program. The general 32281  
assembly shall support the needs-based financial aid program by 32282  
such sums and in such manner as it may provide, but the board may 32283  
also receive funds from other sources to support the program. If 32284  
the amounts available for support of the program are inadequate to 32285  
provide grants to all eligible students, preference in the payment 32286  
of grants shall be given in terms of expected family contribution, 32287  
beginning with the lowest expected family contribution category 32288  
and proceeding upward by category to the highest expected family 32289  
contribution category. 32290

A needs-based financial aid grant shall be paid to an 32291  
eligible student through the institution in which the student is 32292  
enrolled, except that no needs-based financial aid grant shall be 32293  
paid to any person serving a term of imprisonment. Applications 32294  
for such grants shall be made as prescribed by the board, and such 32295  
applications may be made in conjunction with and upon the basis of 32296  
information provided in conjunction with student assistance 32297  
programs funded by agencies of the United States government or 32298  
from financial resources of the institution of higher education. 32299  
The institution shall certify that the student applicant meets the 32300  
requirements set forth in divisions (A)(1)(a) and (b) of this 32301  
section. Needs-based financial aid grants shall be provided to an 32302  
eligible student only as long as the student is making appropriate 32303  
progress toward a nursing diploma or an associate or bachelor's 32304  
degree. No student shall be eligible to receive a grant for more 32305  
than ten semesters, fifteen quarters, or the equivalent of five 32306

academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment. 32307  
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A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution. 32313  
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(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section. 32315  
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As used in the tables in division (C) of this section: 32320

(1) "Private institution" means an institution that is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code. 32321  
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(2) "Career college" means either an institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. 32324  
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32326  
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Full-time students shall be eligible to receive awards according to the following table: 32329  
32330

Full-Time Enrollment 32331

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	32332
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	

		<u>award</u> <u>shall be:</u>	<u>award</u> <u>shall be:</u>	<u>award</u> <u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$300</u>	<u>\$600</u>	<u>\$480</u>	32333
<u>2,001</u>	<u>2,100</u>	<u>402</u>	<u>798</u>	<u>642</u>	32334
<u>1,901</u>	<u>2,000</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	32335
<u>1,801</u>	<u>1,900</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	32336
<u>1,701</u>	<u>1,800</u>	<u>702</u>	<u>1,398</u>	<u>1,122</u>	32337
<u>1,601</u>	<u>1,700</u>	<u>798</u>	<u>1,602</u>	<u>1,278</u>	32338
<u>1,501</u>	<u>1,600</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	32339
<u>1,401</u>	<u>1,500</u>	<u>1,002</u>	<u>1,998</u>	<u>1,602</u>	32340
<u>1,301</u>	<u>1,400</u>	<u>1,098</u>	<u>2,202</u>	<u>1,758</u>	32341
<u>1,201</u>	<u>1,300</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	32342
<u>1,101</u>	<u>1,200</u>	<u>1,302</u>	<u>2,598</u>	<u>2,082</u>	32343
<u>1,001</u>	<u>1,100</u>	<u>1,398</u>	<u>2,802</u>	<u>2,238</u>	32344
<u>901</u>	<u>1,000</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	32345
<u>801</u>	<u>900</u>	<u>1,602</u>	<u>3,198</u>	<u>2,562</u>	32346
<u>701</u>	<u>800</u>	<u>1,698</u>	<u>3,402</u>	<u>2,718</u>	32347
<u>601</u>	<u>700</u>	<u>1,800</u>	<u>3,600</u>	<u>2,280</u>	32348
<u>501</u>	<u>600</u>	<u>1,902</u>	<u>3,798</u>	<u>3,042</u>	32349
<u>401</u>	<u>500</u>	<u>1,998</u>	<u>4,002</u>	<u>3,198</u>	32350
<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>	32351
<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>	32352
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>	32353
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>	32354
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>	32355

Three-quarters-time students shall be eligible to receive awards according to the following table: 32356  
32357

Three-Quarters-Time Enrollment 32358

<u>If the EFC</u>	<u>And the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	32359
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	

		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
		<u>award</u>	<u>award</u>	<u>award</u>	
		<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$228</u>	<u>\$450</u>	<u>\$360</u>	32360
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>	32361
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>	32362
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>	32363
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	32364
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	32365
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>	32366
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	32367
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>	32368
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	32369
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>	32370
<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	32371
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>	32372
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	32373
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>	32374
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>	32375
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>	32376
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	32377
<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>	32378
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>	32379
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>	32380
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>	32381
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>	32382
<u>Half-time students shall be eligible to receive awards</u>					32383
<u>according to the following table:</u>					32384
<u>Half-Time Enrollment</u>					32385
<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	32386
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	

<u>than:</u>	<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
	<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
	<u>award</u>	<u>award</u>	<u>award</u>	
	<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$150</u>	<u>\$300</u>	<u>\$240</u> 32387
<u>2,001</u>	<u>2,100</u>	<u>204</u>	<u>402</u>	<u>324</u> 32388
<u>1,901</u>	<u>2,000</u>	<u>252</u>	<u>504</u>	<u>402</u> 32389
<u>1,801</u>	<u>1,900</u>	<u>300</u>	<u>600</u>	<u>480</u> 32390
<u>1,701</u>	<u>1,800</u>	<u>354</u>	<u>702</u>	<u>564</u> 32391
<u>1,601</u>	<u>1,700</u>	<u>402</u>	<u>804</u>	<u>642</u> 32392
<u>1,501</u>	<u>1,600</u>	<u>450</u>	<u>900</u>	<u>720</u> 32393
<u>1,401</u>	<u>1,500</u>	<u>504</u>	<u>1,002</u>	<u>804</u> 32394
<u>1,301</u>	<u>1,400</u>	<u>552</u>	<u>1,104</u>	<u>882</u> 32395
<u>1,201</u>	<u>1,300</u>	<u>600</u>	<u>1,200</u>	<u>960</u> 32396
<u>1,101</u>	<u>1,200</u>	<u>654</u>	<u>1,302</u>	<u>1,044</u> 32397
<u>1,001</u>	<u>1,100</u>	<u>702</u>	<u>1,404</u>	<u>1,122</u> 32398
<u>901</u>	<u>1,000</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u> 32399
<u>801</u>	<u>900</u>	<u>804</u>	<u>1,602</u>	<u>1,284</u> 32400
<u>701</u>	<u>800</u>	<u>852</u>	<u>1,704</u>	<u>1,362</u> 32401
<u>601</u>	<u>700</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u> 32402
<u>501</u>	<u>600</u>	<u>954</u>	<u>1,902</u>	<u>1,524</u> 32403
<u>401</u>	<u>500</u>	<u>1,002</u>	<u>2,004</u>	<u>1,602</u> 32404
<u>301</u>	<u>400</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u> 32405
<u>201</u>	<u>300</u>	<u>1,104</u>	<u>2,202</u>	<u>1,764</u> 32406
<u>101</u>	<u>200</u>	<u>1,152</u>	<u>2,304</u>	<u>1,842</u> 32407
<u>1</u>	<u>100</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u> 32408
<u>0</u>	<u>0</u>	<u>1,248</u>	<u>2,496</u>	<u>1,998</u> 32409

One-quarter-time students shall be eligible to receive awards 32410  
according to the following table: 32411

One-Quarter-Time Enrollment 32412

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
					32413

<u>greater</u> <u>than:</u>	<u>public</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>private</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>career</u> <u>college,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$78</u>	<u>\$150</u>	<u>\$120</u> 32414
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u> 32415
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u> 32416
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u> 32417
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u> 32418
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u> 32419
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u> 32420
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u> 32421
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u> 32422
<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u> 32423
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u> 32424
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u> 32425
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u> 32426
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u> 32427
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u> 32428
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u> 32429
<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u> 32430
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u> 32431
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u> 32432
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u> 32433
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u> 32434
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u> 32435
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u> 32436

(D) For a full-time student enrolled in an eligible 32437  
institution for a semester or quarter in addition to the portion 32438  
of the academic year covered by a grant determined under division 32439  
(C) of this section, the maximum grant amount shall be a 32440  
percentage of the maximum prescribed in the applicable table of 32441

that division. The maximum grant for a fourth quarter shall be 32442  
one-third of the maximum amount prescribed under that division. 32443  
The maximum grant for a third semester shall be one-half of the 32444  
maximum amount prescribed under that division. 32445

(E) No grant shall be made to any student in a course of 32446  
study in theology, religion, or other field of preparation for a 32447  
religious profession unless such course of study leads to an 32448  
accredited bachelor of arts, bachelor of science, associate of 32449  
arts, or associate of science degree. 32450

(F)(1) Except as provided in division (F)(2) of this section, 32451  
no grant shall be made to any student for enrollment during a 32452  
fiscal year in an institution with a cohort default rate 32453  
determined by the United States secretary of education pursuant to 32454  
the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 32455  
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 32456  
preceding the fiscal year, equal to or greater than thirty per 32457  
cent for each of the preceding two fiscal years. 32458

(2) Division (F)(1) of this section does not apply to the 32459  
following: 32460

(a) Any student enrolled in an institution that under the 32461  
federal law appeals its loss of eligibility for federal financial 32462  
aid and the United States secretary of education determines its 32463  
cohort default rate after recalculation is lower than the rate 32464  
specified in division (F)(1) of this section or the secretary 32465  
determines due to mitigating circumstances the institution may 32466  
continue to participate in federal financial aid programs. The 32467  
board shall adopt rules requiring institutions to provide 32468  
information regarding an appeal to the board. 32469

(b) Any student who has previously received a grant under 32470  
this section who meets all other requirements of this section. 32471

(3) The board shall adopt rules for the notification of all 32472



institutions whose students will be ineligible to participate in 32473  
the grant program pursuant to division (F)(1) of this section. 32474

(4) A student's attendance at an institution whose students 32475  
lose eligibility for grants under division (F)(1) of this section 32476  
shall not affect that student's eligibility to receive a grant 32477  
when enrolled in another institution. 32478

(G) Institutions of higher education that enroll students 32479  
receiving needs-based financial aid grants under this section 32480  
shall report to the board all students who have received 32481  
needs-based financial aid grants but are no longer eligible for 32482  
all or part of such grants and shall refund any moneys due the 32483  
state within thirty days after the beginning of the quarter or 32484  
term immediately following the quarter or term in which the 32485  
student was no longer eligible to receive all or part of the 32486  
student's grant. There shall be an interest charge of one per cent 32487  
per month on all moneys due and payable after such thirty-day 32488  
period. The board shall immediately notify the office of budget 32489  
and management and the legislative service commission of all 32490  
refunds so received. 32491

**Sec. 3333.123.** (A) As used in this section: 32492

(1) "The Ohio college opportunity grant program" means the 32493  
program established under section 3333.122 of the Revised Code. 32494

(2) "Rules for the Ohio college opportunity grant program" 32495  
means the rules authorized in division (S) of section 3333.04 of 32496  
the Revised Code for the implementation of the program. 32497

(B) In adopting rules for the Ohio college opportunity grant 32498  
program, the Ohio board of regents shall include provisions that 32499  
give preferential or priority funding to low-income students who 32500  
in their primary and secondary school work participate in or 32501  
complete rigorous academic coursework, attain passing scores on 32502

the tests prescribed in section 3301.0710 of the Revised Code, or 32503  
meet other high academic performance standards determined by the 32504  
board to reduce the need for remediation and ensure academic 32505  
success at the postsecondary education level. The rules shall 32506  
include a specification of procedures needed to certify student 32507  
achievement of primary and secondary standards as well as the 32508  
timeline for implementation of the provisions required under this 32509  
section. 32510

**Sec. 3333.162.** (A) As used in this section, "state 32511  
institution of higher education" means an institution of higher 32512  
education as defined in section 3345.12 of the Revised Code. 32513

(B) By April 15, 2007, the Ohio board of regents, in 32514  
consultation with the department of education, public adult and 32515  
secondary career-technical education institutions, and state 32516  
institutions of higher education, shall establish criteria, 32517  
policies, and procedures that enable students to transfer agreed 32518  
upon technical courses completed through an adult career-technical 32519  
education institution, a public secondary career-technical 32520  
institution, or a state institution of higher education to a state 32521  
institution of higher education without unnecessary duplication or 32522  
institutional barriers. The courses to which the criteria, 32523  
policies, and procedures apply shall be those that adhere to 32524  
recognized industry standards and equivalent coursework common to 32525  
the secondary career pathway and adult career-technical education 32526  
system and regionally accredited state institutions of higher 32527  
education. Where applicable, the policies and procedures shall 32528  
build upon the articulation agreement and transfer initiative 32529  
course equivalency system required by section 3333.16 of the 32530  
Revised Code. 32531

(C) By April 15, 2006, the board shall report to the general 32532  
assembly on its progress in establishing these policies and 32533

<u>procedures.</u>	32534
<b>Sec. 3333.27.</b> As used in this section:	32535
(A) "Eligible institution" means a nonprofit Ohio institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code and meets the requirements of Title VI of the Civil Rights Act of 1964.	32536 32537 32538 32539
(B) "Resident" and "full-time student" have the meanings established for purposes of this section by rule of the Ohio board of regents.	32540 32541 32542
The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program.	32543 32544 32545
The board may make a grant to any resident of this state who is enrolled as a full-time student in a bachelor's degree program at an eligible institution and maintains an academic record that meets or exceeds the standard established pursuant to this section by rule of the board, except that no grant shall be made to any individual who was enrolled as a student in an institution of higher education on or before July 1, 1984, or is serving a term of imprisonment. The grant shall not exceed the lesser of the total instructional and general charges of the institution in which the student is enrolled, or an amount equal to one-fourth of the total of any state instructional subsidy amount distributed by the board in the second fiscal year of the preceding biennium for all full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education divided by the sum of the actual number of full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education reported to the board for such year by the institutions to which the subsidy was distributed.	32546 32547 32548 32549 32550 32551 32552 32553 32554 32555 32556 32557 32558 32559 32560 32561 32562 32563

The board shall prescribe the form and manner of application 32564  
for grants including the manner of certification by eligible 32565  
institutions that each applicant from such institution is enrolled 32566  
in a bachelor's degree program as a full-time student and has an 32567  
academic record that meets or exceeds the standard established by 32568  
the board. 32569

A grant awarded to an eligible student shall be paid to the 32570  
institution in which the student is enrolled, and the institution 32571  
shall reduce the student's instructional and general charges by 32572  
the amount of the grant. Each grant awarded shall be prorated and 32573  
paid in equal installments at the time of enrollment for each term 32574  
of the academic year for which the grant is awarded. No student 32575  
shall be eligible to receive a grant for more than ten semesters, 32576  
fifteen quarters, or the equivalent of five academic years. 32577

The receipt of an Ohio student choice grant shall not affect 32578  
a student's eligibility for assistance, or the amount of such 32579  
assistance, granted under section 3315.33, 3333.12, 3333.122, 32580  
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised 32581  
Code. If a student receives assistance under one or more of such 32582  
sections, the student choice grant made to the student shall not 32583  
exceed the difference between the amount of assistance received 32584  
under such sections and the total instructional and general 32585  
charges of the institution in which the student is enrolled. 32586

The general assembly shall support the student choice grant 32587  
program by such sums and in such manner as it may provide, but the 32588  
board may also receive funds from other sources to support the 32589  
program. 32590

No grant shall be made to any student enrolled in a course of 32591  
study leading to a degree in theology, religion, or other field of 32592  
preparation for a religious profession unless the course of study 32593  
leads to an accredited bachelor of arts or bachelor of science 32594

degree. 32595

Institutions of higher education that enroll students 32596  
receiving grants under this section shall report to the board the 32597  
name of each student who has received such a grant but who is no 32598  
longer eligible for all or part of such grant and shall refund all 32599  
moneys due to the state within thirty days after the beginning of 32600  
the term immediately following the term in which the student was 32601  
no longer eligible to receive all or part of the grant. There 32602  
shall be an interest charge of one per cent per month on all 32603  
moneys due and payable after such thirty-day period. The board 32604  
shall immediately notify the office of budget and management and 32605  
~~the legislative budget office of~~ the legislative service 32606  
commission of all refunds received. 32607

**Sec. 3333.28.** (A) The Ohio board of regents shall establish 32608  
the nurse education assistance program, the purpose of which shall 32609  
be to make loans to students enrolled in prelicensure nurse 32610  
education programs at institutions approved by the board of 32611  
nursing under section 4723.06 of the Revised Code and 32612  
postlicensure nurse education programs approved by the board of 32613  
regents under section 3333.04 of the Revised Code or offered by an 32614  
institution holding a certificate of authorization issued by the 32615  
board of regents under Chapter 1713. of the Revised Code. The 32616  
board of nursing shall assist the board of regents in 32617  
administering the program. 32618

(B) There is hereby created in the state treasury the nurse 32619  
education assistance fund, which shall consist of all money 32620  
transferred to it pursuant to section 4743.05 of the Revised Code. 32621  
The fund shall be used by the board of regents for loans made 32622  
under division (A) of this section and for expenses of 32623  
administering the loan program. 32624

(C) The Between July 1, 2005, and January 1, 2012, the board 32625

of regents shall distribute money in the nurse education 32626  
assistance fund in the following manner: 32627

(1)(a) Fifty per cent of available funds shall be awarded as 32628  
loans to registered nurses enrolled in postlicensure nurse 32629  
education programs described in division (A) of this section. To 32630  
be eligible for a loan, the applicant shall provide the board with 32631  
a letter of intent to practice as a faculty member at a 32632  
prelicensure or postlicensure program for nursing in this state 32633  
upon completion of the applicant's academic program. 32634

(b) If the borrower of a loan under division (C)(1)(a) of 32635  
this section secures employment as a faculty member of an approved 32636  
nursing education program in this state within six months 32637  
following graduation from an approved nurse education program, the 32638  
board may forgive the principal and interest of the student's 32639  
loans received under division (C)(1)(a) of this section at a rate 32640  
of twenty-five per cent per year, for a maximum of four years, for 32641  
each year in which the borrower is so employed. A deferment of the 32642  
service obligation, and other conditions regarding the forgiveness 32643  
of loans may be granted as provided by the rules adopted under 32644  
division (D)(7) of this section. 32645

(c) Loans awarded under division (C)(1)(a) of this section 32646  
shall be awarded on the basis of the student's expected family 32647  
contribution, with preference given to those applicants with the 32648  
lowest expected family contribution. However, the board of regents 32649  
may consider other factors it determines relevant in ranking the 32650  
applications. 32651

(d) Each loan awarded to a student under division (C)(1)(a) 32652  
of this section shall be not less than five thousand dollars per 32653  
year. 32654

(2) Twenty-five per cent of available funds shall be awarded 32655  
to students enrolled in prelicensure nurse education programs for 32656

<u>registered nurses, as defined in section 4723.01 of the Revised</u>	32657
<u>Code.</u>	32658
<u>(3) Twenty-five per cent of available funds shall be awarded</u>	32659
<u>to students enrolled in prelicensure professional nurse education</u>	32660
<u>programs for licensed practical nurses, as defined in section</u>	32661
<u>4723.01 of the Revised Code.</u>	32662
<u>After January 1, 2012, the board of regents shall determine</u>	32663
<u>the manner in which to distribute loans under this section.</u>	32664
<u>(D) Subject to the requirements specified in division (C) of</u>	32665
<u>this section, the board of regents shall adopt rules in accordance</u>	32666
with Chapter 119. of the Revised Code establishing:	32667
(1) Eligibility criteria for receipt of a loan;	32668
(2) Loan application procedures;	32669
(3) The amounts in which loans may be made and the total	32670
amount that may be loaned to an individual;	32671
(4) The total amount of loans that can be made each year;	32672
(5) The percentage of the money in the fund that must remain	32673
in the fund at all times as a fund balance;	32674
(6) Interest and principal repayment schedules;	32675
(7) Conditions under which a portion of principal and	32676
interest obligations incurred by an individual under the program	32677
will be forgiven;	32678
(8) Ways that the program may be used to encourage	32679
individuals who are members of minority groups to enter the	32680
nursing profession;	32681
(9) Any other matters incidental to the operation of the	32682
program.	32683
<del>(D)</del> (E) The obligation to repay a portion of the principal and	32684
interest on a loan made under this section shall be forgiven if	32685

the recipient of the loan meets the criteria for forgiveness 32686  
established by division (C)(1)(b) of this section, in the case of 32687  
loans awarded under division (C)(1)(a) of this section, or by the 32688  
board of regents by rule adopted under division ~~(C)~~(D)(7) of this 32689  
section, in the case of other loans awarded under this section. 32690

~~(E)~~(F) The receipt of a loan under this section shall not 32691  
affect a student's eligibility for assistance, or the amount of 32692  
that assistance, granted under section 3333.12, 3333.122, 3333.22, 32693  
3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised 32694  
Code, but the rules of the board of regents may provide for taking 32695  
assistance received under those sections into consideration when 32696  
determining a student's eligibility for a loan under this section. 32697

**Sec. 3333.36.** The Provided that sufficient unencumbered and 32698  
unexpended funds are available from general revenue fund 32699  
appropriations made to the Ohio board of regents, the chancellor 32700  
of the Ohio board of regents ~~may~~ shall allocate up to seventy 32701  
thousand dollars in each fiscal year to make payments to the 32702  
Columbus program in intergovernmental issues, an Ohio internship 32703  
program at Kent state university, for scholarships of up to two 32704  
thousand dollars for each student enrolled in the program. The 32705  
chancellor may utilize any general revenue funds appropriated to 32706  
the board of regents that the chancellor determines to be 32707  
available for purposes of this section. 32708

**Sec. 3333.38.** (A) As used in this section: 32709

(1) "Institution of higher education" includes all of the 32710  
following: 32711

(a) A state institution of higher education, as defined in 32712  
section 3345.011 of the Revised Code; 32713

(b) A nonprofit institution issued a certificate of 32714  
authorization by the Ohio board of regents under Chapter 1713. of 32715



the Revised Code;	32716
(c) A private institution exempt from regulation under	32717
Chapter 3332. of the Revised Code, as prescribed in section	32718
3333.046 of the Revised Code;	32719
(d) An institution of higher education with a certificate of	32720
registration from the state board of career colleges and schools	32721
under Chapter 3332. of the Revised Code.	32722
(2) "Student financial assistance supported by state funds"	32723
includes assistance granted under sections 3315.33, 3333.12,	32724
<u>3333.122</u> , 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372,	32725
5910.03, 5910.032, and 5919.34 of the Revised Code and any other	32726
post-secondary student financial assistance supported by state	32727
funds.	32728
(B) An individual who is convicted of, pleads guilty to, or	32729
is adjudicated a delinquent child for one of the following	32730
violations shall be ineligible to receive any student financial	32731
assistance supported by state funds at an institution of higher	32732
education for two calendar years from the time the individual	32733
applies for assistance of that nature:	32734
(1) A violation of section 2917.02 or 2917.03 of the Revised	32735
Code;	32736
(2) A violation of section 2917.04 of the Revised Code that	32737
is a misdemeanor of the fourth degree;	32738
(3) A violation of section 2917.13 of the Revised Code that	32739
is a misdemeanor of the fourth or first degree and occurs within	32740
the proximate area where four or more others are acting in a	32741
course of conduct in violation of section 2917.11 of the Revised	32742
Code.	32743
(C) If an individual is convicted of, pleads guilty to, or is	32744
adjudicated a delinquent child for committing a violation of	32745

section 2917.02 or 2917.03 of the Revised Code, and if the  
individual is enrolled in a state-supported institution of higher  
education, the institution in which the individual is enrolled  
shall immediately dismiss the individual. No state-supported  
institution of higher education shall admit an individual of that  
nature for one academic year after the individual applies for  
admission to a state-supported institution of higher education.  
This division does not limit or affect the ability of a  
state-supported institution of higher education to suspend or  
otherwise discipline its students.

**Sec. 3334.01.** As used in this chapter: 32756

(A) "Aggregate original principal amount" means the aggregate  
of the initial offering prices to the public of college savings  
bonds, exclusive of accrued interest, if any. "Aggregate original  
principal amount" does not mean the aggregate accreted amount  
payable at maturity or redemption of such bonds.

(B) "Beneficiary" means: 32762

(1) An individual designated by the purchaser under a tuition  
payment contract or through a scholarship program as the  
individual on whose behalf tuition ~~credits~~ units purchased under  
the contract or awarded through the scholarship program will be  
applied toward the payment of undergraduate, graduate, or  
professional tuition; or

(2) An individual designated by the contributor under a  
variable college savings program contract as the individual whose  
tuition and other higher education expenses will be paid from a  
variable college savings program account.

(C) "Capital appreciation bond" means a bond for which the  
following is true: 32774

(1) The principal amount is less than the amount payable at 32775

maturity or early redemption; and 32776

(2) No interest is payable on a current basis. 32777

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition 32778  
trust authority purchased under section 3334.09 of the Revised 32779  
Code. "Tuition unit" includes a tuition credit purchased prior to 32780  
July 1, 1994. 32781

(E) "College savings bonds" means revenue and other 32782  
obligations issued on behalf of the state or any agency or issuing 32783  
authority thereof as a zero-coupon or capital appreciation bond, 32784  
and designated as college savings bonds as provided in this 32785  
chapter. "College savings bond issue" means any issue of bonds of 32786  
which any part has been designated as college savings bonds. 32787

(F) "Institution of higher education" means a state 32788  
institution of higher education, a private college, university, or 32789  
other postsecondary institution located in this state that 32790  
possesses a certificate of authorization issued by the Ohio board 32791  
of regents pursuant to Chapter 1713. of the Revised Code or a 32792  
certificate of registration issued by the state board of career 32793  
colleges and schools under Chapter 3332. of the Revised Code, or 32794  
an accredited college, university, or other postsecondary 32795  
institution located outside this state that is accredited by an 32796  
accrediting organization or professional association recognized by 32797  
the authority. To be considered an institution of higher 32798  
education, an institution shall meet the definition of an eligible 32799  
educational institution under section 529 of the Internal Revenue 32800  
Code. 32801

(G) "Issuing authority" means any authority, commission, 32802  
body, agency, or individual empowered by the Ohio Constitution or 32803  
the Revised Code to issue bonds or any other debt obligation of 32804  
the state or any agency or department thereof. "Issuer" means the 32805  
issuing authority or, if so designated under division (B) of 32806

section 3334.04 of the Revised Code, the treasurer of state. 32807

(H) "Tuition" means the charges imposed to attend an 32808  
institution of higher education as an undergraduate, graduate, or 32809  
professional student and all fees required as a condition of 32810  
enrollment, as determined by the Ohio tuition trust authority. 32811  
"Tuition" does not include laboratory fees, room and board, or 32812  
other similar fees and charges. 32813

(I) "Weighted average tuition" means the tuition cost 32814  
resulting from the following calculation: 32815

(1) Add the products of the annual undergraduate tuition 32816  
charged to Ohio residents at each four-year state university 32817  
multiplied by that institution's total number of undergraduate 32818  
fiscal year equated students; and 32819

(2) Divide the gross total of the products from division 32820  
(I)(1) of this section by the total number of undergraduate fiscal 32821  
year equated students attending four-year state universities. 32822

When making this calculation, the "annual undergraduate 32823  
tuition charged to Ohio residents" shall not incorporate any 32824  
tuition reductions that vary in amount among individual recipients 32825  
and that are awarded to Ohio residents based upon their particular 32826  
circumstances, beyond any minimum amount awarded uniformly to all 32827  
Ohio residents. In addition, any tuition reductions awarded 32828  
uniformly to all Ohio residents shall be incorporated into this 32829  
calculation. 32830

(J) "Zero-coupon bond" means a bond which has a stated 32831  
interest rate of zero per cent and on which no interest is payable 32832  
until the maturity or early redemption of the bond, and is offered 32833  
at a substantial discount from its original stated principal 32834  
amount. 32835

(K) "State institution of higher education" includes the 32836

state universities listed in section 3345.011 of the Revised Code, 32837  
community colleges created pursuant to Chapter 3354. of the 32838  
Revised Code, university branches created pursuant to Chapter 32839  
3355. of the Revised Code, technical colleges created pursuant to 32840  
Chapter 3357. of the Revised Code, state community colleges 32841  
created pursuant to Chapter 3358. of the Revised Code, the medical 32842  
university of Ohio at Toledo, and the northeastern Ohio 32843  
universities college of medicine. 32844

(L) "Four-year state university" means those state 32845  
universities listed in section 3345.011 of the Revised Code. 32846

(M) "Principal amount" refers to the initial offering price 32847  
to the public of an obligation, exclusive of the accrued interest, 32848  
if any. "Principal amount" does not refer to the aggregate 32849  
accrued amount payable at maturity or redemption of an 32850  
obligation. 32851

(N) "Scholarship program" means a program registered with the 32852  
Ohio tuition trust authority pursuant to section 3334.17 of the 32853  
Revised Code. 32854

(O) "Internal Revenue Code" means the "Internal Revenue Code 32855  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended. 32856

(P) "Other higher education expenses" means room and board 32857  
and books, supplies, equipment, and nontuition-related fees 32858  
associated with the cost of attendance of a beneficiary at an 32859  
institution of higher education, but only to the extent that such 32860  
expenses meet the definition of "qualified higher education 32861  
expenses" under section 529 of the Internal Revenue Code. "Other 32862  
higher education expenses" does not include tuition as defined in 32863  
division (H) of this section. 32864

(Q) "Purchaser" means the person signing the tuition payment 32865  
contract, who controls the account and acquires tuition ~~credits~~ 32866  
units for an account under the terms and conditions of the 32867

contract. 32868

(R) "Contributor" means a person who signs a variable college 32869  
savings program contract with the Ohio tuition trust authority and 32870  
contributes to and owns the account created under the contract. 32871

(S) "Contribution" means any payment directly allocated to an 32872  
account for the benefit of the designated beneficiary of the 32873  
account. 32874

**Sec. 3334.02.** (A) In order to help make higher education 32875  
affordable and accessible to all citizens of Ohio, to maintain 32876  
state institutions of higher education by helping to provide a 32877  
stable financial base to these institutions, to provide the 32878  
citizens of Ohio with financing assistance for higher education 32879  
and protection against rising tuition costs, to encourage saving 32880  
to enhance the ability of citizens of Ohio to obtain financial 32881  
access to institutions of higher education, to encourage 32882  
elementary and secondary students in this state to achieve 32883  
academic excellence, and to promote a well-educated and 32884  
financially secure population to the ultimate benefit of all 32885  
citizens of the state of Ohio, there is hereby created the Ohio 32886  
college savings program. The program shall consist of the issuance 32887  
of college savings bonds and the sale of tuition ~~credits and, if~~ 32888  
~~offered, supplemental credits~~ units. 32889

(B) The provisions of Chapter 1707. of the Revised Code shall 32890  
not apply to tuition ~~credits~~ units or any agreement or transaction 32891  
related thereto. 32892

(C) To provide the citizens of Ohio with a choice of 32893  
tax-advantaged college savings programs and the opportunity to 32894  
participate in more than one type of college savings program at a 32895  
time, the Ohio tuition trust authority shall establish and 32896  
administer a variable college savings program as a qualified state 32897  
tuition program under section 529 of the Internal Revenue Code. 32898

The program shall allow contributors to make cash contributions to  
variable college savings program accounts created for the purpose  
of paying future tuition and other higher education expenses and  
providing variable rates of return on contributions.

(D) A person may participate simultaneously in both the Ohio  
college savings program and the variable college savings program.

**Sec. 3334.03.** (A) There is hereby created the Ohio tuition  
trust authority, which shall have the powers enumerated in this  
chapter and which shall operate as a qualified state tuition  
program within the meaning of section 529 of the Internal Revenue  
Code. The exercise by the authority of its powers shall be and is  
hereby declared an essential state governmental function. The  
authority is subject to all provisions of law generally applicable  
to state agencies which do not conflict with the provisions of  
this chapter.

(B) The Ohio tuition trust authority shall consist of eleven  
members, no more than six of whom shall be of the same political  
party. Six members shall be appointed by the governor with the  
advice and consent of the senate as follows: one shall represent  
state institutions of higher education, one shall represent  
private nonprofit colleges and universities located in Ohio, one  
shall have experience in the field of marketing or public  
relations, one shall have experience in the field of information  
systems design or management, and two shall have experience in the  
field of banking, investment banking, insurance, or law. Four  
members shall be appointed by the speaker of the house of  
representatives and the president of the senate as follows: the  
speaker of the house of representatives shall appoint one member  
of the house from each political party and the president of the  
senate shall appoint one member of the senate from each political  
party. The chancellor of the board of regents shall be an ex

officio voting member; provided, however, that the chancellor may  
designate a vice-chancellor of the board of regents to serve as  
the chancellor's representative. The political party of the  
chancellor shall be deemed the political party of the designee for  
purposes of determining that no more than six members are of the  
same political party.

Initial gubernatorial appointees to the authority shall serve  
staggered terms, with two terms expiring on January 31, 1991, one  
term expiring on January 31, 1992, and one term expiring on  
January 31, 1993. The governor shall appoint two additional  
members to the authority no later than thirty days after ~~the~~  
~~effective date of this amendment~~ March 30, 1999, and their initial  
terms shall expire January 31, 2002. Thereafter, terms of office  
for gubernatorial appointees shall be for four years. The initial  
terms of the four legislative members shall expire on January 31,  
1991. Thereafter legislative members shall serve two-year terms,  
provided that legislative members may continue to serve on the  
authority only if they remain members of the general assembly. Any  
vacancy on the authority shall be filled in the same manner as the  
original appointment, except that any person appointed to fill a  
vacancy shall be appointed to the remainder of the unexpired term.  
Any member is eligible for reappointment.

(C) Any member may be removed by the appointing authority for  
misfeasance, malfeasance, or willful neglect of duty or for other  
cause after notice and a public hearing, unless the notice and  
hearing are waived in writing by the member. Members shall serve  
without compensation but shall receive their reasonable and  
necessary expenses incurred in the conduct of authority business.

(D) The speaker of the house of representatives and the  
president of the senate shall each designate a member of the  
authority to serve as co-chairpersons. The six gubernatorial  
appointees and the chancellor of the board of regents or the



chancellor's designee shall serve as the executive committee of 32962  
the authority, and shall elect an executive chairperson from among 32963  
the executive committee members. The authority and the executive 32964  
committee may elect such other officers as determined by the 32965  
authority or the executive committee respectively. The authority 32966  
shall meet at least annually at the call of either co-chairperson 32967  
and at such other times as either co-chairperson or the authority 32968  
determines necessary. In the absence of both co-chairpersons, the 32969  
executive chairperson shall serve as the presiding officer of the 32970  
authority. The executive committee shall meet at the call of the 32971  
executive chairperson or as the executive committee determines 32972  
necessary. The authority may delegate to the executive committee 32973  
such duties and responsibilities as the authority determines 32974  
appropriate, except that the authority may not delegate to the 32975  
executive committee the final determination of the annual price of 32976  
a tuition ~~credit~~ unit, the final designation of bonds as college 32977  
savings bonds, or the employment of an executive director of the 32978  
authority. Upon such delegation, the executive committee shall 32979  
have the authority to act pursuant to such delegation without 32980  
further approval or action by the authority. A majority of the 32981  
authority shall constitute a quorum of the authority, and the 32982  
affirmative vote of a majority of the members present shall be 32983  
necessary for any action taken by the authority. A majority of the 32984  
executive committee shall constitute a quorum of the executive 32985  
committee, and the affirmative vote of a majority of the members 32986  
present shall be necessary for any action taken by the executive 32987  
committee. No vacancy in the membership of the authority or the 32988  
executive committee shall impair the rights of a quorum to 32989  
exercise all rights and perform all duties of the authority or the 32990  
executive committee respectively. 32991

**Sec. 3334.07.** (A) The Ohio tuition trust authority shall 32992  
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 32993

board of regents shall cooperate with the authority and provide 32994  
technical assistance upon request. 32995

(B) Annually, the authority shall determine the weighted 32996  
average tuition of four-year state universities in the academic 32997  
year that begins on or after the first day of August of the 32998  
current calendar year, and shall establish the price of a tuition 32999  
~~credit~~ unit in the ensuing sales period. Such price shall be based 33000  
on sound actuarial principles, and shall, to the extent 33001  
actuarially possible, reasonably approximate one per cent of the 33002  
weighted average tuition for that academic year plus the costs of 33003  
administering the ~~tuition-credit~~ program that are in excess of 33004  
general revenue fund appropriations for administrative costs. The 33005  
sales period to which such price applies shall consist of twelve 33006  
months, and the authority by rule shall establish the date on 33007  
which the sales period begins. If circumstances arise during a 33008  
sales period that the authority determines causes the price of 33009  
tuition ~~credits~~ units to be insufficient to ensure the actuarial 33010  
soundness of the Ohio tuition trust fund, the authority may adjust 33011  
the price of tuition ~~credits~~ units purchased during the remainder 33012  
of the sales period. To promote the purchase of tuition ~~credits~~ 33013  
units and in accordance with actuarially sound principles, the 33014  
authority may adjust the sales price as part of incentive 33015  
programs, such as discounting for ~~lump-sum~~ lump sum purchases and 33016  
multi-year installment plans at a fixed rate of purchase. 33017

**Sec. 3334.08.** (A) Subject to division (B) of this section, in 33018  
addition to any other powers conferred by this chapter, the Ohio 33019  
tuition trust authority may do any of the following: 33020

(1) Impose reasonable residency requirements for 33021  
beneficiaries of tuition ~~credits~~ units; 33022

(2) Impose reasonable limits on the number of tuition ~~credit~~ 33023  
unit participants; 33024

- (3) Impose and collect administrative fees and charges in connection with any transaction under this chapter; 33025  
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- (4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition ~~credits~~ units; 33027  
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- (5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner; 33031  
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- (6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority; 33041  
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- (7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program; 33044  
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- (8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program; 33046  
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- (9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of 33048  
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the Revised Code; 33056

(10) Contract for other services, or for goods, needed by the 33057  
authority in the conduct of its business, including but not 33058  
limited to credit card services; 33059

(11) Employ an executive director and other personnel as 33060  
necessary to carry out its responsibilities under this chapter, 33061  
and fix the compensation of these persons. All employees of the 33062  
authority shall be in the unclassified civil service and shall be 33063  
eligible for membership in the public employees retirement system. 33064

(12) Contract with financial consultants, actuaries, 33065  
auditors, and other consultants as necessary to carry out its 33066  
responsibilities under this chapter; 33067

(13) Enter into agreements with any agency of the state or 33068  
its political subdivisions or with private employers under which 33069  
an employee may agree to have a designated amount deducted in each 33070  
payroll period from the wages or salary due the employee for the 33071  
purpose of purchasing tuition ~~credits~~ units pursuant to a tuition 33072  
payment contract or making contributions pursuant to a variable 33073  
college savings program contract; 33074

(14) Enter into an agreement with the treasurer of state 33075  
under which the treasurer of state will receive, and credit to the 33076  
Ohio tuition trust fund or variable college savings program fund, 33077  
from any bank or savings and loan association authorized to do 33078  
business in this state, amounts that a depositor of the bank or 33079  
association authorizes the bank or association to withdraw 33080  
periodically from the depositor's account for the purpose of 33081  
purchasing tuition ~~credits~~ units pursuant to a tuition payment 33082  
contract or making contributions pursuant to a variable college 33083  
savings program contract; 33084

(15) Solicit and accept gifts, grants, and loans from any 33085  
person or governmental agency and participate in any governmental 33086

program;	33087
(16) Impose limits on the number of <del>credits</del> <u>units</u> which may	33088
be purchased on behalf of or assigned or awarded to any	33089
beneficiary and on the total amount of contributions that may be	33090
made on behalf of a beneficiary;	33091
(17) Impose restrictions on the substitution of another	33092
individual for the original beneficiary under the Ohio college	33093
savings program;	33094
(18) Impose a limit on the age of a beneficiary, above which	33095
tuition <del>credits</del> <u>units</u> may not be purchased on behalf of that	33096
beneficiary;	33097
(19) Enter into a cooperative agreement with the treasurer of	33098
state to provide for the direct disbursement of payments under	33099
tuition payment or variable college savings program contracts;	33100
(20) Determine the other higher education expenses for which	33101
tuition <del>credits</del> <u>units</u> or contributions may be used;	33102
(21) Terminate any tuition payment or variable college	33103
savings program contract if no purchases or contributions are made	33104
for a period of three years or more and there are fewer than a	33105
total of five tuition units <del>or tuition credits</del> or less than a	33106
dollar amount set by rule on account, provided that notice of a	33107
possible termination shall be provided in advance, explaining any	33108
options to prevent termination, and a reasonable amount of time	33109
shall be provided within which to act to prevent a termination;	33110
(22) Maintain a separate account for each tuition payment or	33111
variable college savings program contract;	33112
(23) Perform all acts necessary and proper to carry out the	33113
duties and responsibilities of the authority pursuant to this	33114
chapter.	33115
(B) The authority shall adopt rules under section 111.15 of	33116

the Revised Code for the implementation and administration of the 33117  
variable college savings program. The rules shall provide 33118  
taxpayers with the maximum tax advantages and flexibility 33119  
consistent with section 529 of the Internal Revenue Code and 33120  
regulations adopted thereunder with regard to disposition of 33121  
contributions and earnings, designation of beneficiaries, and 33122  
rollover of account assets to other programs. 33123

(C) Except as otherwise specified in this chapter, the 33124  
provisions of Chapters 123., 125., and 4117. of the Revised Code 33125  
shall not apply to the authority. The department of administrative 33126  
services shall, upon the request of the authority, act as the 33127  
authority's agent for the purchase of equipment, supplies, 33128  
insurance, or services, or the performance of administrative 33129  
services pursuant to Chapter 125. of the Revised Code. 33130

**Sec. 3334.09.** (A) Except in the case of a scholarship program 33131  
established in accordance with section 3334.17 of the Revised 33132  
Code, the Ohio tuition trust authority may enter into a tuition 33133  
payment contract with any person for the purchase of tuition 33134  
~~credits~~ units if either the purchaser or the beneficiary is a 33135  
resident of this state at the time the contract is entered into. A 33136  
tuition payment contract shall allow any person to purchase 33137  
tuition ~~credits~~ units at the price determined by the authority 33138  
pursuant to section 3334.07 or 3334.12 of the Revised Code for the 33139  
year in which the tuition ~~credit~~ unit is purchased. The purchaser 33140  
shall name in the payment contract one specific individual as the 33141  
beneficiary for the tuition ~~credits~~ units. 33142

In accordance with rules of the authority, ~~credits~~ units may 33143  
be transferred to the credit of another beneficiary and a new 33144  
beneficiary may be substituted for the beneficiary originally 33145  
named in the contract. 33146

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to 33147

an amount equal to one per cent of the weighted average tuition. 33148

(C) Nothing in this chapter or in any tuition payment 33149  
contract entered into pursuant to this chapter shall be construed 33150  
as a guarantee by the state, the authority, or any institution of 33151  
higher education that a beneficiary will be admitted to an 33152  
institution of higher education, or, upon admission to an 33153  
institution of higher education, will be permitted to continue to 33154  
attend or will receive a degree from an institution of higher 33155  
education. Nothing in this chapter or in any tuition payment 33156  
contract entered into pursuant to this chapter shall be considered 33157  
a guarantee that the beneficiary's cost of tuition at an 33158  
institution of higher education other than a state institution of 33159  
higher education will be covered in full by the proceeds of the 33160  
beneficiary's tuition ~~credits~~ units. 33161

(D) The following information shall be disclosed in writing 33162  
to each purchaser of tuition ~~credits~~ units and, where appropriate, 33163  
to each entity establishing a scholarship program under section 33164  
3334.17 of the Revised Code: 33165

(1) The terms and conditions for the purchase and use of 33166  
tuition ~~credits~~ units; 33167

(2) In the case of a contract described by division (A) of 33168  
this section, any restrictions on the substitution of another 33169  
individual for the original beneficiary and any restrictions on 33170  
the transfer of ownership of ~~credits~~ units in the payment account; 33171

(3) The person or entity entitled to terminate the contract; 33172

(4) The terms and conditions under which the contract may be 33173  
terminated and the amount of the refund, if any, to which the 33174  
person or entity terminating the contract, or that person's or 33175  
entity's designee, is entitled upon termination; 33176

(5) The obligation of the authority to make payments to a 33177  
beneficiary, or an institution of higher education on behalf of a 33178

beneficiary, under division (B) of this section based upon the 33179  
number of tuition ~~credits~~ units purchased on behalf of the 33180  
beneficiary or awarded to the beneficiary pursuant to a 33181  
scholarship program; 33182

(6) The method by which tuition ~~credits~~ units shall be 33183  
applied toward payment of tuition and other higher education 33184  
expenses if in any academic term the beneficiary is a part-time 33185  
student; 33186

(7) The period of time during which a beneficiary may receive 33187  
benefits under the contract; 33188

(8) The terms and conditions under which money may be wholly 33189  
or partially withdrawn from the program, including, but not 33190  
limited to, any reasonable charges and fees that may be imposed 33191  
for withdrawal; 33192

(9) All other rights and obligations of the purchaser and the 33193  
authority, including the provisions of division (A) of section 33194  
3334.12 of the Revised Code, and any other terms, conditions, and 33195  
provisions the authority considers necessary and appropriate. 33196

(E) A tuition payment contract may provide that the authority 33197  
will pay directly to the institution of higher education in which 33198  
a beneficiary is enrolled during a term the amount represented by 33199  
the tuition ~~credits~~ units being used that term. 33200

(F) A tuition payment contract described by division (A) of 33201  
this section may provide that if the contract has not been 33202  
terminated or ~~credits~~ units purchased under the contract have not 33203  
been applied toward the payment of tuition or other higher 33204  
education expenses within a specified period of time, the 33205  
authority may, after making a reasonable effort to locate the 33206  
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 33207  
person designated in the contract to act on behalf of the 33208  
purchaser of the ~~credits~~ units or the beneficiary, terminate the 33209



contract and retain the amounts payable under the contract. 33210

(G) If, at any time after tuition ~~credits~~ units are purchased 33211  
on behalf of a beneficiary or awarded to a beneficiary or pursuant 33212  
to a scholarship program, the beneficiary becomes a nonresident of 33213  
this state, or, if the beneficiary was not a resident of this 33214  
state at the time the tuition payment contract was entered into, 33215  
the purchaser becomes a nonresident of this state, ~~credits~~ units 33216  
purchased or awarded while the beneficiary was a resident may be 33217  
applied on behalf of the beneficiary toward the payment of tuition 33218  
at an institution of higher education and other higher education 33219  
expenses in the manner specified in division (B) of this section, 33220  
except that if the beneficiary enrolls in a state institution of 33221  
higher education, the beneficiary shall be responsible for payment 33222  
of all nonresident fees charged to out-of-state residents by the 33223  
institution in which the beneficiary is enrolled. 33224

**Sec. 3334.10.** Divisions (A), and (B), ~~(C), and (D)~~ of this 33225  
section do not apply to scholarship programs established under 33226  
section 3334.17 of the Revised Code. 33227

(A) Unless otherwise provided for in the ~~contract,~~ a tuition 33228  
payment contract ~~may be terminated by the purchaser under any of~~ 33229  
~~the following circumstances upon the written request of the~~ 33230  
~~purchaser to the authority:~~ 33231

~~(1) Upon the death or permanent disability of the~~ 33232  
~~beneficiary;~~ 33233

~~(2) Upon notification to the Ohio tuition trust authority in~~ 33234  
~~writing that the beneficiary is age eighteen or older, has decided~~ 33235  
~~not to attend an institution of higher education, and requests~~ 33236  
~~that the contract be terminated;~~ 33237

~~(3) Upon the beneficiary's completion of the degree~~ 33238  
~~requirements at an institution of higher education;~~ 33239

~~(4) Upon the rollover of all amounts in a tuition credit account to an equivalent account in another state;~~ 33240  
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~~(5) Upon the occurrence of other circumstances determined by the authority to be grounds for termination.~~ 33242  
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~~(B) The authority shall determine the method and schedule for payment of refunds upon termination of a tuition payment contract. , the purchaser may rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contract for any reason by filing written notice with the Ohio tuition trust authority.~~ 33244  
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~~(1) In cases described by division (A)(2) or (3) of this section, If the contract is terminated and the beneficiary is under eighteen years of age, the authority shall use actuarially sound principles to determine the amount of the refund shall be equal to not less than one per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition credits purchased and not used, minus any reasonable charges and fees provided for by the authority, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code.~~ 33250  
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~~(2) In cases described by division (A)(1) of this section If the contract is terminated because of the death or permanent disability of the beneficiary, the amount of the refund shall be equal to the greater of the following:~~ 33262  
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~~(a) One per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition ~~credits~~ units purchased and not used;~~ 33266  
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~~(b) The total purchase price of all tuition ~~credits~~ units purchased for the beneficiary and not used.~~ 33269  
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~~(3) In cases described by division (A)(5) of this section, 33271  
the amount of the refund shall be either of the following as 33272  
determined by the authority: 33273~~

~~(a) The refund provided by division (B)(1) of this section: 33274~~

~~(b) The refund provided by division (B)(2) of this section, 33275  
or such other lesser sum as shall be determined by the authority 33276  
but only to the extent that such a lesser sum is necessary to meet 33277  
the refund penalty requirements for qualified state tuition 33278  
programs under section 529 of the Internal Revenue Code If all or 33279  
part of the amount accrued under the contract is liquidated for a 33280  
rollover to another qualified tuition program under section 529 of 33281  
the Internal Revenue Code, the rollover amount shall be determined 33282  
in an actuarially sound manner. 33283~~

~~(C) Unless otherwise provided for in the contract, a (B) The 33284  
contributor of a variable college savings program account may be 33285  
terminated by rollover amounts to another qualified tuition 33286  
program under section 529 of the Internal Revenue Code or 33287  
terminate the contributor account for any reason upon the written 33288  
request of the contributor to the authority. Termination of a 33289  
variable college savings program account shall occur no earlier 33290  
than a maturity period set by the authority after the first 33291  
contribution is made to the account. 33292~~

~~(D) The authority shall determine the method and schedule for 33293  
payment of refunds upon termination of a variable savings program 33294  
account by filing written notice with the Ohio tuition trust 33295  
authority. 33296~~

~~(1) The contributor under a variable savings program contract 33297  
may receive a refund of the an amount equal to the account balance 33298  
in an account, less any applicable administrative fees, if the 33299  
account is terminated upon the death or permanent disability of 33300  
the beneficiary or, to the extent allowed under rules of the 33301~~

~~authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.~~ 33302  
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~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~ 33304  
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~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.~~ 33311  
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~~(E) In the case of a (C) A scholarship program, may request a refund of tuition credits units in the program's account may be made only for just cause with the approval of by filing a written request with the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.~~ 33315  
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~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar subvention that the authority determines cannot be converted into money by the beneficiary, the authority shall, during each academic term that the beneficiary furnishes the authority such information about the scholarship, waiver, or similar subvention as the authority requires, refund to the person designated in the contract, or, in the case of a beneficiary under a scholarship program, to the beneficiary an amount equal to the value that the tuition credits or the amounts in the variable college savings~~ 33324  
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~~program account that are not needed on account of the scholarship, waiver, or similar subvention would otherwise have to the beneficiary that term at the institution of higher education where the beneficiary is enrolled. The authority may, at its sole option, designate the institution of higher education at which the beneficiary is enrolled as the agent of the authority for purposes of refunds pursuant to this division.~~ 33334  
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~~(G) If, in any academic term for which tuition credits or any amounts in a variable college savings program account have been used to pay all or part of a beneficiary's tuition, the beneficiary withdraws from the institution of higher education at which the beneficiary is enrolled prior to the end of the academic term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.~~ 33341  
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~~(H)(D)~~ The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract. 33355  
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**Sec. 3334.11.** (A) The assets of the Ohio tuition trust 33366  
authority reserved for payment of the obligations of the authority 33367  
pursuant to tuition payment contracts shall be placed in a fund, 33368  
which is hereby created and shall be known as the Ohio tuition 33369  
trust fund. The fund shall be in the custody of the treasurer of 33370  
state, but shall not be part of the state treasury. That portion 33371  
of payments received by the authority or the treasurer of state 33372  
from persons purchasing tuition ~~credits~~ units under tuition 33373  
payment contracts that the authority determines is actuarially 33374  
necessary for the payment of obligations of the authority pursuant 33375  
to tuition payment contracts, all interest and investment income 33376  
earned by the fund, and all other receipts of the authority from 33377  
any other source that the authority determines appropriate, shall 33378  
be deposited in the fund. No purchaser or beneficiary of tuition 33379  
~~credits~~ units shall have any claim against the funds of any state 33380  
institution of higher education. All investment fees and other 33381  
costs incurred in connection with the exercise of the investment 33382  
powers of the authority pursuant to divisions (D) and (E) of this 33383  
section shall be paid from the assets of the fund. 33384

(B) Unless otherwise provided by the authority, the assets of 33385  
the Ohio tuition trust fund shall be expended in the following 33386  
order: 33387

(1) To make payments to beneficiaries, or institutions of 33388  
higher education on behalf of beneficiaries, under division (B) of 33389  
section 3334.09 of the Revised Code; 33390

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 33391  
~~(F)~~ (C) of section 3334.10 of the Revised Code; 33392

(3) To pay the investment fees and other costs of 33393  
administering the fund. 33394

(C)(1) Except as may be provided in an agreement under 33395

division (A)(19) of section 3334.08 of the Revised Code, all 33396  
disbursements from the Ohio tuition trust fund shall be made by 33397  
the treasurer of state on order of a designee of the authority. 33398

(2) The treasurer of state shall deposit any portion of the 33399  
Ohio tuition trust fund not needed for immediate use in the same 33400  
manner as state funds are deposited. 33401

(D) The authority is the trustee of the Ohio tuition trust 33402  
fund. The authority shall have full power to invest the assets of 33403  
the fund and in exercising this power shall be subject to the 33404  
limitations and requirements contained in divisions (K) to (M) of 33405  
this section and sections 145.112 and 145.113 of the Revised Code. 33406  
The evidences of title of all investments shall be delivered to 33407  
the treasurer of state or to a qualified trustee designated by the 33408  
treasurer of state as provided in section 135.18 of the Revised 33409  
Code. Assets of the fund shall be administered by the authority in 33410  
a manner designed to be actuarially sound so that the assets of 33411  
the fund will be sufficient to satisfy the obligations of the 33412  
authority pursuant to tuition payment contracts and defray the 33413  
reasonable expenses of administering the fund. 33414

(E) The public employees retirement board shall, with the 33415  
approval of the authority, exercise the investment powers of the 33416  
authority as set forth in division (D) of this section until the 33417  
authority determines that assumption and exercise by the authority 33418  
of the investment powers is financially and administratively 33419  
feasible. The investment powers shall be exercised by the public 33420  
employees retirement board in a manner agreed upon by the 33421  
authority that maximizes the return on investment and minimizes 33422  
the administrative expenses. 33423

(F)(1) The authority shall maintain a separate account for 33424  
each tuition payment contract entered into pursuant to division 33425  
(A) of section 3334.09 of the Revised Code for the purchase of 33426

tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 33427  
showing the beneficiary or beneficiaries of that contract and the 33428  
number of tuition ~~credits~~ units purchased pursuant to that 33429  
contract. Upon request of any beneficiary or person who has 33430  
entered into a tuition payment contract, the authority shall 33431  
provide a statement indicating, in the case of a beneficiary, the 33432  
number of tuition ~~credits~~ units purchased on behalf of the 33433  
beneficiary, or in the case of a person who has entered into a 33434  
tuition payment contract, the number of tuition ~~credits~~ units 33435  
purchased, used, or refunded pursuant to that contract. A 33436  
beneficiary and person that have entered into a tuition payment 33437  
contract each may file only one request under this division in any 33438  
year. 33439

(2) The authority shall maintain an account for each 33440  
scholarship program showing the number of tuition ~~credits~~ units 33441  
that have been purchased for or donated to the program and the 33442  
number of tuition ~~credits~~ units that have been used. Upon the 33443  
request of the entity that established the scholarship program, 33444  
the authority shall provide a statement indicating these numbers. 33445

(G) In addition to the Ohio tuition trust fund, there is 33446  
hereby established a reserve fund that shall be in the custody of 33447  
the treasurer of state but shall not be part of the state 33448  
treasury, and shall be known as the Ohio tuition trust reserve 33449  
fund, and an operating fund that shall be part of the state 33450  
treasury, and shall be known as the Ohio tuition trust operating 33451  
fund. That portion of payments received by the authority or the 33452  
treasurer of state from persons purchasing tuition ~~credits~~ units 33453  
under tuition payment contracts that the authority determines is 33454  
not actuarially necessary for the payment of obligations of the 33455  
authority pursuant to tuition payment contracts, any interest and 33456  
investment income earned by the reserve fund, any administrative 33457  
charges and fees imposed by the authority on transactions under 33458



this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 33459  
units, and all other receipts from any other source that the 33460  
authority determines appropriate, shall be deposited in the 33461  
reserve fund to pay the operating expenses of the authority and 33462  
the costs of administering the program. The assets of the reserve 33463  
fund may be invested in the same manner and subject to the same 33464  
limitations set forth in divisions (D), (E), and (K) to (M) of 33465  
this section and sections 145.112 and 145.113 of the Revised Code. 33466  
All investment fees and other costs incurred in connection with 33467  
the exercise of the investment powers shall be paid from the 33468  
assets of the reserve fund. Except as otherwise provided for in 33469  
this chapter, all operating expenses of the authority and costs of 33470  
administering the program shall be paid from the operating fund. 33471  
The treasurer shall, upon request of the authority, transfer funds 33472  
from the reserve fund to the operating fund as the authority 33473  
determines appropriate to pay those current operating expenses of 33474  
the authority and costs of administering the program as the 33475  
authority designates. Any interest or investment income earned on 33476  
the assets of the operating fund shall be deposited in the 33477  
operating fund. 33478

(H) In January of each year the authority shall report to 33479  
each person who received any payments or refunds from the 33480  
authority during the preceding year information relative to the 33481  
value of the payments or refunds to assist in determining that 33482  
person's tax liability. 33483

(I) The authority shall report to the tax commissioner any 33484  
information, and at the times, as the tax commissioner requires to 33485  
determine any tax liability that a person may have incurred during 33486  
the preceding year as a result of having received any payments or 33487  
refunds from the authority. 33488

(J) All records of the authority indicating the identity of 33489  
purchasers and beneficiaries of tuition ~~credits~~ units or college 33490

savings bonds, the number of tuition ~~credits~~ units purchased, 33491  
used, or refunded under a tuition payment contract, and the number 33492  
of college savings bonds purchased, held, or redeemed are not 33493  
public records within the meaning of section 149.43 of the Revised 33494  
Code. 33495

(K) The authority and other fiduciaries shall discharge their 33496  
duties with respect to the funds with care, skill, prudence, and 33497  
diligence under the circumstances then prevailing that a prudent 33498  
person acting in a like capacity and familiar with such matters 33499  
would use in the conduct of an enterprise of a like character and 33500  
with like aims; and by diversifying the investments of the assets 33501  
of the funds so as to minimize the risk of large losses, unless 33502  
under the circumstances it is clearly prudent not to do so. 33503

To facilitate investment of the funds, the authority may 33504  
establish a partnership, trust, limited liability company, 33505  
corporation, including a corporation exempt from taxation under 33506  
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 33507  
amended, or any other legal entity authorized to transact business 33508  
in this state. 33509

(L) In exercising its fiduciary responsibility with respect 33510  
to the investment of the assets of the funds, it shall be the 33511  
intent of the authority to give consideration to investments that 33512  
enhance the general welfare of the state and its citizens where 33513  
the investments offer quality, return, and safety comparable to 33514  
other investments currently available to the authority. In 33515  
fulfilling this intent, equal consideration shall also be given to 33516  
investments otherwise qualifying under this section that involve 33517  
minority owned and controlled firms and firms owned and controlled 33518  
by women, either alone or in joint venture with other firms. 33519

The authority shall adopt, in regular meeting, policies, 33520  
objectives, or criteria for the operation of the investment 33521  
program that include asset allocation targets and ranges, risk 33522

factors, asset class benchmarks, time horizons, total return  
objectives, and performance evaluation guidelines. In adopting  
policies and criteria for the selection of agents with whom the  
authority may contract for the administration of the assets of the  
funds, the authority shall give equal consideration to minority  
owned and controlled firms, firms owned and controlled by women,  
and ventures involving minority owned and controlled firms and  
firms owned and controlled by women that otherwise meet the  
policies and criteria established by the authority. Amendments and  
additions to the policies and criteria shall be adopted in regular  
meeting. The authority shall publish its policies, objectives, and  
criteria under this provision no less often than annually and  
shall make copies available to interested parties.

When reporting on the performance of investments, the  
authority shall comply with the performance presentation standards  
established by the association for investment management and  
research.

(M) All investments shall be purchased at current market  
prices and the evidences of title of the investments shall be  
placed in the hands of the treasurer of state, who is hereby  
designated as custodian thereof, or in the hands of the treasurer  
of state's authorized agent. The treasurer of state or the agent  
shall collect the principal, dividends, distributions, and  
interest thereon as they become due and payable and place them  
when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by  
the authority on receipt of written or electronic instructions  
from the authority or the authority's designated agent authorizing  
the purchase and pending receipt of the evidence of title of the  
investment by the treasurer of state or the treasurer of state's  
authorized agent. The authority may sell investments held by the  
authority, and the treasurer of state or the treasurer of state's

authorized agent shall accept payment from the purchaser and 33555  
deliver evidence of title of the investment to the purchaser on 33556  
receipt of written or electronic instructions from the authority 33557  
or the authority's designated agent authorizing the sale, and 33558  
pending receipt of the moneys for the investments. The amount 33559  
received shall be placed in the custodial funds. The authority and 33560  
the treasurer of state may enter into agreements to establish 33561  
procedures for the purchase and sale of investments under this 33562  
division and the custody of the investments. 33563

No purchase or sale of any investment shall be made under 33564  
this section except as authorized by the authority. 33565

Any statement of financial position distributed by the 33566  
authority shall include fair value, as of the statement date, of 33567  
all investments held by the authority under this section. 33568

**Sec. 3334.12.** Notwithstanding anything to the contrary in 33569  
sections 3334.07 and 3334.09 of the Revised Code: 33570

(A) Annually, the Ohio tuition trust authority shall have the 33571  
actuarial soundness of the Ohio tuition trust fund evaluated by a 33572  
nationally recognized actuary and shall determine whether 33573  
additional assets are necessary to defray the obligations of the 33574  
authority. If, after the authority sets the price for tuition 33575  
~~credits~~ units, circumstances arise that the executive director 33576  
determines necessitate an additional evaluation of the actuarial 33577  
soundness of the fund, the executive director shall have a 33578  
nationally recognized actuary conduct the necessary evaluation. If 33579  
the assets of the fund are insufficient to ensure the actuarial 33580  
soundness of the fund, the authority shall adjust the price of 33581  
subsequent purchases of tuition ~~credits~~ units to the extent 33582  
necessary to help restore the actuarial soundness of the fund. If, 33583  
at any time, the adjustment is likely, in the opinion of the 33584  
authority, to diminish the marketability of tuition ~~credits~~ units 33585

to an extent that the continued sale of the ~~credits~~ units likely 33586  
would not restore the actuarial soundness of the fund and external 33587  
economic factors continue to negatively impact the soundness of 33588  
the program, the authority may suspend sales, either permanently 33589  
or temporarily, of tuition ~~credits~~ units. During any suspension, 33590  
the authority shall continue to service existing college savings 33591  
program accounts. 33592

(B) Upon termination of the program or liquidation of the 33593  
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 33594  
the Ohio tuition trust operating fund, any remaining assets of the 33595  
funds after all obligations of the funds have been satisfied 33596  
pursuant to division (B) of section 3334.11 of the Revised Code 33597  
shall be transferred to the general revenue fund of the state. 33598

(C) The authority shall prepare and cause to have audited an 33599  
annual financial report on all financial activity of the Ohio 33600  
tuition trust authority within ninety days of the end of the 33601  
fiscal year. The authority shall transmit a copy of the audited 33602  
financial report to the governor, the president of the senate, the 33603  
speaker of the house of representatives, and the minority leaders 33604  
of the senate and the house of representatives. Copies of the 33605  
audited financial report also shall be made available, upon 33606  
request, to the persons entering into contracts with the authority 33607  
and to prospective purchasers of tuition ~~credits~~ units and 33608  
prospective contributors to variable college savings program 33609  
accounts. 33610

**Sec. 3334.15.** (A) The right of a person to a tuition ~~credit~~ 33611  
unit or a payment under section 3334.09 of the Revised Code 33612  
pursuant to a tuition ~~credit~~ payment contract, a scholarship 33613  
program, or a variable college savings program account shall not 33614  
be subject to execution, garnishment, attachment, the operation of 33615  
bankruptcy or the insolvency laws, or other process of law. 33616

(B) The right of a person to a tuition ~~credit~~ unit or a 33617  
payment under section 3334.09 of the Revised Code pursuant to a 33618  
tuition ~~credit~~ payment contract, a scholarship program, or a 33619  
variable college savings program account shall not be used as 33620  
security or collateral for a loan. 33621

**Sec. 3334.16.** The general assembly hereby finds that the 33622  
prepaid tuition program providing for the sale of tuition credits 33623  
units by the Ohio tuition trust authority is an official state 33624  
function, offered through an agency of this state, which agency 33625  
receives state appropriations. Therefore, the authority is 33626  
directed by the state of Ohio to assume it is exempt from federal 33627  
tax liability. 33628

**Sec. 3334.17.** (A) The state, any political subdivision of the 33629  
state, and any organization that is exempt from federal income 33630  
taxation under section 501 (a) and described in section 501 (c)(3) 33631  
of the Internal Revenue Code, including the Ohio tuition trust 33632  
authority if this is authorized under federal tax law, may 33633  
establish a scholarship program to award scholarships consisting 33634  
of contributions made to any college savings program for students. 33635  
Any scholarship program established under this section shall be 33636  
registered with the authority. The authority shall be notified of 33637  
the name and address of each scholarship beneficiary under the 33638  
program, the amounts awarded, and the institution of higher 33639  
education in which the beneficiary is enrolled. Scholarship 33640  
beneficiaries shall be selected by the entity establishing the 33641  
scholarship program, in accordance with criteria established by 33642  
the entity. 33643

(B) Any person or governmental entity may purchase tuition 33644  
~~credits~~ units on behalf of a scholarship program that is or is to 33645  
be established in accordance with division (A) of this section at 33646

the same price as is established for the purchase of ~~credits~~ units 33647  
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 33648  
units shall have the same value to the beneficiary of a 33649  
scholarship awarded pursuant to this section as they would have to 33650  
any other beneficiary pursuant to division (B) of section 3334.09 33651  
of the Revised Code. 33652

(C) The entity establishing and maintaining a scholarship 33653  
program shall specify whether a scholarship beneficiary may 33654  
receive a refund or payment for the amount awarded under the 33655  
scholarship program directly from the authority, or whether the 33656  
amount awarded shall be paid by the authority only to the 33657  
institution of higher education in which the student is enrolled. 33658

(D) If a scholarship beneficiary does not use the amount 33659  
awarded within a length of time specified under the scholarship 33660  
program, the amount may be awarded to another beneficiary. 33661

**Sec. 3334.18.** (A) A variable college savings program 33662  
established by the Ohio tuition trust authority shall include 33663  
provisions for a contract to be entered into between a contributor 33664  
and the authority that will authorize the contributor to open an 33665  
account for a beneficiary and authorize the contributor to 33666  
substitute a new beneficiary for one originally named in the 33667  
contract, to the extent permitted by section 529 of the Internal 33668  
Revenue Code. 33669

(B) The authority shall provide adequate safeguards to 33670  
prevent total contributions to a variable college savings program 33671  
account or purchases of tuition ~~credits~~ units, either separately 33672  
or combined, that are made on behalf of a beneficiary from 33673  
exceeding the amount necessary to provide for the tuition and 33674  
other higher education expenses of the beneficiary, consistent 33675  
with the maximum contributions permitted by section 529 of the 33676  
Internal Revenue Code. However, in no event shall contributions or 33677

purchases exceed the allowable limit for a qualified ~~state~~ tuition 33678  
program under section 529 of the Internal Revenue Code. 33679

(C)(1) Participation in the variable college savings program 33680  
does not guarantee that contributions and the investment return on 33681  
contributions, if any, will be adequate to cover future tuition 33682  
and other higher education expenses or that a beneficiary will be 33683  
admitted to or permitted to continue to attend an institution of 33684  
higher education. 33685

(2) Returns on contributors' investments in the variable 33686  
college savings program are not guaranteed by the state and the 33687  
contributors to the variable college savings program assume all 33688  
investment risk, including the potential loss of principal and 33689  
liability for penalties such as those levied for noneducational 33690  
withdrawals. 33691

(3) The state shall have no debt or obligation to any 33692  
contributor, beneficiary, or any other person as a result of the 33693  
establishment of the program, and the state assumes no risk or 33694  
liability for funds invested in the variable college savings 33695  
program. 33696

(4) Informational materials about the variable college 33697  
savings program prepared by the authority or its agents and 33698  
provided to prospective contributors shall state clearly the 33699  
information set forth in division (C) of this section. 33700

**Sec. 3334.19.** (A) The Ohio tuition trust authority shall 33701  
adopt an investment plan that sets forth investment policies and 33702  
guidelines to be utilized in administering the variable college 33703  
savings program. Except as provided in section 3334.20 of the 33704  
Revised Code, the authority shall contract with one or more 33705  
insurance companies, banks, or other financial institutions to act 33706  
as its investment agents and to provide such services as the 33707  
authority considers appropriate to the investment plan, including: 33708



(1) Purchase, control, and safekeeping of assets;	33709
(2) Record keeping and accounting for individual accounts and for the program as a whole;	33710 33711
(3) Provision of consolidated statements of account.	33712
(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.	33713 33714 33715 33716 33717 33718 33719
(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.	33720 33721 33722 33723 33724
(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.	33725 33726 33727 33728
(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.	33729 33730 33731 33732
(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or	33733 33734 33735 33736 33737 33738

any agency or instrumentality of the state. Unless otherwise  
specified by the authority, assets of the program shall be  
expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college  
savings program contracts;

(3) To pay the authority's costs of administering the  
program;

(4) To pay or cover any other expenditure or disbursement the  
authority determines necessary or appropriate.

(G) Fees, charges, and other costs imposed or collected by  
the authority in connection with the variable college savings  
program, including any fees or other payments that the authority  
requires an investment agent to pay to the authority, shall be  
credited to either the variable operating fund or the index  
operating fund at the discretion of the authority. ~~The fund shall~~  
~~be These funds are hereby created in the custody of the treasurer~~  
~~of state, but shall not be part of the state treasury.~~ Expenses  
incurred in the administration of the variable college savings  
program, as well as other expenses, disbursements, or payments the  
authority considers appropriate for the benefit of any college  
savings programs administered by the authority, the state of Ohio  
and its citizens, shall be paid from the variable operating fund  
or the index operating fund at the discretion of the authority.

(H) No records of the authority indicating the identity of  
purchasers, contributors, and beneficiaries under the program or  
amounts contributed to, earned by, or distributed from program  
accounts are public records within the meaning of section 149.43  
of the Revised Code.

**Sec. 3335.02.** (A) The government of the Ohio state university

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shall be vested in a board of ~~eleven~~ fourteen trustees in 2005, 33769  
and seventeen trustees beginning in 2006, who shall be appointed 33770  
by the governor, with the advice and consent of the senate. Two of 33771  
the ~~eleven~~ seventeen trustees shall be students at the Ohio state 33772  
university, and their selection and terms shall be in accordance 33773  
with division (B) of this section. Except as provided in division 33774  
(C) of this section and except for the terms of student members, 33775  
terms of office shall be for nine years, commencing on the 33776  
fourteenth day of May and ending on the thirteenth day of May. 33777  
Each trustee shall hold office from the date of appointment until 33778  
the end of the term for which the trustee was appointed. Any 33779  
trustee appointed to fill a vacancy occurring prior to the 33780  
expiration of the term for which the trustee's predecessor was 33781  
appointed shall hold office for the remainder of such term. Any 33782  
trustee shall continue in office subsequent to the expiration date 33783  
of the trustee's term until the trustee's successor takes office, 33784  
or until a period of sixty days has elapsed, whichever occurs 33785  
first. No person who has served a full nine-year term or more than 33786  
six years of such a term shall be eligible for reappointment until 33787  
a period of four years has elapsed since the last day of the term 33788  
for which the person previously served. The trustees shall not 33789  
receive compensation for their services, but shall be paid their 33790  
reasonable necessary expenses while engaged in the discharge of 33791  
their official duties. 33792

(B) The student members of the board of trustees of the Ohio 33793  
state university have no voting power on the board. Student 33794  
members shall not be considered as members of the board in 33795  
determining whether a quorum is present. Student members shall not 33796  
be entitled to attend executive sessions of the board. The student 33797  
members of the board shall be appointed by the governor, with the 33798  
advice and consent of the senate, from a group of five candidates 33799  
selected pursuant to a procedure adopted by the university's 33800  
student governments and approved by the university's board of 33801

trustees. The initial term of office of one of the student members shall commence on May 14, 1988 and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988 and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event a student member cannot fulfill a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

(C)(1) The initial terms of office for the three additional trustees appointed in 2005 shall commence on a date in 2005 that is selected by the governor with one term of office expiring on May 13, 2009, one term of office expiring on May 13, 2010, and one term of office expiring on May 13, 2011, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional trustees appointed in 2006 shall commence on May 14, 2006, with one term of office expiring on May 13, 2012, one term of office expiring on May 13, 2013, and one term of office expiring on May 13, 2014, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

**Sec. 3345.10. (A)** As used in this section:

~~(A), "Institution state institution of higher education"~~ means a state university, municipal university, state medical college, community college, technical college, or state community college has the same meaning as in section 3345.011 of the Revised Code.

(B) Each state institution of higher education shall 33832  
establish competitive bidding procedures for the purchase of 33833  
printed material and shall award all ~~such~~ contracts for the 33834  
purchase of printed material in accordance with ~~such~~ those 33835  
procedures. ~~Notwithstanding any other provision of law, The~~ 33836  
procedures shall require the institution to evaluate all bids 33837  
received for all contracts for the purchase of printed material 33838  
~~shall be let by an institution to vendors who have manufacturing~~ 33839  
~~facilities within this state, except as provided in division (C)~~ 33840  
~~of this section.~~ 33841

~~(C) If the required printed products are not available from a~~ 33842  
~~vendor who has manufacturing facilities within this state, the~~ 33843  
~~institution shall be permitted to purchase from an out of state~~ 33844  
~~vendor.~~ 33845

~~(D) No vendor with manufacturing facilities within this state~~ 33846  
~~who would execute the printing covered by the proposal shall be~~ 33847  
~~prohibited from submitting a proposal for consideration and any~~ 33848  
~~such proposal properly submitted shall be considered in accordance~~ 33849  
~~with the criteria and procedures established pursuant to divisions~~ 33850  
~~(C)(1) and (2) of section 125.09 of the Revised Code for~~ 33851  
~~determining whether bidders will produce the printed material at~~ 33852  
~~manufacturing facilities within this state or in accordance with~~ 33853  
~~the criteria and procedures established pursuant to division~~ 33854  
~~(C)(4) or (5) of that section for determining whether bidders are~~ 33855  
~~otherwise qualified.~~ 33856

An institution shall select, in accordance with the 33857  
procedures it establishes under this section, a bid from among 33858  
bidders that fulfill the criteria specified in the applicable 33859  
divisions of section 125.09 of the Revised Code where sufficient 33860  
competition can be generated within this state to ensure that 33861  
compliance with this requirement will not result in paying an 33862  
excessive price or acquiring a disproportionately inferior 33863

product. If there are two or more bids from among those bidders, 33864  
it shall be deemed that there is sufficient competition to prevent 33865  
paying an excessive price or acquiring a disproportionately 33866  
inferior product. 33867

**Sec. 3345.19.** In the exercise of their respective powers of 33868  
government conferred by Chapter 3345. of the Revised Code and 33869  
other pertinent provisions of law, the boards of trustees of 33870  
Bowling Green state university, Kent state university, Miami 33871  
university, Ohio university, and the Ohio state university shall 33872  
observe the following enrollment limitations insofar as the autumn 33873  
quarter enrollment or any other quarter enrollment on a full-time 33874  
~~equivalent~~ basis as defined by the Ohio board of regents is 33875  
concerned: 33876

Bowling Green central campus	17,000	33877
Kent central campus	22,000	33878
Miami central campus	17,000	33879
Ohio university central campus	22,000	33880
The Ohio state central campus	42,000	33881

Campus student housing facilities shall only be authorized by 33882  
boards of trustees within these limitations. 33883

**Sec. 3345.32.** (A) As used in this section: 33884

(1) "State university or college" means the institutions 33885  
described in section 3345.27 of the Revised Code, the northeastern 33886  
Ohio universities college of medicine, and the medical university 33887  
of Ohio at Toledo. 33888

(2) "Resident" has the meaning specified by rule of the Ohio 33889  
board of regents. 33890

(3) "Statement of selective service status" means a statement 33891  
certifying one of the following: 33892

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age;

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended;

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system

in accordance with the "Military Selective Service Act," 62 Stat. 33923  
604, 50 U.S.C. App. 453, as amended. For those students not 33924  
required to register with the selective service, as specified in 33925  
divisions (A)(2)(b)(i) to (iv) of this section, a section shall be 33926  
provided on the statement of selective service status for the 33927  
certification of nonregistration and for an explanation of the 33928  
reason for the exemption. The board of regents may require that 33929  
such statements be accompanied by documentation specified by rule 33930  
of the board. 33931

(C) A state university or college that enrolls in any course, 33932  
class, or program a male student born after December 31, 1959, who 33933  
has not filed a statement of selective service status with the 33934  
university or college shall, regardless of the student's 33935  
residency, charge the student any tuition surcharge charged 33936  
students who are not residents of this state. 33937

(D) No male born after December 31, 1959, shall be eligible 33938  
to receive any loan, grant, scholarship, or other financial 33939  
assistance for educational expenses under section 3315.33, 33940  
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 33941  
5910.032, or 5919.34 of the Revised Code unless that person has 33942  
filed a statement of selective service status with that person's 33943  
institution of higher education. 33944

(E) If an institution of higher education receives a 33945  
statement from an individual certifying that the individual has 33946  
registered with the selective service system in accordance with 33947  
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 33948  
453, as amended or that the individual is exempt from registration 33949  
for a reason other than that the individual is under eighteen 33950  
years of age, the institution shall not require the individual to 33951  
file any further statements. If it receives a statement certifying 33952  
that the individual is not required to register because the 33953  
individual is under eighteen years of age, the institution shall 33954



require the individual to file a new statement of selective 33955  
service status each time the individual seeks to enroll for a new 33956  
academic term or makes application for a new loan or loan 33957  
guarantee or for any form of financial assistance for educational 33958  
expenses, until it receives a statement certifying that the 33959  
individual has registered with the selective service system or is 33960  
exempt from registration for a reason other than that the 33961  
individual is under eighteen years of age. 33962

**Sec. 3353.01.** As used in ~~sections 3353.01 to 3353.05 of the~~ 33963  
~~Revised Code~~ this chapter: 33964

(A) "Educational television or radio" means television or 33965  
radio programs which serve the educational needs of the community 33966  
and which meet the requirements of the federal communications 33967  
commission for noncommercial educational television or radio. 33968

(B) "Educational telecommunications network" means a system 33969  
of connected educational television, radio, or radio reading 33970  
service facilities and coordinated programs established and 33971  
operated or controlled by the eTech Ohio ~~educational~~ 33972  
~~telecommunications network~~ commission, pursuant to ~~sections~~ 33973  
~~3353.01 to 3353.04 of the Revised Code~~ this chapter. 33974

(C) "Transmission" means the sending out of television, 33975  
radio, or radio reading service programs, either directly to the 33976  
public, or to broadcasting stations or services for simultaneous 33977  
broadcast or rebroadcast. 33978

(D) ~~"Transmission facilities" means structures, equipment,~~ 33979  
~~material, and services used in the transmission of educational~~ 33980  
~~television, radio, or radio reading service programs.~~ 33981

~~(E)~~ "Interconnection facilities" means the equipment, 33982  
material, and services used to link one location to another 33983  
location or to several locations by means of telephone line, 33984

coaxial cable, microwave relays, or other available technologies. 33985

~~(F)~~(E) "Broadcasting station" means a properly licensed 33986  
noncommercial educational television or radio station, 33987  
appropriately staffed and equipped to produce programs or lessons 33988  
and to broadcast programs. 33989

~~(G) "Production center" means a television, radio, or radio 33990  
reading service production studio, staffed and equipped with 33991  
equipment, material, and supplies necessary to produce a program 33992  
or a lesson for broadcast or for recording on film, video tape, or 33993  
audio tape. 33994~~

~~(H)~~(F) "Radio reading service" means a nonprofit organization 33995  
that disseminates news and other information to blind and 33996  
physically handicapped persons. 33997

(G) "Affiliate" means an educational telecommunication 33998  
entity, including a television or radio broadcasting station or 33999  
radio reading service. 34000

**Sec. 3353.02.** (A) There is hereby created the eTech Ohio 34001  
commission as an independent agency to advance education and 34002  
accelerate the learning of the citizens of this state through 34003  
technology. The commission shall provide leadership and support in 34004  
extending the knowledge of the citizens of this state by promoting 34005  
equal access to and use of all forms of educational technology, 34006  
including educational television and radio, radio reading 34007  
services, broadband networks, videotapes, compact discs, digital 34008  
video on demand (DVD), and the internet. 34009

The commission is a body corporate and politic, an agency of 34010  
the state performing essential governmental functions of the 34011  
state. 34012

(B) The commission shall consist of eleven members, seven of 34013  
whom shall be voting members. Four of the voting members shall be 34014

representatives of the public with a demonstrated interest in 34015  
public broadcasting and education and shall be appointed by the 34016  
governor with the advice and consent of the senate. The 34017  
superintendent of public instruction or a designee of the 34018  
superintendent, the chancellor of the Ohio board of regents or a 34019  
designee of the chancellor, and the director of administrative 34020  
services or a designee of the director shall be ex officio voting 34021  
members. Of the nonvoting members, two shall be members of the 34022  
house of representatives appointed by the speaker of the house of 34023  
representatives and two shall be members of the senate appointed 34024  
by the president of the senate. The members appointed from each 34025  
chamber shall not be members of the same political party. 34026

(C) Initial terms of office for members appointed by the 34027  
governor shall be one year for one member, two years for one 34028  
member, three years for one member, and four years for one member. 34029  
At the first meeting of the commission, members appointed by the 34030  
governor shall draw lots to determine the length of the term each 34031  
member will serve. Thereafter, terms of office for members 34032  
appointed by the governor shall be for four years. Any member 34033  
appointed by the governor may be reappointed, but no such member 34034  
may serve more than two consecutive four-year terms. Members 34035  
appointed by the governor may be removed by the governor for 34036  
cause. 34037

Any member appointed by the speaker of the house of 34038  
representatives or the president of the senate who ceases to be a 34039  
member of the legislative chamber from which the member was 34040  
appointed shall cease to be a member of the commission. The 34041  
speaker of the house of representatives and the president of the 34042  
senate may remove their respective appointments to the commission 34043  
at any time. 34044

(D) Vacancies among appointed members shall be filled in the 34045  
manner provided for original appointments. Any member appointed by 34046

the governor to fill a vacancy occurring prior to the expiration 34047  
of the term for which the member's predecessor was appointed shall 34048  
hold office for the remainder of that term. Any member appointed 34049  
by the governor shall continue in office subsequent to the 34050  
expiration of that member's term until the member's successor 34051  
takes office or until a period of sixty days has elapsed, 34052  
whichever occurs first. 34053

(E) Members of the commission shall serve without 34054  
compensation. The members appointed by the governor shall be 34055  
reimbursed, pursuant to office of budget and management 34056  
guidelines, for actual and necessary expenses incurred in the 34057  
performance of official duties. 34058

(F) The governor shall appoint the chairperson of the 34059  
commission from among the representatives of the public. The 34060  
chairperson shall serve a term of two years and may be 34061  
reappointed. The commission shall elect other officers as 34062  
necessary from among its voting members and shall prescribe its 34063  
rules of procedure. 34064

(G) The commission shall establish advisory groups as needed 34065  
to address topics of interest and to provide guidance to the 34066  
commission regarding educational technology issues and the 34067  
technology needs of educators, learners, and the public. Members 34068  
of each advisory group shall be appointed by the commission and 34069  
shall include representatives of individuals or organizations with 34070  
an interest in the topic addressed by the advisory group. 34071

**Sec. 3353.03.** (A) The eTech Ohio commission shall appoint an 34072  
executive director, who shall serve at the pleasure of the 34073  
commission. The executive director shall have no authority other 34074  
than that provided by law or delegated to the executive director 34075  
by the commission. The executive director shall do all of the 34076  
following: 34077

<u>(1) Direct commission employees in the administration of all</u>	34078
<u>programs of the commission;</u>	34079
<u>(2) Provide leadership and support in extending the knowledge</u>	34080
<u>of the citizens of this state by promoting equal access to and use</u>	34081
<u>of all forms of educational technology, as directed by the</u>	34082
<u>commission;</u>	34083
<u>(3) Provide financial and other assistance to school</u>	34084
<u>districts and other educational institutions, affiliates, and</u>	34085
<u>educational technology organizations for the acquisition and</u>	34086
<u>utilization of educational technology;</u>	34087
<u>(4) Implement policies and directives issued by the</u>	34088
<u>commission;</u>	34089
<u>(5) Perform other duties authorized by the commission.</u>	34090
<u>(B) The commission shall fix the compensation of the</u>	34091
<u>executive director. The executive director shall employ and fix</u>	34092
<u>the compensation for such employees as necessary to facilitate the</u>	34093
<u>activities and purposes of the commission. The employees shall</u>	34094
<u>serve at the pleasure of the executive director.</u>	34095
<u>(C) The employees of the commission shall be placed in the</u>	34096
<u>unclassified service. The employees shall be exempt from Chapter</u>	34097
<u>4117. of the Revised Code and shall not be public employees as</u>	34098
<u>defined in section 4117.01 of the Revised Code.</u>	34099
<b>Sec. 3353.04. (A) The eTech Ohio educational</b>	34100
<del>telecommunications network</del> <u>commission may perform any act</u>	34101
<u>necessary to carry out the functions of this chapter, including</u>	34102
<u>any of the following:</u>	34103
<del>(A) Own and operate transmission facilities and</del> <u>(1) Make</u>	34104
<u>grants to institutions and other organizations as prescribed by</u>	34105
<u>the general assembly for the provision of technical assistance,</u>	34106
<u>professional development, and other support services to enable</u>	34107

school districts, community schools established under Chapter 34108  
3314. of the Revised Code, other educational institutions, and 34109  
affiliates to utilize educational technology; 34110

(2) Establish a reporting system for school districts, 34111  
community schools, other educational institutions, affiliates, and 34112  
educational technology organizations that receive financial 34113  
assistance from the commission. The system may require the 34114  
reporting of information regarding the manner in which the 34115  
assistance was expended, the manner in which the equipment or 34116  
services purchased with the assistance is being utilized, the 34117  
results or outcome of the utilization, the manner in which the 34118  
utilization is compatible with the statewide academic standards 34119  
adopted by the state board of education pursuant to section 34120  
3301.079 of the Revised Code, and any other information determined 34121  
by the commission. 34122

(3) Ensure that, where appropriate, products produced by any 34123  
entity to which the commission provides financial assistance for 34124  
use in elementary and secondary education are aligned with the 34125  
statewide academic standards adopted by the state board pursuant 34126  
to section 3301.079 of the Revised Code; 34127

(4) Promote accessibility to educational products aligned 34128  
with the statewide academic standards adopted by the state board 34129  
pursuant to section 3301.079 of the Revised Code for school 34130  
districts, community schools, and other entities serving grades 34131  
kindergarten through twelve; 34132

(5) Operate interconnection facilities, or contract for 34133  
transmission facilities and interconnection facilities, for an 34134  
educational television, radio, or radio reading service network; 34135

~~(B)~~(6) Establish standards for interconnection facilities 34136  
used in the transmission of educational television, radio, or 34137  
radio reading service programming operated by the commission; 34138

~~(C) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the transmission to the broadcasting stations or services of identical programs for broadcasting either simultaneously or through the use of transcription discs, video tapes, film, or audio tapes;~~ 34139  
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~~(D)(7) Enter into agreements with noncommercial educational television, radio, or radio reading service production centers and with broadcasting stations and or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;~~ 34145  
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34147  
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~~(E)(8) Execute contracts and other agreements necessary and desirable to carry out the purposes of sections 3353.01 to 3353.04 of the Revised Code this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;~~ 34151  
34152  
34153  
34154  
34155  
34156

~~(F) Determine programs to be distributed through the Ohio educational telecommunications network;~~ 34157  
34158

~~(G)(9) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for the development of equipment for educational broadcasting or radio reading services;~~ 34159  
34160  
34161  
34162  
34163

~~(H)(10) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services, and may consign equipment to them in exchange for services rendered;~~ 34164  
34165  
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34168

(11) In consultation with participants in programs 34169

administered by the commission, establish guidelines governing 34170  
purchasing and procurement that facilitate the timely and 34171  
effective implementation of such programs; 34172

(12) In consultation with participants in programs 34173  
administered by the commission, consider the efficiency and cost 34174  
savings of statewide procurement prior to allocating and releasing 34175  
funds for such programs; 34176

(13) In consultation with participants in programs 34177  
administered by the commission, establish a systems support 34178  
network to facilitate the timely implementation of the programs 34179  
and other projects and activities for which the commission 34180  
provides assistance. 34181

(B) Chapters 123., 124., 125., and 153. of the Revised Code 34182  
and sections 9.331, 9.332, and 9.333 of the Revised Code do not 34183  
apply to contracts, programs, projects, or activities of the 34184  
commission. 34185

**Sec. 3353.06.** (A) The affiliates services fund is hereby 34186  
created in the state treasury. The eTech Ohio ~~educational~~ 34187  
~~telecommunications network~~ commission shall deposit any money it 34188  
receives for services provided to affiliates to the credit of the 34189  
fund, including: 34190

(1) Reimbursements for services provided to stations; 34191

(2) Charges levied for maintenance of telecommunications, 34192  
broadcasting, or transmission equipment; 34193

(3) Contract or grant payments from affiliates. 34194

(B) The commission shall use money credited to the affiliates 34195  
services fund for any commission operating purposes, including: 34196

(1) The purchase, repair, or maintenance of 34197  
telecommunications, broadcasting, or transmission equipment; 34198



- (2) The purchase or lease of educational programming; 34199  
(3) The purchase of tape and maintenance of a media library; 34200  
(4) Professional development programs and services; 34201  
(5) Administrative expenses ~~and legal fees.~~ 34202

**Sec. 3353.07.** (A) ~~As used in this section, "broadcasting station" has the same meaning as in section 3353.01 of the Revised Code.~~ 34203  
34204  
34205

~~(B)~~ Ohio government telecommunications shall be funded 34206  
through the eTech Ohio ~~educational telecommunications network~~ 34207  
commission and shall be managed by a broadcasting station under a 34208  
contract. The contract shall not take effect until the program 34209  
committee of Ohio government telecommunications approves the 34210  
contract. The broadcasting station shall manage the staff of Ohio 34211  
government telecommunications. 34212

~~(C)~~(B)(1) There is hereby created the program committee of 34213  
Ohio government telecommunications that shall consist of the 34214  
president of the senate, speaker of the house of representatives, 34215  
minority leader of the senate, and minority leader of the house of 34216  
representatives, or their designees. By a vote of a majority of 34217  
its members, the program committee may add additional members to 34218  
the committee. 34219

(2) The program committee shall adopt rules that govern the 34220  
operation of Ohio government telecommunications and the coverage 34221  
and distribution of official governmental activities by Ohio 34222  
government telecommunications. 34223

**Sec. 3354.25.** (A) Notwithstanding section 3354.05 of the 34224  
Revised Code regarding the residency of boards of trustees 34225  
members, two members of the board of trustees of the Montgomery 34226  
county community college district shall be residents of Warren 34227

county and shall have full voting rights on all matters coming 34228  
before the board except those specified in division (B) of this 34229  
section. These two members and their successors shall be appointed 34230  
by the board of county commissioners of Warren county, and shall 34231  
replace two Montgomery county members of the board as follows: 34232

(1) One member from Warren county shall succeed the first 34233  
Montgomery county member appointed by the governor whose term ends 34234  
after the effective date of this section. 34235

(2) One member from Warren county shall succeed the first 34236  
Montgomery county member appointed by the board of county 34237  
commissioners of Montgomery county whose term ends after the 34238  
effective date of this section. 34239

Terms of office of the two Warren county positions otherwise 34240  
shall follow the requirements regarding terms of office for 34241  
members of boards of trustees of community college districts 34242  
prescribed in section 3354.05 of the Revised Code. 34243

(B) The trustees from Warren county shall have no vote on any 34244  
of the following matters: 34245

(1) Tax levies for Montgomery county; 34246

(2) The expenditure of revenue from levies described in 34247  
division (B)(1) of this section; 34248

(3) Tuition for Montgomery county residents; 34249

(4) Community college facilities in Montgomery county; 34250

(5) Community college programs offered in Montgomery county. 34251

When a matter described in divisions (B)(1) to (5) of this 34252  
section comes before the board, four Montgomery county trustees 34253  
constitute a quorum. The concurrence of four Montgomery county 34254  
trustees is necessary for approval of any matter described in 34255  
divisions (B)(1) to (5) of this section. The fact that a trustee 34256

from Warren county votes on a matter described in divisions (B)(1) 34257  
to (5) of this section does not invalidate the vote. 34258

(C) Warren county shall not be added to the Montgomery county 34259  
community college district. The district, therefore, shall have no 34260  
power to levy a tax in Warren county. Only the territory of the 34261  
Montgomery county community college district as approved and 34262  
certified by the Ohio board of regents under sections 3354.02 and 34263  
3354.04 of the Revised Code shall be included in the Montgomery 34264  
county community college district. However, the district may 34265  
provide services in Warren county. 34266

(D) The board of trustees of the Montgomery county community 34267  
college district shall continue to comply with division (G) of 34268  
section 3354.09 of the Revised Code, regarding tuition for 34269  
students who are residents of the district, for students who are 34270  
residents of Ohio but not of the district, and for students who 34271  
are nonresidents of Ohio. Students who are residents of Warren 34272  
county shall continue to be charged tuition at the same rate as 34273  
other Ohio residents who are not residents of Montgomery county. 34274

(E) Any money raised by the residents of Montgomery county 34275  
through a tax levied by the Montgomery county community college 34276  
district shall be used solely for the benefit of Montgomery county 34277  
residents attending Sinclair community college, shall be deposited 34278  
into a separate fund from all other revenues of the district, and 34279  
shall be budgeted separately in accordance with division (B) of 34280  
this section. 34281

**Sec. 3362.02.** The board of trustees of Shawnee state 34282  
university shall annually elect from their members a ~~chairman~~ 34283  
chairperson and ~~vice-chairman~~ vice-chairperson; and they may also 34284  
appoint a secretary of the board, a treasurer, and such other 34285  
officers of the university as the interests of the university 34286  
require, who may be members of the board. The treasurer, before 34287

entering upon the discharge of ~~his~~ official duties, shall give 34288  
bond to the state or be insured for the faithful performance of 34289  
~~his~~ the treasurer's duties and the proper accounting for all 34290  
moneys coming into ~~his~~ the treasurer's care. The amount of said 34291  
bond or insurance shall be determined by the board, but shall not 34292  
be for a sum less than the estimated amount which may come into 34293  
the treasurer's sole control at any time, less any reasonable 34294  
deductible. ~~Said bond shall be approved by the attorney general.~~ 34295

**Sec. 3365.01.** As used in ~~sections 3365.01 to 3365.10 of the~~ 34296  
~~Revised Code~~ this chapter: 34297

(A) "College" means any state-assisted college or university 34298  
described in section 3333.041 of the Revised Code, any nonprofit 34299  
institution holding a certificate of authorization pursuant to 34300  
Chapter 1713. of the Revised Code, any private institution exempt 34301  
from regulation under Chapter 3332. of the Revised Code as 34302  
prescribed in section 3333.046 of the Revised Code, and any 34303  
institution holding a certificate of registration from the state 34304  
board of career colleges and schools and program authorization for 34305  
an associate or bachelor's degree program issued under section 34306  
3332.05 of the Revised Code. 34307

(B) "School district," except as specified in division (G) of 34308  
this section, means any school district to which a student is 34309  
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 34310  
the Revised Code and does not include a joint vocational or 34311  
cooperative education school district. 34312

(C) "Parent" has the same meaning as in section 3313.64 of 34313  
the Revised Code. 34314

(D) "Participant" means a student enrolled in a college under 34315  
the post-secondary enrollment options program established by this 34316  
chapter. 34317

(E) "Secondary grade" means the ninth through twelfth grades.	34318
(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.	34319 34320 34321
(G) "Tuition base" means, with respect to a participant's school district, the <u>greater of the following:</u>	34322 34323
<u>(1) The fiscal year 2005</u> formula amount defined in <del>division (B) of</del> section 3317.02 of the Revised Code multiplied by the district's <u>fiscal year 2005</u> cost-of-doing-business factor defined in <del>division (N) of that</del> section <del>3317.02 of the Revised Code. The;</del>	34324 34325 34326 34327
<u>(2) The sum of (the current formula amount times the current cost-of-doing-business factor defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.</u>	34328 34329 34330 34331 34332
<u>The</u> participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.	34333 34334 34335 34336
(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.	34337 34338 34339
(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.	34340 34341 34342 34343
(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.	34344 34345
(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary	34346 34347

grades. 34348

(L) "Community school payments" means payments made by the 34349  
department of education to a community school pursuant to division 34350  
(D) of section 3314.08 of the Revised Code. 34351

**Sec. 3365.02.** There is hereby established the post-secondary 34352  
enrollment options program under which a secondary grade student 34353  
who is a resident of this state may enroll at a college, on a 34354  
full- or part-time basis, and complete nonsectarian courses for 34355  
high school and college credit. 34356

Secondary grade students in a nonpublic school may 34357  
participate in the post-secondary enrollment options program if 34358  
the chief administrator of such school notifies the department of 34359  
education by the first day of April prior to the school year in 34360  
which the school's students will participate. 34361

The state board of education, after consulting with the board 34362  
of regents, shall adopt rules governing the program. The rules 34363  
shall include: 34364

(A) Requirements for school districts, community schools, or 34365  
participating nonpublic schools to provide information about the 34366  
program prior to the first day of March of each year to all 34367  
students enrolled in grades eight through eleven; 34368

(B) A requirement that a student or the student's parent 34369  
inform the district board of education, the governing authority of 34370  
a community school, or the nonpublic school administrator by the 34371  
thirtieth day of March of the student's intent to participate in 34372  
the program during the following school year. The rule shall 34373  
provide that any student who fails to notify a district board, the 34374  
governing authority of a community school, or the nonpublic school 34375  
administrator by the required date may not participate in the 34376  
program during the following school year without the written 34377

consent of the district superintendent, the governing authority of	34378
a community school, or the nonpublic school administrator.	34379
(C) Requirements that school districts and community schools	34380
provide counseling services to students in grades eight through	34381
eleven and to their parents before the students participate in the	34382
program under this chapter to ensure that students and parents are	34383
fully aware of the possible risks and consequences of	34384
participation. Counseling information shall include without	34385
limitation:	34386
(1) Program eligibility;	34387
(2) The process for granting academic credits;	34388
(3) Financial arrangements for tuition, books, materials, and	34389
fees;	34390
(4) Criteria for any transportation aid;	34391
(5) Available support services;	34392
(6) Scheduling;	34393
(7) The consequences of failing or not completing a course in	34394
which the student enrolls and the effect of the grade attained in	34395
the course being included in the student's grade point average, if	34396
applicable;	34397
(8) The effect of program participation on the student's	34398
ability to complete the district's, community school's, or	34399
nonpublic school's graduation requirements;	34400
(9) The academic and social responsibilities of students and	34401
parents under the program;	34402
(10) Information about and encouragement to use the	34403
counseling services of the college in which the student intends to	34404
enroll.	34405
(D) A requirement that the student and the student's parent	34406

sign a form, provided by the school district or school, stating 34407  
that they have received the counseling required by division (C) of 34408  
this section and that they understand the responsibilities they 34409  
must assume in the program; 34410

(E) The options required by section 3365.04 of the Revised 34411  
Code; 34412

(F) A requirement that a student may not enroll in any 34413  
specific college course through the program if the student has 34414  
taken high school courses in the same subject area as that college 34415  
course and has failed to attain a cumulative grade point average 34416  
of at least 3.0 on a 4.0 scale, or the equivalent, in such 34417  
completed high school courses. 34418

~~Section Sec. 3375.48. The judges of the court of common pleas 34419  
of any county in which there is a A law library association which 34420  
furnishes that receives fines and penalties, and moneys arising 34421  
from forfeited bail, under sections 3375.50 to 3375.53 of the 34422  
Revised Code shall furnish to all of the members of the Ohio 34423  
general assembly, the county officers of the county in which the 34424  
association is located, and the judges of the several courts in 34425  
the that county admission to its the associations's law library 34426  
and the use of its books, materials, and equipment free of charge, 34427  
upon the appointment by the. The association's board of trustees 34428  
of such association of may appoint a person to act as librarian 34429  
thereof, or of a person to act as librarian and not more than two 34430  
additional persons to act as assistant law librarians thereof, of 34431  
the law library. The board shall ~~fix~~ be responsible for fixing and 34432  
paying the compensation of such those persons, which shall be paid 34433  
from the county treasury subject to section 3375.49 of the Revised 34434  
Code.~~ 34435

Sec. 3375.49. ~~For~~ (A) Subject to divisions (B) and (C) of 34436



this section, for the use of the law library referred to in 34437  
section 3375.48 of the Revised Code, the board of county 34438  
commissioners shall provide, at the expense of the county, 34439  
suitable rooms with sufficient and suitable bookcases space in the 34440  
county courthouse or, if there are no suitable rooms in the 34441  
courthouse, any other suitable rooms at in any other building 34442  
located in the county seat with sufficient, and suitable bookcases 34443  
utilities for that space. The 34444

(B)(1) Subject to division (C) of this section, through 34445  
calendar year 2006, the board of county commissioners shall be 34446  
responsible for paying the compensation of the librarian and up to 34447  
two assistant librarians of the law library appointed by the board 34448  
of trustees of the law library association under section 3375.48 34449  
of the Revised Code and the costs of the space in the county 34450  
courthouse or other building that the board provides for the use 34451  
of the law library under division (A) of this section, the 34452  
utilities for that space, and furniture and fixtures for the law 34453  
library. 34454

(2) In calendar years 2007 through 2010, the board of county 34455  
commissioners and the board of trustees shall be responsible for 34456  
paying the compensation of the librarian and up to two assistant 34457  
librarians appointed under section 3375.48 of the Revised Code and 34458  
the costs of the space in the county courthouse or other building 34459  
that the board of county commissioners provides for the use of the 34460  
law library under division (A) of this section, the utilities for 34461  
that space, and furniture and fixtures for the law library as 34462  
follows: 34463

(a) In calendar year 2007, the board of county commissioners 34464  
shall pay eighty per cent, and the board of trustees shall pay 34465  
twenty per cent. 34466

(b) In calendar year 2008, the board of county commissioners 34467  
shall pay sixty per cent, and the board of trustees shall pay 34468

forty per cent. 34469

(c) In calendar year 2009, the board of county commissioners shall pay forty per cent, and the board of trustees shall pay sixty per cent. 34470  
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(d) In calendar year 2010, the board of county commissioners shall pay twenty per cent, and the board of trustees shall pay eighty per cent. 34473  
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(3) Beginning in calendar year 2011 and thereafter, the board of trustees shall be responsible for paying the compensation of the librarian and all assistant librarians appointed under section 3375.48 of the Revised Code as well as the costs of the space in the county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and the law library's furniture and fixtures. 34476  
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(C) If the board of trustees of a law library association referred to in section 3375.48 of the Revised Code rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners of the county in which the association is located has no further obligation under division (A) of this section to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation under division (B) of this section to make payments for the compensation of the librarian and up to two assistant librarians of the law library appointed under section 3375.48 of the Revised Code and for the costs of space in the county courthouse or an other building for the use of the law library, the utilities for that space, and the law library's 34484  
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furniture and fixtures.

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~~(D) The librarian or person in charge~~ of the law library  
shall receive and safely keep in ~~these rooms~~ the law library the  
law reports and other books furnished by the state for use of the  
court and bar. ~~The board of county commissioners shall heat and  
light any such rooms. The~~

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(E) The books, computer communications console that is a  
means of access to a system of computerized legal research,  
microform materials and equipment, videotape materials and  
equipment, audio or visual materials and equipment, other  
materials and equipment utilized in conducting legal research, ~~and~~  
furniture, and fixtures of the law library association that are  
owned by, and used exclusively in, the law library are exempt from  
taxation.

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**Sec. 3375.54.** The money that is paid to the board of trustees  
of a law library association under sections 3375.50 to 3375.53 of  
the Revised Code shall be expended in the support and operation of  
the law library association ~~and~~ in the purchase, lease, or rental  
of lawbooks, a computer communications console that is a means of  
access to a system of computerized legal research, microform  
materials and equipment, videotape materials and equipment, audio  
or visual materials and equipment, ~~and other services,~~ materials,  
and equipment ~~that provide legal information or facilitate~~  
utilized in conducting legal research, furniture, and fixtures  
used in the association's law library; and to pay the compensation  
of any librarian and assistant librarians of the law library  
appointed under section 3375.48 of the Revised Code.

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**Sec. 3375.55.** ~~Judges of the county court in the county and~~  
~~officers~~ Officers of the townships and municipal corporations  
~~therein~~ in a county in which a law library association that

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receives fines and penalties, and moneys arising from forfeited 34530  
bail, under sections 3375.50 to 3375.53 of the Revised Code is 34531  
located shall have the same free use of the books, materials, and 34532  
equipment of the association's law library ~~receiving moneys under~~ 34533  
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code, as~~ 34534  
general assembly members and the judges and county officers 34535  
mentioned in section 3375.48 of the Revised Code. 34536

**Sec. 3381.02.** A regional arts and cultural district may be 34537  
created ~~under section 3381.03 or 3381.04 of the Revised Code~~ for 34538  
any of the following purposes: making grants to support the 34539  
operating or capital expenses of arts or cultural organizations 34540  
located within its district, or acquiring, constructing, 34541  
equipping, furnishing, repairing, remodeling, renovating, 34542  
enlarging, improving, or administering artistic or cultural 34543  
facilities. A regional arts and cultural district is a political 34544  
subdivision of the state and a body corporate, comprised of the 34545  
territory of a county, or two or more counties, municipal 34546  
corporations, townships, or any combination thereof, ~~provided,~~ 34547  
~~that if.~~ If more than one county is in a regional arts and 34548  
cultural district, each county shall be contiguous to a county in 34549  
~~its~~ the district, and, ~~provided also in the case of a combination~~ 34550  
of political subdivisions, ~~that~~ each municipal corporation or 34551  
township shall either be contiguous to a county, municipal 34552  
corporation, or township in ~~its~~ the regional arts and cultural 34553  
district, or each municipal corporation or township shall be 34554  
located in a county that is contiguous to a county in ~~its~~ the 34555  
district. 34556

**Sec. 3381.04. (A)** In lieu of the procedure set forth in 34557  
section 3381.03 of the Revised Code, any county with a population 34558  
of five hundred thousand or more ~~may,~~ at any time ~~prior to~~ before 34559  
the creation of a regional arts and cultural district ~~pursuant to~~ 34560

~~under that~~ section ~~3381.03~~ of the Revised Code, may create a 34561  
regional arts and cultural district by adoption of a resolution ~~or~~ 34562  
~~ordinance~~ by the board of county commissioners of ~~such that~~ 34563  
county. ~~Such~~ The resolution shall state all of the following: 34564

~~(A)~~(1) The purposes for the creation of the district; 34565

~~(B)~~(2) That the territory of the district shall be 34566  
coextensive with the territory of ~~such the~~ county; 34567

~~(C)~~(3) The official name by which the district shall be 34568  
known; 34569

~~(D)~~(4) The location of the principal office of the district 34570  
or the manner in which the location shall be selected. 34571

(B) The district provided for in ~~such the~~ resolution ~~or~~ 34572  
~~ordinance~~ shall be created upon the adoption of ~~such the~~ 34573  
resolution ~~or ordinance~~ by the board of county commissioners of 34574  
~~such that~~ county. Upon the adoption of ~~such the~~ resolution ~~or~~ 34575  
~~ordinance~~, ~~such the~~ county and the municipal corporations and 34576  
townships contained ~~therein~~ in the county shall not thereafter be 34577  
a part of any other regional arts and cultural district. 34578

(C) The board of trustees of any regional arts and cultural 34579  
district formed in accordance with this section shall be comprised 34580  
of three members appointed by the ~~same persons who comprise such~~ 34581  
~~county's~~ board of county commissioners. 34582

**Sec. 3381.05.** Within sixty days after a regional arts and 34583  
cultural district has been created ~~under section 3381.03 of the~~ 34584  
~~Revised Code~~, the board of trustees of the district shall be 34585  
appointed as provided in this section. 34586

Members of a board of trustees of a regional arts and 34587  
cultural district created by the exclusive action of a county 34588  
shall be appointed by the board of county commissioners of ~~such~~ 34589  
the county. A board of trustees of a district created by two or 34590

more political subdivisions shall consist of ~~such~~ the number of 34591  
members, and shall be appointed by ~~such~~ the public officers or 34592  
bodies, as shall be provided in the resolutions or ordinances 34593  
creating ~~such~~ the district, or any amendments ~~thereto~~ to them. All 34594

All members of a board of trustees of a regional arts and 34595  
cultural district ~~created under section 3381.03 of the Revised~~ 34596  
~~Code~~ shall be persons who have broad knowledge and experience in 34597  
the arts or cultural heritage and shall have other qualifications 34598  
as are specified in the ~~resolution~~ resolutions or ~~ordinance~~ 34599  
ordinances creating the district, or any amendments ~~thereto~~ to 34600  
them; provided, that at least two members of the board of trustees 34601  
shall be persons who devote a major portion of their time to 34602  
practicing, performing, or teaching any of the arts or who are 34603  
professional administrators in any field of the arts or cultural 34604  
heritage, and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances 34605  
creating ~~such regional arts and cultural~~ the district shall so 34606  
provide. All members of the board of trustees also shall be 34607  
qualified electors in the district's territory. ~~The~~ 34608

The appointing authority shall consider for appointment as 34609  
members of the board of trustees, but need not appoint, ~~such~~ 34610  
persons ~~as are~~ nominated by area arts councils, as defined in 34611  
section 757.03 of the Revised Code, located within the district; 34612  
provided that all ~~such~~ those persons shall meet the qualifications 34613  
specified in this section and the ~~resolution~~ resolutions or 34614  
~~ordinance~~ ordinances creating the district. ~~The resolution~~ 34615  
resolutions or ~~ordinance~~ ordinances creating the district may, but 34616  
need not, provide that the members of an area arts council located 34617  
within the district shall constitute the board of trustees of the 34618  
district. ~~The~~ 34619

The appointing authority ~~may~~, at any time, may remove a 34620  
trustee member of the board of trustees for misfeasance, 34621  
nonfeasance, or malfeasance in office. 34622

The initially appointed members of the board of trustees of 34623  
any regional arts and cultural district ~~created under section~~ 34624  
~~3381.03 of the Revised Code~~ shall serve staggered terms of one, 34625  
two, and three years. Thereafter, each trustee member shall serve 34626  
~~terms~~ a term of three years, except that any person appointed to 34627  
fill a vacancy shall be appointed to only the unexpired term. Any 34628  
~~appointed trustee member~~ is eligible for reappointment, except as 34629  
otherwise provided in the ~~resolution~~ resolutions or ~~ordinance~~ 34630  
ordinances creating ~~such the~~ the district, or any amendment ~~thereto to~~ 34631  
them. 34632

**Sec. 3381.06.** All the power and authority granted to a 34633  
regional arts and cultural district ~~created under section 3381.03~~ 34634  
~~or 3381.04 of the Revised Code~~ shall be vested in and exercised by 34635  
its board of trustees, which shall manage and conduct its affairs. 34636  
The board ~~shall~~, within the limitations of this chapter, shall 34637  
provide, by rules, the procedure for its actions, the manner of 34638  
selection of its president, vice-president, executive director, 34639  
and other officers and employees, their titles, terms of office, 34640  
compensation, duties, number, and qualifications, and any other 34641  
lawful subject necessary or desirable to the operation and 34642  
administration of the district and the exercise of the powers 34643  
granted to it. 34644

**Sec. 3381.07.** Upon the creation of a regional arts and 34645  
cultural district ~~under section 3381.03 or 3381.04 of the Revised~~ 34646  
~~Code~~ and upon the qualifying of its board of trustees and the 34647  
election of a president and a vice-president, the district shall 34648  
exercise in its own name all the rights, powers, and duties vested 34649  
in and conferred upon it by this chapter. A regional arts and 34650  
cultural district: 34651

(A) May sue or be sued in its corporate name; 34652

(B) May make contracts in the exercise of the rights, powers, 34653  
and duties conferred upon it; 34654

(C) May adopt and alter a seal and use ~~such~~ that seal by 34655  
causing it to be impressed, affixed, reproduced, or otherwise 34656  
used, but failure to affix the seal shall not affect the validity 34657  
of any instrument; 34658

(D) May make, adopt, amend, and repeal bylaws for the 34659  
administration of its affairs and rules for the administration and 34660  
operation of any artistic or cultural facilities under its control 34661  
and for the exercise of all of its rights of ownership ~~therein~~ in 34662  
those facilities, provided, however, that it may not be directly 34663  
involved in any programatic activities; 34664

(E) May make grants, on such terms and conditions as it may 34665  
deem advisable, to any arts or cultural organization within its 34666  
district as provided in section 3381.17 of the Revised Code; 34667

(F) May fix, alter, and collect rentals and other charges for 34668  
the use of any artistic or cultural facilities under its control, 34669  
to be determined exclusively by it for the purpose of providing 34670  
for the payment of the expenses of the district, the acquisition, 34671  
construction, equipping, improvement, extension, repair, 34672  
maintenance, renovation, enlargement, administration, and 34673  
operation of artistic or cultural facilities under its control, 34674  
and the payment of principal and interest on its obligations, and 34675  
~~to fulfill~~ fulfilling the terms of any agreements made with the 34676  
purchasers or holders of any such obligations, or with any person 34677  
or political subdivision; 34678

(G) Shall have jurisdiction, control, possession, and 34679  
supervision over the use and disposition of all property, rights, 34680  
licenses, moneys, contracts, accounts, liens, books, records, or 34681  
other property rights and interests conveyed, delivered, 34682  
transferred, or assigned to it; 34683



(H) May acquire, construct, improve, extend, repair, remodel, 34684  
renovate, furnish, equip, enlarge, lease, or maintain artistic or 34685  
cultural facilities within its territory as it considers necessary 34686  
to accomplish the purposes of this chapter, and make charges for 34687  
the use of artistic or cultural facilities; 34688

(I) May levy and collect taxes as provided in section 3381.16 34689  
of the Revised Code; 34690

(J) May issue bonds secured by its general credit as provided 34691  
in section 3381.08 of the Revised Code; 34692

(K) May hold, encumber, control, acquire by donation, 34693  
purchase, construct, own, lease as lessee or lessor, use, and sell 34694  
real and personal property, or any interest or right ~~therein in~~ 34695  
real or personal property, within or without its territory; 34696

(L) May employ or retain and fix the compensation of ~~such~~ 34697  
employees, ~~agent~~ agents, accountants, attorneys, and consultants 34698  
or advisors ~~as may be~~ necessary or desirable for the 34699  
accomplishment of its purposes; 34700

(M) May procure insurance against loss to it by reason of 34701  
damages to its properties resulting from fire, theft, accident, or 34702  
other casualties or by reason of its liability for any damages to 34703  
persons or property; 34704

(N) May maintain ~~such~~ funds as it determines necessary or 34705  
desirable for the efficient performance of its duties; 34706

(O) May procure a policy or policies insuring members of its 34707  
board of trustees, and its officers, employees, and agents, 34708  
against liability on account of damages or injury to persons and 34709  
property resulting from any act or omission of such person in ~~his~~ 34710  
the person's official capacity or resulting solely out of ~~his~~ the 34711  
person's service to ~~such~~ the district; 34712

(P) May receive and expend gifts, grants, bequests, or 34713

devices, or grants, including, but not limited to, grants of 34714  
public funds. 34715

**Sec. 3381.15.** (A) The board of county commissioners of any 34716  
county, the legislative authority of any municipal corporation, 34717  
and the board of township trustees of any township, included 34718  
within a regional arts and cultural district may appropriate 34719  
annually, from moneys to the credit of the general fund of the 34720  
county, the municipal corporation, or the township and not 34721  
otherwise appropriated, that portion of the expense of the 34722  
district to be paid by ~~such~~ the county, municipal corporation, or 34723  
township as provided in the resolution creating or enlarging the 34724  
district adopted under section 3381.03 of the Revised Code, or by 34725  
any amendment ~~thereto~~ to the resolution. 34726

(B) In addition to the authority granted to a board of county 34727  
commissioners under division (A) of this section, a board of 34728  
county commissioners in a county with a population of five hundred 34729  
thousand or more may establish and provide local funding options 34730  
for the support of arts and cultural organizations operating 34731  
within the regional arts and cultural district in which the county 34732  
is included. 34733

**Sec. 3383.02.** (A) There is hereby created the Ohio cultural 34734  
facilities commission. The commission shall engage in and provide 34735  
for the development, performance, and presentation or making 34736  
available of culture and professional sports and athletics to the 34737  
public in this state, and the provision of training or education 34738  
in culture, by the exercise of its powers under this chapter, 34739  
including the provision, operation, management, and cooperative 34740  
use of Ohio cultural facilities and Ohio sports facilities. The 34741  
commission is a body corporate and politic, an agency of state 34742  
government and an instrumentality of the state, performing 34743

essential governmental functions of this state. The carrying out 34744  
of the purposes and the exercise by the commission of its powers 34745  
conferred by this chapter are essential public functions and 34746  
public purposes of the state and of state government. The 34747  
commission may, in its own name, sue and be sued, enter into 34748  
contracts, and perform all the powers and duties given to it by 34749  
this chapter; however, it does not have and shall not exercise the 34750  
power of eminent domain. 34751

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ 34752  
nine of whom shall be voting members and three of whom shall be 34753  
nonvoting members. The ~~seven~~ nine voting members shall be 34754  
appointed by the governor, with the advice and consent of the 34755  
senate, from different geographical regions of the state. In 34756  
addition, one of the voting members shall represent the state 34757  
architect. Not more than ~~four~~ five of the members appointed by the 34758  
governor shall be affiliated with the same political party. The 34759  
nonvoting members shall be the staff director of the Ohio arts 34760  
council, a member of the senate appointed by the president of the 34761  
senate, and a member of the house of representatives appointed by 34762  
the speaker of the house. 34763

(C) Of the five initial appointments made by the governor, 34764  
one shall be for a term expiring December 31, 1989, two shall be 34765  
for terms expiring December 31, 1990, and two shall be for terms 34766  
expiring December 31, 1991. Of the initial appointments of the 34767  
sixth and seventh voting members made by the governor, one shall 34768  
be for a term expiring December 31, 2003, and one shall be for a 34769  
term expiring December 31, 2004. Of the initial appointments of 34770  
the eighth and ninth voting members made by the governor, one 34771  
shall be for a term expiring December 31, 2007, and one shall be 34772  
for a term expiring December 31, 2008. These voting members shall 34773  
be appointed within sixty days after the effective date of this 34774  
amendment. Thereafter, each such term shall be for three years, 34775

commencing on the first day of January and ending on the 34776  
thirty-first day of December. Each appointment by the president of 34777  
the senate and by the speaker of the house of representatives 34778  
shall be for the balance of the then legislative biennium. Each 34779  
member shall hold office from the date of the member's appointment 34780  
until the end of the term for which the member was appointed. Any 34781  
member appointed to fill a vacancy occurring prior to the 34782  
expiration of the term for which the member's predecessor was 34783  
appointed shall hold office for the remainder of such term. Any 34784  
member shall continue in office subsequent to the expiration date 34785  
of the member's term until the member's successor takes office, or 34786  
until a period of sixty days has elapsed, whichever occurs first. 34787

(D) Members of the commission shall serve without 34788  
compensation. 34789

(E) Organizational meetings of the commission shall be held 34790  
at the first meeting of each calendar year. At each organizational 34791  
meeting, the commission shall elect from among its voting members 34792  
a chairperson, a vice-chairperson, and a secretary-treasurer, who 34793  
shall serve until the next annual meeting. The commission shall 34794  
adopt rules pursuant to section 111.15 of the Revised Code for the 34795  
conduct of its internal business and shall keep a journal of its 34796  
proceedings. 34797

(F) ~~Four~~ Five voting members of the commission constitute a 34798  
quorum, and the affirmative vote of ~~four~~ five members is necessary 34799  
for approval of any action taken by the commission. A vacancy in 34800  
the membership of the commission does not impair a quorum from 34801  
exercising all the rights and performing all the duties of the 34802  
commission. Meetings of the commission may be held anywhere in the 34803  
state, and shall be held in compliance with section 121.22 of the 34804  
Revised Code. 34805

(G) All expenses incurred in carrying out this chapter are 34806  
payable solely from money accrued under this chapter or 34807

appropriated for these purposes by the general assembly, and the 34808  
commission shall incur no liability or obligation beyond such 34809  
money. 34810

(H) The commission shall file an annual report of its 34811  
activities and finances with the governor, director of budget and 34812  
management, speaker of the house of representatives, president of 34813  
the senate, and chairpersons of the house and senate finance 34814  
committees. 34815

(I) There is hereby established in the state treasury the 34816  
Ohio cultural facilities commission administration fund. All 34817  
revenues of the commission shall be credited to that fund and to 34818  
any accounts created in ~~the~~ that fund with the commission's 34819  
approval. All expenses of the commission, including reimbursement 34820  
of, or payment to, any other fund or any governmental agency for 34821  
advances made or services rendered to or on behalf of the 34822  
commission, shall be paid from ~~the Ohio cultural facilities~~ 34823  
~~commission administration~~ that fund as determined by or pursuant 34824  
to directions of the commission. All investment earnings of ~~the~~ 34825  
~~administration~~ that fund shall be credited to ~~the fund~~ it and 34826  
shall be allocated among any accounts created in the fund in the 34827  
manner determined by the commission. 34828

(J) Title to all real property and lesser interests in real 34829  
property acquired by the commission, including leasehold and other 34830  
interests, pursuant to this chapter shall be taken in the name of 34831  
the state and shall be held for the use and benefit of the 34832  
commission. The commission shall not mortgage such real property 34833  
and interests in real property. Title to other property and 34834  
interests in it acquired by the commission pursuant to this 34835  
chapter shall be taken in its name. 34836

**Sec. 3383.09.** (A) There is hereby created in the state 34837  
treasury the cultural and sports facilities building fund, which 34838

shall consist of proceeds of obligations authorized to pay costs 34839  
of Ohio cultural facilities and Ohio sports facilities for which 34840  
appropriations are made by the general assembly. All investment 34841  
earnings of the fund shall be credited to the fund. 34842

(B) The director of budget and management may transfer, to 34843  
the Ohio cultural facilities commission administration fund, 34844  
investment earnings credited, or the premium paid on any bonds 34845  
issued on behalf of the commission and credited, to the cultural 34846  
and sports facilities building fund that exceed the amounts 34847  
required to meet estimated federal arbitrage rebate requirements 34848  
when requested of the director of budget and management by the 34849  
chairperson or executive director of the commission. 34850

**Sec. 3501.17.** (A) The expenses of the board of elections 34851  
shall be paid from the county treasury, in pursuance of 34852  
appropriations by the board of county commissioners, in the same 34853  
manner as other county expenses are paid. If the board of county 34854  
commissioners fails to appropriate an amount sufficient to provide 34855  
for the necessary and proper expenses of the board of elections 34856  
pertaining to the conduct of elections, such the board of 34857  
elections may apply to the court of common pleas within the 34858  
county, which shall fix the amount necessary to be appropriated, 34859  
and ~~such that~~ amount shall be appropriated. Payments shall be made 34860  
upon vouchers of the board of elections certified to by its 34861  
chairperson or acting chairperson and the director or deputy 34862  
director, upon warrants of the county auditor. ~~The~~ 34863

The board of elections shall not incur any obligation 34864  
involving the expenditure of money unless there are moneys 34865  
sufficient in the funds appropriated therefor to meet ~~such~~ 34866  
~~obligations~~ the obligation pursuant to division (D) of section 34867  
5705.41 of the Revised Code. The board may make transfers out of 34868  
accounts that contain funds designated for the purpose of 34869

conducting elections only as provided under sections 5705.14 to 34870  
5705.16 of the Revised Code. Such 34871

The expenses of the board of elections shall be apportioned 34872  
among the county and the various subdivisions as provided in this 34873  
section, and the amount chargeable to each subdivision shall be 34874  
withheld by the auditor from the moneys payable ~~thereto~~ to the 34875  
subdivision at the time of the next tax settlement. At the time of 34876  
submitting budget estimates in each year, the board of elections 34877  
shall submit to the taxing authority of each subdivision, upon the 34878  
request of the subdivision, an estimate of the amount to be 34879  
withheld ~~therefrom~~ from the subdivision during the next fiscal 34880  
year. 34881

(B) Except as otherwise provided in division (F) of this 34882  
section, the entire compensation of the members of the board of 34883  
elections and of the director, deputy director, and other 34884  
employees in the board's offices; the expenditures for the rental, 34885  
furnishing, and equipping of the office of the board and for the 34886  
necessary office supplies for the use of the board; the 34887  
expenditures for the acquisition, repair, care, and custody of the 34888  
polling places, booths, guardrails, and other equipment for 34889  
polling places; the cost of pollbooks, tally sheets, maps, flags, 34890  
ballot boxes, and all other permanent records and equipment; the 34891  
cost of all elections held in and for the state and county; and 34892  
all other expenses of the board which are not chargeable to a 34893  
political subdivision in accordance with this section shall be 34894  
paid in the same manner as other county expenses are paid. 34895

(C) The compensation of judges and clerks of elections; the 34896  
cost of renting, moving, heating, and lighting polling places and 34897  
of placing and removing ballot boxes and other fixtures and 34898  
equipment thereof; the cost of printing and delivering ballots, 34899  
cards of instructions, and other election supplies; and all other 34900  
expenses of conducting primaries and elections in the odd-numbered 34901

years shall be charged to the subdivisions in and for which such  
primaries or elections are held. The charge for each primary or  
general election in odd-numbered years for each subdivision shall  
be determined in the following manner: first, the total cost of  
all chargeable items used in conducting such elections shall be  
ascertained; second, the total charge shall be divided by the  
number of precincts participating in such election, in order to  
fix the cost per precinct; third, the cost per precinct shall be  
prorated by the board of elections to the subdivisions conducting  
elections for the nomination or election of offices in such  
precinct; fourth, the total cost for each subdivision shall be  
determined by adding the charges prorated to it in each precinct  
within the subdivision.

(D) The entire cost of special elections held on a day other  
than the day of a primary or general election, both in  
odd-numbered or in even-numbered years, shall be charged to the  
subdivision. Where a special election is held on the same day as a  
primary or general election in an even-numbered year, the  
subdivision submitting the special election shall be charged only  
for the cost of ballots and advertising. Where a special election  
is held on the same day as a primary or general election in an  
odd-numbered year, the subdivision submitting the special election  
shall be charged for the cost of ballots and advertising for such  
special election, in addition to the charges prorated to such  
subdivision for the election or nomination of candidates in each  
precinct within the subdivision, as set forth in the preceding  
paragraph.

(E) Where a special election is held on the day specified by  
division (E) of section 3501.01 of the Revised Code for the  
holding of a primary election, for the purpose of submitting to  
the voters of the state constitutional amendments proposed by the  
general assembly, and a subdivision conducts a special election on



the same day, the entire cost of the special election shall be 34934  
divided proportionally between the state and the subdivision based 34935  
upon a ratio determined by the number of issues placed on the 34936  
ballot by each, except as otherwise provided in division (G) of 34937  
this section. Such proportional division of cost shall be made 34938  
only to the extent funds are available for such purpose from 34939  
amounts appropriated by the general assembly to the secretary of 34940  
state. If a primary election is also being conducted in the 34941  
subdivision, the costs shall be apportioned as otherwise provided 34942  
in this section. 34943

(F) When a precinct is open during a general, primary, or 34944  
special election solely for the purpose of submitting to the 34945  
voters a statewide ballot issue, the state shall bear the entire 34946  
cost of the election in that precinct and shall reimburse the 34947  
county for all expenses incurred in opening the precinct. 34948

(G) The state shall bear the entire cost of advertising in 34949  
newspapers statewide ballot issues, explanations of those issues, 34950  
and arguments for or against those issues, as required by Section 34951  
1g of Article II and Section 1 of Article XVI, Ohio Constitution, 34952  
and any other section of law and shall reimburse the counties for 34953  
all expenses they incur for such advertising. 34954

(H) The cost of renting, heating, and lighting registration 34955  
places; the cost of the necessary books, forms, and supplies for 34956  
the conduct of registration; and the cost of printing and posting 34957  
precinct registration lists shall be charged to the subdivision in 34958  
which such registration is held. 34959

(I) As used in this section, "statewide ballot issue" means 34960  
any ballot issue, whether proposed by the general assembly or by 34961  
initiative or referendum, that is submitted to the voters 34962  
throughout the state. 34963

Sec. 3517.13. (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code.

As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code.

(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code.

(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code.

(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code.

(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.

(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other

information required to be reported by a provision in sections 34994  
3517.08 to 3517.13 and 3517.17 of the Revised Code. 34995

(2)(a) No person shall make a contribution to a campaign 34996  
committee, political action committee, political contributing 34997  
entity, legislative campaign fund, political party, or person 34998  
making disbursements to pay the direct costs of producing or 34999  
airing electioneering communications in the name of another 35000  
person. 35001

(b) A person does not make a contribution in the name of 35002  
another when either of the following applies: 35003

(i) An individual makes a contribution from a partnership or 35004  
other unincorporated business account, if the contribution is 35005  
reported by listing both the name of the partnership or other 35006  
unincorporated business and the name of the partner or owner 35007  
making the contribution as required under division (I) of section 35008  
3517.10 of the Revised Code. 35009

(ii) A person makes a contribution in that person's spouse's 35010  
name or in both of their names. 35011

(H) No person within this state, publishing a newspaper or 35012  
other periodical, shall charge a campaign committee for political 35013  
advertising a rate in excess of the rate such person would charge 35014  
if the campaign committee were a general rate advertiser whose 35015  
advertising was directed to promoting its business within the same 35016  
area as that encompassed by the particular office that the 35017  
candidate of the campaign committee is seeking. The rate shall 35018  
take into account the amount of space used, as well as the type of 35019  
advertising copy submitted by or on behalf of the campaign 35020  
committee. All discount privileges otherwise offered by a 35021  
newspaper or periodical to general rate advertisers shall be 35022  
available upon equal terms to all campaign committees. 35023

No person within this state, operating a radio or television 35024

station or network of stations in this state, shall charge a 35025  
campaign committee for political broadcasts a rate that exceeds: 35026

(1) During the forty-five days preceding the date of a 35027  
primary election and during the sixty days preceding the date of a 35028  
general or special election in which the candidate of the campaign 35029  
committee is seeking office, the lowest unit charge of the station 35030  
for the same class and amount of time for the same period; 35031

(2) At any other time, the charges made for comparable use of 35032  
that station by its other users. 35033

(I) Subject to divisions (K), (L), (M), and (N) of this 35034  
section, no agency or department of this state or any political 35035  
subdivision shall award any contract, other than one let by 35036  
competitive bidding or a contract incidental to such contract or 35037  
which is by force account, for the purchase of goods costing more 35038  
than five hundred dollars or services costing more than five 35039  
hundred dollars to any individual, partnership, association, 35040  
including, without limitation, a professional association 35041  
organized under Chapter 1785. of the Revised Code, estate, or 35042  
trust if the individual has made or the individual's spouse has 35043  
made, or any partner, shareholder, administrator, executor, or 35044  
trustee or the spouse of any of them has made, as an individual, 35045  
within the two previous calendar years, one or more contributions 35046  
totaling in excess of one thousand dollars to the holder of the 35047  
public office having ultimate responsibility for the award of the 35048  
contract or to the public officer's campaign committee. 35049

(J) Subject to divisions (K), (L), (M), and (N) of this 35050  
section, no agency or department of this state or any political 35051  
subdivision shall award any contract, other than one let by 35052  
competitive bidding or a contract incidental to such contract or 35053  
which is by force account, for the purchase of goods costing more 35054  
than five hundred dollars or services costing more than five 35055

hundred dollars to a corporation or business trust, except a  
professional association organized under Chapter 1785. of the  
Revised Code, if an owner of more than twenty per cent of the  
corporation or business trust or the spouse of that person has  
made, as an individual, within the two previous calendar years,  
taking into consideration only owners for all of that period, one  
or more contributions totaling in excess of one thousand dollars  
to the holder of a public office having ultimate responsibility  
for the award of the contract or to the public officer's campaign  
committee.

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(K) For purposes of divisions (I) and (J) of this section, if  
a public officer who is responsible for the award of a contract is  
appointed by the governor, whether or not the appointment is  
subject to the advice and consent of the senate, excluding members  
of boards, commissions, committees, authorities, councils, boards  
of trustees, task forces, and other such entities appointed by the  
governor, the office of the governor is considered to have  
ultimate responsibility for the award of the contract.

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(L) For purposes of divisions (I) and (J) of this section, if  
a public officer who is responsible for the award of a contract is  
appointed by the elected chief executive officer of a municipal  
corporation, or appointed by the elected chief executive officer  
of a county operating under an alternative form of county  
government or county charter, excluding members of boards,  
commissions, committees, authorities, councils, boards of  
trustees, task forces, and other such entities appointed by the  
chief executive officer, the office of the chief executive officer  
is considered to have ultimate responsibility for the award of the  
contract.

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(M)(1) Divisions (I) and (J) of this section do not apply to  
contracts awarded by the board of commissioners of the sinking  
fund, municipal legislative authorities, boards of education,

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boards of county commissioners, boards of township trustees, or 35088  
other boards, commissions, committees, authorities, councils, 35089  
boards of trustees, task forces, and other such entities created 35090  
by law, by the supreme court or courts of appeals, by county 35091  
courts consisting of more than one judge, courts of common pleas 35092  
consisting of more than one judge, or municipal courts consisting 35093  
of more than one judge, or by a division of any court if the 35094  
division consists of more than one judge. This division shall 35095  
apply to the specified entity only if the members of the entity 35096  
act collectively in the award of a contract for goods or services. 35097

(2) Divisions (I) and (J) of this section do not apply to 35098  
actions of the controlling board. 35099

(N)(1) Divisions (I) and (J) of this section apply to 35100  
contributions made to the holder of a public office having 35101  
ultimate responsibility for the award of a contract, or to the 35102  
public officer's campaign committee, during the time the person 35103  
holds the office and during any time such person was a candidate 35104  
for the office. Those divisions do not apply to contributions made 35105  
to, or to the campaign committee of, a candidate for or holder of 35106  
the office other than the holder of the office at the time of the 35107  
award of the contract. 35108

(2) Divisions (I) and (J) of this section do not apply to 35109  
contributions of a partner, shareholder, administrator, executor, 35110  
trustee, or owner of more than twenty per cent of a corporation or 35111  
business trust made before the person held any of those positions 35112  
or after the person ceased to hold any of those positions in the 35113  
partnership, association, estate, trust, corporation, or business 35114  
trust whose eligibility to be awarded a contract is being 35115  
determined, nor to contributions of the person's spouse made 35116  
before the person held any of those positions, after the person 35117  
ceased to hold any of those positions, before the two were 35118  
married, after the granting of a decree of divorce, dissolution of 35119

marriage, or annulment, or after the granting of an order in an  
action brought solely for legal separation. Those divisions do not  
apply to contributions of the spouse of an individual whose  
eligibility to be awarded a contract is being determined made  
before the two were married, after the granting of a decree of  
divorce, dissolution of marriage, or annulment, or after the  
granting of an order in an action brought solely for legal  
separation.

(0) No beneficiary of a campaign fund or other person shall  
convert for personal use, and no person shall knowingly give to a  
beneficiary of a campaign fund or any other person, for the  
beneficiary's or any other person's personal use, anything of  
value from the beneficiary's campaign fund, including, without  
limitation, payments to a beneficiary for services the beneficiary  
personally performs, except as reimbursement for any of the  
following:

(1) Legitimate and verifiable prior campaign expenses  
incurred by the beneficiary;

(2) Legitimate and verifiable ordinary and necessary prior  
expenses incurred by the beneficiary in connection with duties as  
the holder of a public office, including, without limitation,  
expenses incurred through participation in nonpartisan or  
bipartisan events if the participation of the holder of a public  
office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior  
expenses incurred by the beneficiary while doing any of the  
following:

(a) Engaging in activities in support of or opposition to a  
candidate other than the beneficiary, political party, or ballot  
issue;

(b) Raising funds for a political party, political action

committee, political contributing entity, legislative campaign  
fund, campaign committee, or other candidate; 35151  
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(c) Participating in the activities of a political party,  
political action committee, political contributing entity,  
legislative campaign fund, or campaign committee; 35153  
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(d) Attending a political party convention or other political  
meeting. 35156  
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For purposes of this division, an expense is incurred  
whenever a beneficiary has either made payment or is obligated to  
make payment, as by the use of a credit card or other credit  
procedure or by the use of goods or services received on account. 35158  
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(P) No beneficiary of a campaign fund shall knowingly accept,  
and no person shall knowingly give to the beneficiary of a  
campaign fund, reimbursement for an expense under division (O) of  
this section to the extent that the expense previously was  
reimbursed or paid from another source of funds. If an expense is  
reimbursed under division (O) of this section and is later paid or  
reimbursed, wholly or in part, from another source of funds, the  
beneficiary shall repay the reimbursement received under division  
(O) of this section to the extent of the payment made or  
reimbursement received from the other source. 35162  
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(Q) No candidate or public official or employee shall accept  
for personal or business use anything of value from a political  
party, political action committee, political contributing entity,  
legislative campaign fund, or campaign committee other than the  
candidate's or public official's or employee's own campaign  
committee, and no person shall knowingly give to a candidate or  
public official or employee anything of value from a political  
party, political action committee, political contributing entity,  
legislative campaign fund, or such a campaign committee, except  
for the following: 35172  
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(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation, reimbursable expenses under this division include those incurred while doing any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for

contributions to the candidate's or public official's or 35213  
employee's campaign committee. 35214

For purposes of this division, an expense is incurred 35215  
whenever a candidate or public official or employee has either 35216  
made payment or is obligated to make payment, as by the use of a 35217  
credit card or other credit procedure, or by the use of goods or 35218  
services on account. 35219

(R)(1) Division (O) or (P) of this section does not prohibit 35220  
a campaign committee from making direct advance or post payment 35221  
from contributions to vendors for goods and services for which 35222  
reimbursement is permitted under division (O) of this section, 35223  
except that no campaign committee shall pay its candidate or other 35224  
beneficiary for services personally performed by the candidate or 35225  
other beneficiary. 35226

(2) If any expense that may be reimbursed under division (O), 35227  
(P), or (Q) of this section is part of other expenses that may not 35228  
be paid or reimbursed, the separation of the two types of expenses 35229  
for the purpose of allocating for payment or reimbursement those 35230  
expenses that may be paid or reimbursed may be by any reasonable 35231  
accounting method, considering all of the surrounding 35232  
circumstances. 35233

(3) For purposes of divisions (O), (P), and (Q) of this 35234  
section, mileage allowance at a rate not greater than that allowed 35235  
by the internal revenue service at the time the travel occurs may 35236  
be paid instead of reimbursement for actual travel expenses 35237  
allowable. 35238

(S)(1) As used in division (S) of this section: 35239

(a) "State elective office" has the same meaning as in 35240  
section 3517.092 of the Revised Code. 35241

(b) "Federal office" means a federal office as defined in the 35242

Federal Election Campaign Act.	35243
(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.	35244 35245 35246
(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.	35247 35248 35249 35250 35251 35252
(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.	35253 35254 35255 35256 35257
(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:	35258 35259 35260 35261 35262
(a) A state candidate fund;	35263
(b) A legislative campaign fund;	35264
(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.	35265 35266 35267 35268
(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.	35269 35270 35271 35272

(U) No person shall fail to file the statement required under 35273  
section 3517.12 of the Revised Code. 35274

(V) No campaign committee shall fail to file a statement 35275  
required under division (K)(3) of section 3517.10 of the Revised 35276  
Code. 35277

(W)(1) No foreign national shall, directly or indirectly 35278  
through any other person or entity, make a contribution, 35279  
expenditure, or independent expenditure or promise, either 35280  
expressly or implicitly, to make a contribution, expenditure, or 35281  
independent expenditure in support of or opposition to a candidate 35282  
for any elective office in this state, including an office of a 35283  
political party. 35284

(2) No candidate, campaign committee, political action 35285  
committee, political contributing entity, legislative campaign 35286  
fund, state candidate fund, political party, or separate 35287  
segregated fund shall solicit or accept a contribution, 35288  
expenditure, or independent expenditure from a foreign national. 35289  
The secretary of state may direct any candidate, committee, 35290  
entity, fund, or party that accepts a contribution, expenditure, 35291  
or independent expenditure in violation of this division to return 35292  
the contribution, expenditure, or independent expenditure or, if 35293  
it is not possible to return the contribution, expenditure, or 35294  
independent expenditure, then to return instead the value of it, 35295  
to the contributor. 35296

(3) As used in division (W) of this section, "foreign 35297  
national" has the same meaning as in section 441e(b) of the 35298  
Federal Election Campaign Act. 35299

(X)(1) No state or county political party shall transfer any 35300  
moneys from its restricted fund to any account of the political 35301  
party into which contributions may be made or from which 35302  
contributions or expenditures may be made. 35303

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund. 35304  
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(b) No state or county political party shall make a contribution or an expenditure from its restricted fund. 35307  
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(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year. 35309  
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(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year. 35314  
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(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party. 35318  
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(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code. 35321  
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(Y) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct any business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust, if the individual has made, or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee, or the spouses of any of those individuals has made, as an individual, 35324  
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within the two previous calendar years, one or more contributions 35335  
totaling in excess of one thousand dollars to the campaign 35336  
committee of the governor or lieutenant governor or to the 35337  
campaign committee of any candidate for the office of governor or 35338  
lieutenant governor. 35339

(Z) The administrator of workers' compensation and the 35340  
employees of the bureau of workers' compensation shall not conduct 35341  
business with or award any contract, other than one awarded by 35342  
competitive bidding, for the purchase of goods costing more than 35343  
five hundred dollars or services costing more than five hundred 35344  
dollars to a corporation or business trust, except a professional 35345  
association organized under Chapter 1785. of the Revised Code, if 35346  
an owner of more than twenty per cent of the corporation or 35347  
business trust, or the spouse of the owner, has made, as an 35348  
individual, within the two previous calendar years, taking into 35349  
consideration only owners for all of such period, one or more 35350  
contributions totaling in excess of one thousand dollars to the 35351  
campaign committee of the governor or lieutenant governor or to 35352  
the campaign committee of any candidate for the office of governor 35353  
or lieutenant governor. 35354

**Sec. 3517.151.** (A) On and after January 1, 1996, complaints 35355  
with respect to acts or failures to act under the sections listed 35356  
in division (A) of section 3517.153 of the Revised Code shall be 35357  
filed with the Ohio elections commission created under section 35358  
3517.152 of the Revised Code. 35359

(B)(1) If a complaint filed with the Ohio elections 35360  
commission created under section 3517.152 of the Revised Code 35361  
alleges an act or failure to act that occurred before August 24, 35362  
1995, and the commission imposes a fine, sections 3517.99 and 35363  
3517.991 of the Revised Code, and not sections 3517.992 and 35364  
3517.993 of the Revised Code, shall apply. 35365

(2) If a complaint filed with the Ohio elections commission 35366  
created under section 3517.152 of the Revised Code alleges an act 35367  
or failure to act that is a violation of section 3517.13 of the 35368  
Revised Code, former divisions (A) to (R) of that section apply to 35369  
the act or failure to act if it occurred before August 24, 1995, 35370  
former divisions (A) to (U) of that section apply to the act or 35371  
failure to act if it occurs on or after August 24, 1995, but 35372  
before July 13, 1998, former divisions (A) to (V) of that section 35373  
apply to the act or failure to act if it occurs on or after July 35374  
13, 1998, but before December 22, 1999, former divisions (A) to 35375  
(W) of that section apply to the act or failure to act if it 35376  
occurs on or after December 22, 1999, but before ~~the effective~~ 35377  
~~date of this amendment~~ March 31, 2005, and former divisions (A) to 35378  
(X) of that section apply to the act or failure to act if it 35379  
occurs on or after ~~the effective date of this amendment~~ March 31, 35380  
2005, and divisions (A) to (Z) of that section apply to the act or 35381  
failure to act if it occurs on or after the effective date of this 35382  
amendment. 35383

(C) The Ohio elections commission created under section 35384  
3517.14 of the Revised Code is abolished at the close of business 35385  
on December 31, 1995. 35386

**Sec. 3701.023.** (A) The department of health shall review 35387  
applications for eligibility for the program for medically 35388  
handicapped children that are submitted to the department by city 35389  
and general health districts and physician providers approved in 35390  
accordance with division (C) of this section. The department shall 35391  
determine whether the applicants meet the medical and financial 35392  
eligibility requirements established by the public health council 35393  
pursuant to division (A)(1) of section 3701.021 of the Revised 35394  
Code, and by the department in the manual of operational 35395  
procedures and guidelines for the program for medically 35396

handicapped children developed pursuant to division (B) of that 35397  
section. Referrals of potentially eligible children for the 35398  
program may be submitted to the department on behalf of the child 35399  
by parents, guardians, public health nurses, or any other 35400  
interested person. The department of health may designate other 35401  
agencies to refer applicants to the department of health. 35402

(B) In accordance with the procedures established in rules 35403  
adopted under division (A)(4) of section 3701.021 of the Revised 35404  
Code, the department of health shall authorize a provider or 35405  
providers to provide to any Ohio resident under twenty-one years 35406  
of age, without charge to the resident or the resident's family 35407  
and without restriction as to the economic status of the resident 35408  
or the resident's family, diagnostic services necessary to 35409  
determine whether the resident ~~suffers from~~ has a medically 35410  
handicapping or potentially medically handicapping condition. 35411

(C) The department of health shall review the applications of 35412  
health professionals, hospitals, medical equipment suppliers, and 35413  
other individuals, groups, or agencies that apply to become 35414  
providers. The department shall enter into a written agreement 35415  
with each applicant who is determined, pursuant to the 35416  
requirements set forth in rules adopted under division (A)(2) of 35417  
section 3701.021 of the Revised Code, to be eligible to be a 35418  
provider in accordance with the provider agreement required by the 35419  
medical assistance program established under section 5111.01 of 35420  
the Revised Code. No provider shall charge a medically handicapped 35421  
child or the child's parent or guardian for services authorized by 35422  
the department under division (B) or (D) of this section. 35423

The department, in accordance with rules adopted under 35424  
division (A)(3) of section 3701.021 of the Revised Code, may 35425  
disqualify any provider from further participation in the program 35426  
for violating any requirement set forth in rules adopted under 35427  
division (A)(2) of that section. The disqualification shall not 35428



take effect until a written notice, specifying the requirement 35429  
violated and describing the nature of the violation, has been 35430  
delivered to the provider and the department has afforded the 35431  
provider an opportunity to appeal the disqualification under 35432  
division (H) of this section. 35433

(D) The department of health shall evaluate applications from 35434  
city and general health districts and approved physician providers 35435  
for authorization to provide treatment services, service 35436  
coordination, and related goods to children determined to be 35437  
eligible for the program for medically handicapped children 35438  
pursuant to division (A) of this section. The department shall 35439  
authorize necessary treatment services, service coordination, and 35440  
related goods for each eligible child in accordance with an 35441  
individual plan of treatment for the child. As an alternative, the 35442  
department may authorize payment of health insurance premiums on 35443  
behalf of eligible children when the department determines, in 35444  
accordance with criteria set forth in rules adopted under division 35445  
(A)(9) of section 3701.021 of the Revised Code, that payment of 35446  
the premiums is cost-effective. 35447

(E) The department of health shall pay, from appropriations 35448  
to the department, any necessary expenses, including but not 35449  
limited to, expenses for diagnosis, treatment, service 35450  
coordination, supportive services, transportation, and accessories 35451  
and their upkeep, provided to medically handicapped children, 35452  
provided that the provision of the goods or services is authorized 35453  
by the department under division (B) or (D) of this section. Money 35454  
appropriated to the department of health may also be expended for 35455  
reasonable administrative costs incurred by the program. The 35456  
department of health also may purchase liability insurance 35457  
covering the provision of services under the program for medically 35458  
handicapped children by physicians and other health care 35459  
professionals. 35460

Payments made to providers by the department of health 35461  
pursuant to this division for inpatient hospital care, outpatient 35462  
care, and all other medical assistance furnished ~~by hospitals~~ to 35463  
eligible recipients ~~shall be in accordance with methods~~ 35464  
~~established by rules of the public health council. Until such~~ 35465  
~~rules are adopted, the department of health shall make payments to~~ 35466  
~~hospitals in accordance with reasonable cost principles for~~ 35467  
~~reimbursement under the medicare program established under Title~~ 35468  
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 35469  
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 35470  
~~services other than inpatient or outpatient hospital care shall be~~ 35471  
made in accordance with rules adopted by the public health council 35472  
pursuant to division (A) of section 3701.021 of the Revised Code. 35473

The departments of health and job and family services shall 35474  
jointly implement procedures to ensure that duplicate payments are 35475  
not made under the program for medically handicapped children and 35476  
the medical assistance program established under section 5111.01 35477  
of the Revised Code and to identify and recover duplicate 35478  
payments. 35479

(F)(1) At the time of applying for participation in the 35480  
program for medically handicapped children, a medically 35481  
handicapped child or the child's parent or guardian shall disclose 35482  
the identity of any third party against whom the child or the 35483  
child's parent or guardian has or may have a right of recovery for 35484  
goods and services provided under division (B) or (D) of this 35485  
section. ~~Except as provided in division (F)(2) of this section,~~ 35486  
~~the~~ The department of health shall require a medically handicapped 35487  
child who receives services from the program or the child's parent 35488  
or guardian to apply for all third-party benefits for which the 35489  
child may be eligible and require the child, parent, or guardian 35490  
to apply all third-party benefits received to the amount 35491  
determined under division (E) of this section as the amount 35492

payable for goods and services authorized under division (B) or 35493  
(D) of this section. The department is the payer of last resort 35494  
and shall pay for authorized goods or services, up to the amount 35495  
determined under division (E) of this section for the authorized 35496  
goods or services, only to the extent that payment for the 35497  
authorized goods or services is not made through third-party 35498  
benefits. When a third party fails to act on an application or 35499  
claim for benefits by a medically handicapped child or the child's 35500  
parent or guardian, the department shall pay for the goods or 35501  
services only after ninety days have elapsed since the date the 35502  
child, parents, or guardians made an application or claim for all 35503  
third-party benefits, ~~except as provided in division (F)(2) of~~ 35504  
~~this section.~~ Third-party benefits received shall be applied to 35505  
the amount determined under division (E) of this section. 35506  
Third-party payments for goods and services not authorized under 35507  
division (B) or (D) of this section shall not be applied to 35508  
payment amounts determined under division (E) of this section. 35509  
Payment made by the department shall be considered payment in full 35510  
of the amount determined under division (E) of this section. 35511  
Medicaid payments for persons eligible for the medical assistance 35512  
program established under section 5111.01 of the Revised Code 35513  
shall be considered payment in full of the amount determined under 35514  
division (E) of this section. 35515

~~(2) A medically handicapped child or the parent or guardian 35516  
of such a child is not required to apply for assistance under the 35517  
medical assistance program established under section 5111.01 of 35518  
the Revised Code as a condition for eligibility under the program 35519  
for medically handicapped children if applying for or receiving 35520  
assistance under the medical assistance program violates a 35521  
religious belief of the child, parent, or guardian and a tenet of 35522  
the child's, parent's, or guardian's religion. 35523~~

(G) The department of health shall administer a program to 35524

provide services to Ohio residents who are twenty-one or more 35525  
years of age who ~~are suffering from~~ have cystic fibrosis and who 35526  
meet the eligibility requirements established by the rules of the 35527  
public health council pursuant to division (A)(7) of section 35528  
3701.021 of the Revised Code, subject to all provisions of this 35529  
section, but not subject to section 3701.024 of the Revised Code. 35530

(H) The department of health shall provide for appeals, in 35531  
accordance with rules adopted under section 3701.021 of the 35532  
Revised Code, of denials of applications for the program for 35533  
medically handicapped children under division (A) or (D) of this 35534  
section, disqualification of providers, or amounts paid under 35535  
division (E) of this section. Appeals under this division are not 35536  
subject to Chapter 119. of the Revised Code. 35537

The department may designate ombudspersons to assist 35538  
medically handicapped children or their parents or guardians, upon 35539  
the request of the children, parents, or guardians, in filing 35540  
appeals under this division and to serve as children's, parents', 35541  
or guardians' advocates in matters pertaining to the 35542  
administration of the program for medically handicapped children 35543  
and eligibility for program services. The ombudspersons shall 35544  
receive no compensation but shall be reimbursed by the department, 35545  
in accordance with rules of the office of budget and management, 35546  
for their actual and necessary travel expenses incurred in the 35547  
performance of their duties. 35548

(I) The department of health, and city and general health 35549  
districts providing service coordination pursuant to division 35550  
(A)(2) of section 3701.024 of the Revised Code, shall provide 35551  
service coordination in accordance with the standards set forth in 35552  
the rules adopted under section 3701.021 of the Revised Code, 35553  
without charge, and without restriction as to economic status. 35554

**Sec. 3701.073.** (A) The department of health is hereby 35555

designated as the state agency responsible for administering the 35556  
medicare rural hospital flexibility program, as established in 42 35557  
U.S.C. 1395i-4, as amended. 35558

(B) The director of health shall designate as a critical 35559  
access hospital a hospital registered as an acute care hospital 35560  
with the department under section 3701.07 of the Revised Code if 35561  
the hospital meets the following requirements: 35562

(1) Has not more than twenty-five acute care and swing beds 35563  
in use at any time for the furnishing of extended care or acute 35564  
care inpatient services; 35565

(2) Has a length of stay not more than ninety-six hours per 35566  
patient, on an annual average basis; 35567

(3) Provides inpatient, outpatient, emergency, laboratory, 35568  
radiology, and twenty-four hour emergency care services; 35569

(4) Has network agreements in place for patient referral and 35570  
transfer, a communication system for telemetry systems, electronic 35571  
sharing of patient data, provision for emergency and non-emergency 35572  
transportation, and assures credentialing and quality assurance; 35573

(5) Was certified as a critical access hospital by the 35574  
centers for medicare and medicaid services between January 1, 35575  
2001, and December 31, 2005, or is located in a rural area as 35576  
identified below: 35577

(a) An area within an Ohio metropolitan area designated as a 35578  
rural area by the United States department of health and human 35579  
services, office of rural health policy, in accordance with 42 35580  
C.F.R. 412.103 regarding rural urban commuting area codes four 35581  
through ten in effect on the effective date of this section; 35582

(b) A non-metropolitan county as designated in United States 35583  
office of management and budget bulletin no. 93-17, June 30, 1993, 35584  
and its attachments; 35585

(c) A rural zip code within a metropolitan county as 35586  
designated in United States office of management and budget 35587  
bulletin no. 93-17, June 30, 1993, and its attachments. 35588

**Sec. 3701.146.** (A) In taking actions regarding tuberculosis, 35589  
the director of health has all of the following duties and powers: 35590

~~(1) The director shall make payments to boards of county~~ 35591  
~~commissioners in accordance with section 339.77 of the Revised~~ 35592  
~~Code.~~ 35593

~~(2)~~ The director shall maintain registries of hospitals, 35594  
clinics, physicians, or other care providers to whom the director 35595  
shall refer persons who make inquiries to the department of health 35596  
regarding possible exposure to tuberculosis. 35597

~~(3)~~(2) The director shall engage in tuberculosis surveillance 35598  
activities, including the collection and analysis of 35599  
epidemiological information relative to the frequency of 35600  
tuberculosis infection, demographic and geographic distribution of 35601  
tuberculosis cases, and trends pertaining to tuberculosis. 35602

~~(4)~~(3) The director shall maintain a tuberculosis registry to 35603  
record the incidence of tuberculosis in this state. 35604

~~(5)~~(4) The director may appoint physicians to serve as 35605  
tuberculosis consultants for geographic regions of the state 35606  
specified by the director. Each tuberculosis consultant shall act 35607  
in accordance with rules the director establishes and shall be 35608  
responsible for advising and assisting physicians and other health 35609  
care practitioners who participate in tuberculosis control 35610  
activities and for reviewing medical records pertaining to the 35611  
treatment provided to individuals with tuberculosis. 35612

(B)(1) The public health council shall adopt rules 35613  
establishing standards for the following: 35614

(a) Performing tuberculosis screenings; 35615

(b) Performing examinations of individuals who have been 35616  
exposed to tuberculosis and individuals who are suspected of 35617  
having tuberculosis; 35618

(c) Providing treatment to individuals with tuberculosis; 35619

(d) Preventing individuals with communicable tuberculosis 35620  
from infecting other individuals; 35621

(e) Performing laboratory tests for tuberculosis and studies 35622  
of the resistance of tuberculosis to one or more drugs; 35623

(f) Selecting laboratories that provide in a timely fashion 35624  
the results of a laboratory test for tuberculosis. The standards 35625  
shall include a requirement that first consideration be given to 35626  
laboratories located in this state. 35627

(2) Rules adopted pursuant to this section shall be adopted 35628  
in accordance with Chapter 119. of the Revised Code and may be 35629  
consistent with any recommendations or guidelines on tuberculosis 35630  
issued by the United States centers for disease control and 35631  
prevention or by the American thoracic society. The rules shall 35632  
apply to county or district tuberculosis control units, physicians 35633  
who examine and treat individuals for tuberculosis, and 35634  
laboratories that perform tests for tuberculosis. 35635

**Sec. 3701.65.** (A) There is hereby created in the state 35636  
treasury the "choose life" fund. The fund shall consist of the 35637  
contributions that are paid to the registrar of motor vehicles by 35638  
applicants who voluntarily elect to obtain "choose life" license 35639  
plates pursuant to section 4503.91 of the Revised Code and any 35640  
money returned to the fund under division (E)(1)(d) of this 35641  
section. All investment earnings of the fund shall be credited to 35642  
the fund. 35643

(B)(1) At least annually, the director of health shall 35644  
distribute the money in the fund to any private, nonprofit 35645

organization that is eligible to receive funds under this section 35646  
and that applies for funding under division (C) of this section. 35647

(2) The director shall distribute the funds based on the 35648  
county in which the organization applying for funding is located 35649  
and in proportion to the number of "choose life" license plates 35650  
issued during the preceding year to vehicles registered in each 35651  
county. Within each county, eligible organizations that apply for 35652  
funding shall share equally in the funds available for 35653  
distribution to organizations located within that county. 35654

(C) Any organization seeking funds under this section 35655  
annually shall apply for distribution of the funds. The director 35656  
shall develop an application form and may determine the schedule 35657  
and procedures that an organization shall follow when annually 35658  
applying for funds. The application shall inform the applicant of 35659  
the conditions for receiving and using funds under division (E) of 35660  
this section. The application shall require evidence that the 35661  
organization meets all of the following requirements: 35662

(1) Is a private, nonprofit organization; 35663

(2) Is committed to counseling pregnant women about the 35664  
option of adoption; 35665

(3) Provides services within the state to pregnant women who 35666  
are planning to place their children for adoption, including 35667  
counseling and meeting the material needs of the women; 35668

(4) Does not charge women for any services received; 35669

(5) Is not involved or associated with any abortion 35670  
activities, including counseling for or referrals to abortion 35671  
clinics, providing medical abortion-related procedures, or 35672  
pro-abortion advertising; 35673

(6) Does not discriminate in its provision of any services on 35674  
the basis of race, religion, color, age, marital status, national 35675



origin, handicap, gender, or age. 35676

(D) The director shall not distribute funds to an 35677  
organization that does not provide verifiable evidence of the 35678  
requirements specified in the application under division (C) of 35679  
this section and shall not provide additional funds to any 35680  
organization that fails to comply with division (E) of this 35681  
section in regard to its previous receipt of funds under this 35682  
section. 35683

(E)(1) An organization receiving funds under this section 35684  
shall do all of the following: 35685

(a) Use not more than sixty per cent of the funds distributed 35686  
to it for the material needs of pregnant women who are planning to 35687  
place their children for adoption or for infants awaiting 35688  
placement with adoptive parents, including clothing, housing, 35689  
medical care, food, utilities, and transportation; 35690

(b) Use not more than forty per cent of the funds distributed 35691  
to it for counseling, training, or advertising; 35692

(c) Not use any of the funds distributed to it for 35693  
administrative expenses, legal expenses, or capital expenditures; 35694

(d) Annually return to the fund created under division (A) of 35695  
this section any unused money that exceeds ten per cent of the 35696  
money distributed to the organization. 35697

(2) The organization annually shall submit to the director an 35698  
audited financial statement verifying its compliance with division 35699  
(E)(1) of this section. 35700

(F) The director, in accordance with Chapter 119. of the 35701  
Revised Code, shall adopt rules to implement this section. 35702

It is not the intent of the general assembly that the 35703  
department create a new position within the department to 35704  
implement and administer this section. It is the intent of the 35705

general assembly that the implementation and administration of 35706  
this section be accomplished by existing department personnel. 35707

**Sec. 3702.141.** (A) As used in this section: 35708

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 35709  
health care facility that is licensed or otherwise approved to 35710  
practice in this state, in accordance with applicable law, is 35711  
staffed and equipped to provide health care services, and actively 35712  
provides health services or has not been actively providing health 35713  
services for less than twelve consecutive months. 35714

(2) "Health care facility" and "health service" have the same 35715  
meaning meanings as in section 3702.51 of the Revised Code. 35716

(B) Section 3702.14 of the Revised Code shall not be 35717  
construed to require any existing health care facility that is 35718  
conducting an activity specified in section 3702.11 of the Revised 35719  
Code, which activity was initiated on or before March 20, 1997, to 35720  
alter, upgrade, or otherwise improve the structure or fixtures of 35721  
the facility in order to comply with any rule adopted under 35722  
section 3702.11 of the Revised Code relating to that activity, 35723  
unless one of the following applies: 35724

(1) The facility initiates a construction, renovation, or 35725  
reconstruction project that involves a capital expenditure of at 35726  
least fifty thousand dollars, not including expenditures for 35727  
equipment or staffing or operational costs, and that directly 35728  
involves the area in which the existing service is conducted. 35729

(2) The facility initiates another activity specified in 35730  
section 3702.11 of the Revised Code. 35731

(3) The facility initiates a service level designation change 35732  
for obstetric and newborn care. 35733

(4) The facility proposes to add a cardiac catheterization 35734  
laboratory to an existing cardiac catheterization service. 35735

(5) The facility proposes to add an open-heart operating room 35736  
to an existing open-heart surgery service. 35737

(6) The director of health determines, by clear and 35738  
convincing evidence, that failure to comply with the rule would 35739  
create an imminent risk to the health and welfare of any patient. 35740

(C) If division (B)(4) or (5) of this section applies, any 35741  
alteration, upgrade, or other improvement required shall apply 35742  
only to the proposed addition to the existing service if the cost 35743  
of the addition is less than the capital expenditure threshold set 35744  
forth in division (B)(1) of this section. 35745

(D) No person or government entity shall divide or otherwise 35746  
segment a construction, renovation, or reconstruction project in 35747  
order to evade application of the capital expenditure threshold 35748  
set forth in division (B)(1) of this section. 35749

**Sec. 3702.51.** As used in sections 3702.51 to 3702.62 of the 35750  
Revised Code: 35751

(A) "Applicant" means any person that submits an application 35752  
for a certificate of need and who is designated in the application 35753  
as the applicant. 35754

(B) "Person" means any individual, corporation, business 35755  
trust, estate, firm, partnership, association, joint stock 35756  
company, insurance company, government unit, or other entity. 35757

(C) "Certificate of need" means a written approval granted by 35758  
the director of health to an applicant to authorize conducting a 35759  
reviewable activity. 35760

(D) "Health service area" means a geographic region 35761  
designated by the director of health under section 3702.58 of the 35762  
Revised Code. 35763

(E) "Health service" means a clinically related service, such 35764

as a diagnostic, treatment, rehabilitative, or preventive service. 35765

(F) "Health service agency" means an agency designated to 35766  
serve a health service area in accordance with section 3702.58 of 35767  
the Revised Code. 35768

(G) "Health care facility" means: 35769

(1) A hospital registered under section 3701.07 of the 35770  
Revised Code; 35771

(2) A nursing home licensed under section 3721.02 of the 35772  
Revised Code, or by a political subdivision certified under 35773  
section 3721.09 of the Revised Code; 35774

(3) A county home or a county nursing home as defined in 35775  
section 5155.31 of the Revised Code that is certified under Title 35776  
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 35777  
U.S.C.A. 301, as amended; 35778

(4) A freestanding dialysis center; 35779

(5) A freestanding inpatient rehabilitation facility; 35780

(6) An ambulatory surgical facility; 35781

(7) A freestanding cardiac catheterization facility; 35782

(8) A freestanding birthing center; 35783

(9) A freestanding or mobile diagnostic imaging center; 35784

(10) A freestanding radiation therapy center. 35785

A health care facility does not include the offices of 35786  
private physicians and dentists whether for individual or group 35787  
practice, residential facilities licensed under section 5123.19 of 35788  
the Revised Code, ~~or habilitation centers certified by the~~ 35789  
~~director of mental retardation and developmental disabilities~~ 35790  
~~under section 5123.041 of the Revised Code,~~ or an institution for 35791  
the sick that is operated exclusively for patients who use 35792  
spiritual means for healing and for whom the acceptance of medical 35793

care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a either of the following:

(1) A health care facility that is licensed or otherwise ~~approved~~ authorized to ~~practice~~ operate in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and is actively ~~provides~~ providing health

~~services or has not been actively providing health services for 35825  
less than twelve consecutive months; 35826~~

(2) A health care facility that is licensed or has beds 35827  
registered under section 3701.07 of the Revised Code as skilled 35828  
nursing beds or long-term care beds and has provided services for 35829  
at least three hundred sixty-five consecutive days within the 35830  
twenty-four months immediately preceding the date a certificate of 35831  
need application is filed with the director of health. 35832

(M) "State" means the state of Ohio, including, but not 35833  
limited to, the general assembly, the supreme court, the offices 35834  
of all elected state officers, and all departments, boards, 35835  
offices, commissions, agencies, institutions, and other 35836  
instrumentalities of the state of Ohio. "State" does not include 35837  
political subdivisions. 35838

(N) "Political subdivision" means a municipal corporation, 35839  
township, county, school district, and all other bodies corporate 35840  
and politic responsible for governmental activities only in 35841  
geographic areas smaller than that of the state to which the 35842  
sovereign immunity of the state attaches. 35843

(O) "Affected person" means: 35844

(1) An applicant for a certificate of need, including an 35845  
applicant whose application was reviewed comparatively with the 35846  
application in question; 35847

(2) The person that requested the reviewability ruling in 35848  
question; 35849

(3) Any person that resides or regularly uses health care 35850  
facilities within the geographic area served or to be served by 35851  
the health care services that would be provided under the 35852  
certificate of need or reviewability ruling in question; 35853

(4) Any health care facility that is located in the health 35854

service area where the health care services would be provided	35855
under the certificate of need or reviewability ruling in question;	35856
(5) Third-party payers that reimburse health care facilities	35857
for services in the health service area where the health care	35858
services would be provided under the certificate of need or	35859
reviewability ruling in question;	35860
(6) Any other person who testified at a public hearing held	35861
under division (B) of section 3702.52 of the Revised Code or	35862
submitted written comments in the course of review of the	35863
certificate of need application in question.	35864
(P) "Osteopathic hospital" means a hospital registered under	35865
section 3701.07 of the Revised Code that advocates osteopathic	35866
principles and the practice and perpetuation of osteopathic	35867
medicine by doing any of the following:	35868
(1) Maintaining a department or service of osteopathic	35869
medicine or a committee on the utilization of osteopathic	35870
principles and methods, under the supervision of an osteopathic	35871
physician;	35872
(2) Maintaining an active medical staff, the majority of	35873
which is comprised of osteopathic physicians;	35874
(3) Maintaining a medical staff executive committee that has	35875
osteopathic physicians as a majority of its members.	35876
(Q) "Ambulatory surgical facility" has the same meaning as in	35877
section 3702.30 of the Revised Code.	35878
(R) Except as otherwise provided in division (T) of this	35879
section, and until the termination date specified in section	35880
3702.511 of the Revised Code, "reviewable activity" means any of	35881
the following:	35882
(1) The addition by any person of any of the following health	35883
services, regardless of the amount of operating costs or capital	35884

expenditures:	35885
(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;	35886 35887 35888 35889 35890 35891
(b) A cardiac catheterization service;	35892
(c) An open-heart surgery service;	35893
(d) Any new, experimental medical technology that is designated by rule of the public health council.	35894 35895
(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;	35896 35897 35898 35899 35900
(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;	35901 35902 35903
(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;	35904 35905
(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.	35906 35907 35908
(4)(a) The replacement of an existing hospital;	35909
(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.	35910 35911
(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after <del>the effective date of this</del>	35912 35913



~~amendment~~ June 30, 1995, of five million dollars or more, not 35914  
including expenditures for equipment, staffing, or operational 35915  
costs. For purposes of division (R)(5)(a) of this section, a 35916  
capital expenditure is obligated: 35917

(i) When a contract enforceable under Ohio law is entered 35918  
into for the construction, acquisition, lease, or financing of a 35919  
capital asset; 35920

(ii) When the governing body of a hospital takes formal 35921  
action to commit its own funds for a construction project 35922  
undertaken by the hospital as its own contractor; 35923

(iii) In the case of donated property, on the date the gift 35924  
is completed under applicable Ohio law. 35925

(b) The renovation of a hospital obstetric or newborn care 35926  
unit or freestanding birthing center that involves a capital 35927  
expenditure of five million dollars or more, not including 35928  
expenditures for equipment, staffing, or operational costs. 35929

(6) Any change in the health care services, bed capacity, or 35930  
site, or any other failure to conduct the reviewable activity in 35931  
substantial accordance with the approved application for which a 35932  
certificate of need was granted, if the change is made prior to 35933  
the date the activity for which the certificate was issued ceases 35934  
to be a reviewable activity; 35935

(7) Any of the following changes in perinatal bed capacity or 35936  
pediatric intensive care bed capacity: 35937

(a) An increase in bed capacity; 35938

(b) A change in service or service-level designation of 35939  
newborn care beds or obstetric beds in a hospital or freestanding 35940  
birthing center, other than a change of service that is provided 35941  
within the service-level designation of newborn care or obstetric 35942  
beds as registered by the department of health; 35943

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical

equipment includes the sum of the following:	35974
(i) The greater of its fair market value or the cost of its lease or purchase;	35975 35976
(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	35977 35978 35979
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	35980 35981
(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:	35982 35983 35984
(1) The establishment, development, or construction of a new long-term care facility;	35985 35986
(2) The replacement of an existing long-term care facility;	35987
(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;	35988 35989 35990 35991
(4) Any of the following changes in long-term care bed capacity:	35992 35993
(a) An increase in bed capacity;	35994
(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;	35995 35996 35997 35998
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	35999 36000 36001
(5) Any change in the health services, bed capacity, or site,	36002

or any other failure to conduct the reviewable activity in 36003  
substantial accordance with the approved application for which a 36004  
certificate of need concerning long-term care beds was granted, if 36005  
the change is made within five years after the implementation of 36006  
the reviewable activity for which the certificate was granted; 36007

(6) The expenditure of more than one hundred ten per cent of 36008  
the maximum expenditure specified in a certificate of need 36009  
concerning long-term care beds; 36010

(7) Any transfer of a certificate of need that concerns 36011  
long-term care beds and was issued prior to April 20, 1995, from 36012  
the person to whom it was issued to another person before the 36013  
project that constitutes a reviewable activity is completed, any 36014  
agreement that contemplates the transfer of such a certificate of 36015  
need upon completion of the project, and any transfer of the 36016  
controlling interest in an entity that holds such a certificate of 36017  
need. However, the transfer of a certificate of need that concerns 36018  
long-term care beds and was issued prior to April 20, 1995, or 36019  
agreement to transfer such a certificate of need from the person 36020  
to whom the certificate was issued to an affiliated or related 36021  
person does not constitute a reviewable transfer of a certificate 36022  
of need for purposes of this division, unless the transfer results 36023  
in a change in the person that holds the ultimate controlling 36024  
interest in the certificate of need. 36025

(T) "Reviewable activity" does not include any of the 36026  
following activities: 36027

(1) Acquisition of computer hardware or software; 36028

(2) Acquisition of a telephone system; 36029

(3) Construction or acquisition of parking facilities; 36030

(4) Correction of cited deficiencies that are in violation of 36031  
federal, state, or local fire, building, or safety laws and rules 36032

and that constitute an imminent threat to public health or safety; 36033

(5) Acquisition of an existing health care facility that does 36034  
not involve a change in the number of the beds, by service, or in 36035  
the number or type of health services; 36036

(6) Correction of cited deficiencies identified by 36037  
accreditation surveys of the joint commission on accreditation of 36038  
healthcare organizations or of the American osteopathic 36039  
association; 36040

(7) Acquisition of medical equipment to replace the same or 36041  
similar equipment for which a certificate of need has been issued 36042  
if the replaced equipment is removed from service; 36043

(8) Mergers, consolidations, or other corporate 36044  
reorganizations of health care facilities that do not involve a 36045  
change in the number of beds, by service, or in the number or type 36046  
of health services; 36047

(9) Construction, repair, or renovation of bathroom 36048  
facilities; 36049

(10) Construction of laundry facilities, waste disposal 36050  
facilities, dietary department projects, heating and air 36051  
conditioning projects, administrative offices, and portions of 36052  
medical office buildings used exclusively for physician services; 36053

(11) Acquisition of medical equipment to conduct research 36054  
required by the United States food and drug administration or 36055  
clinical trials sponsored by the national institute of health. Use 36056  
of medical equipment that was acquired without a certificate of 36057  
need under division (T)(11) of this section and for which 36058  
premarket approval has been granted by the United States food and 36059  
drug administration to provide services for which patients or 36060  
reimbursement entities will be charged shall be a reviewable 36061  
activity. 36062

(12) Removal of asbestos from a health care facility.	36063
Only that portion of a project that meets the requirements of	36064
division (T) of this section is not a reviewable activity.	36065
(U) "Small rural hospital" means a hospital that is located	36066
within a rural area, has fewer than one hundred beds, and to which	36067
fewer than four thousand persons were admitted during the most	36068
recent calendar year.	36069
(V) "Children's hospital" means any of the following:	36070
(1) A hospital registered under section 3701.07 of the	36071
Revised Code that provides general pediatric medical and surgical	36072
care, and in which at least seventy-five per cent of annual	36073
inpatient discharges for the preceding two calendar years were	36074
individuals less than eighteen years of age;	36075
(2) A distinct portion of a hospital registered under section	36076
3701.07 of the Revised Code that provides general pediatric	36077
medical and surgical care, has a total of at least one hundred	36078
fifty registered pediatric special care and pediatric acute care	36079
beds, and in which at least seventy-five per cent of annual	36080
inpatient discharges for the preceding two calendar years were	36081
individuals less than eighteen years of age;	36082
(3) A distinct portion of a hospital, if the hospital is	36083
registered under section 3701.07 of the Revised Code as a	36084
children's hospital and the children's hospital meets all the	36085
requirements of division (V)(1) of this section.	36086
(W) "Long-term care facility" means any of the following:	36087
(1) A nursing home licensed under section 3721.02 of the	36088
Revised Code or by a political subdivision certified under section	36089
3721.09 of the Revised Code;	36090
(2) The portion of any facility, including a county home or	36091
county nursing home, that is certified as a skilled nursing	36092

facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(X) "Long-term care bed" means a bed in a long-term care facility.

(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.

(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments.

(2) "Rural area" means any area of this state not located

within a metropolitan statistical area. 36123

**Sec. 3702.68.** (A) Notwithstanding sections 3702.51 to 3702.62 36124  
of the Revised Code, this section applies to the review of 36125  
certificate of need applications during the period beginning July 36126  
1, 1993, and ending June 30, ~~2005~~ 2007. 36127

As used in this section, "existing health care facility" has 36128  
the same meaning as in section 3702.51 of the Revised Code. 36129

(B)(1) Except as provided in division (B)(2) of this section, 36130  
the director of health shall neither grant nor deny any 36131  
application for a certificate of need submitted prior to July 1, 36132  
1993, if the application was for any of the following and the 36133  
director had not issued a written decision concerning the 36134  
application prior to that date: 36135

(a) Approval of beds in a new health care facility or an 36136  
increase of beds in an existing health care facility, if the beds 36137  
are proposed to be licensed as nursing home beds under Chapter 36138  
3721. of the Revised Code; 36139

(b) Approval of beds in a new county home or new county 36140  
nursing home as defined in section 5155.31 of the Revised Code, or 36141  
an increase of beds in an existing county home or existing county 36142  
nursing home, if the beds are proposed to be certified as skilled 36143  
nursing facility beds under Title XVIII or nursing facility beds 36144  
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 36145  
42 U.S.C.A. 301, as amended; 36146

(c) Recategorization of hospital beds as described in section 36147  
3702.522 of the Revised Code, an increase of hospital beds 36148  
registered pursuant to section 3701.07 of the Revised Code as 36149  
long-term care beds or skilled nursing facility beds, or a 36150  
recategorization of hospital beds that would result in an increase 36151  
of beds registered pursuant to that section as long-term care beds 36152



or skilled nursing facility beds.

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On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~2005~~ 2007.

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(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

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(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

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(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

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The director shall not approve an application for a certificate of need for addition of long-term care beds to an

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existing health care facility by relocation of beds or for the 36184  
development of a new health care facility by relocation of beds 36185  
unless all of the following conditions are met: 36186

(i) The existing health care facility to which the beds are 36187  
being relocated has no life safety code waivers, no state fire 36188  
code violations, and no state building code violations; 36189

(ii) During the sixty month period preceding the filing of 36190  
the application, no notice of proposed revocation of the 36191  
facility's license was issued under section 3721.03 of the Revised 36192  
Code to the operator of the existing facility to which the beds 36193  
are being relocated or to any health care facility owned or 36194  
operated by the applicant or any principal participant in the same 36195  
corporation or other business; 36196

(iii) Neither the existing health care facility to which the 36197  
beds are being relocated nor any health care facility owned or 36198  
operated by the applicant or any principal participant in the same 36199  
corporation or other business has had a long-standing pattern of 36200  
violations of this chapter or deficiencies that caused one or more 36201  
residents physical, emotional, mental, or psychosocial harm. 36202

(b) The director also shall accept for review any application 36203  
that seeks certificate of need approval for existing the 36204  
conversion of infirmary beds located in an to long-term care beds 36205  
if the infirmary that is meets all of the following conditions: 36206

(i) Is operated exclusively by a religious order, provides; 36207

(ii) Provides care exclusively to members of religious orders 36208  
who take vows of celibacy and live by virtue of their vows within 36209  
the orders as if related, and was; 36210

(iii) Was providing care exclusively to members of such a 36211  
religious order on January 1, 1994. 36212

(D) The director shall issue a decision regarding any case 36213

remanded by a court as the result of a decision issued by the 36214  
director prior to July 1, 1993, to grant, deny, or withdraw a 36215  
certificate of need for any of the purposes described in divisions 36216  
(B)(1)(a) to (c) of this section. 36217

(E) The director shall not project the need for beds listed 36218  
in division (B)(1) of this section for the period beginning July 36219  
1, 1993, and ending June 30, ~~2005~~ 2007. 36220

This section is an interim section effective until July 1, 36221  
~~2005~~ 2007. 36222

**Sec. 3702.71.** As used in sections 3702.71 to 3702.81 of the 36223  
Revised Code: 36224

(A) "Primary care physician" means an individual who is 36225  
authorized under Chapter 4731. of the Revised Code to practice 36226  
medicine and surgery or osteopathic medicine and surgery and is 36227  
board certified or board eligible in a primary care specialty. 36228

(B) "Primary care service" means professional comprehensive 36229  
personal health services, which may include health education and 36230  
disease prevention, treatment of uncomplicated health problems, 36231  
diagnosis of chronic health problems, ~~and~~ overall management of 36232  
health care services for an individual or a family, and the 36233  
services of a psychiatrist. "Primary care service" also includes 36234  
providing the initial contact for health care services and making 36235  
referrals for secondary and tertiary care and for continuity of 36236  
health care services. 36237

(C) "Primary care specialty" means general internal medicine, 36238  
pediatrics, obstetrics and gynecology, psychiatry, or family 36239  
practice. 36240

**Sec. 3702.74.** (A) A primary care physician who has signed a 36241  
letter of intent under section 3702.73 of the Revised Code, the 36242

director of health, and the Ohio board of regents may enter into a 36243  
contract for the physician's participation in the physician loan 36244  
repayment program. A lending institution may also be a party to 36245  
the contract. 36246

(B) The contract shall include all of the following 36247  
obligations: 36248

(1) The primary care physician agrees to provide primary care 36249  
services in the health resource shortage area identified in the 36250  
letter of intent for at least two years or one year per twenty 36251  
thousand dollars of repayment agreed to under division (B)(3) of 36252  
this section, whichever is greater; 36253

(2) When providing primary care services in the health 36254  
resource shortage area, the primary care physician agrees to do 36255  
all of the following: 36256

(a) Provide primary care services for a minimum of forty 36257  
hours per week; 36258

(b) Provide primary care services without regard to a 36259  
patient's ability to pay; 36260

(c) Meet the conditions prescribed by the "Social Security 36261  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 36262  
department of job and family services for participation in the 36263  
medical assistance program established under Chapter 5111. of the 36264  
Revised Code and enter into a contract with the department to 36265  
provide primary care services to recipients of the medical 36266  
assistance program; 36267

~~(d) Meet the conditions established by the department of job 36268  
and family services for participation in the disability medical 36269  
assistance program established under Chapter 5115. of the Revised 36270  
Code and enter into a contract with the department to provide 36271  
primary care services to recipients of disability medical 36272  
assistance. 36273~~

(3) The Ohio board of regents agrees, as provided in section 36274  
3702.75 of the Revised Code, to repay, so long as the primary care 36275  
physician performs the service obligation agreed to under division 36276  
(B)(1) of this section, all or part of the principal and interest 36277  
of a government or other educational loan taken by the primary 36278  
care physician for expenses described in section 3702.75 of the 36279  
Revised Code; 36280

(4) The primary care physician agrees to pay the board the 36281  
following as damages if the physician fails to complete the 36282  
service obligation agreed to under division (B)(1) of this 36283  
section: 36284

(a) If the failure occurs during the first two years of the 36285  
service obligation, three times the total amount the board has 36286  
agreed to repay under division (B)(3) of this section; 36287

(b) If the failure occurs after the first two years of the 36288  
service obligation, three times the amount the board is still 36289  
obligated to repay under division (B)(3) of this section. 36290

(C) The contract may include any other terms agreed upon by 36291  
the parties, including an assignment to the Ohio board of regents 36292  
of the physician's duty to pay the principal and interest of a 36293  
government or other educational loan taken by the physician for 36294  
expenses described in section 3702.75 of the Revised Code. If the 36295  
board assumes the physician's duty to pay a loan, the contract 36296  
shall set forth the total amount of principal and interest to be 36297  
paid, an amortization schedule, and the amount of each payment to 36298  
be made under the schedule. 36299

Sec. 3702.83. The department of health shall administer a 36300  
program, to be known as the J-1 visa waiver program, for 36301  
recruiting physicians who received graduate medical education or 36302  
training in the United States but are not citizens of the United 36303

States to serve in areas of the state designated by the United 36304  
States secretary of health and human services as health 36305  
professional shortage areas under the "Public Health Service Act," 36306  
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the 36307  
program, the department of health shall accept and review 36308  
applications for placement of persons seeking to remain in the 36309  
United States pursuant to the "Immigration and Nationality Act," 36310  
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 36311  
by obtaining a waiver of the federal requirement that they return 36312  
to their home countries for a minimum of two years after 36313  
completing the graduate medical education or training for which 36314  
they were admitted to the United States. The department shall 36315  
administer the program in accordance with the "Immigration and 36316  
Nationality Act" and the regulations adopted under it. 36317

For each application accepted for review under this section, 36318  
the department shall charge a fee of three thousand five hundred 36319  
seventy-one dollars. The fee is nonrefundable. All fees collected 36320  
shall be deposited into the state treasury to the credit of 36321  
general operations fund created in section 3701.83 of the Revised 36322  
Code. 36323

**Sec. 3703.01.** (A) The division of industrial compliance in 36324  
the department of commerce shall: 36325

(1) Inspect all nonresidential buildings within the meaning 36326  
of section 3781.06 of the Revised Code; 36327

(2) Condemn all unsanitary or defective plumbing that is 36328  
found in connection with those places; 36329

(3) Order changes in plumbing necessary to insure the safety 36330  
of the public health. 36331

(B)(1) The division of industrial compliance and boards of 36332  
health of city and general health districts shall not inspect 36333

plumbing or collect fees for inspecting plumbing in particular 36334  
types of buildings in any municipal corporation that has been 36335  
certified by the board of building standards under section 3781.10 36336  
of the Revised Code to exercise enforcement authority for plumbing 36337  
in such types of buildings. 36338

(2) The division shall not inspect plumbing or collect fees 36339  
for inspecting plumbing in particular types of buildings in any 36340  
health district that has employed one or more approved plumbing 36341  
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 36342  
and the rules adopted pursuant to those chapters relating to 36343  
plumbing in such types of buildings. 36344

(3) A municipal corporation does not have jurisdiction to 36345  
inspect plumbing or collect fees for the inspection of plumbing in 36346  
types of buildings for which it has not been certified by the 36347  
board of building standards under section 3781.10 of the Revised 36348  
Code to exercise enforcement authority. 36349

(4) A board of health of a health district does not have 36350  
jurisdiction to inspect plumbing or collect fees for the 36351  
inspection of plumbing in types of buildings for which it does not 36352  
have an approved plumbing inspector. 36353

(C) The superintendent of industrial compliance shall adopt 36354  
rules prescribing minimum qualifications based on education, 36355  
training, experience, or demonstrated ability, which the ~~director~~ 36356  
superintendent shall use in ~~approving certifying or recertifying~~ 36357  
plumbing inspectors to do plumbing inspections for health 36358  
districts and for continuing education of plumbing inspectors. 36359  
Such minimum qualifications shall be related to the types of 36360  
buildings for which a person seeks approval. 36361

(D) The superintendent may enter into reciprocal 36362  
registration, licensure, or certification agreements with other 36363  
states and other agencies of this state relative to plumbing 36364

inspectors if both of the following apply: 36365

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors. 36366  
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(2) The other state or agency extends similar reciprocity to persons certified under this chapter. 36371  
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(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors: 36373  
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(1) Prepare, administer, score, and maintain the confidentiality of the examination; 36376  
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(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section; 36378  
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(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes; 36380  
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(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing. 36382  
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(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters. 36385  
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~~(E)~~(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health. 36389  
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**Sec. 3703.03.** In the administration of sections 3703.01 to 36393



3703.09 of the Revised Code, the division of industrial compliance 36394  
~~in the department of commerce~~ shall enforce rules governing 36395  
plumbing adopted by the board of building standards under 36396  
authority of sections 3781.10 and 3781.11 of the Revised Code, and 36397  
register those persons engaged in or at the plumbing business. 36398

Plans and specifications for all plumbing to be installed in 36399  
or for buildings coming within such sections shall be submitted to 36400  
and approved by the division before the contract for plumbing is 36401  
let. 36402

**Sec. 3703.04.** The ~~director~~ superintendent of ~~commerce~~ 36403  
industrial compliance shall appoint such number of plumbing 36404  
inspectors as is required. The inspectors shall be practical 36405  
plumbers with at least seven years' experience, and skilled and 36406  
well-trained in matters pertaining to sanitary regulations 36407  
concerning plumbing work. 36408

~~No plumbing inspector employed by the department and assigned 36409  
to the enforcement of this chapter shall be engaged or interested 36410  
in the plumbing business or the sale of any plumbing supplies, nor 36411  
shall the inspector act as agent, directly or indirectly, for any 36412  
person so engaged.~~ 36413

**Sec. 3703.05.** Plumbing inspectors employed by the ~~department~~ 36414  
division of ~~commerce~~ industrial compliance assigned to the 36415  
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 36416  
may, between sunrise and sunset, enter any building where there is 36417  
good and sufficient reason to believe that the sanitary condition 36418  
of the premises endangers the public health, for the purpose of 36419  
making an inspection to ascertain the condition of the premises. 36420

**Sec. 3703.06.** When any building is found to be in a sanitary 36421  
condition or when changes which are ordered, under authority of 36422  
this chapter, in the plumbing, drainage, or ventilation have been 36423

made, and after a thorough inspection and approval by the ~~division~~ 36424  
~~superintendent~~ of industrial compliance ~~in the department of~~ 36425  
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 36426  
~~signed by the superintendent of the division of industrial~~ 36427  
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 36428  
the benefit of the public at large. Upon notification by the 36429  
superintendent, the certificate shall be revoked for any violation 36430  
of those sections. 36431

**Sec. 3703.07.** No plumbing work shall be done in any building 36432  
or place coming within the jurisdiction of the ~~department~~ division 36433  
of ~~commerce~~ industrial compliance, except in cases of repairs or 36434  
leaks in existing plumbing, until a permit has been issued by the 36435  
~~department~~ division. 36436

Before granting such permit, an application shall be made by 36437  
the owner of the property or by the person, firm, or corporation 36438  
which is to do the work. The application shall be made on a form 36439  
prepared by the ~~department~~ division for the purpose, and each 36440  
application shall be accompanied by a fee of twenty-seven dollars, 36441  
and an additional fee of seven dollars for each trap, vented 36442  
fixture, appliance, or device. Each application also shall be 36443  
accompanied by a plan approval fee of eighteen dollars for work 36444  
containing one through twenty fixtures; thirty-six dollars for 36445  
work containing twenty-one through forty fixtures; and fifty-four 36446  
dollars for work containing forty-one or more fixtures. 36447

Whenever a reinspection is made necessary by the failure of 36448  
the applicant or plumbing contractor to have the work ready for 36449  
inspection when so reported, or by reason of faulty or improper 36450  
installation, the person shall pay a fee of forty-five dollars for 36451  
each reinspection. 36452

All fees collected pursuant to this section shall be paid 36453  
into the state treasury to the credit of the industrial compliance 36454

operating fund created in section 121.084 of the Revised Code. 36455

The ~~director~~ superintendent of ~~commerce~~ industrial 36456  
compliance, by rule adopted in accordance with Chapter 119. of the 36457  
Revised Code, may increase the fees required by this section and 36458  
may establish fees to pay the costs of the division to fulfill its 36459  
duties established by this chapter, including, but not limited to, 36460  
fees for administering a program for continuing education for, and 36461  
certifying and recertifying plumbing inspectors. The fees shall 36462  
bear some reasonable relationship to the cost of administering and 36463  
enforcing the provisions of this chapter. 36464

**Sec. 3703.08.** Any owner, agent, or manager, of a building in 36465  
which an inspection is made by the ~~department~~ division of ~~commerce~~ 36466  
industrial compliance, a board of health of a health district, or 36467  
a certified department of building inspection of a municipal 36468  
corporation, shall have the entire system of drainage and 36469  
ventilation repaired, as the ~~department of commerce~~ division, 36470  
board of health, or department of building inspection directs by 36471  
its order. After due notice to repair such work is given, the 36472  
owner, agent, or manager shall notify the public authority that 36473  
issued the order when the work is ready for its inspection. No 36474  
person shall fail to have the work ready for inspection at the 36475  
time specified in the notice. 36476

**Sec. 3703.10.** All prosecutions and proceedings by the 36477  
~~department~~ division of ~~commerce~~ industrial compliance for the 36478  
violation of sections 3703.01 to 3703.09 of the Revised Code, or 36479  
for the violation of any of the orders or rules of the ~~department~~ 36480  
division under those sections, shall be instituted by the ~~director~~ 36481  
superintendent of ~~commerce~~ industrial compliance. All fines or 36482  
judgments collected by the ~~department~~ division shall be paid into 36483  
the state treasury to the credit of the industrial compliance 36484

operating fund created by section 121.084 of the Revised Code. 36485

The ~~director~~ superintendent, the board of health of a general 36486  
or city health district, or any person charged with enforcing the 36487  
rules of the ~~department~~ division adopted under sections 3703.01 to 36488  
3703.09 of the Revised Code may petition the court of common pleas 36489  
for injunctive or other appropriate relief requiring any person 36490  
violating a rule adopted or order issued by the ~~director~~ 36491  
superintendent under those sections to comply with the rule or 36492  
order. The court of common pleas of the county in which the 36493  
offense is alleged to be occurring may grant injunctive or other 36494  
appropriate relief. 36495

The superintendent may do all of the following: 36496

(A) Deny an applicant certification as a plumbing inspector; 36497

(B) Suspend or revoke the certification of a plumbing 36498  
inspector; 36499

(C) Examine any certified plumbing inspector under oath; 36500

(D) Examine the records and books of any certified plumbing 36501  
inspector if the superintendent finds the material to be examined 36502  
relevant to a determination described in division (A), (B), or (C) 36503  
of this section. 36504

**Sec. 3703.99.** Whoever violates sections 3703.01 to 3703.09 of 36505  
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 36506  
industrial compliance is required to enforce under such sections, 36507  
shall be fined not less than ten nor more than one hundred dollars 36508  
or imprisoned for not less than ten nor more than ninety days, or 36509  
both. No person shall be imprisoned under this section for the 36510  
first offense, and the prosecution always shall be as for a first 36511  
offense unless the affidavit upon which the prosecution is 36512  
instituted contains the allegation that the offense is a second or 36513  
repeated offense. 36514

**Sec. 3704.035.** There is hereby created in the state treasury 36515  
the clean air fund. Except as otherwise provided in division (K) 36516  
of section 3745.11 of the Revised Code, all moneys collected under 36517  
divisions (C), (D), (F), (G), (H), (I), and (J) of that section 36518  
and under section 3745.111 of the Revised Code, and any gifts, 36519  
grants, or contributions received by the director of environmental 36520  
protection for the purposes of the fund, shall be credited to the 36521  
fund. The director shall expend moneys from the fund exclusively 36522  
to pay the cost of administering and enforcing the laws of this 36523  
state pertaining to the prevention, control, and abatement of air 36524  
pollution and rules adopted and terms and conditions of permits, 36525  
variances, and orders issued under those laws, except that the 36526  
director shall not expend moneys credited to the fund for the 36527  
administration and enforcement of motor vehicle inspection and 36528  
maintenance programs and requirements under sections 3704.14, 36529  
3704.141, 3704.16, 3704.161, and 3704.162, ~~and 3704.17~~ of the 36530  
Revised Code. 36531

Specifically, the director shall expend all moneys credited 36532  
to the fund from fees assessed under section 3745.11 of the 36533  
Revised Code pursuant to the Title V permit program established 36534  
under section 3704.036 of the Revised Code, and from any gifts, 36535  
grants, or contributions received for the purposes of that 36536  
program, solely to administer and enforce that program pursuant to 36537  
the federal Clean Air Act, this chapter, and rules adopted under 36538  
it, except as costs relating to enforcement are limited by the 36539  
federal Clean Air Act. The director shall establish separate and 36540  
distinct accounting for all such moneys. 36541

The director shall report biennially to the general assembly 36542  
the amounts of fees and other moneys credited to the fund under 36543  
this section and the amounts expended from it for each of the 36544  
various air pollution control programs. 36545

Sec. 3704.14. (A) The director of environmental protection shall continue to implement an enhanced motor vehicle inspection and maintenance program for a period of two years beginning on January 1, 2006, and ending on December 31, 2007, in counties in which a motor vehicle inspection and maintenance program is federally mandated. The program shall be substantially similar to the enhanced program implemented in those counties under a contract that is scheduled to expire on December 31, 2005. The program, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the extension of a contract for a period of two years, beginning on January 1, 2006, and ending on December 31, 2007, with the contractor who conducted the enhanced motor vehicle inspection and maintenance program in those federally mandated counties pursuant to a contract entered into under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly;

(3) Provide for the issuance of inspection certificates;

(4) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(B) The director shall not implement a motor vehicle inspection and maintenance program in any county other than a county in which a motor vehicle inspection and maintenance program is federally mandated.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to

implement and enforce rules pertaining to the enhanced motor 36576  
vehicle inspection and maintenance program previously implemented 36577  
under former section 3704.14 of the Revised Code as that section 36578  
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 36579  
the 126th general assembly, provided that the rules do not 36580  
conflict with this section. 36581

(D) There is hereby created in the state treasury the motor 36582  
vehicle inspection and maintenance fund, which shall consist of 36583  
money received by the director from any fees for inspections that 36584  
are established in rules adopted under this section. The director 36585  
shall use money in the fund solely for the implementation, 36586  
supervision, administration, operation, and enforcement of the 36587  
enhanced motor vehicle inspection and maintenance program 36588  
established under this section. 36589

(E) The enhanced motor vehicle inspection and maintenance 36590  
program established under this section expires on December 31, 36591  
2007, and shall not be continued beyond that date unless otherwise 36592  
federally mandated. 36593

**Sec. 3704.143.** (A) As used in this section, "contract" means 36594  
a contract entered into by the state under former section 3704.14 36595  
of the Revised Code, as that section existed prior to its repeal 36596  
and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, 36597  
with a private contractor for the purpose of conducting emissions 36598  
inspections under a motor vehicle inspection and maintenance 36599  
program. 36600

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized 36601  
in section 3704.14 of the Revised Code, ~~the director of~~ 36602  
~~administrative services or~~ as that section was reenacted by Am. 36603  
Sub. H.B. 66 of the 126th General Assembly, the director of 36604  
environmental protection, ~~as applicable,~~ shall not renew any 36605  
contract that is in existence on September 5, 2001. Further, 36606

~~except as authorized in that section,~~ the director of 36607  
~~administrative services or the director of environmental~~ 36608  
~~protection, as applicable,~~ shall not enter into a new contract 36609  
upon the expiration or termination of any contract that is in 36610  
existence on September 5, 2001, or enter into any new contract for 36611  
the implementation of a motor vehicle inspection and maintenance 36612  
program in a county in which such a program is not operating on 36613  
that date. 36614

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 36615  
of the Revised Code ~~or any other section of the Revised Code that~~ 36616  
~~requires emissions inspections to be conducted or proof of such~~ 36617  
~~inspections to be provided,~~ as that section was reenacted by Am. 36618  
Sub. H.B. 66 of the 126th General Assembly, upon the expiration or 36619  
termination of all contracts that are in existence on September 5, 36620  
2001, the director of environmental protection shall terminate all 36621  
motor vehicle inspection and maintenance programs in this state 36622  
and shall not implement a new motor vehicle inspection and 36623  
maintenance program unless ~~this section is repealed and~~ such a 36624  
program is authorized by the general assembly. 36625

(D) ~~Notwithstanding section 3704.14 of the Revised Code or~~ 36626  
~~any other section of the Revised Code that requires emissions~~ 36627  
~~inspections to be conducted or proof of such inspections to be~~ 36628  
~~provided, if~~ If the general assembly authorizes any program for 36629  
the inspection of motor vehicle emissions under division (C) of 36630  
this section after all contracts for a motor vehicle inspection 36631  
and maintenance program that are in existence on September 5, 36632  
2001, terminate or expire, a motor vehicle, the legal title to 36633  
which has never been transferred by a manufacturer, distributor, 36634  
or dealer to an ultimate purchaser as defined in section 4517.01 36635  
of the Revised Code, shall be exempt from any emissions 36636  
inspections that are required under such a program for a period of 36637  
~~five~~ not less than four years commencing on the date when the 36638



first certificate of title to the vehicle was issued on behalf of 36639  
the ultimate purchaser under Chapter 4503. of the Revised Code. A 36640  
motor vehicle that is exempt from any emissions inspections ~~for a~~ 36641  
~~period of five years~~ under this division shall remain exempt 36642  
during that ~~five-year~~ period regardless of whether legal title to 36643  
the motor vehicle is transferred during that period. 36644

Sec. 3704.144. Gifts, grants, and contributions for the 36645  
purpose of adding pollution control equipment to diesel-powered 36646  
school buses, including contributions that are made pursuant to 36647  
the settlement of an administrative action or civil action that is 36648  
brought at the request of the director of environmental protection 36649  
pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the 36650  
Revised Code, shall be credited to the clean diesel school bus 36651  
fund, which is hereby created in the state treasury. The director 36652  
shall use money credited to the fund to make grants to school 36653  
districts in the state for the purpose of adding pollution control 36654  
equipment to diesel-powered school buses and to pay the 36655  
environmental protection agency's costs incurred in administering 36656  
this section. In addition, the director may use money credited to 36657  
the fund to make grants to school districts for the purpose of 36658  
maintaining pollution control equipment that is installed on 36659  
diesel-powered school buses and to pay the additional cost 36660  
incurred by a school district for using ultra-low sulfur diesel 36661  
fuel instead of diesel fuel for the operation of diesel-powered 36662  
school buses. 36663

In making grants under this section, the director shall give 36664  
priority to school districts that are located in a county that is 36665  
designated as nonattainment by the United States environmental 36666  
protection agency for the fine particulate national ambient air 36667  
quality standard under the federal Clean Air Act. In addition, the 36668  
director may give a higher priority to a school district that 36669  
employs additional measures that reduce air pollution from the 36670

district's school bus fleet. 36671

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants. 36672  
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**Sec. 3704.99.** (A) Whoever recklessly violates division (A), 36676  
(B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or 36677  
division (B)(5) of section 3704.16 of the Revised Code shall be 36678  
fined not more than twenty-five thousand dollars or imprisoned not 36679  
more than one year, or both, for each violation. Each day the 36680  
violation continues after a conviction for a violation is a 36681  
separate offense. 36682

(B) Whoever knowingly violates division (H), (J), or (K) of 36683  
section 3704.05 of the Revised Code shall be fined not more than 36684  
ten thousand dollars for each day of each such violation. 36685

(C) Whoever violates section 3704.15 ~~or division (B)(1) or~~ 36686  
~~(2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is 36687  
guilty of a misdemeanor of the first degree. 36688

(D) Whoever violates division (B)(2) or knowingly violates 36689  
division (C)(1) of section 3704.16 of the Revised Code is guilty 36690  
of a minor misdemeanor. 36691

(E) Whoever violates division (B)(1) or (3) or knowingly 36692  
violates division (C)(2) or (3) of section 3704.16 of the Revised 36693  
Code shall be fined not less than five hundred nor more than 36694  
twenty-five hundred dollars for each day of each violation. 36695

(F) Whoever recklessly violates division (B)(4) of section 36696  
3704.16 of the Revised Code shall be fined not more than 36697  
twenty-five thousand dollars or imprisoned not more than one year, 36698  
or both, for each violation. Each day the violation continues 36699  
after a conviction for a violation is a separate offense. 36700

(G) The sentencing court, in addition to the penalty provided 36701  
in divisions (D), (E), and (F) of this section, shall order the 36702  
offender to restore within thirty days any emission control system 36703  
that was tampered with in connection with the violation or to 36704  
provide proof that the motor vehicle whose emission control system 36705  
was tampered with has been dismantled or destroyed. The court may 36706  
extend that deadline for good cause shown. If the offender does 36707  
not take the corrective action ordered under this division, each 36708  
day that the violation continues is a separate offense. Violation 36709  
of a court order entered under this division is punishable as 36710  
contempt under Chapter 2705. of the Revised Code. 36711

**Sec. 3705.24.** (A)(1) The public health council shall, in 36712  
accordance with section 111.15 of the Revised Code, adopt rules 36713  
prescribing fees for the following services provided by the state 36714  
office of vital statistics: 36715

(a) Except as provided in division (A)(4) of this section: 36716

(i) A certified copy of a vital record or a certification of 36717  
birth; 36718

(ii) A search by the office of vital statistics of its files 36719  
and records pursuant to a request for information, regardless of 36720  
whether a copy of a record is provided; 36721

(iii) A copy of a record provided pursuant to a request; 36722

(b) Replacement of a birth certificate following an adoption, 36723  
legitimation, paternity determination or acknowledgement, or court 36724  
order; 36725

(c) Filing of a delayed registration of a vital record; 36726

(d) Amendment of a vital record that is requested later than 36727  
one year after the filing date of the vital record; 36728

(e) Any other documents or services for which the public 36729

health council considers the charging of a fee appropriate. 36730

(2) Fees prescribed under division (A)(1)(a) of this section 36731  
shall not be less than seven dollars. 36732

(3) Fees prescribed under division (A)(1) of this section 36733  
shall be collected in addition to any ~~fee~~ fees required by ~~section~~ 36734  
sections 3109.14 and 3705.242 of the Revised Code. 36735

(4) Fees prescribed under division (A) of this section shall 36736  
not apply to certifications issued under division (H) of this 36737  
section or copies provided under section 3705.241 of the Revised 36738  
Code. 36739

(B) In addition to the fees prescribed under division (A) of 36740  
this section or section 3709.09 of the Revised Code, the office of 36741  
vital statistics or the board of health of a city or general 36742  
health district shall charge a five-dollar fee for each certified 36743  
copy of a vital record and each certification of birth. This fee 36744  
shall be deposited in the general operations fund created under 36745  
section 3701.83 of the Revised Code and be used solely toward the 36746  
modernization and automation of the system of vital records in 36747  
this state. A board of health shall forward all fees collected 36748  
under this division to the department of health not later than 36749  
thirty days after the end of each calendar quarter. 36750

(C) Except as otherwise provided in division (H) of this 36751  
section, and except as provided in section 3705.241 of the Revised 36752  
Code, fees collected by the director of health under sections 36753  
3705.01 to 3705.29 of the Revised Code shall be paid into the 36754  
state treasury to the credit of the general operations fund 36755  
created by section 3701.83 of the Revised Code. Except as provided 36756  
in division (B) of this section, money generated by the fees shall 36757  
be used only for administration and enforcement of this chapter 36758  
and the rules adopted under it. Amounts submitted to the 36759  
department of health for copies of vital records or services in 36760

excess of the fees imposed by this section shall be dealt with as follows: 36761  
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(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. 36763  
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(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment. 36767  
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(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district. 36769  
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Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be: 36774  
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(1) In primary registration districts of over two hundred fifty thousand, twenty cents; 36783  
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(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents; 36785  
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(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents; 36788  
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(4) In primary registration districts of less than fifty 36790

thousand, one dollar. 36791

(E) The director of health shall annually certify to the 36792  
county treasurers of the several counties the number of birth, 36793  
fetal death, death, and military service certificates registered 36794  
from their respective counties with the names of the local 36795  
registrars and the amounts due each registrar and health district 36796  
at the rates fixed in this section. Such amounts shall be paid by 36797  
the treasurer of the county in which the registration districts 36798  
are located. No fees shall be charged or collected by registrars 36799  
except as provided by this chapter and section 3109.14 of the 36800  
Revised Code. 36801

(F) A probate judge shall be paid a fee of fifteen cents for 36802  
each certified abstract of marriage prepared and forwarded by the 36803  
probate judge to the department of health pursuant to section 36804  
3705.21 of the Revised Code. The fee shall be in addition to the 36805  
fee paid for a marriage license and shall be paid by the 36806  
applicants for the license. 36807

(G) The clerk of a court of common pleas shall be paid a fee 36808  
of one dollar for each certificate of divorce, dissolution, and 36809  
annulment of marriage prepared and forwarded by the clerk to the 36810  
department pursuant to section 3705.21 of the Revised Code. The 36811  
fee for the certified abstract of divorce, dissolution, or 36812  
annulment of marriage shall be added to the court costs allowed in 36813  
these cases. 36814

(H) The fee for an heirloom certification of birth issued 36815  
pursuant to division (B)(2) of section 3705.23 of the Revised Code 36816  
shall be an amount prescribed by rule by the director of health 36817  
plus any fee required by section 3109.14 of the Revised Code. In 36818  
setting the amount of the fee, the director shall establish a 36819  
surcharge in addition to an amount necessary to offset the expense 36820  
of processing heirloom certifications of birth. The fee prescribed 36821

by the director of health pursuant to this division shall be 36822  
deposited into the state treasury to the credit of the heirloom 36823  
certification of birth fund which is hereby created. Money 36824  
credited to the fund shall be used by the office of vital 36825  
statistics to offset the expense of processing heirloom 36826  
certifications of birth. However, the money collected for the 36827  
surcharge, subject to the approval of the controlling board, shall 36828  
be used for the purposes specified by the family and children 36829  
first council pursuant to section 121.37 of the Revised Code. 36830

Sec. 3705.242. (A)(1) The director of health, a person 36831  
authorized by the director, a local commissioner of health, or a 36832  
local registrar of vital statistics shall charge and collect a fee 36833  
of one dollar and fifty cents for each certified copy of a birth 36834  
record, each certification of birth, and each copy of a death 36835  
record. The fee is in addition to the fee imposed by section 36836  
3705.24 or any other section of the Revised Code. A local 36837  
commissioner of health or local registrar of vital statistics may 36838  
retain an amount of each additional fee collected, not to exceed 36839  
three per cent of the amount of the additional fee, to be used for 36840  
costs directly related to the collection of the fee and the 36841  
forwarding of the fee to the treasurer of state. 36842

(2) On the filing of a divorce decree under section 3105.10 36843  
or a decree of dissolution under section 3105.65 of the Revised 36844  
Code, a court of common pleas shall charge and collect a fee of 36845  
five dollars and fifty cents. The fee is in addition to any other 36846  
court costs or fees. The county clerk of courts may retain an 36847  
amount of each additional fee collected, not to exceed three per 36848  
cent of the amount of the additional fee, to be used for costs 36849  
directly related to the collection of the fee and the forwarding 36850  
of the fee to the treasurer of state. 36851

(B) The additional fees collected, but not retained, under 36852

this section during each month shall be forwarded not later than 36853  
the tenth day of the immediately following month to the treasurer 36854  
of state, who shall deposit the fees in the state treasury to the 36855  
credit of the family violence prevention fund, which is hereby 36856  
created. A person or government entity that fails to forward the 36857  
fees in a timely manner, as determined by the treasurer of state, 36858  
shall forward to the treasurer of state, in addition to the fees, 36859  
a penalty equal to ten per cent of the fees. 36860

The treasurer of state shall invest the moneys in the fund. 36861  
All earnings resulting from investment of the fund shall be 36862  
credited to the fund, except that actual administration costs 36863  
incurred by the treasurer of state in administering the fund may 36864  
be deducted from the earnings resulting from investments. The 36865  
amount that may be deducted shall not exceed three per cent of the 36866  
total amount of fees credited to the fund in each fiscal year. The 36867  
balance of the investment earnings shall be credited to the fund. 36868

(C) The director of public safety shall use money credited to 36869  
the fund to provide grants to family violence shelters in Ohio. 36870

**Sec. 3709.29.** If the estimated amount of money necessary to 36871  
meet the expenses of a general health district program will not be 36872  
forthcoming to the board of health of ~~such~~ the district out of the 36873  
district health fund because the taxes within the ten-mill 36874  
limitation will be insufficient, the board of health shall certify 36875  
~~the fact of such~~ that there is an insufficiency of funds for the 36876  
program to the board of county commissioners of the county in 36877  
which ~~such~~ the district is located. ~~Such~~ The board of county 36878  
commissioners is ~~hereby ordained~~ considered to be a special taxing 36879  
authority for the purposes of this section only, and, 36880  
notwithstanding any other law to the contrary, the board of county 36881  
commissioners of any county in which a general health district is 36882  
located is the taxing authority for ~~such~~ a special levy under this 36883



section outside the ten-mill limitation. ~~The~~ 36884

Upon receipt of the board of health's certification, the 36885  
board of county commissioners ~~shall thereupon~~, in the year 36886  
preceding that in which ~~such~~ the general health district program 36887  
will be effective, by vote of two-thirds of all the members of 36888  
that body, shall declare by resolution that the amount of taxes 36889  
~~which that~~ may be raised within the ten-mill limitation will be 36890  
insufficient to provide an adequate amount for the necessary 36891  
requirements of ~~such~~ the district within the county, and that it 36892  
is necessary to levy a tax in excess of ~~such~~ the limitation in 36893  
order to provide the board of health with sufficient funds to 36894  
carry out ~~such health~~ the program, including its costs of office 36895  
space and utilities. ~~Such~~ The resolution shall be filed with the 36896  
board of elections not later than four p.m. of the seventy-fifth 36897  
day before the day of the relevant primary or general election- 36898

~~Such resolution and~~ shall specify the amount of increase in 36899  
rate ~~which that~~ it is necessary to levy and the number of years 36900  
during which ~~such~~ the increase ~~shall~~ will be in effect, which 36901  
shall not be for a longer period than ten years. The 36902

~~The~~ resolution shall conform to section 5705.191 of the 36903  
Revised Code and be certified and submitted in the manner provided 36904  
in section 5705.25 of the Revised Code, provided that the proposal 36905  
shall be placed on the ballot at the next primary or general 36906  
election occurring more than seventy-five days after the 36907  
resolution is filed with the board of elections. 36908

**Sec. 3709.34.** (A) ~~The board of county commissioners or the~~ 36909  
legislative authority of any city may furnish suitable quarters 36910  
for any board of health or health department having jurisdiction 36911  
over all or a major part of ~~such county or that~~ city. 36912

(B)(1) Subject to division (B)(6) of this section, through 36913  
fiscal year 2006, the board of county commissioners shall provide 36914

office space and utilities for the board of health having 36915  
jurisdiction over the county's general health district. 36916  
Thereafter, subject to division (B)(6) of this section, the board 36917  
of county commissioners shall make payments as provided in 36918  
divisions (B)(2) and (3) of this section for the office space and 36919  
utilities until fiscal year 2010. Starting in fiscal year 2010, 36920  
the board has no duty to provide office space or utilities, or to 36921  
make payments for office space or utilities, for the board of 36922  
health of the county's general health district. 36923

(2)(a) Not later than the thirtieth day of September 2006, 36924  
2007, and 2008, the board of county commissioners shall make a 36925  
written estimate of the total cost for the ensuing fiscal year to 36926  
provide office space and utilities to the board of health of the 36927  
county's general health district. The estimate of total cost shall 36928  
include all of the following: 36929

(i) The total square feet of space to be used by the board of 36930  
health; 36931

(ii) The total square feet of any common areas that should be 36932  
reasonably allocated to the board of health and the method for 36933  
making this allocation; 36934

(iii) The actual cost per square foot for both the space used 36935  
by and the common areas allocated to the board of health; 36936

(iv) An explanation of the method used to determine the 36937  
actual cost per square foot; 36938

(v) The estimated cost of providing utilities, including an 36939  
explanation of how this cost was determined; 36940

(vi) Any other estimated costs the board of county 36941  
commissioners anticipates will be incurred to provide office space 36942  
and utilities to the board of health, including a detailed 36943  
explanation of those costs and the rationale used to determine 36944

them. 36945

(b) The board of county commissioners shall forward a copy of 36946  
the estimate of total cost to the director of the board of health 36947  
not later than the fifth day of October 2006, 2007, and 2008. The 36948  
director shall review the estimate and notify the board of county 36949  
commissioners not later than twenty days after its receipt of 36950  
either agreement with it or any specific objections to it and the 36951  
reasons for the objections. If the director agrees with the 36952  
estimate, it shall become the final estimate of total cost. 36953  
Failure of the director to make objections to the estimate by the 36954  
twentieth day after its receipt shall be deemed to mean that the 36955  
director is in agreement with the estimate. 36956

If the director timely provides specific objections to the 36957  
board of county commissioners, the board shall review the 36958  
objections and may modify the original estimate and send a revised 36959  
estimate of total cost to the director within ten days after 36960  
receipt of the objections. The director shall respond to a revised 36961  
estimate within ten days after its receipt. If the director agrees 36962  
with it, the revised estimate shall become the final estimate of 36963  
total cost. If the director fails to respond within the ten-day 36964  
period, the director shall be deemed to have agreed with the 36965  
revised estimate. If the director disagrees with the revised 36966  
estimate, the director shall send specific objections to the board 36967  
of county commissioners within the ten-day period. 36968

(c) If the director sends specific objections to a revised 36969  
estimate within the required time, or if there is no revised 36970  
estimate and the director timely objected to the original 36971  
estimate, the probate judge of the county shall determine the 36972  
final estimate of total cost and certify this amount to the 36973  
director and the board of county commissioners before the first 36974  
day of January 2007, 2008, or 2009, as applicable. 36975

(3)(a) Subject to division (B)(6) of this section, a board of county commissioners shall be responsible for the following percentages of the final estimate of total cost established by division (B)(2) of this section: 36976  
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36979

(i) Sixty per cent for fiscal year 2007; 36980

(ii) Forty per cent for fiscal year 2008; 36981

(iii) Twenty per cent for fiscal year 2009. 36982

(b) In fiscal years 2007, 2008, and 2009, the board of health of the county's general health district shall be responsible for the payment of the remainder of any costs incurred in excess of the amount payable under division (B)(3)(a)(i), (ii), or (iii) of this section, as applicable, for the provision of office space and utilities for the board of health, including any unanticipated or unexpected increases in costs beyond the final estimate of total cost. 36983  
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(c) Beginning in fiscal year 2010, the board of county commissioners has no obligation to provide office space or utilities, or to make payments for office space or utilities, for the board of health. 36991  
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(4) After fiscal year 2009, the board of county commissioners and the board of health of the county's general health district may enter into a contract for the board of county commissioners to provide office space for the use of the board of health and to provide utilities for that office space. The term of any such contract shall not exceed four years and may be renewed for additional periods not to exceed four years. 36995  
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(5) In any fiscal year, notwithstanding any contrary provision of divisions (B)(1) to (4) of this section, the board of county commissioners, in its discretion, may provide office space and utilities for the board of health of the county's general 37002  
37003  
37004  
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health district free of charge. 37006

(6) If the board of health of a general health district 37007  
rents, leases, lease-purchases, or otherwise acquires office space 37008  
to facilitate the performance of its functions, or constructs, 37009  
enlarges, renovates, or otherwise modifies buildings or other 37010  
structures to provide office space to facilitate the performance 37011  
of its functions, the board of county commissioners of the county 37012  
served by the general health district has no further obligation 37013  
under division (B) of this section to provide office space or 37014  
utilities, or to make payments for office space or utilities, for 37015  
the board of health, unless the board of county commissioners 37016  
enters into a contract under division (B)(4) of this section or 37017  
exercises its option under division (B)(5) of this section. 37018

**Sec. 3712.03.** (A) In accordance with Chapter 119. of the 37019  
Revised Code, the public health council shall adopt, and may amend 37020  
and rescind, rules: 37021

(1) Providing for the licensing of persons or public agencies 37022  
providing hospice care programs within this state by the 37023  
department of health and for the suspension and revocation of 37024  
licenses; 37025

(2) Establishing a license fee and license renewal fee not to 37026  
exceed three hundred dollars. The fees shall cover the three-year 37027  
period during which an existing license is valid as provided in 37028  
division (B) of section 3712.04 of the Revised Code. 37029

(3) Establishing an inspection fee not to exceed one thousand 37030  
seven hundred fifty dollars; 37031

(4) Establishing requirements for hospice care program 37032  
facilities and services; 37033

~~(4)~~(5) Providing for a waiver of the requirement for the 37034  
provision of physical, occupational, or speech or language therapy 37035

contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

~~(5)~~(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and

~~(6)~~(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

**Sec. 3714.07.** (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is

licensed under this chapter or at a solid waste facility that is 37066  
licensed under Chapter 3734. of the Revised Code a fee of thirty 37067  
cents per cubic yard or sixty cents per ton, as applicable. 37068

(2) The owner or operator of a construction and demolition 37069  
debris facility or a solid waste facility shall determine if cubic 37070  
yards or tons will be used as the unit of measurement. In 37071  
estimating the fee based on cubic yards, the owner or operator 37072  
shall utilize either the maximum cubic yard capacity of the 37073  
container, or the hauling volume of the vehicle, that transports 37074  
the construction and demolition debris to the facility or the 37075  
cubic yards actually logged for disposal by the owner or operator 37076  
in accordance with rules adopted under section 3714.02 of the 37077  
Revised Code. If basing the fee on tonnage, the owner or operator 37078  
shall use certified scales to determine the tonnage of 37079  
construction and demolition debris that is transported to the 37080  
facility for disposal. 37081

(3) The owner or operator of a construction and demolition 37082  
debris facility or a solid waste facility shall collect the fee 37083  
levied under division (A) of this section as a trustee for the 37084  
health district having jurisdiction over the facility, if that 37085  
district is on the approved list under section 3714.09 of the 37086  
Revised Code, or for the state. The owner or operator shall 37087  
prepare and file with the appropriate board of health or the 37088  
director of environmental protection monthly returns indicating 37089  
the total volume or weight, as applicable, of construction and 37090  
demolition debris received for disposal at the facility and the 37091  
total amount of money required to be collected on the construction 37092  
and demolition debris disposed of during that month. Not later 37093  
than thirty days after the last day of the month to which the 37094  
return applies, the owner or operator shall mail to the board of 37095  
health or the director the return for that month together with the 37096  
money required to be collected on the construction and demolition 37097

debris disposed of during that month. The owner or operator may  
request, in writing, an extension of not more than thirty days  
after the last day of the month to which the return applies. A  
request for extension may be denied. If the owner or operator  
submits the money late, the owner or operator shall pay a penalty  
of ten per cent of the amount of the money due for each month that  
it is late.

(4) Of the money that is collected from a construction and  
demolition debris facility or a solid waste facility on a per  
cubic yard or per ton basis under this section, a board of health  
shall transmit three cents per cubic yard or six cents per ton, as  
applicable, to the director not later than forty-five days after  
the receipt of the money. The money retained by a board of health  
under this section shall be paid into a special fund, which is  
hereby created in each health district, and used solely to  
administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the  
boards of health of health districts under this section and all  
money from the disposal fee collected by the director under this  
section to the treasurer of state to be credited to the  
construction and demolition debris facility oversight fund, which  
is hereby created in the state treasury. The fund shall be  
administered by the director, and money credited to the fund shall  
be used exclusively for the administration and enforcement of this  
chapter and rules adopted under it.

(B) The board of health of a health district or the director  
may enter into an agreement with the owner or operator of a  
construction and demolition debris facility or a solid waste  
facility for the quarterly payment of the money collected from the  
disposal fee. The board of health shall notify the director of any  
such agreement. Not later than forty-five days after receipt of  
the quarterly payment, the board of health shall transmit the



amount established in division (A)~~(5)~~(4) of this section to the 37130  
director. The money retained by the board of health shall be 37131  
deposited in the special fund of the district as required under 37132  
that division. Upon receipt of the money from a board of health, 37133  
the director shall transmit the money to the treasurer of state to 37134  
be credited to the construction and demolition debris facility 37135  
oversight fund. 37136

(C) If a construction and demolition debris facility or a 37137  
solid waste facility is located within the territorial boundaries 37138  
of a municipal corporation or the unincorporated area of a 37139  
township, the municipal corporation or township may appropriate up 37140  
to four cents per cubic yard or up to eight cents per ton of the 37141  
disposal fee required to be paid by the facility under division 37142  
(A) of this section for the same purposes that a municipal 37143  
corporation or township may levy a fee under division (C) of 37144  
section 3734.57 of the Revised Code. 37145

The legislative authority of the municipal corporation or 37146  
township may appropriate the money from the fee by enacting an 37147  
ordinance or adopting a resolution establishing the amount of the 37148  
fee to be appropriated. Upon doing so, the legislative authority 37149  
shall mail a certified copy of the ordinance or resolution to the 37150  
board of health of the health district in which the construction 37151  
and demolition debris facility or the solid waste facility is 37152  
located or, if the facility is located in a health district that 37153  
is not on the approved list under section 3714.09 of the Revised 37154  
Code, to the director. Upon receipt of the copy of the ordinance 37155  
or resolution and not later than forty-five days after receipt of 37156  
money collected from the fee, the board or the director, as 37157  
applicable, shall transmit to the treasurer or other appropriate 37158  
officer of the municipal corporation or clerk of the township that 37159  
portion of the money collected from the disposal fee by the owner 37160  
or operator of the facility that is required by the ordinance or 37161

resolution to be paid to that municipal corporation or township. 37162

Money received by the treasurer or other appropriate officer 37163  
of a municipal corporation under this division shall be paid into 37164  
the general fund of the municipal corporation. Money received by 37165  
the clerk of a township under this division shall be paid into the 37166  
general fund of the township. The treasurer or other officer of 37167  
the municipal corporation or the clerk of the township, as 37168  
appropriate, shall maintain separate records of the money received 37169  
under this division. 37170

The legislative authority of a municipal corporation or 37171  
township may cease collecting money under this division by 37172  
repealing the ordinance or resolution that was enacted or adopted 37173  
under this division. 37174

(D) The board of county commissioners of a county in which a 37175  
construction and demolition debris facility or a solid waste 37176  
facility is located may appropriate up to three cents per cubic 37177  
yard or up to six cents per ton of the disposal fee required to be 37178  
paid by the facility under division (A) of this section for the 37179  
same purposes that a solid waste management district may levy a 37180  
fee under division (B) of section 3734.57 of the Revised Code. 37181

The board of county commissioners may appropriate the money 37182  
from the fee by adopting a resolution establishing the amount of 37183  
the fee to be appropriated. Upon doing so, the board of county 37184  
commissioners shall mail a certified copy of the resolution to the 37185  
board of health of the health district in which the construction 37186  
and demolition debris facility or the solid waste facility is 37187  
located or, if the facility is located in a health district that 37188  
is not on the approved list under section 3714.09 of the Revised 37189  
Code, to the director. Upon receipt of the copy of the resolution 37190  
and not later than forty-five days after receipt of money 37191  
collected from the fee, the board of health or the director, as 37192

applicable, shall transmit to the treasurer of the county that 37193  
portion of the money collected from the disposal fee by the owner 37194  
or operator of the facility that is required by the resolution to 37195  
be paid to that county. 37196

Money received by a county treasurer under this division 37197  
shall be paid into the general fund of the county. The county 37198  
treasurer shall maintain separate records of the money received 37199  
under this division. 37200

A board of county commissioners may cease collecting money 37201  
under this division by repealing the resolution that was adopted 37202  
under this division. 37203

(E)(1) This section does not apply to the disposal of 37204  
construction and demolition debris at a solid waste facility that 37205  
is licensed under Chapter 3734. of the Revised Code if there is no 37206  
construction and demolition debris facility licensed under this 37207  
chapter within ~~forty~~ thirty-five miles of the solid waste facility 37208  
as determined by a facility's property boundaries. 37209

(2) This section does not apply to the disposal of 37210  
construction and demolition debris at a solid waste facility that 37211  
is licensed under Chapter 3734. of the Revised Code if the owner 37212  
or operator of the facility chooses to collect fees on the 37213  
disposal of the construction and demolition debris that are 37214  
identical to the fees that are collected under Chapters 343. and 37215  
3734. of the Revised Code on the disposal of solid wastes at that 37216  
facility. 37217

(3) This section does not apply to the disposal of source 37218  
separated materials that are exclusively composed of reinforced or 37219  
nonreinforced concrete, asphalt, clay tile, building or paving 37220  
brick, or building or paving stone at a construction and 37221  
demolition debris facility that is licensed under this chapter 37222  
when either of the following applies: 37223

(a) The materials are placed within the limits of 37224  
construction and demolition debris placement at the facility as 37225  
specified in the license issued to the facility under section 37226  
3714.06 of the Revised Code, are not placed within the unloading 37227  
zone of the facility, and are used as a fire prevention measure in 37228  
accordance with rules adopted by the director under section 37229  
3714.02 of the Revised Code. 37230

(b) The materials are not placed within the unloading zone of 37231  
the facility or within the limits of construction and demolition 37232  
debris placement at the facility as specified in the license 37233  
issued to the facility under section 3714.06 of the Revised Code, 37234  
but are used as fill material, either alone or in conjunction with 37235  
clean soil, sand, gravel, or other clean aggregates, in legitimate 37236  
fill operations for construction purposes at the facility or to 37237  
bring the facility up to a consistent grade. 37238

**Sec. 3714.073.** (A) In addition to the fee levied under 37239  
division (A)(1) of section 3714.07 of the Revised Code, beginning 37240  
July 1, 2005, there is hereby levied on the disposal of 37241  
construction and demolition debris at a construction and 37242  
demolition debris facility that is licensed under this chapter or 37243  
at a solid waste facility that is licensed under Chapter 3734. of 37244  
the Revised Code the following fees: 37245

(1) A fee of twelve and one-half cents per cubic yard or 37246  
twenty-five cents per ton, as applicable, the proceeds of which 37247  
shall be deposited in the state treasury to the credit of the soil 37248  
and water conservation district assistance fund created in section 37249  
1515.14 of the Revised Code; 37250

(2) A fee of thirty seven and one-half cents per cubic yard 37251  
or seventy-five cents per ton, as applicable, the proceeds of 37252  
which shall be deposited in the state treasury to the credit of 37253  
the recycling and litter prevention fund created in section 37254

<u>1502.02 of the Revised Code.</u>	37255
<u>(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section.</u>	37256 37257 37258 37259 37260 37261
<u>(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.</u>	37262 37263 37264 37265 37266 37267 37268
<u>(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.</u>	37269 37270 37271 37272 37273 37274 37275 37276
<b><u>Sec. 3715.04. (A) As used in this section:</u></b>	37277
<u>(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of</u>	37278 37279 37280 37281 37282 37283 37284

agriculture. Other names of documents that are synonymous with 37285  
"certificate of health and freesale" include, but are not limited 37286  
to, "sanitary certificate of health and freesale"; "certificate of 37287  
origin"; "certificate of freesale"; "certificate of health and 37288  
origin"; "certificate of freesale, sanitary and purity"; and 37289  
"certificate of freesale, health and origin." 37290

(2) "Food processing establishment" has the same meaning as 37291  
in section 3715.021 of the Revised Code. 37292

(B) Upon the request of a food processing establishment, 37293  
manufacturer of over-the-counter drugs, or manufacturer of 37294  
cosmetics, the director may issue a certificate of health and 37295  
freesale after determining that conditions at the establishment or 37296  
place of business of the manufacturer, as applicable, have been 37297  
found to be sanitary through an inspection conducted pursuant to 37298  
this chapter. For each certificate issued, the director shall 37299  
charge the establishment or manufacturer a fee in the amount of 37300  
twenty dollars. The director shall deposit all fees collected 37301  
under this section to the credit of the food safety fund created 37302  
in section 915.24 of the Revised Code. 37303

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code: 37304  
37305

(1)(a) "Home" means an institution, residence, or facility 37306  
that provides, for a period of more than twenty-four hours, 37307  
whether for a consideration or not, accommodations to three or 37308  
more unrelated individuals who are dependent upon the services of 37309  
others, including a nursing home, residential care facility, home 37310  
for the aging, and a veterans' home operated under Chapter 5907. 37311  
of the Revised Code. 37312

(b) "Home" also means both of the following: 37313

(i) Any facility that a person, as defined in section 3702.51 37314

of the Revised Code, proposes for certification as a skilled 37315  
nursing facility or nursing facility under Title XVIII or XIX of 37316  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37317  
as amended, and for which a certificate of need, other than a 37318  
certificate to recategorize hospital beds as described in section 37319  
3702.522 of the Revised Code or division (R)(7)(d) of the version 37320  
of section 3702.51 of the Revised Code in effect immediately prior 37321  
to April 20, 1995, has been granted to the person under sections 37322  
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 37323

(ii) A county home or district home that is or has been 37324  
licensed as a residential care facility. 37325

(c) "Home" does not mean any of the following: 37326

(i) Except as provided in division (A)(1)(b) of this section, 37327  
a public hospital or hospital as defined in section 3701.01 or 37328  
5122.01 of the Revised Code; 37329

(ii) A residential facility for mentally ill persons as 37330  
defined under section 5119.22 of the Revised Code; 37331

(iii) A residential facility as defined in section 5123.19 of 37332  
the Revised Code; 37333

(iv) ~~A habilitation center as defined in section 5123.041 of~~ 37334  
~~the Revised Code;~~ 37335

~~(v)~~ A community alternative home as defined in section 37336  
3724.01 of the Revised Code; 37337

~~(vi)~~(v) An adult care facility as defined in section 3722.01 37338  
of the Revised Code; 37339

~~(vii)~~(vi) An alcohol or drug addiction program as defined in 37340  
section 3793.01 of the Revised Code; 37341

~~(viii)~~(vii) A facility licensed to provide methadone 37342  
treatment under section 3793.11 of the Revised Code; 37343

~~(ix)~~(viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(x)~~(ix) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(xi)~~(x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(xii)~~(xi) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited



to, the following: 37375

(a) Irrigations, catheterizations, application of dressings, 37376  
and supervision of special diets; 37377

(b) Objective observation of changes in the patient's 37378  
condition as a means of analyzing and determining the nursing care 37379  
required and the need for further medical diagnosis and treatment; 37380

(c) Special procedures contributing to rehabilitation; 37381

(d) Administration of medication by any method ordered by a 37382  
physician, such as hypodermically, rectally, or orally, including 37383  
observation of the patient after receipt of the medication; 37384

(e) Carrying out other treatments prescribed by the physician 37385  
that involve a similar level of complexity and skill in 37386  
administration. 37387

(5)(a) "Personal care services" means services including, but 37388  
not limited to, the following: 37389

(i) Assisting residents with activities of daily living; 37390

(ii) Assisting residents with self-administration of 37391  
medication, in accordance with rules adopted under section 3721.04 37392  
of the Revised Code; 37393

(iii) Preparing special diets, other than complex therapeutic 37394  
diets, for residents pursuant to the instructions of a physician 37395  
or a licensed dietitian, in accordance with rules adopted under 37396  
section 3721.04 of the Revised Code. 37397

(b) "Personal care services" does not include "skilled 37398  
nursing care" as defined in division (A)(4) of this section. A 37399  
facility need not provide more than one of the services listed in 37400  
division (A)(5)(a) of this section to be considered to be 37401  
providing personal care services. 37402

(6) "Nursing home" means a home used for the reception and 37403

care of individuals who by reason of illness or physical or mental 37404  
impairment require skilled nursing care and of individuals who 37405  
require personal care services but not skilled nursing care. A 37406  
nursing home is licensed to provide personal care services and 37407  
skilled nursing care. 37408

(7) "Residential care facility" means a home that provides 37409  
either of the following: 37410

(a) Accommodations for seventeen or more unrelated 37411  
individuals and supervision and personal care services for three 37412  
or more of those individuals who are dependent on the services of 37413  
others by reason of age or physical or mental impairment; 37414

(b) Accommodations for three or more unrelated individuals, 37415  
supervision and personal care services for at least three of those 37416  
individuals who are dependent on the services of others by reason 37417  
of age or physical or mental impairment, and, to at least one of 37418  
those individuals, any of the skilled nursing care authorized by 37419  
section 3721.011 of the Revised Code. 37420

(8) "Home for the aging" means a home that provides services 37421  
as a residential care facility and a nursing home, except that the 37422  
home provides its services only to individuals who are dependent 37423  
on the services of others by reason of both age and physical or 37424  
mental impairment. 37425

The part or unit of a home for the aging that provides 37426  
services only as a residential care facility is licensed as a 37427  
residential care facility. The part or unit that may provide 37428  
skilled nursing care beyond the extent authorized by section 37429  
3721.011 of the Revised Code is licensed as a nursing home. 37430

(9) "County home" and "district home" mean a county home or 37431  
district home operated under Chapter 5155. of the Revised Code. 37432

(B) The public health council may further classify homes. For 37433

the purposes of this chapter, any residence, institution, hotel, 37434  
congregate housing project, or similar facility that meets the 37435  
definition of a home under this section is such a home regardless 37436  
of how the facility holds itself out to the public. 37437

(C) For purposes of this chapter, personal care services or 37438  
skilled nursing care shall be considered to be provided by a 37439  
facility if they are provided by a person employed by or 37440  
associated with the facility or by another person pursuant to an 37441  
agreement to which neither the resident who receives the services 37442  
nor the resident's sponsor is a party. 37443

(D) Nothing in division (A)(4) of this section shall be 37444  
construed to permit skilled nursing care to be imposed on an 37445  
individual who does not require skilled nursing care. 37446

Nothing in division (A)(5) of this section shall be construed 37447  
to permit personal care services to be imposed on an individual 37448  
who is capable of performing the activity in question without 37449  
assistance. 37450

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 37451  
prohibit a facility, infirmary, or other entity described in that 37452  
division from seeking licensure under sections 3721.01 to 3721.09 37453  
of the Revised Code or certification under Title XVIII or XIX of 37454  
the "Social Security Act." However, such a facility, infirmary, or 37455  
entity that applies for licensure or certification must meet the 37456  
requirements of those sections or titles and the rules adopted 37457  
under them and obtain a certificate of need from the director of 37458  
health under section 3702.52 of the Revised Code. 37459

(F) Nothing in this chapter, or rules adopted pursuant to it, 37460  
shall be construed as authorizing the supervision, regulation, or 37461  
control of the spiritual care or treatment of residents or 37462  
patients in any home who rely upon treatment by prayer or 37463  
spiritual means in accordance with the creed or tenets of any 37464

recognized church or religious denomination. 37465

**Sec. 3721.011.** (A) In addition to providing accommodations, 37466  
supervision, and personal care services to its residents, a 37467  
residential care facility may provide skilled nursing care as 37468  
follows: 37469

(1) Supervision of special diets; 37470

(2) Application of dressings, in accordance with rules 37471  
adopted under section 3721.04 of the Revised Code; 37472

(3) Providing for the administration of medication to 37473  
residents, to the extent authorized under division (B)(1) of this 37474  
section; 37475

(4) Other skilled nursing care provided on a part-time, 37476  
intermittent basis pursuant to division (C) of this section. 37477

A residential care facility may not admit or retain an 37478  
individual requiring skilled nursing care that is not authorized 37479  
by this section. A residential care facility may not provide 37480  
skilled nursing care beyond the limits established by this 37481  
section. 37482

(B)(1) A residential care facility may admit or retain an 37483  
individual requiring medication, including biologicals, only if 37484  
the individual's personal physician has determined in writing that 37485  
the individual is capable of self-administering the medication or 37486  
the facility provides for the medication to be administered to the 37487  
individual by a home health agency certified under Title XVIII of 37488  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37489  
as amended; a hospice care program licensed under Chapter 3712. of 37490  
the Revised Code; or a member of the staff of the residential care 37491  
facility who is qualified to perform medication administration. 37492  
Medication may be administered in a residential care facility only 37493  
by the following persons authorized by law to administer 37494

medication:	37495
(a) A registered nurse licensed under Chapter 4723. of the Revised Code;	37496 37497
(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	37498 37499 37500 37501 37502 37503 37504
(c) <u>A medication aide certified under Chapter 4723. of the Revised Code;</u>	37505 37506
(d) <u>A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.</u>	37507 37508 37509
(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:	37510 37511 37512
(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;	37513 37514
(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.	37515 37516 37517 37518 37519
(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically	37520 37521 37522 37523 37524

unable to place a dose of medicine to the resident's mouth without 37525  
spilling it, a staff member may place the dose in a container and 37526  
place the container to the mouth of the resident. 37527

(C) A residential care facility may admit or retain 37528  
individuals who require skilled nursing care beyond the 37529  
supervision of special diets, application of dressings, or 37530  
administration of medication, only if the care will be provided on 37531  
a part-time, intermittent basis for not more than a total of one 37532  
hundred twenty days in any twelve-month period. In accordance with 37533  
Chapter 119. of the Revised Code, the public health council shall 37534  
adopt rules specifying what constitutes the need for skilled 37535  
nursing care on a part-time, intermittent basis. The council shall 37536  
adopt rules that are consistent with rules pertaining to home 37537  
health care adopted by the director of job and family services for 37538  
the medical assistance program established under Chapter 5111. of 37539  
the Revised Code. Skilled nursing care provided pursuant to this 37540  
division may be provided by a home health agency certified under 37541  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 37542  
U.S.C.A. 301, as amended, a hospice care program licensed under 37543  
Chapter 3712. of the Revised Code, or a member of the staff of a 37544  
residential care facility who is qualified to perform skilled 37545  
nursing care. 37546

A residential care facility that provides skilled nursing 37547  
care pursuant to this division shall do both of the following: 37548

(1) Evaluate each resident receiving the skilled nursing care 37549  
at least once every seven days to determine whether the resident 37550  
should be transferred to a nursing home; 37551

(2) Meet the skilled nursing care needs of each resident 37552  
receiving the care. 37553

(D) Notwithstanding any other provision of this chapter, a 37554  
residential care facility in which residents receive skilled 37555

nursing care pursuant to this section is not a nursing home. 37556

**Sec. 3721.02.** (A) The director of health shall license homes 37557  
and establish procedures to be followed in inspecting and 37558  
licensing homes. The director may inspect a home at any time. Each 37559  
home shall be inspected by the director at least once prior to the 37560  
issuance of a license and at least once every fifteen months 37561  
thereafter. The state fire marshal or a township, municipal, or 37562  
other legally constituted fire department approved by the marshal 37563  
shall also inspect a home prior to issuance of a license, at least 37564  
once every fifteen months thereafter, and at any other time 37565  
requested by the director. A home does not have to be inspected 37566  
prior to issuance of a license by the director, state fire 37567  
marshal, or a fire department if ownership of the home is assigned 37568  
or transferred to a different person and the home was licensed 37569  
under this chapter immediately prior to the assignment or 37570  
transfer. The director may enter at any time, for the purposes of 37571  
investigation, any institution, residence, facility, or other 37572  
structure that has been reported to the director or that the 37573  
director has reasonable cause to believe is operating as a nursing 37574  
home, residential care facility, or home for the aging without a 37575  
valid license required by section 3721.05 of the Revised Code or, 37576  
in the case of a county home or district home, is operating 37577  
despite the revocation of its residential care facility license. 37578  
The director may delegate the director's authority and duties 37579  
under this chapter to any division, bureau, agency, or official of 37580  
the department of health. 37581

(B) A single facility may be licensed both as a nursing home 37582  
pursuant to this chapter and as an adult care facility pursuant to 37583  
Chapter 3722. of the Revised Code if the director determines that 37584  
the part or unit to be licensed as a nursing home can be 37585  
maintained separate and discrete from the part or unit to be 37586

licensed as an adult care facility. 37587

(C) In determining the number of residents in a home for the 37588  
purpose of licensing, the director shall consider all the 37589  
individuals for whom the home provides accommodations as one group 37590  
unless one of the following is the case: 37591

(1) The home is a home for the aging, in which case all the 37592  
individuals in the part or unit licensed as a nursing home shall 37593  
be considered as one group, and all the individuals in the part or 37594  
unit licensed as a rest home shall be considered as another group. 37595

(2) The home is both a nursing home and an adult care 37596  
facility. In that case, all the individuals in the part or unit 37597  
licensed as a nursing home shall be considered as one group, and 37598  
all the individuals in the part or unit licensed as an adult care 37599  
facility shall be considered as another group. 37600

(3) The home maintains, in addition to a nursing home or 37601  
residential care facility, a separate and discrete part or unit 37602  
that provides accommodations to individuals who do not require or 37603  
receive skilled nursing care and do not receive personal care 37604  
services from the home, in which case the individuals in the 37605  
separate and discrete part or unit shall not be considered in 37606  
determining the number of residents in the home if the separate 37607  
and discrete part or unit is in compliance with the Ohio basic 37608  
building code established by the board of building standards under 37609  
Chapters 3781. and 3791. of the Revised Code and the home permits 37610  
the director, on request, to inspect the separate and discrete 37611  
part or unit and speak with the individuals residing there, if 37612  
they consent, to determine whether the separate and discrete part 37613  
or unit meets the requirements of this division. 37614

(D) The director of health shall charge an application fee 37615  
and an annual renewal licensing and inspection fee of one hundred 37616  
~~five~~ seventy dollars for each fifty persons or part thereof of a 37617



home's licensed capacity. All fees collected by the director for 37618  
the issuance or renewal of licenses shall be deposited into the 37619  
state treasury to the credit of the general operations fund 37620  
created in section 3701.83 of the Revised Code for use only in 37621  
administering and enforcing this chapter and rules adopted under 37622  
it. 37623

(E)(1) Except as otherwise provided in this section, the 37624  
results of an inspection or investigation of a home that is 37625  
conducted under this section, including any statement of 37626  
deficiencies and all findings and deficiencies cited in the 37627  
statement on the basis of the inspection or investigation, shall 37628  
be used solely to determine the home's compliance with this 37629  
chapter or another chapter of the Revised Code in any action or 37630  
proceeding other than an action commenced under division (I) of 37631  
section 3721.17 of the Revised Code. Those results of an 37632  
inspection or investigation, that statement of deficiencies, and 37633  
the findings and deficiencies cited in that statement shall not be 37634  
used in any court or in any action or proceeding that is pending 37635  
in any court and are not admissible in evidence in any action or 37636  
proceeding unless that action or proceeding is an appeal of an 37637  
action by the department of health under this chapter or is an 37638  
action by any department or agency of the state to enforce this 37639  
chapter or another chapter of the Revised Code. 37640

(2) Nothing in division (E)(1) of this section prohibits the 37641  
results of an inspection or investigation conducted under this 37642  
section from being used in a criminal investigation or 37643  
prosecution. 37644

**Sec. 3721.03.** The (A) As used in this section, "person" has 37645  
the same meaning as in section 1.59 of the Revised Code. 37646

(B) The director of health shall enforce the provisions of 37647  
sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised 37648

Code and may issue orders to secure compliance with the provisions 37649  
of these sections and the rules adopted under them. The director 37650  
may hold hearings, issue subpoenas, compel testimony, and make 37651  
adjudications. ~~In~~ 37652

The director may issue an order revoking a license in the 37653  
event the director finds, upon hearing or opportunity afforded 37654  
~~therefor pursuant to Chapter 119. of the Revised Code~~, that any of 37655  
the following apply to a person, firm, partnership, association, 37656  
~~corporation~~, county home, or district home licensed under section 37657  
3721.07 of the Revised Code ~~is in violation of:~~ 37658

(1) Has violated any of the provisions of Chapter 3721. of 37659  
the Revised Code or rules adopted by the public health council 37660  
under it; ~~is in violation of~~ 37661

(2) Has violated any order issued by the director; ~~is~~ 37662

(3) Is not, or any of its principals are not suitable, 37663  
morally or financially to operate such an institution; ~~or is~~ 37664

(4) Is not furnishing humane, kind, and adequate treatment 37665  
and care, ~~the director may issue an order revoking the license~~  
~~previously issued by the director;~~ 37666  
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(5) Has had a long-standing pattern of violations of this 37668  
chapter or the rules adopted under it that has caused physical, 37669  
emotional, mental, or psychosocial harm to one or more residents. 37670  
~~Upon~~ 37671

Upon the issuance of any order of revocation, the person 37672  
whose license is revoked, or the county home or district home that 37673  
has its license revoked, may appeal in accordance with Chapter 37674  
119. of the Revised Code. 37675

~~The state fire marshal shall enforce all statutes and rules~~ 37676  
~~pertaining to fire safety in homes and shall adopt rules~~ 37677  
~~pertaining to fire safety in homes as the marshal determines~~ 37678

necessary. The rules adopted by the marshal shall be in addition 37679  
to those fire safety rules that the board of building standards 37680  
and the public health council are empowered to adopt and shall be 37681  
adopted prior to December 31, 1972. In the event of a dispute 37682  
between the marshal and another officer having responsibilities 37683  
under sections 3721.01 to 3721.09 of the Revised Code with respect 37684  
to the interpretation or application of a specific fire safety 37685  
statute or rule, the interpretation of the marshal shall prevail. 37686

If the ownership of a home is assigned or transferred to a 37687  
different person, the new owner is responsible and liable for 37688  
compliance with any notice of proposed action or order issued 37689  
under this section in accordance with Chapter 119. of the Revised 37690  
Code prior to the effective date of the assignment or transfer (C) 37691  
Once the director notifies a person, county home, or district home 37692  
licensed to operate a home that the license may be revoked or 37693  
issues any order under this section, the person, county home, or 37694  
district home shall not assign or transfer to another person or 37695  
entity the right to operate the home. This prohibition shall 37696  
remain in effect until proceedings under Chapter 119. of the 37697  
Revised Code concerning the order or license revocation have been 37698  
concluded or the director notifies the person, county home, or 37699  
district home that the prohibition has been lifted. 37700

If a license is revoked under this section, the former 37701  
license holder shall not assign or transfer or consent to 37702  
assignment or transfer of the right to operate the home. Any 37703  
attempted assignment or transfer to another person or entity is 37704  
void. 37705

On revocation of a license, the former licensee shall take 37706  
all necessary steps to cease operation of the home. 37707

The director of health shall not accept a certificate of need 37708  
application under section 3702.52 of the Revised Code regarding a 37709

home if the license to operate the home has been revoked under 37710  
this section. 37711

Sec. 3721.032. The state fire marshal shall enforce all 37712  
statutes and rules pertaining to fire safety in homes and shall 37713  
adopt rules pertaining to fire safety in homes as the marshal 37714  
determines necessary. The rules adopted by the marshal shall be in 37715  
addition to those fire safety rules that the board of building 37716  
standards and the public health council are empowered to adopt. In 37717  
the event of a dispute between the marshal and another officer 37718  
having responsibilities under sections 3721.01 to 3721.09 of the 37719  
Revised Code with respect to the interpretation or application of 37720  
a specific fire safety statute or rule, the interpretation of the 37721  
marshal shall prevail. 37722

Sec. 3721.07. Every person desiring to operate a home and the 37723  
superintendent or administrator of each county home or district 37724  
home for which a license as a residential care facility is sought 37725  
shall apply for a license to the director of health. The director 37726  
shall issue a license for the home, if after investigation of the 37727  
applicant and, if required by section 3721.02 of the Revised Code, 37728  
inspection of the home, the following requirements or conditions 37729  
are satisfied or complied with: 37730

(A) The applicant has not been convicted of a felony or a 37731  
crime involving moral turpitude; 37732

(B) The applicant is not violating any of the rules made by 37733  
the public health council or any order issued by the director of 37734  
health; 37735

(C) The applicant has not had a license to operate the home 37736  
revoked pursuant to section 3721.03 of the Revised Code because of 37737  
any act or omission that jeopardized a resident's health, welfare, 37738  
or safety nor has the applicant had a long-standing pattern of 37739

violations of this chapter or rules adopted under it that caused 37740  
physical, emotional, mental, or psychosocial harm to one or more 37741  
residents. 37742

(D) The buildings in which the home is housed have been 37743  
approved by the state fire marshal or a township, municipal, or 37744  
other legally constituted fire department approved by the marshal. 37745  
In the approval of a home such agencies shall apply standards 37746  
prescribed by the board of building standards, and by the state 37747  
fire marshal, and by section 3721.071 of the Revised Code. 37748

~~(D)~~(E) The applicant, if it is an individual, or the 37749  
principal participants, if it is an association or a corporation, 37750  
is or are suitable financially and morally to operate a home; 37751

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and 37752  
adequate treatment and care; 37753

~~(F)~~(G) The home does not maintain or contain: 37754

(1) Facilities for the performance of major surgical 37755  
procedures; 37756

(2) Facilities for providing therapeutic radiation; 37757

(3) An emergency ward; 37758

(4) A clinical laboratory unless it is under the supervision 37759  
of a clinical pathologist who is a licensed physician in this 37760  
state; 37761

(5) Facilities for radiological examinations unless such 37762  
examinations are performed only by a person licensed to practice 37763  
medicine, surgery, or dentistry in this state. 37764

~~(G)~~(H) The home does not accept or treat outpatients, except 37765  
upon the written orders of a physician licensed in this state, 37766  
maternity cases, boarding children, and does not house transient 37767  
guests, other than participants in an adult day-care program, for 37768  
twenty-four hours or less; 37769

~~(H)~~(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code. 37770  
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When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license. 37772  
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If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees ~~may shall not apply for~~ be issued a new license under this chapter until a period of one year following the date of revocation has elapsed. 37782  
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Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code. 37794  
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**Sec. 3721.15.** (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts 37796  
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pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5111.112~~ 5111.113 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the resident's eligibility for medicaid if the amount in the resident's accounts and the petty cash fund, plus the value of other nonexempt resources, exceeds the maximum assets a medicaid recipient may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the director of job and family services, to assure the security of all residents' funds managed by the home.

Sec. 3721.19. (A) As used in this section: 37833

(1) "Home" and "residential care facility" have the same 37834  
meanings as in section 3721.01 of the Revised Code; 37835

(2) "Sponsor" and "residents' rights advocate" have the same 37836  
meanings as in section 3721.10 of the Revised Code. 37837

A home licensed under this chapter that is not a party to a 37838  
provider agreement, as defined in section 5111.20 of the Revised 37839  
Code, shall provide each prospective resident, before admission, 37840  
with the following information, orally and in a separate written 37841  
notice on which is printed in a conspicuous manner: "This home is 37842  
not a participant in the medical assistance program administered 37843  
by the Ohio department of job and family services. Consequently, 37844  
you may be discharged from this home if you are unable to pay for 37845  
the services provided by this home." 37846

If the prospective resident has a sponsor whose identity is 37847  
made known to the home, the home shall also inform the sponsor, 37848  
before admission of the resident, of the home's status relative to 37849  
the medical assistance program. Written acknowledgement of the 37850  
receipt of the information shall be provided by the resident and, 37851  
if the prospective resident has a sponsor who has been identified 37852  
to the home, by the sponsor. The written acknowledgement shall be 37853  
made part of the resident's record by the home. 37854

No home shall terminate its status as a provider under the 37855  
~~medical assistance~~ medicaid program unless it has complied with 37856  
section 5111.66 of the Revised Code and, at least ninety days 37857  
prior to such termination, provided written notice to the 37858  
~~department of job and family services and~~ residents of the home 37859  
and their sponsors of such action. This requirement shall not 37860  
apply in cases where the department of job and family services 37861  
terminates a home's provider agreement or provider status. 37862



(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the medical assistance program was not provided as required under this section, the court shall grant any appropriate

relief including, but not limited to, actual damages, reasonable  
attorney's fees, and costs. 37895  
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**Sec. 3721.21.** As used in sections 3721.21 to 3721.34 of the 37897  
Revised Code: 37898

(A) "Long-term care facility" means either of the following: 37899

(1) A nursing home as defined in section 3721.01 of the 37900  
Revised Code, other than a nursing home or part of a nursing home 37901  
certified as an intermediate care facility for the mentally 37902  
retarded under Title XIX of the "Social Security Act," 49 Stat. 37903  
620 (1935), 42 U.S.C.A. 301, as amended; 37904

(2) A facility or part of a facility that is certified as a 37905  
skilled nursing facility or a nursing facility under Title XVIII 37906  
or XIX of the "Social Security Act." 37907

(B) "Residential care facility" has the same meaning as in 37908  
section 3721.01 of the Revised Code. 37909

(C) "Abuse" means knowingly causing physical harm or 37910  
recklessly causing serious physical harm to a resident by physical 37911  
contact with the resident or by use of physical or chemical 37912  
restraint, medication, or isolation as punishment, for staff 37913  
convenience, excessively, as a substitute for treatment, or in 37914  
amounts that preclude habilitation and treatment. 37915

(D) "Neglect" means recklessly failing to provide a resident 37916  
with any treatment, care, goods, or service necessary to maintain 37917  
the health or safety of the resident when the failure results in 37918  
serious physical harm to the resident. "Neglect" does not include 37919  
allowing a resident, at the resident's option, to receive only 37920  
treatment by spiritual means through prayer in accordance with the 37921  
tenets of a recognized religious denomination. 37922

(E) "Misappropriation" means depriving, defrauding, or 37923  
otherwise obtaining the real or personal property of a resident by 37924

any means prohibited by the Revised Code, including violations of 37925  
Chapter 2911. or 2913. of the Revised Code. 37926

(F) "Resident" includes a resident, patient, former resident 37927  
or patient, or deceased resident or patient of a long-term care 37928  
facility or a residential care facility. 37929

(G) "Physical restraint" has the same meaning as in section 37930  
3721.10 of the Revised Code. 37931

(H) "Chemical restraint" has the same meaning as in section 37932  
3721.10 of the Revised Code. 37933

(I) "Nursing and nursing-related services" means the personal 37934  
care services and other services not constituting skilled nursing 37935  
care that are specified in rules the public health council shall 37936  
adopt in accordance with Chapter 119. of the Revised Code. 37937

(J) "Personal care services" has the same meaning as in 37938  
section 3721.01 of the Revised Code. 37939

(K)(1) Except as provided in division (K)(2) of this section, 37940  
"Nurse nurse aide" means an individual, other than a licensed 37941  
health professional practicing within the scope of the 37942  
professional's license, who provides nursing and nursing-related 37943  
services to residents in a long-term care facility, either as a 37944  
member of the staff of the facility for monetary compensation or 37945  
as a volunteer without monetary compensation. 37946

(2) "Nurse aide" does not include either of the following: 37947

(a) A licensed health professional practicing within the 37948  
scope of the professional's license; 37949

(b) An individual providing nursing and nursing-related 37950  
services in a religious nonmedical health care institution, if the 37951  
individual has been trained in the principles of nonmedical care 37952  
and is recognized by the institution as being competent in the 37953  
administration of care within the religious tenets practiced by 37954

<u>the residents of the institution.</u>	37955
(L) "Licensed health professional" means all of the following:	37956
	37957
(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	37958
	37959
(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	37960
	37961
(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	37962
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	37964
(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	37965
	37966
(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	37967
	37968
(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;	37969
	37970
	37971
(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	37972
	37973
(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	37974
	37975
(9) An optometrist licensed under Chapter 4725. of the Revised Code;	37976
	37977
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	37978
	37979
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	37980
	37981
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	37982
	37983

(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code; 37984  
37985

(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code. 37986  
37987

(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended. 37988  
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(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. 37996  
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~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services. 37999  
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38001

**Sec. 3721.50.** As used in sections 3721.50 to 3721.58 of the Revised Code: 38002  
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(A) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 38004  
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(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days. 38006  
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(C) "Medicaid" has the same meaning as in section 5111.01 of 38014  
the Revised Code. 38015

(D) "Medicaid day" means all days during which a resident who 38016  
is a medicaid recipient occupies a bed in a nursing facility that 38017  
is included in the facility's certified capacity under Title XIX. 38018  
Therapeutic or hospital leave days for which payment is made under 38019  
section 5111.26 of the Revised Code are considered medicaid days 38020  
proportionate to the percentage of the nursing facility's per 38021  
resident per day rate for those days. 38022

(E) "Nursing facility" has the same meaning as in section 38023  
5111.20 of the Revised Code. 38024

(F)(1) "Nursing home" means all of the following: 38025

(a) A nursing home licensed under section 3721.02 or 3721.09 38026  
of the Revised Code, including any part of a home for the aging 38027  
licensed as a nursing home; 38028

(b) A facility or part of a facility, other than a hospital, 38029  
that is certified as a skilled nursing facility under Title XVIII 38030  
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 38031  
301, as amended; 38032

(c) A nursing facility as defined in section 5111.20 of the 38033  
Revised Code, other than a portion of a hospital certified as a 38034  
nursing facility. 38035

(2) "Nursing home" does not include a any of the following: 38036

(a) A county home, county nursing home, or district home 38037  
operated pursuant to Chapter 5155. of the Revised Code ~~or a~~ 38038

(b) A nursing home maintained and operated by the Ohio 38039  
veterans' home agency under section 5907.01 of the Revised Code; 38040

(c) A nursing home or part of a nursing home licensed under 38041  
section 3721.02 or 3721.09 of the Revised Code that is certified 38042  
as an intermediate care facility for the mentally retarded under 38043

Title XIX of the "Social Security Act."	38044
(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	38045 38046
(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.	38047 38048
(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.	38049 38050
<b>Sec. 3721.51.</b> The department of job and family services shall do all of the following:	38051 38052
(A) <del>For</del> <u>Subject to division (C) of this section and for the purposes specified in <del>section</del> sections 3721.56 and 3721.561</u> of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to <del>three dollars and thirty cents for fiscal year 2002, four</del> <u>six</u> dollars and <del>thirty</del> <u>twenty-five</u> cents for fiscal years <del>2003 through 2005, 2006 and 2007</del> and one dollar for each fiscal year thereafter, multiplied by the product of the following:	38053 38054 38055 38056 38057 38058 38059 38060
(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX <del>of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year,</del> the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;	38061 38062 38063 38064 38065 38066 38067
(2) The <del>number of days in fiscal year 1994 and, for each subsequent year,</del> the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.	38068 38069 38070 38071 38072
(B) <del>For</del> <u>Subject to division (C) of this section and for the</u>	38073

purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 38074  
Revised Code, determine an annual franchise permit fee on each 38075  
hospital in an amount equal to ~~three dollars and thirty cents for~~ 38076  
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 38077  
for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one dollar 38078  
for each fiscal year thereafter, multiplied by the product of the 38079  
following: 38080

(1) The number of beds registered pursuant to section 3701.07 38081  
of the Revised Code as skilled nursing facility beds or long-term 38082  
care beds, plus any other beds licensed as nursing home beds under 38083  
section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ 38084  
~~and, for each subsequent year,~~ the first day of May of the 38085  
calendar year in which the fee is determined pursuant to division 38086  
(A) of section 3721.53 of the Revised Code; 38087

(2) The ~~number of days in fiscal year 1994 and, for each~~ 38088  
~~subsequent year,~~ the number of days in the fiscal year beginning 38089  
on the first day of July of the calendar year in which the fee is 38090  
determined pursuant to division (A) of section 3721.53 of the 38091  
Revised Code. 38092

(C) If the United States centers for medicare and medicaid 38093  
services determines that the franchise permit fee established by 38094  
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 38095  
impermissible health care related tax under section 1903(w) of the 38096  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 38097  
amended, ~~the department of job and family services shall~~ take all 38098  
necessary actions to cease implementation of ~~these~~ sections 38099  
3721.50 to 3721.58 of the Revised Code in accordance with rules 38100  
adopted under section 3721.58 of the Revised Code. 38101

**Sec. 3721.52.** (A) For the purpose of the fee under division 38102  
(A) of section 3721.51 of the Revised Code, the department of 38103  
health shall, ~~not later than August 1, 1993, and, for each~~ 38104



~~subsequent year, not later than the first day of each June, report~~ 38105  
~~to the department of job and family services the number of beds in~~ 38106  
~~each nursing home licensed on July 1, 1993, and, for each~~ 38107  
~~subsequent year, the preceding first day of May under section~~ 38108  
3721.02 or 3721.09 of the Revised Code or certified on that date 38109  
under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat.~~ 38110  
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ 38111

(B) For the purpose of the fee under division (B) of section 38112  
3721.51 of the Revised Code, the department of health shall, ~~not~~ 38113  
~~later than August 1, 1993, and, for each subsequent year, not~~ 38114  
later than the first day of each June, report to the department of 38115  
job and family services the number of beds in each hospital 38116  
registered on ~~July 1, 1993, and, for each subsequent year, the~~ 38117  
preceding first day of May pursuant to section 3701.07 of the 38118  
Revised Code as skilled nursing facility or long-term care beds or 38119  
licensed on that date under section 3721.02 or 3721.09 of the 38120  
Revised Code as nursing home beds. 38121

Sec. 3721.541. (A) In addition to assessing a penalty 38122  
pursuant to section 3721.54 of the Revised Code, the department of 38123  
job and family services may do either of the following if a 38124  
nursing facility or hospital fails to pay the full amount of a 38125  
franchise permit fee installment when due: 38126

(1) Withhold an amount equal to the installment and penalty 38127  
assessed under section 3721.54 of the Revised Code from a medicaid 38128  
payment due the nursing facility or hospital until the nursing 38129  
facility or hospital pays the installment and penalty; 38130

(2) Terminate the nursing facility or hospital's medicaid 38131  
provider agreement. 38132

(B) The department may withhold a medicaid payment under 38133  
division (A)(1) of this section without providing notice to the 38134  
nursing facility or hospital and without conducting an 38135

adjudication under Chapter 119. of the Revised Code.

38136

~~Sec. 3721.56. (A) Thirty and three tenths~~ There is hereby  
created in the state treasury the home- and community-based  
services for the aged fund. Sixteen per cent of all payments and  
penalties paid by nursing homes and hospitals under sections  
3721.53 and 3721.54 of the Revised Code for fiscal year ~~2002,~~  
~~twenty three and twenty six hundredths per cent of such payments~~  
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and  
2007, and all such payments and penalties paid for subsequent  
fiscal years, shall be deposited into the "~~home and~~  
~~community based services for the aged fund,~~" which is hereby  
~~created in the state treasury.~~ The departments of job and family  
services and aging shall use the moneys in the fund to fund the  
following in accordance with rules adopted under section 3721.58  
of the Revised Code:

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~~(1)(A) The medical assistance~~ medicaid program established  
under Chapter 5111. of the Revised Code;

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~~(2) The,~~ including the PASSPORT program established under  
section 173.40 of the Revised Code;

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~~(3)(B) The residential state supplement~~ program established  
under section 173.35 of the Revised Code.

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~~(B) Sixty nine and seven tenths per cent of all payments and~~  
~~penalties paid by nursing homes and hospitals under sections~~  
~~3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and~~  
~~seventy six and seventy four hundredths per cent of such payments~~  
~~and penalties paid for fiscal years 2003 through 2005, shall be~~  
~~deposited into the nursing facility stabilization fund, which is~~  
~~hereby created in the state treasury.~~ The department of job and  
family services shall use the money in the fund in the manner  
provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th

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~~general assembly.~~ 38166

Sec. 3721.561. (A) There is hereby created in the state 38167  
treasury the nursing facility stabilization fund. All payments and 38168  
penalties paid by nursing homes and hospitals under sections 38169  
3721.53 and 3721.54 of the Revised Code that are not deposited 38170  
into the home and community-based services for the aged fund shall 38171  
be deposited into the fund. The department of job and family 38172  
services shall use the money in the fund to make medicaid payments 38173  
to nursing facilities. 38174

(B) Any money remaining in the nursing facility stabilization 38175  
fund after payments specified in division (A) of this section are 38176  
made shall be retained in the fund. Any interest or other 38177  
investment proceeds earned on money in the fund shall be credited 38178  
to the fund and used to make medicaid payments in accordance with 38179  
division (A) of this section. 38180

Sec. 3721.58. The director of job and family services shall 38181  
adopt rules in accordance with Chapter 119. of the Revised Code to 38182  
do ~~both~~ all of the following: 38183

(A) Prescribe the actions the department of job and family 38184  
services will take to cease implementation of sections 3721.50 38185  
through 3721.57 of the Revised Code if the United States ~~health~~ 38186  
~~care financing administration~~ centers for medicare and medicaid 38187  
services determines that the franchise permit fee established by 38188  
those sections is an impermissible health-care related tax under 38189  
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 38190  
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 38191

(B) Establish the method of distributing moneys in the home 38192  
and community-based services for the aged fund created under 38193  
section 3721.56 of the Revised Code; 38194

(C) Establish any requirements or procedures the director 38195

considers necessary to implement sections 3721.50 to 3721.58 of  
the Revised Code. 38196  
38197

**Sec. 3722.01.** (A) As used in this chapter: 38198

(1) "Owner" means the person who owns the business of and who  
ultimately controls the operation of an adult care facility and to  
whom the manager, if different from the owner, is responsible. 38199  
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(2) "Manager" means the person responsible for the daily  
operation of an adult care facility. The manager and the owner of  
a facility may be the same person. 38202  
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(3) "Adult" means an individual eighteen years of age or  
older. 38205  
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(4) "Unrelated" means that an adult resident is not related  
to the owner or manager of an adult care facility or to the  
owner's or manager's spouse as a parent, grandparent, child,  
stepchild, grandchild, brother, sister, niece, nephew, aunt, or  
uncle, or as the child of an aunt or uncle. 38207  
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(5) "Skilled nursing care" means skilled nursing care as  
defined in section 3721.01 of the Revised Code. 38212  
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(6)(a) "Personal care services" means services including, but  
not limited to, the following: 38214  
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(i) Assisting residents with activities of daily living; 38216

(ii) Assisting residents with self-administration of  
medication, in accordance with rules adopted by the public health  
council pursuant to this chapter; 38217  
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(iii) Preparing special diets, other than complex therapeutic  
diets, for residents pursuant to the instructions of a physician  
or a licensed dietitian, in accordance with rules adopted by the  
public health council pursuant to this chapter. 38220  
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(b) "Personal care services" does not include "skilled 38224

nursing care" as defined in section 3721.01 of the Revised Code. A 38225  
facility need not provide more than one of the services listed in 38226  
division (A)(6)(a) of this section to be considered to be 38227  
providing personal care services. 38228

(7) "Adult family home" means a residence or facility that 38229  
provides accommodations to three to five unrelated adults and 38230  
supervision and personal care services to at least three of those 38231  
adults. 38232

(8) "Adult group home" means a residence or facility that 38233  
provides accommodations to six to sixteen unrelated adults and 38234  
provides supervision and personal care services to at least three 38235  
of the unrelated adults. 38236

(9) "Adult care facility" means an adult family home or an 38237  
adult group home. For the purposes of this chapter, any residence, 38238  
facility, institution, hotel, congregate housing project, or 38239  
similar facility that provides accommodations and supervision to 38240  
three to sixteen unrelated adults, at least three of whom are 38241  
provided personal care services, is an adult care facility 38242  
regardless of how the facility holds itself out to the public. 38243  
"Adult care facility" does not include: 38244

(a) A facility operated by a hospice care program licensed 38245  
under section 3712.04 of the Revised Code that is used exclusively 38246  
for care of hospice patients; 38247

(b) A nursing home, residential care facility, or home for 38248  
the aging as defined in section 3721.01 of the Revised Code; 38249

(c) A community alternative home as defined in section 38250  
3724.01 of the Revised Code; 38251

(d) An alcohol and drug addiction program as defined in 38252  
section 3793.01 of the Revised Code; 38253

(e) ~~A habilitation center as defined in section 5123.041 of~~ 38254

<del>the Revised Code;</del>	38255
<del>(f)</del> A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	38256 38257 38258
<del>(g)</del> <u>(f)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	38259 38260
<del>(h)</del> <u>(g)</u> A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;	38261 38262 38263
<del>(i)</del> <u>(h)</u> Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;	38264 38265 38266 38267 38268 38269 38270
<del>(j)</del> <u>(i)</u> Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;	38271 38272 38273 38274
<del>(k)</del> <u>(j)</u> A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;	38275 38276 38277
<del>(l)</del> <u>(k)</u> A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans;	38278 38279 38280 38281
<del>(m)</del> <u>(l)</u> Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of	38282 38283 38284

higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code.

(10) "Residents' rights advocate" means:

(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;

(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.

(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or

associated with the facility or by another person pursuant to an 38316  
agreement to which neither the resident who receives the services 38317  
nor the resident's sponsor is a party. 38318

(C) Nothing in division (A)(6) of this section shall be 38319  
construed to permit personal care services to be imposed upon a 38320  
resident who is capable of performing the activity in question 38321  
without assistance. 38322

**Sec. 3722.02.** A person seeking a license to operate an adult 38323  
care facility shall submit to the director of health an 38324  
application on a form prescribed by the director and the 38325  
following: 38326

(A) In the case of an adult group home seeking licensure as 38327  
an adult care facility, evidence that the home has been inspected 38328  
and approved by a local certified building department or by the 38329  
division of industrial compliance in the department of commerce as 38330  
meeting the applicable requirements of sections 3781.06 to 3781.18 38331  
and 3791.04 of the Revised Code and any rules adopted under those 38332  
sections and evidence that the home has been inspected by the 38333  
state fire marshal or fire prevention officer of a municipal, 38334  
township, or other legally constituted fire department approved by 38335  
the state fire marshal and found to be in compliance with rules 38336  
adopted under section 3737.83 of the Revised Code regarding fire 38337  
prevention and safety in adult group homes; 38338

(B) Valid approvals of the facility's water and sewage 38339  
systems issued by the responsible governmental entity, if 38340  
applicable; 38341

(C) A statement of ownership containing the following 38342  
information: 38343

(1) If the owner is an individual, the owner's name, address, 38344  
telephone number, business address, business telephone number, and 38345



occupation. If the owner is an association, corporation, or 38346  
partnership, the business activity, address, and telephone number 38347  
of the entity and the name of every person who has an ownership 38348  
interest of five per cent or more in the entity. 38349

(2) If the owner does not own the building or if the owner 38350  
owns only part of the building in which the facility is housed, 38351  
the name of each person who has an ownership interest of five per 38352  
cent or more in the building; 38353

(3) The address of any adult care facility and any facility 38354  
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 38355  
the Revised Code in which the owner has an ownership interest of 38356  
five per cent or more; 38357

(4) The identity of the manager of the adult care facility, 38358  
if different from the owner; 38359

(5) The name and address of any adult care facility and any 38360  
facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 38361  
3722.01 of the Revised Code with which either the owner or manager 38362  
has been affiliated through ownership or employment in the five 38363  
years prior to the date of the application; 38364

(6) The names and addresses of three persons not employed by 38365  
or associated in business with the owner who will provide 38366  
information about the character, reputation, and competence of the 38367  
owner and the manager and the financial responsibility of the 38368  
owner; 38369

(7) Information about any arrest of the owner or manager for, 38370  
or adjudication or conviction of, a criminal offense related to 38371  
the provision of care in an adult care facility or any facility 38372  
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 38373  
the Revised Code or the ability to operate a facility; 38374

(8) Any other information the director may require regarding 38375

the owner's ability to operate the facility. 38376

(D) If the facility is an adult group home, a balance sheet 38377  
showing the assets and liabilities of the owner and a statement 38378  
projecting revenues and expenses for the first twelve months of 38379  
the facility's operation; 38380

(E) Proof of insurance in an amount and type determined in 38381  
rules adopted by the public health council pursuant to this 38382  
chapter to be adequate; 38383

(F) A nonrefundable license application fee in an amount 38384  
established in rules adopted by the public health council pursuant 38385  
to this chapter. 38386

**Sec. 3722.04.** (A)(1) The director of health shall inspect, 38387  
license, and regulate adult care facilities. Except as otherwise 38388  
provided in division (D) of this section, the director shall issue 38389  
a license to an adult care facility that meets the requirements of 38390  
section 3722.02 of the Revised Code and that the director 38391  
determines to be in substantial compliance with the rules adopted 38392  
by the public health council pursuant to this chapter. The 38393  
director shall consider the past record of the owner and manager 38394  
and any individuals who are principal participants in an entity 38395  
that is the owner or manager in operating facilities providing 38396  
care to adults. The director may, in accordance with Chapter 119. 38397  
of the Revised Code, deny a license if the past record indicates 38398  
that the owner or manager is not suitable to own or manage an 38399  
adult care facility. 38400

The license shall contain the name and address of the 38401  
facility for which it was issued, the date of expiration of the 38402  
license, and the maximum number of residents that may be 38403  
accommodated by the facility. A license for an adult care facility 38404  
shall be valid for a period of two years after the date of 38405

issuance. No single facility may be licensed to operate as more  
than one adult care facility.

(2) Notwithstanding division (A)(1) of this section and  
sections 3722.02 and 3722.041 of the Revised Code, the director  
may issue a temporary license if the requirements of divisions  
(C), (D), and (F) of section 3722.02 of the Revised Code have been  
met. A temporary license shall be valid for a period of ninety  
days and, except as otherwise provided in division (A)(3) of  
section 3722.05 of the Revised Code, may be renewed, without  
payment of an additional application fee, for an additional ninety  
days.

(B) The director shall renew a license for a two-year period  
if the facility continues to be in compliance with the  
requirements of this chapter and in substantial compliance with  
the rules adopted under this chapter. The owner shall submit a  
nonrefundable license renewal application fee in an amount  
established in rules adopted by the public health council pursuant  
to this chapter. Before the license of an adult group home is  
renewed, if any alterations have been made to the buildings, a  
certificate of occupancy for the facility shall have been issued  
by the division of industrial compliance in the department of  
commerce or a local certified building department. The facility  
shall have water and sewage system approvals, if required by law,  
and, in the case of an adult group home, documentation of  
continued compliance with the rules adopted by the state fire  
marshal under division (F) of section 3737.83 of the Revised Code.

(C) The director shall make at least one unannounced  
inspection of an adult care facility during each licensure period  
in addition to inspecting the facility to determine whether a  
license should be issued or renewed, and may make additional  
unannounced inspections as the director considers necessary. Other  
inspections may be made at any time that the director considers

appropriate. The director shall take all reasonable actions to  
avoid giving notice of an inspection by the manner in which the  
inspection is scheduled or performed. Not later than sixty days  
after the date of an inspection of a facility, the director shall  
send a report of the inspection to the ombudsperson in whose  
region the facility is located. The state fire marshal or fire  
prevention officer of a municipal, township, or other legally  
constituted fire department approved by the state fire marshal  
shall inspect an adult group home seeking a license or renewal  
under this chapter as an adult care facility prior to issuance of  
a license or renewal, at least once annually thereafter, and at  
any other time at the request of the director, to determine  
compliance with the rules adopted under division (F) of section  
3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements  
having to do with fire and safety requirements or building  
standards established by rule adopted by the public health council  
pursuant to this chapter upon written request of the facility. The  
director may grant a waiver if the director determines that the  
strict application of the licensing requirement would cause undue  
hardship to the facility and that granting the waiver would not  
jeopardize the health or safety of any resident. The director may  
provide a facility with an informal hearing concerning the denial  
of a waiver request, but the facility shall not be entitled to a  
hearing under Chapter 119. of the Revised Code unless the director  
takes an action that requires a hearing to be held under section  
3722.05 of the Revised Code.

(E)(1) Not later than thirty days after ~~the issuance or~~  
~~renewal of the license, other than a temporary license, of an~~  
~~adult care facility under this section~~ each of the following, the  
owner of an adult care facility shall submit an inspection fee of  
~~ten~~ twenty dollars for each bed for which the facility is

licensed:	38470
<u>(a) Issuance or renewal of a license, other than a temporary license;</u>	38471
<u>(b) The unannounced inspection required by division (C) of this section;</u>	38472
<u>(c) If, during an inspection conducted in addition to the two inspections required by division (C) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation. The</u>	38473
<u>(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. All</u>	38474
<u>(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.</u>	38475
(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.	38476
(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:	38477
(a) Any civil penalties imposed against the facility under	38478
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section 3722.08 of the Revised Code for violations that occur 38500  
before the date of transfer of ownership or during any period in 38501  
which the seller or the seller's agent operates the facility; 38502

(b) Any outstanding liability to the state, unless the buyer 38503  
or transferee has agreed, as a condition of the sale or transfer, 38504  
to accept the outstanding liabilities and to guarantee their 38505  
payment, except that if the buyer or transferee fails to meet 38506  
these obligations the seller or transferor shall remain 38507  
responsible for the outstanding liability. 38508

(G) The director shall annually publish a list of licensed 38509  
adult care facilities, facilities whose licenses have been revoked 38510  
or not renewed, any facilities under an order suspending 38511  
admissions pursuant to section 3722.07 of the Revised Code, and 38512  
any facilities that have been assessed a civil penalty pursuant to 38513  
section 3722.08 of the Revised Code. The director shall furnish 38514  
information concerning the status of licensure of any facility to 38515  
any person upon request. The director shall annually send a copy 38516  
of the list to the department of job and family services, to the 38517  
department of mental health, and to the department of aging. 38518

**Sec. 3734.01.** As used in this chapter: 38519

(A) "Board of health" means the board of health of a city or 38520  
general health district or the authority having the duties of a 38521  
board of health in any city as authorized by section 3709.05 of 38522  
the Revised Code. 38523

(B) "Director" means the director of environmental 38524  
protection. 38525

(C) "Health district" means a city or general health district 38526  
as created by or under authority of Chapter 3709. of the Revised 38527  
Code. 38528

(D) "Agency" means the environmental protection agency. 38529

(E) "Solid wastes" means such unwanted residual solid or 38530  
semisolid material as results from industrial, commercial, 38531  
agricultural, and community operations, excluding earth or 38532  
material from construction, mining, or demolition operations, or 38533  
other waste materials of the type that normally would be included 38534  
in demolition debris, nontoxic fly ash and bottom ash, including 38535  
at least ash that results from the combustion of coal and ash that 38536  
results from the combustion of coal in combination with scrap 38537  
tires where scrap tires comprise not more than fifty per cent of 38538  
heat input in any month, spent nontoxic foundry sand, nontoxic, 38539  
nonhazardous, unwanted fired and unfired, glazed and unglazed, 38540  
structural shale and clay products, and slag and other substances 38541  
that are not harmful or inimical to public health, and includes, 38542  
but is not limited to, garbage, scrap tires, combustible and 38543  
noncombustible material, street dirt, and debris. "Solid wastes" 38544  
does not include any either of the following: 38545

(1) Any material that is an infectious waste or a hazardous 38546  
waste; 38547

(2) Spent petroleum refinery hydrotreating, hydrorefining, 38548  
and hydrocracking catalysts that are used to produce 38549  
ferrovanadium, iron nickel molybdenum, and calcium aluminate 38550  
alloys for the steel, iron, and nickel industries unless the 38551  
catalysts are disposed of at a solid waste facility licensed under 38552  
this chapter or are accumulated speculatively. 38553

(F) "Disposal" means the discharge, deposit, injection, 38554  
dumping, spilling, leaking, emitting, or placing of any solid 38555  
wastes or hazardous waste into or on any land or ground or surface 38556  
water or into the air, except if the disposition or placement 38557  
constitutes storage or treatment or, if the solid wastes consist 38558  
of scrap tires, the disposition or placement constitutes a 38559  
beneficial use or occurs at a scrap tire recovery facility 38560  
licensed under section 3734.81 of the Revised Code. 38561

(G) "Person" includes the state, any political subdivision 38562  
and other state or local body, the United States and any agency or 38563  
instrumentality thereof, and any legal entity defined as a person 38564  
under section 1.59 of the Revised Code. 38565

(H) "Open burning" means the burning of solid wastes in an 38566  
open area or burning of solid wastes in a type of chamber or 38567  
vessel that is not approved or authorized in rules adopted by the 38568  
director under section 3734.02 of the Revised Code or, if the 38569  
solid wastes consist of scrap tires, in rules adopted under 38570  
division (V) of this section or section 3734.73 of the Revised 38571  
Code, or the burning of treated or untreated infectious wastes in 38572  
an open area or in a type of chamber or vessel that is not 38573  
approved in rules adopted by the director under section 3734.021 38574  
of the Revised Code. 38575

(I) "Open dumping" means the depositing of solid wastes into 38576  
a body or stream of water or onto the surface of the ground at a 38577  
site that is not licensed as a solid waste facility under section 38578  
3734.05 of the Revised Code or, if the solid wastes consist of 38579  
scrap tires, as a scrap tire collection, storage, monocell, 38580  
monofill, or recovery facility under section 3734.81 of the 38581  
Revised Code; the depositing of solid wastes that consist of scrap 38582  
tires onto the surface of the ground at a site or in a manner not 38583  
specifically identified in divisions (C)(2) to (5), (7), or (10) 38584  
of section 3734.85 of the Revised Code; the depositing of 38585  
untreated infectious wastes into a body or stream of water or onto 38586  
the surface of the ground; or the depositing of treated infectious 38587  
wastes into a body or stream of water or onto the surface of the 38588  
ground at a site that is not licensed as a solid waste facility 38589  
under section 3734.05 of the Revised Code. 38590

(J) "Hazardous waste" means any waste or combination of 38591  
wastes in solid, liquid, semisolid, or contained gaseous form that 38592  
in the determination of the director, because of its quantity, 38593



concentration, or physical or chemical characteristics, may do 38594  
either of the following: 38595

(1) Cause or significantly contribute to an increase in 38596  
mortality or an increase in serious irreversible or incapacitating 38597  
reversible illness; 38598

(2) Pose a substantial present or potential hazard to human 38599  
health or safety or to the environment when improperly stored, 38600  
treated, transported, disposed of, or otherwise managed. 38601

"Hazardous waste" includes any substance identified by 38602  
regulation as hazardous waste under the "Resource Conservation and 38603  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 38604  
amended, and does not include any substance that is subject to the 38605  
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 38606  
amended. 38607

(K) "Treat" or "treatment," when used in connection with 38608  
hazardous waste, means any method, technique, or process designed 38609  
to change the physical, chemical, or biological characteristics or 38610  
composition of any hazardous waste; to neutralize the waste; to 38611  
recover energy or material resources from the waste; to render the 38612  
waste nonhazardous or less hazardous, safer to transport, store, 38613  
or dispose of, or amenable for recovery, storage, further 38614  
treatment, or disposal; or to reduce the volume of the waste. When 38615  
used in connection with infectious wastes, "treat" or "treatment" 38616  
means any method, technique, or process designed to render the 38617  
wastes noninfectious, including, without limitation, steam 38618  
sterilization and incineration, or, in the instance of wastes 38619  
identified in division (R)(7) of this section, to substantially 38620  
reduce or eliminate the potential for the wastes to cause 38621  
lacerations or puncture wounds. 38622

(L) "Manifest" means the form used for identifying the 38623  
quantity, composition, origin, routing, and destination of 38624

hazardous waste during its transportation from the point of 38625  
generation to the point of disposal, treatment, or storage. 38626

(M) "Storage," when used in connection with hazardous waste, 38627  
means the holding of hazardous waste for a temporary period in 38628  
such a manner that it remains retrievable and substantially 38629  
unchanged physically and chemically and, at the end of the period, 38630  
is treated; disposed of; stored elsewhere; or reused, recycled, or 38631  
reclaimed in a beneficial manner. When used in connection with 38632  
solid wastes that consist of scrap tires, "storage" means the 38633  
holding of scrap tires for a temporary period in such a manner 38634  
that they remain retrievable and, at the end of that period, are 38635  
beneficially used; stored elsewhere; placed in a scrap tire 38636  
monocell or monofill facility licensed under section 3734.81 of 38637  
the Revised Code; processed at a scrap tire recovery facility 38638  
licensed under that section or a solid waste incineration or 38639  
energy recovery facility subject to regulation under this chapter; 38640  
or transported to a scrap tire monocell, monofill, or recovery 38641  
facility, any other solid waste facility authorized to dispose of 38642  
scrap tires, or a facility that will beneficially use the scrap 38643  
tires, that is located in another state and is operating in 38644  
compliance with the laws of the state in which the facility is 38645  
located. 38646

(N) "Facility" means any site, location, tract of land, 38647  
installation, or building used for incineration, composting, 38648  
sanitary landfilling, or other methods of disposal of solid wastes 38649  
or, if the solid wastes consist of scrap tires, for the 38650  
collection, storage, or processing of the solid wastes; for the 38651  
transfer of solid wastes; for the treatment of infectious wastes; 38652  
or for the storage, treatment, or disposal of hazardous waste. 38653

(O) "Closure" means the time at which a hazardous waste 38654  
facility will no longer accept hazardous waste for treatment, 38655  
storage, or disposal, the time at which a solid waste facility 38656

will no longer accept solid wastes for transfer or disposal or, if 38657  
the solid wastes consist of scrap tires, for storage or 38658  
processing, or the effective date of an order revoking the permit 38659  
for a hazardous waste facility or the registration certificate, 38660  
permit, or license for a solid waste facility, as applicable. 38661  
"Closure" includes measures performed to protect public health or 38662  
safety, to prevent air or water pollution, or to make the facility 38663  
suitable for other uses, if any, including, but not limited to, 38664  
the removal of processing residues resulting from solid wastes 38665  
that consist of scrap tires; the establishment and maintenance of 38666  
a suitable cover of soil and vegetation over cells in which 38667  
hazardous waste or solid wastes are buried; minimization of 38668  
erosion, the infiltration of surface water into such cells, the 38669  
production of leachate, and the accumulation and runoff of 38670  
contaminated surface water; the final construction of facilities 38671  
for the collection and treatment of leachate and contaminated 38672  
surface water runoff, except as otherwise provided in this 38673  
division; the final construction of air and water quality 38674  
monitoring facilities, except as otherwise provided in this 38675  
division; the final construction of methane gas extraction and 38676  
treatment systems; or the removal and proper disposal of hazardous 38677  
waste or solid wastes from a facility when necessary to protect 38678  
public health or safety or to abate or prevent air or water 38679  
pollution. With regard to a solid waste facility that is a scrap 38680  
tire facility, "closure" includes the final construction of 38681  
facilities for the collection and treatment of leachate and 38682  
contaminated surface water runoff and the final construction of 38683  
air and water quality monitoring facilities only if those actions 38684  
are determined to be necessary. 38685

(P) "Premises" means either of the following: 38686

(1) Geographically contiguous property owned by a generator; 38687

(2) Noncontiguous property that is owned by a generator and 38688

connected by a right-of-way that the generator controls and to 38689  
which the public does not have access. Two or more pieces of 38690  
property that are geographically contiguous and divided by public 38691  
or private right-of-way or rights-of-way are a single premises. 38692

(Q) "Post-closure" means that period of time following 38693  
closure during which a hazardous waste facility is required to be 38694  
monitored and maintained under this chapter and rules adopted 38695  
under it, including, without limitation, operation and maintenance 38696  
of methane gas extraction and treatment systems, or the period of 38697  
time after closure during which a scrap tire monocell or monofill 38698  
facility licensed under section 3734.81 of the Revised Code is 38699  
required to be monitored and maintained under this chapter and 38700  
rules adopted under it. 38701

(R) "Infectious wastes" includes all of the following 38702  
substances or categories of substances: 38703

(1) Cultures and stocks of infectious agents and associated 38704  
biologicals, including, without limitation, specimen cultures, 38705  
cultures and stocks of infectious agents, wastes from production 38706  
of biologicals, and discarded live and attenuated vaccines; 38707

(2) Laboratory wastes that were, or are likely to have been, 38708  
in contact with infectious agents that may present a substantial 38709  
threat to public health if improperly managed; 38710

(3) Pathological wastes, including, without limitation, human 38711  
and animal tissues, organs, and body parts, and body fluids and 38712  
excreta that are contaminated with or are likely to be 38713  
contaminated with infectious agents, removed or obtained during 38714  
surgery or autopsy or for diagnostic evaluation, provided that, 38715  
with regard to pathological wastes from animals, the animals have 38716  
or are likely to have been exposed to a zoonotic or infectious 38717  
agent; 38718

(4) Waste materials from the rooms of humans, or the 38719

enclosures of animals, that have been isolated because of 38720  
diagnosed communicable disease that are likely to transmit 38721  
infectious agents. Such waste materials from the rooms of humans 38722  
do not include any wastes of patients who have been placed on 38723  
blood and body fluid precautions under the universal precaution 38724  
system established by the centers for disease control in the 38725  
public health service of the United States department of health 38726  
and human services, except to the extent specific wastes generated 38727  
under the universal precautions system have been identified as 38728  
infectious wastes by rules adopted under division (R)(8) of this 38729  
section. 38730

(5) Human and animal blood specimens and blood products that 38731  
are being disposed of, provided that, with regard to blood 38732  
specimens and blood products from animals, the animals were or are 38733  
likely to have been exposed to a zoonotic or infectious agent. 38734  
"Blood products" does not include patient care waste such as 38735  
bandages or disposable gowns that are lightly soiled with blood or 38736  
other body fluids unless those wastes are soiled to the extent 38737  
that the generator of the wastes determines that they should be 38738  
managed as infectious wastes. 38739

(6) Contaminated carcasses, body parts, and bedding of 38740  
animals that were intentionally exposed to infectious agents from 38741  
zoonotic or human diseases during research, production of 38742  
biologicals, or testing of pharmaceuticals, and carcasses and 38743  
bedding of animals otherwise infected by zoonotic or infectious 38744  
agents that may present a substantial threat to public health if 38745  
improperly managed; 38746

(7) Sharp wastes used in the treatment, diagnosis, or 38747  
inoculation of human beings or animals or that have, or are likely 38748  
to have, come in contact with infectious agents in medical, 38749  
research, or industrial laboratories, including, without 38750  
limitation, hypodermic needles and syringes, scalpel blades, and 38751

glass articles that have been broken; 38752

(8) Any other waste materials generated in the diagnosis, 38753  
treatment, or immunization of human beings or animals, in research 38754  
pertaining thereto, or in the production or testing of 38755  
biologicals, that the public health council created in section 38756  
3701.33 of the Revised Code, by rules adopted in accordance with 38757  
Chapter 119. of the Revised Code, identifies as infectious wastes 38758  
after determining that the wastes present a substantial threat to 38759  
human health when improperly managed because they are contaminated 38760  
with, or are likely to be contaminated with, infectious agents. 38761

(S) "Infectious agent" means a type of microorganism, 38762  
helminth, or virus that causes, or significantly contributes to 38763  
the cause of, increased morbidity or mortality of human beings. 38764

(T) "Zoonotic agent" means a type of microorganism, helminth, 38765  
or virus that causes disease in vertebrate animals and that is 38766  
transmissible to human beings and causes or significantly 38767  
contributes to the cause of increased morbidity or mortality of 38768  
human beings. 38769

(U) "Solid waste transfer facility" means any site, location, 38770  
tract of land, installation, or building that is used or intended 38771  
to be used primarily for the purpose of transferring solid wastes 38772  
that were generated off the premises of the facility from vehicles 38773  
or containers into other vehicles for transportation to a solid 38774  
waste disposal facility. "Solid waste transfer facility" does not 38775  
include any facility that consists solely of portable containers 38776  
that have an aggregate volume of fifty cubic yards or less nor any 38777  
facility where legitimate recycling activities are conducted. 38778

(V) "Beneficially use" means to use a scrap tire in a manner 38779  
that results in a commodity for sale or exchange or in any other 38780  
manner authorized as a beneficial use in rules adopted by the 38781  
director in accordance with Chapter 119. of the Revised Code. 38782

(W) "Commercial car," "commercial tractor," "farm machinery," 38783  
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 38784  
the same meanings as in section 4501.01 of the Revised Code. 38785

(X) "Construction equipment" means road rollers, traction 38786  
engines, power shovels, power cranes, and other equipment used in 38787  
construction work, or in mining or producing or processing 38788  
aggregates, and not designed for or used in general highway 38789  
transportation. 38790

(Y) "Motor vehicle salvage dealer" has the same meaning as in 38791  
section 4738.01 of the Revised Code. 38792

(Z) "Scrap tire" means an unwanted or discarded tire. 38793

(AA) "Scrap tire collection facility" means any facility that 38794  
meets all of the following qualifications: 38795

(1) The facility is used for the receipt and storage of whole 38796  
scrap tires from the public prior to their transportation to a 38797  
scrap tire storage, monocell, monofill, or recovery facility 38798  
licensed under section 3734.81 of the Revised Code; a solid waste 38799  
incineration or energy recovery facility subject to regulation 38800  
under this chapter; a premises within the state where the scrap 38801  
tires will be beneficially used; or a scrap tire storage, 38802  
monocell, monofill, or recovery facility, any other solid waste 38803  
disposal facility authorized to dispose of scrap tires, or a 38804  
facility that will beneficially use the scrap tires, that is 38805  
located in another state, and that is operating in compliance with 38806  
the laws of the state in which the facility is located+ 38807

(2) The facility exclusively stores scrap tires in portable 38808  
containers+ 38809

(3) The aggregate storage of the portable containers in which 38810  
the scrap tires are stored does not exceed five thousand cubic 38811  
feet. 38812

(BB) "Scrap tire monocell facility" means an individual site 38813  
within a solid waste landfill that is used exclusively for the 38814  
environmentally sound storage or disposal of whole scrap tires or 38815  
scrap tires that have been shredded, chipped, or otherwise 38816  
mechanically processed. 38817

(CC) "Scrap tire monofill facility" means an engineered 38818  
facility used or intended to be used exclusively for the storage 38819  
or disposal of scrap tires, including at least facilities for the 38820  
submergence of whole scrap tires in a body of water. 38821

(DD) "Scrap tire recovery facility" means any facility, or 38822  
portion thereof, for the processing of scrap tires for the purpose 38823  
of extracting or producing usable products, materials, or energy 38824  
from the scrap tires through a controlled combustion process, 38825  
mechanical process, or chemical process. "Scrap tire recovery 38826  
facility" includes any facility that uses the controlled 38827  
combustion of scrap tires in a manufacturing process to produce 38828  
process heat or steam or any facility that produces usable heat or 38829  
electric power through the controlled combustion of scrap tires in 38830  
combination with another fuel, but does not include any solid 38831  
waste incineration or energy recovery facility that is designed, 38832  
constructed, and used for the primary purpose of incinerating 38833  
mixed municipal solid wastes and that burns scrap tires in 38834  
conjunction with mixed municipal solid wastes, or any tire 38835  
retreading business, tire manufacturing finishing center, or tire 38836  
adjustment center having on the premises of the business a single, 38837  
covered scrap tire storage area at which not more than four 38838  
thousand scrap tires are stored. 38839

(EE) "Scrap tire storage facility" means any facility where 38840  
whole scrap tires are stored prior to their transportation to a 38841  
scrap tire monocell, monofill, or recovery facility licensed under 38842  
section 3734.81 of the Revised Code; a solid waste incineration or 38843  
energy recovery facility subject to regulation under this chapter; 38844



a premises within the state where the scrap tires will be 38845  
beneficially used; or a scrap tire storage, monocell, monofill, or 38846  
recovery facility, any other solid waste disposal facility 38847  
authorized to dispose of scrap tires, or a facility that will 38848  
beneficially use the scrap tires, that is located in another 38849  
state, and that is operating in compliance with the laws of the 38850  
state in which the facility is located. 38851

(FF) "Used oil" means any oil that has been refined from 38852  
crude oil, or any synthetic oil, that has been used and, as a 38853  
result of that use, is contaminated by physical or chemical 38854  
impurities. "Used oil" includes only those substances identified 38855  
as used oil by the United States environmental protection agency 38856  
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 38857  
U.S.C.A. 6901a, as amended. 38858

(GG) "Accumulated speculatively" has the same meaning as in 38859  
rules adopted by the director under section 3734.12 of the Revised 38860  
Code. 38861

**Sec. 3734.20.** (A) If the director of environmental protection 38862  
has reason to believe that hazardous waste was treated, stored, or 38863  
disposed of at any location within the state, ~~he~~ the director may 38864  
conduct such investigations and make such inquiries, including 38865  
obtaining samples and examining and copying records, as are 38866  
reasonable or necessary to determine if conditions at a hazardous 38867  
waste facility, solid waste facility, or other location where the 38868  
director has reason to believe hazardous waste was treated, 38869  
stored, or disposed of constitute a substantial threat to public 38870  
health or safety or are causing or contributing to or threatening 38871  
to cause or contribute to air or water pollution or soil 38872  
contamination. The director or the director's authorized 38873  
representative may apply for, and any judge of a court of common 38874  
pleas shall issue, an appropriate search warrant necessary to 38875

achieve the purposes of this section within the court's 38876  
territorial jurisdiction. The director may expend moneys from the 38877  
hazardous waste clean-up fund created in section 3734.28 of the 38878  
Revised Code or the environmental protection remediation fund 38879  
created in section 3734.281 of the Revised Code for conducting 38880  
investigations under this section. 38881

(B) If the director determines that conditions at a hazardous 38882  
waste facility, solid waste facility, or other location where 38883  
hazardous waste was treated, stored, or disposed of constitute a 38884  
substantial threat to public health or safety or are causing or 38885  
contributing to or threatening to cause or contribute to air or 38886  
water pollution or soil contamination, the director shall initiate 38887  
appropriate action under this chapter or Chapter 3704. or 6111. of 38888  
the Revised Code or seek any other appropriate legal or equitable 38889  
remedies to abate the pollution or contamination or to protect 38890  
public health or safety. 38891

If an order of the director to abate or prevent air or water 38892  
pollution or soil contamination or to remedy a threat to public 38893  
health or safety caused by conditions at such a facility issued 38894  
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 38895  
Code is not wholly complied with within the time prescribed in the 38896  
order, the director may, through officers or employees of the 38897  
environmental protection agency or through contractors employed 38898  
for that purpose in accordance with the bidding procedure 38899  
established in division (C) of section 3734.23 of the Revised 38900  
Code, enter upon the facility and perform those measures necessary 38901  
to abate or prevent air or water pollution or soil contamination 38902  
from the facility or to protect public health or safety, 38903  
including, but not limited to, measures prescribed in division (B) 38904  
of section 3734.23 of the Revised Code. The director shall keep an 38905  
itemized record of the cost of the investigation and measures 38906  
performed, including costs for labor, materials, and any contract 38907

services required. Upon completion of the investigation or 38908  
measures, the director shall record the cost of performing those 38909  
measures at the office of the county recorder of the county in 38910  
which the facility is located. The cost so recorded constitutes a 38911  
lien against the property on which the facility is located until 38912  
discharged. Upon written request of the director, the attorney 38913  
general shall institute a civil action to recover the cost. Any 38914  
moneys so received shall be credited to the hazardous waste 38915  
clean-up fund ~~created in section 3734.28 of the Revised Code~~ or 38916  
the environmental protection remediation fund, as applicable. 38917

When entering upon a facility under this division, the 38918  
director shall perform or cause to be performed only those 38919  
measures necessary to abate or prevent air or water pollution or 38920  
soil contamination caused by conditions at the facility or to 38921  
abate threats to public health or safety caused by conditions at 38922  
the facility. For this purpose the director may expend moneys from 38923  
~~the~~ either fund and may expend moneys from loans from the Ohio 38924  
water development authority to the environmental protection agency 38925  
that pledge moneys from ~~the~~ either fund for the repayment of and 38926  
for the interest on such loans. 38927

**Sec. 3734.21.** (A) The director of environmental protection 38928  
may expend moneys credited to the hazardous waste clean-up fund 38929  
created in section 3734.28 of the Revised Code or the 38930  
environmental protection remediation fund created in section 38931  
3734.281 of the Revised Code for the payment of the cost of 38932  
measures necessary for the proper closure of hazardous waste 38933  
facilities or any solid waste facilities containing significant 38934  
quantities of hazardous waste, for the payment of costs of the 38935  
development and construction of suitable hazardous waste 38936  
facilities required by division (B) of section 3734.23 of the 38937  
Revised Code to the extent the director determines that such 38938

facilities are not available, and for the payment of costs that 38939  
are necessary to abate conditions thereon that are causing or 38940  
contributing to or threatening to cause or contribute to air or 38941  
water pollution or soil contamination or that constitute a 38942  
substantial threat to public health or safety. In addition, the 38943  
director may expend and pledge moneys credited to ~~the~~ either fund 38944  
for repayment of and for interest on any loan made by the Ohio 38945  
water development authority to the environmental protection agency 38946  
for the payment of such costs. 38947

(B) Before beginning to clean up any facility under this 38948  
section, the director shall develop a plan for the cleanup and an 38949  
estimate of the cost thereof. The plan shall include only those 38950  
measures necessary to abate conditions thereon that are causing or 38951  
contributing to or threatening to cause or contribute to air or 38952  
water pollution or soil contamination or that constitute a 38953  
substantial threat to public health or safety, including, but not 38954  
limited to, establishment and maintenance of an adequate cover of 38955  
soil and vegetation on any facility for the burial of hazardous 38956  
waste to prevent the infiltration of water into cells where 38957  
hazardous waste is buried, the accumulation or runoff of 38958  
contaminated surface water, the production of leachate, and air 38959  
emissions of hazardous waste; the collection and treatment of 38960  
contaminated surface water runoff; the collection and treatment of 38961  
leachate; or, if conditions so require, the removal of hazardous 38962  
waste from the facility and the treatment or disposal of the waste 38963  
at a suitable hazardous waste facility. The plan or any part of 38964  
the plan for the cleanup of the facility shall be carried out by 38965  
entering into contracts therefor in accordance with the procedures 38966  
established in division (C) of section 3734.23 of the Revised 38967  
Code. 38968

**Sec. 3734.22.** Before beginning to clean up any facility under 38969  
section 3734.21 of the Revised Code, the director of environmental 38970

protection shall endeavor to enter into an agreement with the 38971  
owner of the land on which the facility is located, or with the 38972  
owner of the facility, specifying the measures to be performed and 38973  
authorizing the director, employees of the agency, or contractors 38974  
retained by the director to enter upon the land and perform the 38975  
specified measures. 38976

Each agreement ~~shall~~ may contain provisions for the 38977  
reimbursement of the state for the costs of the cleanup. 38978

All reimbursements and payments shall be credited to the 38979  
hazardous waste clean-up fund created in section 3734.28 of the 38980  
Revised Code or the environmental protection remediation fund 38981  
created in section 3734.281 of the Revised Code, as applicable. 38982

The agreement may require the owner to execute an easement 38983  
whereby the director, an authorized employee of the agency, or a 38984  
contractor employed by the agency in accordance with the bidding 38985  
procedure established in division (C) of section 3734.23 of the 38986  
Revised Code may enter upon the facility to sample, repair, or 38987  
reconstruct air and water quality monitoring equipment constructed 38988  
under the agreement. Such easements shall be for a specified 38989  
period of years and may be extinguished by agreement between the 38990  
owner and the director. When necessary to protect the public 38991  
health or safety, the agreement may require the owner to enter 38992  
into an environmental covenant with the director in accordance 38993  
with sections 5301.80 to 5301.92 of the Revised Code. 38994

Upon a breach of the reimbursement provisions of the 38995  
agreement by the owner of the land or facility, or upon 38996  
notification to the director by the owner that the owner is unable 38997  
to perform the duties under the reimbursement provisions of the 38998  
agreement, the director ~~shall~~ may record the unreimbursed portion 38999  
of the costs of cleanup at the office of the county recorder of 39000  
the county in which the facility is located. The costs so recorded 39001  
constitute a lien against the property on which the facility is 39002

located until discharged. Upon written request of the director, 39003  
the attorney general shall institute a civil action to recover the 39004  
unreimbursed portion of the costs of cleanup. Any moneys so 39005  
recovered shall be credited to the hazardous waste clean-up fund 39006  
or the environmental protection remediation fund, as applicable. 39007

**Sec. 3734.23.** (A) The director of environmental protection 39008  
may acquire by purchase, gift, donation, contribution, or 39009  
appropriation in accordance with sections 163.01 to 163.21 of the 39010  
Revised Code any hazardous waste facility or any solid waste 39011  
facility containing significant quantities of hazardous waste 39012  
that, because of its condition and the types and quantities of 39013  
hazardous waste contained in the facility, constitutes an imminent 39014  
and substantial threat to public health or safety or results in 39015  
air pollution, pollution of the waters of the state, or soil 39016  
contamination. For this purpose and for the purposes of division 39017  
(B) of this section, the director may expend moneys from the 39018  
hazardous waste clean-up fund created in section 3734.28 of the 39019  
Revised Code or the environmental protection remediation fund 39020  
created in section 3734.281 of the Revised Code and may expend 39021  
moneys from loans from the Ohio water development authority to the 39022  
environmental protection agency that pledge moneys from ~~the~~ either 39023  
fund for the repayment of and for the interest on such loans. Any 39024  
lands or facilities purchased or acquired under this section shall 39025  
be deeded to the state, but no deed shall be accepted or the 39026  
purchase price paid until the title has been approved by the 39027  
attorney general. 39028

(B) The director shall, with respect to any land or facility 39029  
acquired under this section or cleaned up under section 3734.20 of 39030  
the Revised Code, perform closure or other measures necessary to 39031  
abate conditions thereon that are causing or contributing to or 39032  
threatening to cause or contribute to air or water pollution or 39033  
soil contamination or that constitute a substantial threat to 39034

public health or safety, including, but not limited to, 39035  
establishment and maintenance of an adequate cover of soil and 39036  
vegetation on any facility for the burial of hazardous waste to 39037  
prevent the infiltration of water into cells where hazardous waste 39038  
is buried, the accumulation or runoff of contaminated surface 39039  
water, the production of leachate, and air emissions of hazardous 39040  
waste; the collection and treatment of contaminated surface water 39041  
runoff; the collection and treatment of leachate; or, if 39042  
conditions so require, the removal of hazardous waste from the 39043  
facility and the treatment or disposal of the waste at a suitable 39044  
hazardous waste facility. After performing these measures, the 39045  
director shall provide for the post-closure care, maintenance, and 39046  
monitoring of facilities cleaned up under this section. 39047

(C) Before proceeding to clean up any facility under this 39048  
section or section 3734.20 or 3734.21 of the Revised Code, the 39049  
director shall develop a plan for the cleanup of the facility and 39050  
an estimate of the cost thereof. The director may carry out the 39051  
plan or any part of the plan by contracting for the services, 39052  
construction, and repair necessary therefor. The director shall 39053  
award each such contract to the lowest responsible bidder after 39054  
sealed bids therefor are received, opened, and published at the 39055  
time fixed by the director and notice of the time and place at 39056  
which the sealed bids will be received, opened, and published has 39057  
been published by the director in a newspaper of general 39058  
circulation in the county in which the facility to be cleaned up 39059  
under the contract is located at least once within the ten days 39060  
before the opening of the bids. However, if after advertising for 39061  
bids for the contract, no bids are received by the director at the 39062  
time and place fixed for receiving them, the director may 39063  
advertise again for bids, or ~~he~~ the director may, if ~~he~~ the 39064  
director considers the public interest will best be served 39065  
thereby, enter into a contract for the cleanup of the facility 39066

without further advertisement for bids. The director may reject 39067  
any or all bids received and fix and publish again notice of the 39068  
time and place at which bids for the contracts will be received, 39069  
opened, and published. 39070

(D) The director shall keep an itemized record of the costs 39071  
of any acquisition under division (A) of this section and the 39072  
costs of cleanup under division (B) of this section. 39073

**Sec. 3734.28.** All moneys collected under sections 3734.122, 39074  
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 39075  
Code and natural resource damages collected by the state under the 39076  
"Comprehensive Environmental Response, Compensation, and Liability 39077  
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 39078  
be paid into the state treasury to the credit of the hazardous 39079  
waste clean-up fund, which is hereby created. In addition, any 39080  
moneys recovered for costs paid from the fund for activities 39081  
described in division (A)(1) and (2) of section 3745.12 of the 39082  
Revised Code shall be credited to the fund. The environmental 39083  
protection agency shall use the moneys in the fund for the 39084  
purposes set forth in division (D) of section 3734.122, sections 39085  
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 39086  
and, through October 15, 2005, divisions (A)(1) and (2) of section 39087  
3745.12 and Chapter 3746. of the Revised Code, including any 39088  
related enforcement expenses. In addition, the agency shall use 39089  
the moneys in the fund to pay the state's long-term operation and 39090  
maintenance costs or matching share for actions taken under the 39091  
"Comprehensive Environmental Response, Compensation, and Liability 39092  
Act of 1980," as amended. If those moneys are reimbursed by grants 39093  
or other moneys from the United States or any other person, the 39094  
moneys shall be placed in the fund and not in the general revenue 39095  
fund. 39096

**Sec. 3734.57.** (A) ~~For the purposes of paying the state's~~ 39097



~~long term operation costs or matching share for actions taken 39098~~  
~~under the "Comprehensive Environmental Response, Compensation, and 39099~~  
~~Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 39100~~  
~~amended; paying the costs of measures for proper clean up of sites 39101~~  
~~where polychlorinated biphenyls and substances, equipment, and 39102~~  
~~devices containing or contaminated with polychlorinated biphenyls 39103~~  
~~have been stored or disposed of; paying the costs of conducting 39104~~  
~~surveys or investigations of solid waste facilities or other 39105~~  
~~locations where it is believed that significant quantities of 39106~~  
~~hazardous waste were disposed of and for conducting enforcement 39107~~  
~~actions arising from the findings of such surveys or 39108~~  
~~investigations; paying the costs of acquiring and cleaning up, or 39109~~  
~~providing financial assistance for cleaning up, any hazardous 39110~~  
~~waste facility or solid waste facility containing significant 39111~~  
~~quantities of hazardous waste, that constitutes an imminent and 39112~~  
~~substantial threat to public health or safety or the environment; 39113~~  
~~and, from July 1, 2003, through June 30, 2006, for the purposes of 39114~~  
~~paying the costs of administering and enforcing the laws 39115~~  
~~pertaining to solid wastes, infectious wastes, and construction 39116~~  
~~and demolition debris, including, without limitation, ground water 39117~~  
~~evaluations related to solid wastes, infectious wastes, and 39118~~  
~~construction and demolition debris, under this chapter and Chapter 39119~~  
~~3714. of the Revised Code and any rules adopted under them, and 39120~~  
~~paying a share of the administrative costs of the environmental 39121~~  
~~protection agency pursuant to section 3745.014 of the Revised 39122~~  
~~Code, the The following fees are hereby levied on the disposal of 39123~~  
~~solid wastes in this state: 39124~~

~~(1) One dollar per ton on and after July 1, 1993, one-half of 39125~~  
~~the proceeds of which shall be deposited in the state treasury to 39126~~  
~~the credit of the hazardous waste facility management fund created 39127~~  
~~in section 3734.18 of the Revised Code and one-half of the 39128~~  
~~proceeds of which shall be deposited in the state treasury to the 39129~~  
~~credit of the hazardous waste clean-up fund created in section 39130~~

3734.28 of the Revised Code; 39131

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code. 39132  
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(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code. 39146  
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In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised 39150  
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Code. 39163

The owner or operator of a solid waste transfer facility or 39164  
disposal facility ~~shall collect the fees levied under this~~ 39165  
~~division as a trustee for the state and, as applicable,~~ shall 39166  
prepare and file with the director of environmental protection 39167  
~~monthly returns~~ each month a return indicating the total tonnage 39168  
of solid wastes received ~~for disposal at the gate of~~ the facility 39169  
during that month and the total amount of the fees required to be 39170  
collected under this division during that month. The amount of 39171  
fees required to be collected under this division shall equal the 39172  
total tonnage of solid wastes received at the facility multiplied 39173  
by the fees levied under this division. The monthly returns shall 39174  
be filed on a form prescribed by the director. Not later than 39175  
thirty days after the last day of the month to which ~~such~~ a return 39176  
applies, the owner or operator shall mail to the director the 39177  
return for that month together with the fees required to be 39178  
collected under this division during that month as indicated on 39179  
the return. ~~The~~ If the return is filed and the amount of the fees 39180  
due is paid in a timely manner as required in this division, the 39181  
owner or operator may retain a discount of three-fourths of one 39182  
per cent of the total amount of the fees that are required to be 39183  
paid as indicated on the return. 39184

The owner or operator may request an extension of not more 39185  
than thirty days for filing the return and remitting the fees, 39186  
provided that the owner or operator has submitted such a request 39187  
in writing to the director together with a detailed description of 39188  
why the extension is requested, the director has received the 39189  
request not later than the day on which the return is required to 39190  
be filed, and the director has approved the request. If the fees 39191  
are not remitted within thirty days after the last day of the 39192  
month ~~during which they were collected~~ to which the return applies 39193  
or are not remitted by the last day of an extension approved by 39194

the director, the owner or operator shall not retain the 39195  
three-fourths of one per cent discount and shall pay an additional 39196  
fifty ten per cent of the amount of the fees for each month that 39197  
they are late. For purposes of calculating the late fee, the first 39198  
month in which fees are late begins on the first day after the 39199  
deadline has passed for timely submitting the return and fees, and 39200  
one additional month shall be counted every thirty days 39201  
thereafter. 39202

~~One half of the moneys remitted to the director under 39203~~  
~~division (A)(1) of this section shall be credited to the hazardous 39204~~  
~~waste facility management fund created in section 3734.18 of the 39205~~  
~~Revised Code, and one half shall be credited to the hazardous 39206~~  
~~waste clean up fund created in section 3734.28 of the Revised 39207~~  
~~Code. The moneys remitted to the director under division (A)(2) of 39208~~  
~~this section shall be credited to the solid waste fund, which is 39209~~  
~~hereby created in the state treasury. The environmental protection 39210~~  
~~agency shall use moneys in the solid waste fund only to pay the 39211~~  
~~costs of administering and enforcing the laws pertaining to solid 39212~~  
~~wastes, infectious wastes, and construction and demolition debris, 39213~~  
~~including, without limitation, ground water evaluations related to 39214~~  
~~solid wastes, infectious wastes, and construction and demolition 39215~~  
~~debris, under this chapter and Chapter 3714. of the Revised Code 39216~~  
~~and rules adopted under them and to pay a share of the 39217~~  
~~administrative costs of the environmental protection agency 39218~~  
~~pursuant to section 3745.014 of the Revised Code.~~ 39219

For purposes of computing the fees levied under this division 39220  
or division (B) of this section, any solid waste transfer or 39221  
disposal facility that does not use scales as a means of 39222  
determining gate receipts shall use a conversion factor of three 39223  
cubic yards per ton of solid waste or one cubic yard per ton for 39224  
baled waste, as applicable. 39225

The fees levied under this division and divisions (B) and (C) 39226

of this section are in addition to all other applicable fees and 39227  
taxes and shall be added to any other fee or amount specified in a 39228  
contract that is charged by the owner or operator of a solid waste 39229  
transfer or disposal facility or to any other fee or amount that 39230  
is specified in a contract ~~entered into on or after March 4, 1992,~~ 39231  
and that is charged by a transporter of solid wastes. 39232

(B) For the ~~purpose of preparing, revising, and implementing~~ 39233  
~~the solid waste management plan of the county or joint solid waste~~ 39234  
~~management district, including, without limitation, the~~ 39235  
~~development and implementation of solid waste recycling or~~ 39236  
~~reduction programs; providing financial assistance to boards of~~ 39237  
~~health within the district, if solid waste facilities are located~~ 39238  
~~within the district, for the enforcement of this chapter and rules~~ 39239  
~~adopted and orders and terms and conditions of permits, licenses,~~ 39240  
~~and variances issued under it, other than the hazardous waste~~ 39241  
~~provisions of this chapter and rules adopted and orders and terms~~ 39242  
~~and conditions of permits issued under those provisions; providing~~ 39243  
~~financial assistance to the county to defray the added costs of~~ 39244  
~~maintaining roads and other public facilities and of providing~~ 39245  
~~emergency and other public services resulting from the location~~ 39246  
~~and operation of a solid waste facility within the county under~~ 39247  
~~the district's approved solid waste management plan; paying the~~ 39248  
~~costs incurred by boards of health for collecting and analyzing~~ 39249  
~~water samples from public or private wells on lands adjacent to~~ 39250  
~~solid waste facilities that are contained in the approved or~~ 39251  
~~amended plan of the district; paying the costs of developing and~~ 39252  
~~implementing a program for the inspection of solid wastes~~ 39253  
~~generated outside the boundaries of this state that are disposed~~ 39254  
~~of at solid waste facilities included in the district's approved~~ 39255  
~~solid waste management plan or amended plan; providing financial~~ 39256  
~~assistance to boards of health within the district for enforcing~~ 39257  
~~laws prohibiting open dumping; providing financial assistance to~~ 39258

~~local law enforcement agencies within the district for enforcing 39259  
laws and ordinances prohibiting littering; providing financial 39260  
assistance to boards of health of health districts within the 39261  
district that are on the approved list under section 3734.08 of 39262  
the Revised Code for the training and certification required for 39263  
their employees responsible for solid waste enforcement by rules 39264  
adopted under division (L) of section 3734.02 of the Revised Code; 39265  
providing financial assistance to individual municipal 39266  
corporations and townships within the district to defray their 39267  
added costs of maintaining roads and other public facilities and 39268  
of providing emergency and other public services resulting from 39269  
the location and operation within their boundaries of a 39270  
composting, energy or resource recovery, incineration, or 39271  
recycling facility that either is owned by the district or is 39272  
furnishing solid waste management facility or recycling services 39273  
to the district pursuant to a contract or agreement with the board 39274  
of county commissioners or directors of the district; and payment 39275  
of any expenses that are agreed to, awarded, or ordered to be paid 39276  
under section 3734.35 of the Revised Code and of any 39277  
administrative costs incurred pursuant to that section purposes 39278  
specified in division (G) of this section, the solid waste 39279  
management policy committee of a county or joint solid waste 39280  
management district may levy fees upon the following activities: 39281~~

~~(1) The disposal at a solid waste disposal facility located 39282  
in the district of solid wastes generated within the district; 39283~~

~~(2) The disposal at a solid waste disposal facility within 39284  
the district of solid wastes generated outside the boundaries of 39285  
the district, but inside this state; 39286~~

~~(3) The disposal at a solid waste disposal facility within 39287  
the district of solid wastes generated outside the boundaries of 39288  
this state. 39289~~

~~If any such fees are levied prior to January 1, 1994, fees 39290~~

Fees levied under division (B)(1) of this section always shall be 39291  
equal to one-half of the fees levied under division (B)(2) of this 39292  
section, and fees levied under division (B)(3) of this section, 39293  
~~which shall be in addition to fees levied under division (B)(2) of~~ 39294  
~~this section,~~ always shall be equal to fees levied under division 39295  
(B)(1) of this section, ~~except as otherwise provided in this~~ 39296  
~~division.~~ The solid waste management plan of the county or joint 39297  
district approved under section 3734.521 or 3734.55 of the Revised 39298  
Code and any amendments to it, or the resolution adopted under 39299  
this division, as appropriate, shall establish the rates of the 39300  
fees levied under divisions (B)(1), (2), and (3) of this section, 39301  
if any, and shall specify whether the fees are levied on the basis 39302  
of tons or cubic yards as the unit of measurement. ~~Although the~~ 39303  
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 39304  
~~the basis of tons as the unit of measurement, the~~ A solid waste 39305  
management ~~plan of the district and any amendments to it or the~~ 39306  
~~solid waste management policy committee in its resolution levying~~ 39307  
~~fees under this division may direct that the~~ levies fees levied 39308  
under ~~those divisions be levied~~ this division on the basis of 39309  
cubic yards as the ~~unit of measurement based upon a conversion~~ 39310  
~~factor of three cubic yards per ton generally or one cubic yard~~ 39311  
~~per ton for baled wastes if the fees under divisions (B)(1) to (3)~~ 39312  
~~of this section are being levied on the basis of cubic yards as~~ 39313  
~~the unit of measurement under the plan, amended plan, or~~ 39314  
~~resolution shall do so in accordance with division (A) of this~~ 39315  
section. 39316

~~On and after January 1, 1994, the~~ The fee levied under 39317  
division (B)(1) of this section shall be not less than one dollar 39318  
per ton nor more than two dollars per ton, the fee levied under 39319  
division (B)(2) of this section shall be not less than two dollars 39320  
per ton nor more than four dollars per ton, and the fee levied 39321  
under division (B)(3) of this section shall be not more than the 39322  
fee levied under division (B)(1) of this section, ~~except as~~ 39323

~~otherwise provided in this division and notwithstanding any~~ 39324  
~~schedule of those fees established in the solid waste management~~ 39325  
~~plan of a county or joint district approved under section 3734.55~~ 39326  
~~of the Revised Code or a resolution adopted and ratified under~~ 39327  
~~this division that is in effect on that date. If the fee that a~~ 39328  
~~district is levying under division (B)(1) of this section on that~~ 39329  
~~date under its approved plan or such a resolution is less than one~~ 39330  
~~dollar per ton, the fee shall be one dollar per ton on and after~~ 39331  
~~January 1, 1994, and if the fee that a district is so levying~~ 39332  
~~under that division exceeds two dollars per ton, the fee shall be~~ 39333  
~~two dollars per ton on and after that date. If the fee that a~~ 39334  
~~district is so levying under division (B)(2) of this section is~~ 39335  
~~less than two dollars per ton, the fee shall be two dollars per~~ 39336  
~~ton on and after that date, and if the fee that the district is so~~ 39337  
~~levying under that division exceeds four dollars per ton, the fee~~ 39338  
~~shall be four dollars per ton on and after that date. On that~~ 39339  
~~date, the fee levied by a district under division (B)(3) of this~~ 39340  
~~section shall be equal to the fee levied under division (B)(1) of~~ 39341  
~~this section. Except as otherwise provided in this division, the~~ 39342  
~~fees established by the operation of this amendment shall remain~~ 39343  
~~in effect until the district's resolution levying fees under this~~ 39344  
~~division is amended or repealed in accordance with this division~~ 39345  
~~to amend or abolish the schedule of fees, the schedule of fees is~~ 39346  
~~amended or abolished in an amended plan of the district approved~~ 39347  
~~under section 3734.521 or division (A) or (D) of section 3734.56~~ 39348  
~~of the Revised Code, or the schedule of fees is amended or~~ 39349  
~~abolished through an amendment to the district's plan under~~ 39350  
~~division (E) of section 3734.56 of the Revised Code; the~~ 39351  
~~notification of the amendment or abolishment of the fees has been~~ 39352  
~~given in accordance with this division; and collection of the~~ 39353  
~~amended fees so established commences, or collection of the fees~~ 39354  
~~ceases, in accordance with this division.~~ 39355

The solid waste management policy committee of a district 39356



~~levying fees under divisions (B)(1) to (3) of this section on  
October 29, 1993, under its solid waste management plan approved  
under section 3734.55 of the Revised Code or a resolution adopted  
and ratified under this division that are within the ranges of  
rates prescribed by this amendment, by adoption of a resolution  
not later than December 1, 1993, and without the necessity for  
ratification of the resolution under this division, may amend  
those fees within the prescribed ranges, provided that the  
estimated revenues from the amended fees will not substantially  
exceed the estimated revenues set forth in the district's budget  
for calendar year 1994. Not later than seven days after the  
adoption of such a resolution, the committee shall notify by  
certified mail the owner or operator of each solid waste disposal  
facility that is required to collect the fees of the adoption of  
the resolution and of the amount of the amended fees. Collection  
of the amended fees shall take effect on the first day of the  
first month following the month in which the notification is sent  
to the owner or operator. The fees established in such a  
resolution shall remain in effect until the district's resolution  
levying fees that was adopted and ratified under this division is  
amended or repealed, and the amendment or repeal of the resolution  
is ratified, in accordance with this division, to amend or abolish  
the fees, the schedule of fees is amended or abolished in an  
amended plan of the district approved under section 3734.521 or  
division (A) or (D) of section 3734.56 of the Revised Code, or the  
schedule of fees is amended or abolished through an amendment to  
the district's plan under division (E) of section 3734.56 of the  
Revised Code; the notification of the amendment or abolishment of  
the fees has been given in accordance with this division; and  
collection of the amended fees so established commences, or  
collection of the fees ceases, in accordance with this division.~~

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Prior to the approval of the solid waste management plan of 39388

the a district under section 3734.55 of the Revised Code, the 39389  
solid waste management policy committee of a district may levy 39390  
fees under this division by adopting a resolution establishing the 39391  
proposed amount of the fees. Upon adopting the resolution, the 39392  
committee shall deliver a copy of the resolution to the board of 39393  
county commissioners of each county forming the district and to 39394  
the legislative authority of each municipal corporation and 39395  
township under the jurisdiction of the district and shall prepare 39396  
and publish the resolution and a notice of the time and location 39397  
where a public hearing on the fees will be held. Upon adopting the 39398  
resolution, the committee shall deliver written notice of the 39399  
adoption of the resolution; of the amount of the proposed fees; 39400  
and of the date, time, and location of the public hearing to the 39401  
director and to the fifty industrial, commercial, or institutional 39402  
generators of solid wastes within the district that generate the 39403  
largest quantities of solid wastes, as determined by the 39404  
committee, and to their local trade associations. The committee 39405  
shall make good faith efforts to identify those generators within 39406  
the district and their local trade associations, but the 39407  
nonprovision of notice under this division to a particular 39408  
generator or local trade association does not invalidate the 39409  
proceedings under this division. The publication shall occur at 39410  
least thirty days before the hearing. After the hearing, the 39411  
committee may make such revisions to the proposed fees as it 39412  
considers appropriate and thereafter, by resolution, shall adopt 39413  
the revised fee schedule. Upon adopting the revised fee schedule, 39414  
the committee shall deliver a copy of the resolution doing so to 39415  
the board of county commissioners of each county forming the 39416  
district and to the legislative authority of each municipal 39417  
corporation and township under the jurisdiction of the district. 39418  
Within sixty days after the delivery of a copy of the resolution 39419  
adopting the proposed revised fees by the policy committee, each 39420  
such board and legislative authority, by ordinance or resolution, 39421

shall approve or disapprove the revised fees and deliver a copy of 39422  
the ordinance or resolution to the committee. If any such board or 39423  
legislative authority fails to adopt and deliver to the policy 39424  
committee an ordinance or resolution approving or disapproving the 39425  
revised fees within sixty days after the policy committee 39426  
delivered its resolution adopting the proposed revised fees, it 39427  
shall be conclusively presumed that the board or legislative 39428  
authority has approved the proposed revised fees. The committee 39429  
shall determine if the resolution has been ratified in the same 39430  
manner in which it determines if a draft solid waste management 39431  
plan has been ratified under division (B) of section 3734.55 of 39432  
the Revised Code. 39433

~~In the case of a county district or a joint district formed 39434  
by two or three counties, the committee shall declare the proposed 39435  
revised fees to be ratified as the fee schedule of the district 39436  
upon determining that the board of county commissioners of each 39437  
county forming the district has approved the proposed revised fees 39438  
and that the legislative authorities of a combination of municipal 39439  
corporations and townships with a combined population within the 39440  
district comprising at least sixty per cent of the total 39441  
population of the district have approved the proposed revised 39442  
fees, provided that in the case of a county district, that 39443  
combination shall include the municipal corporation having the 39444  
largest population within the boundaries of the district, and 39445  
provided further that in the case of a joint district formed by 39446  
two or three counties, that combination shall include for each 39447  
county forming the joint district the municipal corporation having 39448  
the largest population within the boundaries of both the county in 39449  
which the municipal corporation is located and the joint district. 39450  
In the case of a joint district formed by four or more counties, 39451  
the committee shall declare the proposed revised fees to be 39452  
ratified as the fee schedule of the joint district upon 39453  
determining that the boards of county commissioners of a majority 39454~~

~~of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.~~

~~For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.~~

The committee may amend the schedule of fees levied pursuant to a resolution ~~or amended resolution~~ adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may ~~abolish~~ repeal the fees levied pursuant to such a resolution ~~or amended resolution~~ by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees

or of the repeal of the fees. Collection of any fees ~~or amended~~ 39487  
~~fees ratified on or after March 24, 1992,~~ shall commence or 39488  
collection of repealed fees shall cease on the first day of the 39489  
second month following the month in which notification is sent to 39490  
the owner or operator. 39491

~~Not later than fourteen days after declaring the repeal of~~ 39492  
~~the district's schedule of fees to be ratified under this~~ 39493  
~~division, the committee shall notify by certified mail the owner~~ 39494  
~~or operator of each facility that is collecting the fees of the~~ 39495  
~~repeal. Collection of the fees shall cease on the first day of the~~ 39496  
~~second month following the month in which notification is sent to~~ 39497  
~~the owner or operator.~~ 39498

Fees levied under this division also may be established, 39499  
amended, or repealed by a solid waste management policy committee 39500  
through the adoption of a new district solid waste management 39501  
plan, the adoption of an amended plan, or the amendment of the 39502  
plan or amended plan in accordance with sections 3734.55 and 39503  
3734.56 of the Revised Code or the adoption or amendment of a 39504  
district plan in connection with a change in district composition 39505  
under section 3734.521 of the Revised Code. 39506

Not later than fourteen days after the director issues an 39507  
order approving a district's solid waste management plan ~~under~~ 39508  
~~section 3734.55 of the Revised Code or, amended plan under~~ 39509  
~~division (A) or (D) of section 3734.56 of the Revised Code, or~~ 39510  
amendment to a plan or amended plan that establishes ~~or,~~ amends, 39511  
or repeals a schedule of fees levied by the district, ~~or the~~ 39512  
~~ratification of an amendment to the district's approved plan or~~ 39513  
~~amended plan under division (E) of section 3734.56 of the Revised~~ 39514  
~~Code that establishes or amends a schedule of fees, as~~ 39515  
~~appropriate,~~ the committee shall notify by certified mail the 39516  
owner or operator of each solid waste disposal facility that is 39517  
required to collect the fees of the approval of the plan or 39518

amended plan, or the amendment to the plan, as appropriate, and 39519  
the amount of the fees ~~or amended fees, if any~~. In the case of an 39520  
initial or amended plan approved under section 3734.521 of the 39521  
Revised Code in connection with a change in district composition, 39522  
other than one involving the withdrawal of a county from a joint 39523  
district, ~~that establishes or amends a schedule of fees levied~~ 39524  
~~under divisions (B)(1) to (3) of this section by a district~~ 39525  
~~resulting from the change,~~ the committee, within fourteen days 39526  
after the change takes effect pursuant to division (G) of that 39527  
section, shall notify by certified mail the owner or operator of 39528  
each solid waste disposal facility that is required to collect the 39529  
fees that the change has taken effect and of the amount of the 39530  
fees ~~or amended fees, if any~~. Collection of any fees ~~set forth in~~ 39531  
~~a plan or amended plan approved by the director on or after April~~ 39532  
~~16, 1993, or an amendment of a plan or amended plan under division~~ 39533  
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 39534  
~~after April 16, 1993,~~ shall commence or collection of repealed 39535  
fees shall cease on the first day of the second month following 39536  
the month in which notification is sent to the owner or operator. 39537

~~Not later than fourteen days after the director issues an~~ 39538  
~~order approving a district's plan under section 3734.55 of the~~ 39539  
~~Revised Code or amended plan under division (A) or (D) of section~~ 39540  
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 39541  
~~levied under divisions (B)(1) to (3) of this section, or an~~ 39542  
~~amendment to the district's approved plan or amended plan~~ 39543  
~~abolishing the schedule of fees is ratified pursuant to division~~ 39544  
~~(E) of section 3734.56 of the Revised Code, as appropriate, the~~ 39545  
~~committee shall notify by certified mail the owner or operator of~~ 39546  
~~each facility that is collecting the fees of the approval of the~~ 39547  
~~plan or amended plan, or the amendment of the plan or amended~~ 39548  
~~plan, as appropriate, and the abolishment of the fees. In the case~~ 39549  
~~of an initial or amended plan approved under section 3734.521 of~~ 39550  
~~the Revised Code in connection with a change in district~~ 39551

~~composition, other than one involving the withdrawal of a county  
from a joint district, that abolishes the schedule of fees levied  
under divisions (B)(1) to (3) of this section by a district  
resulting from the change, the committee, within fourteen days  
after the change takes effect pursuant to division (C) of that  
section, shall notify by certified mail the owner or operator of  
each solid waste disposal facility that is required to collect the  
fees that the change has taken effect and of the abolishment of  
the fees. Collection of the fees shall cease on the first day of  
the second month following the month in which notification is sent  
to the owner or operator.~~

~~Except as otherwise provided in this division, if the  
schedule of fees that a district is levying under divisions (B)(1)  
to (3) of this section pursuant to a resolution or amended  
resolution adopted and ratified under this division, the solid  
waste management plan of the district approved under section  
3734.55 of the Revised Code, an amended plan approved under  
division (A) or (D) of section 3734.56 of the Revised Code, or an  
amendment to the district's approved plan or amended plan under  
division (E) of section 3734.56 of the Revised Code, is amended by  
the adoption and ratification of an amendment to the resolution or  
amended resolution or an amendment of the district's approved plan  
or amended plan, the fees in effect immediately prior to the  
approval of the plan or the amendment of the resolution, amended  
resolution, plan, or amended plan, as appropriate, shall continue  
to be collected until collection of the amended fees commences  
pursuant to this division.~~

~~If, in the case of a change in district composition involving  
the withdrawal of a county from a joint district, the director  
completes the actions required under division (G)(1) or (3) of  
section 3734.521 of the Revised Code, as appropriate, forty-five  
days or more before the beginning of a calendar year, the policy~~

committee of each of the districts resulting from the change that 39584  
obtained the director's approval of an initial or amended plan in 39585  
connection with the change, within fourteen days after the 39586  
director's completion of the required actions, shall notify by 39587  
certified mail the owner or operator of each solid waste disposal 39588  
facility that is required to collect the district's fees that the 39589  
change is to take effect on the first day of January immediately 39590  
following the issuance of the notice and of the amount of the fees 39591  
or amended fees levied under divisions (B)(1) to (3) of this 39592  
section pursuant to the district's initial or amended plan as so 39593  
approved or, if appropriate, the ~~abolishment~~ repeal of the 39594  
district's fees by that initial or amended plan. Collection of any 39595  
fees set forth in such a plan or amended plan shall commence on 39596  
the first day of January immediately following the issuance of the 39597  
notice. If such an initial or amended plan ~~abolishes~~ repeals a 39598  
schedule of fees, collection of the fees shall cease on that first 39599  
day of January. 39600

If, in the case of a change in district composition involving 39601  
the withdrawal of a county from a joint district, the director 39602  
completes the actions required under division (G)(1) or (3) of 39603  
section 3734.521 of the Revised Code, as appropriate, less than 39604  
forty-five days before the beginning of a calendar year, the 39605  
director, on behalf of each of the districts resulting from the 39606  
change that obtained the director's approval of an initial or 39607  
amended plan in connection with the change proceedings, shall 39608  
notify by certified mail the owner or operator of each solid waste 39609  
disposal facility that is required to collect the district's fees 39610  
that the change is to take effect on the first day of January 39611  
immediately following the mailing of the notice and of the amount 39612  
of the fees or amended fees levied under divisions (B)(1) to (3) 39613  
of this section pursuant to the district's initial or amended plan 39614  
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 39615



district's fees by that initial or amended plan. Collection of any 39616  
fees set forth in such a plan or amended plan shall commence on 39617  
the first day of the second month following the month in which 39618  
notification is sent to the owner or operator. If such an initial 39619  
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 39620  
of the fees shall cease on the first day of the second month 39621  
following the month in which notification is sent to the owner or 39622  
operator. 39623

~~If the schedule of fees that a solid waste management 39624  
district is levying under divisions (B)(1) to (3) of this section 39625  
is amended or repealed, the fees in effect immediately prior to 39626  
the amendment or repeal shall continue to be collected until 39627  
collection of the amended fees commences or collection of the 39628  
repealed fees ceases, as applicable, as specified in this 39629  
division. In the case of a change in district composition, the 39630  
schedule of fees that the former districts that existed prior to 39631  
the change were levying under divisions (B)(1) to (3) of this 39632  
section pursuant to a resolution or amended resolution adopted and 39633  
ratified under this division, the solid waste management plan of a 39634  
former district approved under section 3734.521 or 3734.55 of the 39635  
Revised Code, an amended plan approved under section 3734.521 or 39636  
division (A) or (D) of section 3734.56 of the Revised Code, or an 39637  
amendment to a former district's approved plan or amended plan 39638  
under division (E) of section 3734.56 of the Revised Code, and 39639  
that were in effect on the date that the director completed the 39640  
actions required under division (C)(1) or (3) of section 3734.521 39641  
of the Revised Code shall continue to be collected until the 39642  
collection of the fees or amended fees of the districts resulting 39643  
from the change is required to commence, or if an initial or 39644  
amended plan of a resulting district abolishes a schedule of fees, 39645  
collection of the fees is required to cease, under this division. 39646  
Moneys money so received from the collection of the fees of the 39647  
former districts shall be divided among the resulting districts in 39648~~

accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or ~~abolished~~ repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or

township is located or, if a regional solid waste management 39681  
authority has been formed under section 343.011 of the Revised 39682  
Code, to the board of trustees of that regional authority, the 39683  
owner or operator of each solid waste disposal facility in the 39684  
municipal corporation or township that is required to collect the 39685  
fee by the ordinance or resolution, and the director of 39686  
environmental protection. Although the fees levied under this 39687  
division are levied on the basis of tons as the unit of 39688  
measurement, the legislative authority, in its ordinance or 39689  
resolution levying the fees under this division, may direct that 39690  
the fees be levied on the basis of cubic yards as the unit of 39691  
measurement based upon a conversion factor of three cubic yards 39692  
per ton generally or one cubic yard per ton for baled wastes. 39693

Not later than five days after enacting an ordinance or 39694  
adopting a resolution under this division, the legislative 39695  
authority shall so notify by certified mail the owner or operator 39696  
of each solid waste disposal facility that is required to collect 39697  
the fee. Collection of any fee levied on or after March 24, 1992, 39698  
shall commence on the first day of the second month following the 39699  
month in which notification is sent to the owner or operator. 39700

(D)(1) The fees levied under divisions (A), (B), and (C) of 39701  
this section do not apply to the disposal of solid wastes that: 39702

(a) Are disposed of at a facility owned by the generator of 39703  
the wastes when the solid waste facility exclusively disposes of 39704  
solid wastes generated at one or more premises owned by the 39705  
generator regardless of whether the facility is located on a 39706  
premises where the wastes are generated; 39707

(b) Are disposed of at facilities that exclusively dispose of 39708  
wastes that are generated from the combustion of coal, or from the 39709  
combustion of primarily coal in combination with scrap tires, that 39710  
is not combined in any way with garbage at one or more premises 39711

owned by the generator. 39712

(2) Except as provided in section 3734.571 of the Revised 39713  
Code, any fees levied under division (B)(1) of this section apply 39714  
to solid wastes originating outside the boundaries of a county or 39715  
joint district that are covered by an agreement for the joint use 39716  
of solid waste facilities entered into under section 343.02 of the 39717  
Revised Code by the board of county commissioners or board of 39718  
directors of the county or joint district where the wastes are 39719  
generated and disposed of. 39720

(3) When solid wastes, other than solid wastes that consist 39721  
of scrap tires, are burned in a disposal facility that is an 39722  
incinerator or energy recovery facility, the fees levied under 39723  
divisions (A), (B), and (C) of this section shall be levied upon 39724  
the disposal of the fly ash and bottom ash remaining after burning 39725  
of the solid wastes and shall be collected by the owner or 39726  
operator of the sanitary landfill where the ash is disposed of. 39727

(4) When solid wastes are delivered to a solid waste transfer 39728  
facility, the fees levied under divisions (A), (B), and (C) of 39729  
this section shall be levied upon the disposal of solid wastes 39730  
transported off the premises of the transfer facility for disposal 39731  
and shall be collected by the owner or operator of the solid waste 39732  
disposal facility where the wastes are disposed of. 39733

(5) The fees levied under divisions (A), (B), and (C) of this 39734  
section do not apply to sewage sludge that is generated by a waste 39735  
water treatment facility holding a national pollutant discharge 39736  
elimination system permit and that is disposed of through 39737  
incineration, land application, or composting or at another 39738  
resource recovery or disposal facility that is not a landfill. 39739

(6) The fees levied under divisions (A), (B), and (C) of this 39740  
section do not apply to solid wastes delivered to a solid waste 39741  
composting facility for processing. When any unprocessed solid 39742

waste or compost product is transported off the premises of a 39743  
composting facility and disposed of at a landfill, the fees levied 39744  
under divisions (A), (B), and (C) of this section shall be 39745  
collected by the owner or operator of the landfill where the 39746  
unprocessed waste or compost product is disposed of. 39747

(7) When solid wastes that consist of scrap tires are 39748  
processed at a scrap tire recovery facility, the fees levied under 39749  
divisions (A), (B), and (C) of this section shall be levied upon 39750  
the disposal of the fly ash and bottom ash or other solid wastes 39751  
remaining after the processing of the scrap tires and shall be 39752  
collected by the owner or operator of the solid waste disposal 39753  
facility where the ash or other solid wastes are disposed of. 39754

(8) The fees levied under this section do not apply to solid 39755  
wastes, including, but not limited to, scrap tires, that are 39756  
generated, transferred, or disposed of as a result of a contract 39757  
providing for the expenditure of public funds entered into by the 39758  
administrator or regional administrator of the United States 39759  
environmental protection agency, the director of environmental 39760  
protection, or the director of administrative services on behalf 39761  
of the director of environmental protection for the purpose of 39762  
remediating conditions at a hazardous waste facility, solid waste 39763  
facility, or other location at which the administrator or regional 39764  
administrator or the director of environmental protection has 39765  
reason to believe that there is a substantial threat to public 39766  
health or safety or the environment or that the conditions are 39767  
causing or contributing to air or water pollution or soil 39768  
contamination. 39769

(E) The fees levied under divisions (B) and (C) of this 39770  
section shall be collected by the owner or operator of the solid 39771  
waste disposal facility where the wastes are disposed of as a 39772  
trustee for the county or joint district and municipal corporation 39773  
or township where the wastes are disposed of. Moneys from the fees 39774

levied under division (B) of this section shall be forwarded to  
the board of county commissioners or board of directors of the  
district in accordance with rules adopted under division (H) of  
this section. Moneys from the fees levied under division (C) of  
this section shall be forwarded to the treasurer or such other  
officer of the municipal corporation as, by virtue of the charter,  
has the duties of the treasurer or to the clerk of the township,  
as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of  
the municipal corporation under division (E) of this section shall  
be paid into the general fund of the municipal corporation. Moneys  
received by the clerk of the township under that division shall be  
paid into the general fund of the township. The treasurer or such  
other officer of the municipal corporation or the clerk, as  
appropriate, shall maintain separate records of the moneys  
received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or  
board of directors under division (E) of this section or section  
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code  
shall be paid to the county treasurer, or other official acting in  
a similar capacity under a county charter, in a county district or  
to the county treasurer or other official designated by the board  
of directors in a joint district and kept in a separate and  
distinct fund to the credit of the district. If a regional solid  
waste management authority has been formed under section 343.011  
of the Revised Code, moneys received by the board of trustees of  
that regional authority under division (E) of this section shall  
be kept by the board in a separate and distinct fund to the credit  
of the district. Moneys in the special fund of the county or joint  
district arising from the fees levied under division (B) of this  
section and the fee levied under division (A) of section 3734.573  
of the Revised Code shall be expended by the board of county

commissioners or directors of the district in accordance with the 39807  
district's solid waste management plan or amended plan approved 39808  
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 39809  
exclusively for the following purposes: 39810

(1) Preparation of the solid waste management plan of the 39811  
district under section 3734.54 of the Revised Code, monitoring 39812  
implementation of the plan, and conducting the periodic review and 39813  
amendment of the plan required by section 3734.56 of the Revised 39814  
Code by the solid waste management policy committee; 39815

(2) Implementation of the approved solid waste management 39816  
plan or amended plan of the district, including, without 39817  
limitation, the development and implementation of solid waste 39818  
recycling or reduction programs; 39819

(3) Providing financial assistance to boards of health within 39820  
the district, if solid waste facilities are located within the 39821  
district, for enforcement of this chapter and rules, orders, and 39822  
terms and conditions of permits, licenses, and variances adopted 39823  
or issued under it, other than the hazardous waste provisions of 39824  
this chapter and rules adopted and orders and terms and conditions 39825  
of permits issued under those provisions; 39826

(4) Providing financial assistance to each county within the 39827  
district to defray the added costs of maintaining roads and other 39828  
public facilities and of providing emergency and other public 39829  
services resulting from the location and operation of a solid 39830  
waste facility within the county under the district's approved 39831  
solid waste management plan or amended plan; 39832

(5) Pursuant to contracts entered into with boards of health 39833  
within the district, if solid waste facilities contained in the 39834  
district's approved plan or amended plan are located within the 39835  
district, for paying the costs incurred by those boards of health 39836  
for collecting and analyzing samples from public or private water 39837

wells on lands adjacent to those facilities; 39838

(6) Developing and implementing a program for the inspection 39839  
of solid wastes generated outside the boundaries of this state 39840  
that are disposed of at solid waste facilities included in the 39841  
district's approved solid waste management plan or amended plan; 39842

(7) Providing financial assistance to boards of health within 39843  
the district for the enforcement of section 3734.03 of the Revised 39844  
Code or to local law enforcement agencies having jurisdiction 39845  
within the district for enforcing anti-littering laws and 39846  
ordinances; 39847

(8) Providing financial assistance to boards of health of 39848  
health districts within the district that are on the approved list 39849  
under section 3734.08 of the Revised Code to defray the costs to 39850  
the health districts for the participation of their employees 39851  
responsible for enforcement of the solid waste provisions of this 39852  
chapter and rules adopted and orders and terms and conditions of 39853  
permits, licenses, and variances issued under those provisions in 39854  
the training and certification program as required by rules 39855  
adopted under division (L) of section 3734.02 of the Revised Code; 39856

(9) Providing financial assistance to individual municipal 39857  
corporations and townships within the district to defray their 39858  
added costs of maintaining roads and other public facilities and 39859  
of providing emergency and other public services resulting from 39860  
the location and operation within their boundaries of a 39861  
composting, energy or resource recovery, incineration, or 39862  
recycling facility that either is owned by the district or is 39863  
furnishing solid waste management facility or recycling services 39864  
to the district pursuant to a contract or agreement with the board 39865  
of county commissioners or directors of the district; 39866

(10) Payment of any expenses that are agreed to, awarded, or 39867  
ordered to be paid under section 3734.35 of the Revised Code and 39868



of any administrative costs incurred pursuant to that section. In 39869  
the case of a joint solid waste management district, if the board 39870  
of county commissioners of one of the counties in the district is 39871  
negotiating on behalf of affected communities, as defined in that 39872  
section, in that county, the board shall obtain the approval of 39873  
the board of directors of the district in order to expend moneys 39874  
for administrative costs incurred. 39875

Prior to the approval of the district's solid waste 39876  
management plan under section 3734.55 of the Revised Code, moneys 39877  
in the special fund of the district arising from the fees shall be 39878  
expended for those purposes in the manner prescribed by the solid 39879  
waste management policy committee by resolution. 39880

Notwithstanding division (G)(6) of this section as it existed 39881  
prior to October 29, 1993, or any provision in a district's solid 39882  
waste management plan prepared in accordance with division 39883  
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 39884  
prior to that date, any moneys arising from the fees levied under 39885  
division (B)(3) of this section prior to January 1, 1994, may be 39886  
expended for any of the purposes authorized in divisions (G)(1) to 39887  
(10) of this section. 39888

(H) The director shall adopt rules in accordance with Chapter 39889  
119. of the Revised Code prescribing procedures for collecting and 39890  
forwarding the fees levied under divisions (B) and (C) of this 39891  
section to the boards of county commissioners or directors of 39892  
county or joint solid waste management districts and to the 39893  
treasurers or other officers of municipal corporations or to the 39894  
clerks of townships. The rules also shall prescribe the dates for 39895  
forwarding the fees to the boards and officials and may prescribe 39896  
any other requirements the director considers necessary or 39897  
appropriate to implement and administer divisions (A), (B), and 39898  
(C) of this section. ~~Collection of the fees levied under division 39899~~  
~~(A)(1) of this section shall commence on July 1, 1993. Collection 39900~~

~~of the fees levied under division (A)(2) of this section shall 39901  
commence on January 1, 1994. 39902~~

**Sec. 3734.573.** (A) ~~For the purpose of preparing, revising, 39903  
and implementing the solid waste management plan of the district, 39904  
including, without limitation, the development and implementation 39905  
of solid waste recycling or reduction programs; providing 39906  
financial assistance to boards of health within the district, if 39907  
solid waste facilities are located in the district, for the 39908  
enforcement of this chapter and rules adopted and orders and terms 39909  
and conditions of permits, licenses, and variances issued under 39910  
it, other than the hazardous waste provisions of this chapter and 39911  
rules adopted and orders and terms and conditions of permits 39912  
issued under those provisions; providing financial assistance to 39913  
the county to defray the added costs of maintaining roads and 39914  
other public facilities and of providing emergency and other 39915  
public services resulting from the location and operation of a 39916  
solid waste facility within the county under the district's 39917  
approved plan or amended plan; paying the costs incurred by boards 39918  
of health for collecting and analyzing water samples from public 39919  
and private wells on lands adjacent to solid waste facilities that 39920  
are contained in the approved or amended plan of the district; 39921  
paying the costs of developing and implementing a program for the 39922  
inspection of solid wastes generated outside the boundaries of 39923  
this state that are disposed of at solid waste facilities included 39924  
in the district's approved plan or amended plan; providing 39925  
financial assistance to boards of health within the district for 39926  
enforcing laws prohibiting open dumping; providing financial 39927  
assistance to local law enforcement agencies within the district 39928  
for enforcing laws and ordinances prohibiting littering; providing 39929  
financial assistance to boards of health of health districts 39930  
within the district that are on the approved list under section 39931  
3734.08 of the Revised Code for the training and certification 39932~~

~~required for their employees responsible for solid waste 39933  
enforcement by rules adopted under division (L) of section 3734.02 39934  
of the Revised Code; providing financial assistance to individual 39935  
municipal corporations and townships within the district to defray 39936  
their added costs of maintaining roads and other public facilities 39937  
and of providing emergency and other public services resulting 39938  
from the location and operation within their boundaries of a 39939  
composting, energy or resource recovery, incineration, or 39940  
recycling facility that either is owned by the district or is 39941  
furnishing solid waste management facility or recycling services 39942  
to the district pursuant to a contract or agreement with the board 39943  
of county commissioners or directors of the district; and paying 39944  
any expenses provided for or incurred under section 3734.35 39945  
purposes specified in division (G) of section 3734.57 of the 39946  
Revised Code, the solid waste management policy committee of a 39947  
county or joint solid waste management district may levy a fee on 39948  
the generation of solid wastes within the district. 39949~~

The initial or amended solid waste management plan of the 39950  
county or joint district approved under section 3734.521, 3734.55, 39951  
or 3734.56 of the Revised Code, an amendment to the district's 39952  
plan adopted under division (E) of section 3734.56 of the Revised 39953  
Code, or the resolution adopted and ratified under division (B) of 39954  
this section shall establish the rate of the fee levied under this 39955  
division and shall specify whether the fee is levied on the basis 39956  
of tons or cubic yards as the unit of measurement. 39957

(B) Prior to the approval under division (A) of section 39958  
3734.56 of the Revised Code of the first amended plan that the 39959  
district is required to submit for approval under that section, 39960  
the approval of an initial plan under section 3734.521 of the 39961  
Revised Code, the approval of an amended plan under section 39962  
3734.521 or division (D) of section 3734.56 of the Revised Code, 39963  
or the amendment of the district's plan under division (E) of 39964

section 3734.56 of the Revised Code, the solid waste management 39965  
policy committee of a county or joint district that is operating 39966  
under an initial plan approved under section 3734.55 of the 39967  
Revised Code, or one for which approval of its initial plan is 39968  
pending before the director of environmental protection on October 39969  
29, 1993, under section 3734.55 of the Revised Code, may levy a 39970  
fee under division (A) of this section by adopting and obtaining 39971  
ratification of a resolution establishing the amount of the fee. A 39972  
policy committee that, after December 1, 1993, concurrently 39973  
proposes to levy a fee under division (A) of this section and to 39974  
amend the fees levied by the district under divisions (B)(1) to 39975  
(3) of section 3734.57 of the Revised Code may adopt and obtain 39976  
ratification of one resolution proposing to do both. The 39977  
requirements and procedures set forth in division (B) of section 39978  
3734.57 of the Revised Code governing the adoption, amendment, and 39979  
repeal of resolutions levying fees under divisions (B)(1) to (3) 39980  
of that section, the ratification of those resolutions, and the 39981  
notification of owners and operators of solid waste facilities 39982  
required to collect fees levied under those divisions govern the 39983  
adoption of the resolutions authorized to be adopted under this 39984  
division, the ratification thereof, and the notification of owners 39985  
and operators required to collect the fees, except as otherwise 39986  
specifically provided in division (C) of this section. 39987

(C) Any initial or amended plan of a district adopted under 39988  
section 3734.521 or 3734.56 of the Revised Code, or resolution 39989  
adopted under division (B) of this section, that proposes to levy 39990  
a fee under division (A) of this section that exceeds five dollars 39991  
per ton shall be ratified in accordance with the provisions of 39992  
section 3734.55 or division (B) of section 3734.57 of the Revised 39993  
Code, as applicable, except that such an initial or amended plan 39994  
or resolution shall be approved by a combination of municipal 39995  
corporations and townships with a combined population within the 39996

boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or

disposal facility who is required to collect the fee shall collect 40029  
and forward the fee to the district in accordance with section 40030  
3734.57 of the Revised Code and rules adopted under division (H) 40031  
of that section. 40032

If the owner or operator of a solid waste transfer or 40033  
disposal facility who did not receive notice pursuant to division 40034  
(B) of this section to collect the fee levied by a district under 40035  
division (A) of this section receives solid wastes generated in 40036  
the district, the owner or operator, within thirty days after 40037  
receiving the wastes, shall send written notice of that fact to 40038  
the board of county commissioners or directors of the district. 40039  
Within thirty days after receiving such a notice, the board of 40040  
county commissioners or directors shall send written notice to the 40041  
owner or operator indicating whether the district is levying a fee 40042  
under division (A) of this section and, if so, the amount of the 40043  
fee. 40044

(G) Moneys received by a district levying a fee under 40045  
division (A) of this section shall be credited to the special fund 40046  
of the district created in division (G) of section 3734.57 of the 40047  
Revised Code and shall be used exclusively for the purposes ~~set~~ 40048  
~~forth specified in divisions (G)(1) to (10) of that section~~ 40049  
division. Prior to the approval under division (A) of section 40050  
3734.56 of the Revised Code of the first amended plan that the 40051  
district is required to submit for approval under that section, 40052  
the approval of an initial plan under section 3734.521 of the 40053  
Revised Code, the approval of an amended plan under that section 40054  
or division (D) of section 3734.56 of the Revised Code, or the 40055  
amendment of the district's plan under division (E) of section 40056  
3734.56 of the Revised Code, moneys credited to the special fund 40057  
arising from the fee levied pursuant to a resolution adopted and 40058  
ratified under division (B) of this section shall be expended for 40059  
those purposes in the manner prescribed by the solid waste 40060

management policy committee by resolution. 40061

(H) The fee levied under division (A) of this section does 40062  
not apply to the management of solid wastes that: 40063

(1) Are disposed of at a facility owned by the generator of 40064  
the wastes when the solid waste facility exclusively disposes of 40065  
solid wastes generated at one or more premises owned by the 40066  
generator regardless of whether the facility is located on a 40067  
premises where the wastes were generated; 40068

(2) Are disposed of at facilities that exclusively dispose of 40069  
wastes that are generated from the combustion of coal, or from the 40070  
combustion of primarily coal in combination with scrap tires, that 40071  
is not combined in any way with garbage at one or more premises 40072  
owned by the generator. 40073

(I) When solid wastes that are burned in a disposal facility 40074  
that is an incinerator or energy recovery facility are delivered 40075  
to a solid waste transfer facility prior to being transported to 40076  
the incinerator or energy recovery facility where they are burned, 40077  
the fee levied under division (A) of this section shall be levied 40078  
on the wastes delivered to the transfer facility. 40079

(J) When solid wastes that are burned in a disposal facility 40080  
that is an incinerator or energy recovery facility are not 40081  
delivered to a solid waste transfer facility prior to being 40082  
transported to the incinerator or energy recovery facility where 40083  
they are burned, the fee levied under division (A) of this section 40084  
shall be levied on the wastes delivered to the incinerator or 40085  
energy recovery facility. 40086

(K) The fee levied under division (A) of this section does 40087  
not apply to sewage sludge that is generated by a waste water 40088  
treatment facility holding a national pollutant discharge 40089  
elimination system permit and that is disposed of through 40090  
incineration, land application, or composting or at another 40091

resource recovery or disposal facility that is not a landfill. 40092

(L) The fee levied under division (A) of this section does 40093  
not apply to yard waste delivered to a solid waste composting 40094  
facility for processing or to a solid waste transfer facility. 40095

(M) The fee levied under division (A) of this section does 40096  
not apply to materials separated from a mixed waste stream for 40097  
recycling by the generator. 40098

(N) The fees levied under this section do not apply to solid 40099  
wastes, including, but not limited to, scrap tires, that are 40100  
generated, transferred, or disposed of as a result of a contract 40101  
providing for the expenditure of public funds entered into by the 40102  
administrator or regional administrator of the United States 40103  
environmental protection agency, the director of environmental 40104  
protection, or the director of administrative services on behalf 40105  
of the director of environmental protection for the purpose of 40106  
remediating conditions at a hazardous waste facility, solid waste 40107  
facility, or other location at which the administrator or regional 40108  
administrator or the director of environmental protection has 40109  
reason to believe that there is a substantial threat to public 40110  
health or safety or the environment or that the conditions are 40111  
causing or contributing to air or water pollution or soil 40112  
contamination. 40113

**Sec. 3734.85.** (A) On and after the effective date of the 40114  
rules adopted under sections 3734.70, 3734.71, 3734.72, and 40115  
3734.73 of the Revised Code, the director of environmental 40116  
protection may take action under this section to abate 40117  
accumulations of scrap tires. If the director determines that an 40118  
accumulation of scrap tires constitutes a danger to the public 40119  
health or safety or to the environment, ~~he~~ the director shall 40120  
issue an order under section 3734.13 of the Revised Code to the 40121  
person responsible for the accumulation of scrap tires directing 40122



that person, within one hundred twenty days after the issuance of 40123  
the order, to remove the accumulation of scrap tires from the 40124  
premises on which it is located and transport the tires to a scrap 40125  
tire storage, monocell, monofill, or recovery facility licensed 40126  
under section 3734.81 of the Revised Code, to such a facility in 40127  
another state operating in compliance with the laws of the state 40128  
in which it is located, or to any other solid waste disposal 40129  
facility in another state that is operating in compliance with the 40130  
laws of that state. If the person responsible for causing the 40131  
accumulation of scrap tires is a person different from the owner 40132  
of the land on which the accumulation is located, the director may 40133  
issue such an order to the landowner. 40134

If the director is unable to ascertain immediately the 40135  
identity of the person responsible for causing the accumulation of 40136  
scrap tires, ~~he~~ the director shall examine the records of the 40137  
applicable board of health and law enforcement agencies to 40138  
ascertain that person's identity. Before initiating any 40139  
enforcement or removal actions under this division against the 40140  
owner of the land on which the accumulation is located, the 40141  
director shall initiate any such actions against the person that 40142  
~~he~~ the director has identified as responsible for causing the 40143  
accumulation of scrap tires. Failure of the director to make 40144  
diligent efforts to ascertain the identity of the person 40145  
responsible for causing the accumulation of scrap tires or to 40146  
initiate an action against the person responsible for causing the 40147  
accumulation shall not constitute an affirmative defense by a 40148  
landowner to an enforcement action initiated by the director under 40149  
this division requiring immediate removal of any accumulation of 40150  
scrap tires. 40151

Upon the written request of the recipient of an order issued 40152  
under this division, the director may extend the time for 40153  
compliance with the order if the request demonstrates that the 40154

recipient has acted in good faith to comply with the order. If the 40155  
recipient of an order issued under this division fails to comply 40156  
with the order within one hundred twenty days after the issuance 40157  
of the order or, if the time for compliance with the order was so 40158  
extended, within that time, the director shall take such actions 40159  
as ~~he~~ the director considers reasonable and necessary to remove 40160  
and properly manage the scrap tires located on the land named in 40161  
the order. The director, through employees of the environmental 40162  
protection agency or a contractor, may enter upon the land on 40163  
which the accumulation of scrap tires is located and remove and 40164  
transport them to a scrap tire recovery facility for processing, 40165  
to a scrap tire storage facility for storage, or to a scrap tire 40166  
monocell or monofill facility for storage or disposal. 40167

The director shall enter into contracts with the owners or 40168  
operators of scrap tire storage, monocell, monofill, or recovery 40169  
facilities for the storage, disposal, or processing of scrap tires 40170  
removed through removal operations conducted under this section. 40171  
In doing so, the director shall give preference to scrap tire 40172  
recovery facilities. 40173

If a person to whom a removal order is issued under this 40174  
division fails to comply with the order and if the director 40175  
performs a removal action under this section, the person to whom 40176  
the removal order is issued is liable to the director for the 40177  
costs incurred by the director for conducting the removal 40178  
operation, storage at a scrap tire storage facility, storage or 40179  
disposal at a scrap tire monocell or monofill facility, or 40180  
processing of the scrap tires so removed, the transportation of 40181  
the scrap tires from the site of the accumulation to the scrap 40182  
tire storage, monocell, monofill, or recovery facility where the 40183  
scrap tires were stored, disposed of, or processed, and the 40184  
administrative and legal expenses incurred by the director in 40185  
connection with the removal operation. The director shall keep an 40186

itemized record of those costs. Upon completion of the actions for 40187  
which the costs were incurred, the director shall record the costs 40188  
at the office of the county recorder of the county in which the 40189  
accumulation of scrap tires was located. The costs so recorded 40190  
constitute a lien on the property on which the accumulation of 40191  
scrap tires was located until discharged. Upon the written request 40192  
of the director, the attorney general shall bring a civil action 40193  
against the person responsible for the accumulation of the scrap 40194  
tires that were the subject of the removal operation to recover 40195  
the costs ~~of the removal operation. If the director is unable to~~ 40196  
~~recover those costs through such a civil action, he shall certify~~ 40197  
~~them to the county recorder of the county in which the~~ 40198  
~~accumulation of scrap tires was located. The recorder shall record~~ 40199  
~~the costs so certified as a lien on the property on which the~~ 40200  
~~accumulation of scrap tires was located, which costs shall be a~~ 40201  
~~lien on the property until discharged~~ for which the person is 40202  
liable under this division. Any money so received or recovered 40203  
shall be credited to the scrap tire management fund created in 40204  
section 3734.82 of the Revised Code. 40205

If, in a civil action brought under this division, an owner 40206  
of real property is ordered to pay to the director the costs of a 40207  
removal action that removed an accumulation of scrap tires from 40208  
the person's land or if a lien is placed on the person's land for 40209  
the costs of such a removal action, and, in either case, if the 40210  
landowner was not the person responsible for causing the 40211  
accumulation of scrap tires so removed, the landowner may bring a 40212  
civil action against the person who was responsible for causing 40213  
the accumulation to recover the amount of the removal costs that 40214  
the court ordered the landowner to pay to the director or the 40215  
amount of the removal costs certified to the county recorder as a 40216  
lien on the landowner's property, whichever is applicable. If the 40217  
landowner prevails in the civil action against the person who was 40218  
responsible for causing the accumulation of scrap tires, the 40219

court, as it considers appropriate, may award to the landowner the  
reasonable attorney's fees incurred by the landowner for bringing  
the action, court costs, and other reasonable expenses incurred by  
the landowner in connection with the civil action. A landowner  
shall bring such a civil action within two years after making the  
final payment of the removal costs to the director pursuant to the  
judgment rendered against the landowner in the civil action  
brought under this division upon the director's request or within  
two years after the director certified the costs of the removal  
action to the county recorder, as appropriate. A person who, at  
the time that a removal action was conducted under this division,  
owned the land on which the removal action was performed may bring  
an action under this division to recover the costs of the removal  
action from the person responsible for causing the accumulation of  
scrap tires so removed regardless of whether the person owns the  
land at the time of bringing the action.

Subject to the limitations set forth in division (G) of  
section 3734.82 of the Revised Code, the director may use moneys  
in the scrap tire management fund ~~created in that division~~ for  
conducting removal actions under this division. Any moneys  
recovered under this division shall be credited to the scrap tire  
management fund.

(B) The director shall initiate enforcement and removal  
actions under division (A) of this section in accordance with the  
following descending listing of priorities:

(1) Accumulations of scrap tires that the director finds  
constitute a fire hazard or threat to public health;

(2) Accumulations of scrap tires determined by the director  
to contain more than one million scrap tires;

(3) Accumulations of scrap tires in densely populated areas;

(4) Other accumulations of scrap tires that the director or

board of health of the health district in which the accumulation 40251  
is located determines constitute a public nuisance; 40252

(5) Any other accumulations of scrap tires present on 40253  
premises operating without a valid license issued under section 40254  
3734.05 or 3734.81 of the Revised Code. 40255

(C) The director shall not take enforcement and removal 40256  
actions under division (A) of this section against the owner or 40257  
operator of, or the owner of the land on which is located, any of 40258  
the following: 40259

(1) A premises where not more than one hundred scrap tires 40260  
are present at any time; 40261

(2) The premises of a business engaging in the sale of tires 40262  
at retail that meets either of the following criteria: 40263

(a) Not more than one thousand scrap tires are present on the 40264  
premises at any time in an unsecured, uncovered outdoor location; 40265

(b) Any number of scrap tires are secured in a building or a 40266  
covered, enclosed container, trailer, or installation. 40267

(3) The premises of a tire retreading business, a tire 40268  
manufacturing finishing center, or a tire adjustment center on 40269  
which is located a single, covered scrap tire storage area where 40270  
not more than four thousand scrap tires are stored; 40271

(4) The premises of a business that removes tires from motor 40272  
vehicles in the ordinary course of business and on which is 40273  
located a single scrap tire storage area that occupies not more 40274  
than twenty-five hundred square feet; 40275

(5) A solid waste facility licensed under section 3734.05 of 40276  
the Revised Code that stores scrap tires on the surface of the 40277  
ground if the total land area on which scrap tires are actually 40278  
stored does not exceed ten thousand square feet; 40279

(6) A premises where not more than two hundred fifty scrap 40280

tires are stored or kept for agricultural use;	40281
(7) A construction site where scrap tires are stored for use	40282
or used in road resurfacing or the construction of embankments;	40283
(8) A scrap tire collection, storage, monocell, monofill, or	40284
recovery facility licensed under section 3734.81 of the Revised	40285
Code;	40286
(9) A solid waste incineration or energy recovery facility	40287
that is subject to regulation under this chapter and that burns	40288
scrap tires;	40289
(10) A premises where scrap tires are beneficially used and	40290
for which the notice required by rules adopted under section	40291
3734.84 of the Revised Code has been given;	40292
(11) A transporter registered under section 3734.83 of the	40293
Revised Code that collects and holds scrap tires in a covered	40294
trailer or vehicle for not longer than thirty days prior to	40295
transporting them to their final destination.	40296
(D) Nothing in this section restricts any right any person	40297
may have under statute or common law to enforce or seek	40298
enforcement of any law applicable to the management of scrap	40299
tires, abate a nuisance, or seek any other appropriate relief.	40300
(E) An owner of real property upon which there is located an	40301
accumulation of not more than two thousand scrap tires is not	40302
liable under division (A) of this section for the cost of the	40303
removal of the scrap tires, and no lien shall attach to the	40304
property under this section, if all of the following conditions	40305
are met:	40306
(1) The tires were placed on the property after the owner	40307
acquired title to the property, or the tires were placed on the	40308
property before the owner acquired title to the property and the	40309
owner acquired title to the property by bequest or devise.	40310

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property+.

(3) The owner of the property did not participate in or consent to the placing of the tires on the property+.

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property+.

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section+.

(6) The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the owner of the property.

**Sec. 3734.901.** (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants to promote research regarding alternative methods of recycling scrap tires and loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, ~~2006~~ 2011.

(2) Beginning on ~~the effective date of this section~~ September 5, 2001, and ending on June 30, 2011, there is hereby levied an

additional fee of fifty cents per tire on the sale of tires the 40341  
proceeds of which shall be deposited in the state treasury to the 40342  
credit of the scrap tire management fund created in section 40343  
3734.82 of the Revised Code and be used exclusively for the 40344  
purposes specified in division (G)(3) of that section. 40345

(B) Only one sale of the same article shall be used in 40346  
computing the amount of the fee due. 40347

**Sec. 3734.9010.** ~~Four~~ Two per cent of all amounts paid to the 40348  
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 40349  
the Revised Code shall be certified directly to the credit of the 40350  
tire fee administrative fund, which is hereby created in the state 40351  
treasury, for appropriation to the department of taxation for use 40352  
in administering those sections. The remainder of the amounts paid 40353  
to the treasurer of state shall be deposited to the credit of the 40354  
scrap tire management fund created in section 3734.82 of the 40355  
Revised Code. 40356

**Sec. 3735.27.** (A) Whenever the director of development has 40357  
determined that there is need for a housing authority in any 40358  
portion of any county that comprises two or more political 40359  
subdivisions or portions of two or more political subdivisions but 40360  
is less than all the territory within the county, a metropolitan 40361  
housing authority shall be declared to exist, and the territorial 40362  
limits of the authority shall be defined, by a letter from the 40363  
director. The director shall issue a determination from the 40364  
department of development declaring that there is need for a 40365  
housing authority within those territorial limits after finding 40366  
either of the following: 40367

(1) Unsanitary or unsafe inhabited housing accommodations 40368  
exist in that area; 40369

(2) There is a shortage of safe and sanitary housing 40370



accommodations in that area available to persons who lack the 40371  
amount of income that is necessary, as determined by the director, 40372  
to enable them, without financial assistance, to live in decent, 40373  
safe, and sanitary dwellings without congestion. 40374

In determining whether dwelling accommodations are unsafe or 40375  
unsanitary, the director may take into consideration the degree of 40376  
congestion, the percentage of land coverage, the light, air, 40377  
space, and access available to the inhabitants of the dwelling 40378  
accommodations, the size and arrangement of rooms, the sanitary 40379  
facilities, and the extent to which conditions exist in the 40380  
dwelling accommodations that endanger life or property by fire or 40381  
other causes. 40382

The territorial limits of a metropolitan housing authority as 40383  
defined by the director under this division shall be fixed for the 40384  
authority upon proof of a letter from the director declaring the 40385  
need for the authority to function in those territorial limits. 40386  
Any such letter from the director, any certificate of 40387  
determination issued by the director, and any certificate of 40388  
appointment of members of the authority shall be admissible in 40389  
evidence in any suit, action, or proceeding. 40390

A certified copy of the letter from the director declaring 40391  
the existence of a metropolitan housing authority and the 40392  
territorial limits of its district shall be immediately forwarded 40393  
to each appointing authority. A metropolitan housing authority 40394  
shall consist of members who are residents of the territory in 40395  
which they serve. 40396

(B)(1) Except as otherwise provided in division (C), (D), or 40397  
(E) of this section, the members of a metropolitan housing 40398  
authority shall be appointed as follows: 40399

(a)(i) In a district in a county in which a charter has been 40400  
adopted under Article X, Section 3 of the Ohio Constitution, and 40401

in which the most populous city is not the city with the largest  
ratio of housing units owned or managed by the authority to  
population, one member shall be appointed by the probate court,  
one member shall be appointed by the court of common pleas, one  
member shall be appointed by the board of county commissioners,  
one member shall be appointed by the chief executive officer of  
the city that has the largest ratio of housing units owned or  
managed by the authority to population, and two members shall be  
appointed by the chief executive officer of the most populous city  
in the district.

(ii) If, in a district that appoints members pursuant to  
division (B)(1)(a) of this section, the most populous city becomes  
the city with the largest ratio of housing units owned or managed  
by the authority to population, when the term of office of the  
member who was appointed by the chief executive officer of the  
city with the largest ratio expires, that member shall not be  
reappointed, and the membership of the authority shall be as  
described in division (B)(1)(b) of this section.

(b) In any district other than one described in division  
(B)(1)(a) of this section, one member shall be appointed by the  
probate court, one member shall be appointed by the court of  
common pleas, one member shall be appointed by the board of county  
commissioners, and two members shall be appointed by the chief  
executive officer of the most populous city in the district.

(2) At the time of the initial appointment of the authority,  
the member appointed by the probate court shall be appointed for a  
period of four years, the member appointed by the court of common  
pleas shall be appointed for three years, the member appointed by  
the board of county commissioners shall be appointed for two  
years, one member appointed by the chief executive officer of the  
most populous city in the district shall be appointed for one  
year, and the other member appointed by the chief executive

officer of the most populous city in the district shall be 40434  
appointed for five years. 40435

If appointments are made under division (B)(1)(a) of this 40436  
section, the member appointed by the chief executive officer of 40437  
the city in the district that is not the most populous city, but 40438  
that has the largest ratio of housing units owned or managed by 40439  
the authority to population, shall be appointed for five years. 40440

After the initial appointments, all members of the authority 40441  
shall be appointed for five-year terms, and any vacancy occurring 40442  
upon the expiration of a term shall be filled by the appointing 40443  
authority that made the initial appointment. 40444

(3) For purposes of this division, population shall be 40445  
determined according to the last preceding federal census. 40446

(C) For any metropolitan housing authority district that 40447  
contained, as of the 1990 federal census, a population of at least 40448  
one million, two members of the authority shall be appointed by 40449  
the legislative authority of the most populous city in the 40450  
district, two members shall be appointed by the chief executive 40451  
officer of the most populous city in the district, and one member 40452  
shall be appointed by the chief executive officer, with the 40453  
approval of the legislative authority, of the city in the district 40454  
that has the second highest number of housing units owned or 40455  
managed by the authority. 40456

At the time of the initial appointment of the authority, one 40457  
member appointed by the legislative authority of the most populous 40458  
city in the district shall be appointed for three years, and one 40459  
such member shall be appointed for one year; the member appointed 40460  
by the chief executive officer of the city with the second highest 40461  
number of housing units owned or managed by the authority shall be 40462  
appointed, with the approval of the legislative authority, for 40463  
three years; and one member appointed by the chief executive 40464

officer of the most populous city in the district shall be 40465  
appointed for three years, and one such member shall be appointed 40466  
for one year. Thereafter, all members of the authority shall be 40467  
appointed for three-year terms, and any vacancy shall be filled by 40468  
the same appointing power that made the initial appointment. At 40469  
the expiration of the term of any member appointed by the chief 40470  
executive officer of the most populous city in the district before 40471  
March 15, 1983, the chief executive officer of the most populous 40472  
city in the district shall fill the vacancy by appointment for a 40473  
three-year term. At the expiration of the term of any member 40474  
appointed by the board of county commissioners before March 15, 40475  
1983, the chief executive officer of the city in the district with 40476  
the second highest number of housing units owned or managed by the 40477  
authority shall, with the approval of the municipal legislative 40478  
authority, fill the vacancy by appointment for a three-year term. 40479  
At the expiration of the term of any member appointed before March 40480  
15, 1983, by the court of common pleas or the probate court, the 40481  
legislative authority of the most populous city in the district 40482  
shall fill the vacancy by appointment for a three-year term. 40483

After March 15, 1983, at least one of the members appointed 40484  
by the chief executive officer of the most populous city shall be 40485  
a resident of a dwelling unit owned or managed by the authority. 40486  
At least one of the initial appointments by the chief executive 40487  
officer of the most populous city, after March 15, 1983, shall be 40488  
a resident of a dwelling unit owned or managed by the authority. 40489  
Thereafter, any member appointed by the chief executive officer of 40490  
the most populous city for the term established by this initial 40491  
appointment, or for any succeeding term, shall be a person who 40492  
resides in a dwelling unit owned or managed by the authority. If 40493  
there is an elected, representative body of all residents of the 40494  
authority, the chief executive officer of the most populous city 40495  
shall, whenever there is a vacancy in this resident term, provide 40496

written notice of the vacancy to the representative body. If the  
representative body submits to the chief executive officer of the  
most populous city, in writing and within sixty days after the  
date on which it was notified of the vacancy, the names of at  
least five residents of the authority who are willing and  
qualified to serve as a member, the chief executive officer of the  
most populous city shall appoint to the resident term one of the  
residents recommended by the representative body. At no time shall  
residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district  
located in a county that had, as of the 2000 federal census, a  
population of at least four hundred thousand and no city with a  
population greater than thirty per cent of the total population of  
the county, one member of the authority shall be appointed by the  
probate court, one member shall be appointed by the court of  
common pleas, one member shall be appointed by the chief executive  
officer of the most populous city in the district, and two members  
shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan  
housing authority pursuant to this division, the member appointed  
by the probate court shall be appointed for a period of four  
years, the member appointed by the court of common pleas shall be  
appointed for three years, the member appointed by the chief  
executive officer of the most populous city shall be appointed for  
two years, one member appointed by the board of county  
commissioners shall be appointed for one year, and the other  
member appointed by the board of county commissioners shall be  
appointed for five years. Thereafter, all members of the authority  
shall be appointed for five-year terms, with each term ending on  
the same day of the same month as the term that it succeeds.  
Vacancies shall be filled in the manner provided in the original  
appointments. Any member appointed to fill a vacancy occurring

prior to the expiration of the term shall hold office as a member 40529  
for the remainder of that term. 40530

(E)(1) ~~An additional two members~~ One resident member shall be 40531  
appointed to ~~the a~~ metropolitan housing authority ~~in any district~~ 40532  
~~that has three hundred or more assisted housing units and that~~ 40533  
~~does not have at least one resident as a member of its authority.~~ 40534  
~~For the purposes of this section, an "assisted unit" is a housing~~ 40535  
~~unit owned or operated by the housing authority or a unit in which~~ 40536  
~~the occupants receive tenant-based housing assistance through the~~ 40537  
~~federal section 8 housing program, 24 C.F.R. Ch VIII, and, a~~ 40538  
~~"resident" is a person who lives in an assisted housing unit when~~ 40539  
~~required by federal law. The~~ 40540

~~(2) The chief executive officer of the most populous city in~~ 40541  
~~the district shall appoint an additional member who is a that~~ 40542  
~~resident member for an initial a term of five years. The board of~~ 40543  
~~county commissioners shall appoint the other additional member,~~ 40544  
~~who need not be a resident, for an initial term of three years.~~ 40545  
~~After the initial term, the terms of both members~~ Subsequent terms 40546  
of that resident member also shall be for five years, and 40547  
~~vacancies~~ any vacancy in the position of the resident member shall 40548  
be filled ~~in the manner provided for original appointments by the~~ 40549  
chief executive officer of the most populous city in the district. 40550  
Any member appointed to fill such a vacancy ~~occurring prior to the~~ 40551  
~~expiration of the term for which the member's predecessor was~~ 40552  
~~appointed~~ shall hold office as a resident member for the remainder 40553  
of that term. If, at any time, 40554

~~(3) A member appointed as a resident member who no longer~~ 40555  
~~qualifies as a resident shall be deemed unable to serve, and~~ 40556  
another resident member shall be appointed by the appointing 40557  
authority who originally appointed the resident member to serve 40558  
for the unexpired portion of that term. 40559

(2) On and after the effective date of this amendment, any metropolitan housing authority to which two additional members were appointed pursuant to former division (E)(1) of this section as enacted by Amended Substitute House Bill No. 95 of the 125th general assembly shall continue to have those additional members. Their terms shall be for five years, and vacancies in their positions shall be filled in the manner provided for their original appointment under former division (E)(1) of this section as so enacted.

(F) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director may enlarge the territory within the district to include other political subdivisions, or portions of other political subdivisions, but the territorial limits of the district shall be less than that of the county.

(G)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

<b>Sec. 3743.01.</b> As used in this chapter:	40590
(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.	40591 40592
(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.	40593 40594 40595 40596
(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.	40597 40598 40599
(D)(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.	40600 40601 40602 40603
(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.	40604 40605 40606 40607
(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	40608 40609
(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.	40610 40611 40612 40613
(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.	40614 40615 40616
(H) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.	40617 40618



(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" 40619  
means a person licensed pursuant to sections 3743.50 to 3743.55 of 40620  
the Revised Code. 40621

(J) "Licensed manufacturer of fireworks" or "licensed 40622  
manufacturer" means a person licensed pursuant to sections 3743.02 40623  
to 3743.08 of the Revised Code. 40624

(K) "Licensed wholesaler of fireworks" or "licensed 40625  
wholesaler" means a person licensed pursuant to sections 3743.15 40626  
to 3743.21 of the Revised Code. 40627

(L) "List of licensed exhibitors" means the list required by 40628  
division (C) of section 3743.51 of the Revised Code. 40629

(M) "List of licensed manufacturers" means the list required 40630  
by division (C) of section 3743.03 of the Revised Code. 40631

(N) "List of licensed wholesalers" means the list required by 40632  
division (C) of section 3743.16 of the Revised Code. 40633

(O) "Manufacturing of fireworks" means the making of 40634  
fireworks from raw materials, none of which in and of themselves 40635  
constitute a fireworks, or the processing of fireworks. 40636

(P) "Navigable waters" means any body of water susceptible of 40637  
being used in its ordinary condition as a highway of commerce over 40638  
which trade and travel is or may be conducted in the customary 40639  
modes, but does not include a body of water that is not capable of 40640  
navigation by barges, tugboats, and other large vessels. 40641

(Q) "Novelties and trick noisemakers" include the following 40642  
items: 40643

(1) Devices that produce a small report intended to surprise 40644  
the user, including, but not limited to, booby traps, cigarette 40645  
loads, party poppers, and snappers; 40646

(2) Snakes or glow worms; 40647

(3) Smoke devices;	40648
(4) Trick matches.	40649
(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.	40650 40651 40652 40653 40654
(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.	40655 40656 40657 40658
(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.	40659 40660 40661 40662
(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.	40663 40664 40665
(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.	40666 40667 40668
(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.	40669 40670 40671 40672
(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.	40673 40674 40675
(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that,	40676 40677

upon ignition, produces a small report or a shower of sparks. 40678

(Z) "Wire sparkler" means a sparkler consisting of a wire or 40679  
stick coated with a nonexplosive pyrotechnic mixture that produces 40680  
a shower of sparks upon ignition and that contains no more than 40681  
one hundred grams of this mixture. 40682

(AA) "Wholesale sale" or "sell at wholesale" means a sale of 40683  
fireworks to a purchaser who intends to resell the fireworks so 40684  
purchased. 40685

(BB) "Licensed premises" means the real estate upon which a 40686  
licensed manufacturer or wholesaler of fireworks conducts 40687  
business. 40688

(CC) "Licensed building" means a building on the licensed 40689  
premises of a licensed manufacturer or wholesaler of fireworks 40690  
that is approved for occupancy by the building official having 40691  
jurisdiction. 40692

(DD) "Fireworks incident" means any action or omission that 40693  
occurs at a fireworks exhibition, that results in injury or death, 40694  
or a substantial risk of injury or death, to any person, and that 40695  
involves either of the following: 40696

(1) The handling or other use, or the results of the handling 40697  
or other use, of fireworks or associated equipment or other 40698  
materials; 40699

(2) The failure of any person to comply with any applicable 40700  
requirement imposed by this chapter or any applicable rule adopted 40701  
under this chapter. 40702

(EE) "Discharge site" means an area immediately surrounding 40703  
the mortars used to fire aerial shells. 40704

(FF) "Fireworks incident site" means a discharge site or 40705  
other location at a fireworks exhibition where a fireworks 40706  
incident occurs, a location where an injury or death associated 40707

with a fireworks incident occurs, or a location where evidence of  
a fireworks incident or an injury or death associated with a  
fireworks incident is found.

(GG) "Storage location" means a single parcel or contiguous  
parcels of real estate approved by the fire marshal pursuant to  
division (I) of section 3743.04 of the Revised Code or division  
(G) of section 3743.17 of the Revised Code that are separate from  
a licensed premises containing a retail showroom, and which parcel  
or parcels a licensed manufacturer or wholesaler of fireworks may  
use only for the distribution, possession, and storage of  
fireworks in accordance with this chapter.

**Sec. 3743.02.** (A) Any person who wishes to manufacture  
fireworks in this state shall submit to the fire marshal an  
application for licensure as a manufacturer of fireworks before  
the first day of October of each year. The application shall be  
submitted prior to the operation of a fireworks plant, shall be on  
a form prescribed by the fire marshal, shall contain all  
information required by this section or requested by the fire  
marshal, and shall be accompanied by the license fee,  
fingerprints, and proof of insurance coverage described in  
division (B) of this section.

The fire marshal shall prescribe a form for applications for  
licensure as a manufacturer of fireworks and make a copy of the  
form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a manufacturer of fireworks  
shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty  
dollars, which the fire marshal shall use to pay for fireworks  
safety education, training programs, and inspections<sup>+</sup>. If the  
applicant has any storage locations approved in accordance with

division (I) of section 3743.04 of the Revised Code, the applicant 40738  
also shall submit a fee of one hundred dollars per storage 40739  
location for the inspection of each storage location. 40740

(2) Proof of comprehensive general liability insurance 40741  
coverage, specifically including fire and smoke casualty on 40742  
premises and products, in an amount not less than one million 40743  
dollars for each occurrence for bodily injury liability and 40744  
wrongful death liability at the fireworks plant. All applicants 40745  
shall submit evidence of comprehensive general liability insurance 40746  
coverage verified by the insurer and certified as to its provision 40747  
of the minimum coverage required under this division. 40748

(3) One complete set of the applicant's fingerprints and a 40749  
complete set of fingerprints of any individual holding, owning, or 40750  
controlling a five per cent or greater beneficial or equity 40751  
interest in the applicant for the license. 40752

(C) A separate application for licensure as a manufacturer of 40753  
fireworks shall be submitted for each fireworks plant that a 40754  
person wishes to operate in this state. 40755

(D) If an applicant intends to include the processing of 40756  
fireworks as any part of its proposed manufacturing of fireworks, 40757  
a statement indicating that intent shall be included in its 40758  
application for licensure. 40759

**Sec. 3743.04.** (A) The license of a manufacturer of fireworks 40760  
is effective for one year beginning on the first day of December. 40761  
The fire marshal shall issue or renew a license only on that date 40762  
and at no other time. If a manufacturer of fireworks wishes to 40763  
continue manufacturing fireworks at the designated fireworks plant 40764  
after its then effective license expires, it shall apply no later 40765  
than the first day of October for a new license pursuant to 40766  
section 3743.02 of the Revised Code. The fire marshal shall send a 40767  
written notice of the expiration of its license to a licensed 40768

manufacturer at least three months before the expiration date. 40769

(B) If, during the effective period of its licensure, a 40770  
licensed manufacturer of fireworks wishes to construct, locate, or 40771  
relocate any buildings or other structures on the premises of its 40772  
fireworks plant, to make any structural change or renovation in 40773  
any building or other structure on the premises of its fireworks 40774  
plant, or to change the nature of its manufacturing of fireworks 40775  
so as to include the processing of fireworks, the manufacturer 40776  
shall notify the fire marshal in writing. The fire marshal may 40777  
require a licensed manufacturer also to submit documentation, 40778  
including, but not limited to, plans covering the proposed 40779  
construction, location, relocation, structural change or 40780  
renovation, or change in manufacturing of fireworks, if the fire 40781  
marshal determines the documentation is necessary for evaluation 40782  
purposes in light of the proposed construction, location, 40783  
relocation, structural change or renovation, or change in 40784  
manufacturing of fireworks. 40785

Upon receipt of the notification and additional documentation 40786  
required by the fire marshal, the fire marshal shall inspect the 40787  
premises of the fireworks plant to determine if the proposed 40788  
construction, location, relocation, structural change or 40789  
renovation, or change in manufacturing of fireworks conforms to 40790  
sections 3743.02 to 3743.08 of the Revised Code and the rules 40791  
adopted by the fire marshal pursuant to section 3743.05 of the 40792  
Revised Code. The fire marshal shall issue a written authorization 40793  
to the manufacturer for the construction, location, relocation, 40794  
structural change or renovation, or change in manufacturing of 40795  
fireworks if the fire marshal determines, upon the inspection and 40796  
a review of submitted documentation, that the construction, 40797  
location, relocation, structural change or renovation, or change 40798  
in manufacturing of fireworks conforms to those sections and 40799  
rules. Upon authorizing a change in manufacturing of fireworks to 40800

include the processing of fireworks, the fire marshal shall make  
notations on the manufacturer's license and in the list of  
licensed manufacturers in accordance with section 3743.03 of the  
Revised Code.

On or before June 1, 1998, a licensed manufacturer shall  
install, in every licensed building in which fireworks are  
manufactured, stored, or displayed and to which the public has  
access, interlinked fire detection, smoke exhaust, and smoke  
evacuation systems that are approved by the superintendent of the  
division of industrial compliance, and shall comply with floor  
plans showing occupancy load limits and internal circulation and  
egress patterns that are approved by the fire marshal and  
superintendent, and that are submitted under seal as required by  
section 3791.04 of the Revised Code. Notwithstanding section  
3743.59 of the Revised Code, the construction and safety  
requirements established in this division are not subject to any  
variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the  
manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the  
fireworks plant as described in the application for licensure or  
in the notification submitted under division (B) of this section,  
except that a licensed manufacturer shall not engage in the  
processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale  
the fireworks manufactured by the manufacturer, to persons who are  
licensed wholesalers of fireworks, to out-of-state residents in  
accordance with section 3743.44 of the Revised Code, to residents  
of this state in accordance with section 3743.45 of the Revised  
Code, or to persons located in another state provided the  
fireworks are shipped directly out of this state to them by the

manufacturer. A person who is licensed as a manufacturer of  
fireworks on June 14, 1988, also may possess for sale and sell  
pursuant to division (C)(2) of this section fireworks other than  
those the person manufactures. The possession for sale shall be on  
the premises of the fireworks plant described in the application  
for licensure or in the notification submitted under division (B)  
of this section, and the sale shall be from the inside of a  
licensed building and from no other structure or device outside a  
licensed building. At no time shall a licensed manufacturer sell  
any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the  
fireworks manufactured by the manufacturer, other than 1.4G  
fireworks as designated by the fire marshal in rules adopted  
pursuant to division (A) of section 3743.05 of the Revised Code,  
to licensed exhibitors in accordance with sections 3743.50 to  
3743.55 of the Revised Code, and possess for sale at retail and  
sell at retail the fireworks manufactured by the manufacturer,  
including 1.4G fireworks, to out-of-state residents in accordance  
with section 3743.44 of the Revised Code, to residents of this  
state in accordance with section 3743.45 of the Revised Code, or  
to persons located in another state provided the fireworks are  
shipped directly out of this state to them by the manufacturer. A  
person who is licensed as a manufacturer of fireworks on June 14,  
1988, may also possess for sale and sell pursuant to division  
(C)(3) of this section fireworks other than those the person  
manufactures. The possession for sale shall be on the premises of  
the fireworks plant described in the application for licensure or  
in the notification submitted under division (B) of this section,  
and the sale shall be from the inside of a licensed building and  
from no other structure or device outside a licensed building. At  
no time shall a licensed manufacturer sell any class of fireworks  
outside a licensed building.



A licensed manufacturer of fireworks shall sell under 40864  
division (C) of this section only fireworks that meet the 40865  
standards set by the consumer product safety commission or by the 40866  
American fireworks standard laboratories or that have received an 40867  
EX number from the United States department of transportation. 40868

(D) The license of a manufacturer of fireworks shall be 40869  
protected under glass and posted in a conspicuous place on the 40870  
premises of the fireworks plant. Except as otherwise provided in 40871  
this division, the license is not transferable or assignable. A 40872  
license may be transferred to another person for the same 40873  
fireworks plant for which the license was issued if the assets of 40874  
the plant are transferred to that person by inheritance or by a 40875  
sale approved by the fire marshal. The license is subject to 40876  
revocation in accordance with section 3743.08 of the Revised Code. 40877

(E) The fire marshal shall not place the license of a 40878  
manufacturer of fireworks in a temporarily inactive status while 40879  
the holder of the license is attempting to qualify to retain the 40880  
license. 40881

(F) Each licensed manufacturer of fireworks that possesses 40882  
fireworks for sale and sells fireworks under division (C) of 40883  
section 3743.04 of the Revised Code, or a designee of the 40884  
manufacturer, whose identity is provided to the fire marshal by 40885  
the manufacturer, annually shall attend a continuing education 40886  
program consisting of not less than eight hours of instruction. 40887  
The fire marshal shall develop the program and the fire marshal or 40888  
a person or public agency approved by the fire marshal shall 40889  
conduct it. A licensed manufacturer or the manufacturer's designee 40890  
who attends a program as required under this division, within one 40891  
year after attending the program, shall conduct in-service 40892  
training for other employees of the licensed manufacturer 40893  
regarding the information obtained in the program. A licensed 40894  
manufacturer shall provide the fire marshal with notice of the 40895

date, time, and place of all in-service training not less than  
thirty days prior to an in-service training event.

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(G) A licensed manufacturer shall maintain comprehensive  
general liability insurance coverage in the amount and type  
specified under division (B)(2) of section 3743.02 of the Revised  
Code at all times. Each policy of insurance required under this  
division shall contain a provision requiring the insurer to give  
not less than fifteen days' prior written notice to the fire  
marshal before termination, lapse, or cancellation of the policy,  
or any change in the policy that reduces the coverage below the  
minimum required under this division. Prior to canceling or  
reducing the amount of coverage of any comprehensive general  
liability insurance coverage required under this division, a  
licensed manufacturer shall secure supplemental insurance in an  
amount and type that satisfies the requirements of this division  
so that no lapse in coverage occurs at any time. A licensed  
manufacturer who secures supplemental insurance shall file  
evidence of the supplemental insurance with the fire marshal prior  
to canceling or reducing the amount of coverage of any  
comprehensive general liability insurance coverage required under  
this division.

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(H) The fire marshal shall adopt rules for the expansion or  
contraction of a licensed premises and for approval of such  
expansions or contractions. The boundaries of a licensed premises,  
including any geographic expansion or contraction of those  
boundaries, shall be approved by the fire marshal in accordance  
with rules the fire marshal adopts. If the licensed premises  
consists of more than one parcel of real estate, those parcels  
shall be contiguous unless an exception is allowed pursuant to  
division (I) of this section.

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(I)(1) A licensed manufacturer may expand its licensed  
premises within this state to include not more than two storage

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locations that are located upon one or more real estate parcels 40928  
that are noncontiguous to the licensed premises as that licensed 40929  
premises exists on the date a licensee submits an application as 40930  
described below, if all of the following apply: 40931

(a) The licensee submits an application to the fire marshal 40932  
and an application fee of one hundred dollars per storage location 40933  
for which the licensee is requesting approval. 40934

(b) The identity of the holder of the license remains the 40935  
same at the storage location. 40936

(c) The storage location has received a valid certificate of 40937  
zoning compliance as applicable and a valid certificate of 40938  
occupancy for each building or structure at the storage location 40939  
issued by the authority having jurisdiction to issue the 40940  
certificate for the storage location, and those certificates 40941  
permit the distribution and storage of fireworks regulated under 40942  
this chapter at the storage location and in the buildings or 40943  
structures. The storage location shall be in compliance with all 40944  
other applicable federal, state, and local laws and regulations. 40945

(d) Every building or structure located upon the storage 40946  
location is separated from occupied residential and nonresidential 40947  
buildings or structures, railroads, highways, or any other 40948  
buildings or structures on the licensed premises in accordance 40949  
with the distances specified in the rules adopted by the fire 40950  
marshal pursuant to section 3743.05 of the Revised Code. 40951

(e) Neither the licensee nor any person holding, owning, or 40952  
controlling a five per cent or greater beneficial or equity 40953  
interest in the licensee has been convicted of or pleaded guilty 40954  
to a felony under the laws of this state, any other state, or the 40955  
United States, after the effective date of this amendment. 40956

(f) The fire marshal approves the application for expansion. 40957

(2) The fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings, structures, or trailers approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the

storage location approved under this section. 40989

(K) The licensee shall prohibit public access to the storage 40990  
location. The fire marshal shall adopt rules to describe the 40991  
acceptable measures a manufacturer shall use to prohibit access to 40992  
the storage site. 40993

**Sec. 3743.05.** The fire marshal shall adopt rules in 40994  
accordance with Chapter 119. of the Revised Code governing the 40995  
classification of fireworks that are consistent with the 40996  
classification of fireworks by the United States department of 40997  
transportation as set forth in Title 49, Code of Federal 40998  
Regulations, and the manufacture of fireworks and the storage of 40999  
manufactured fireworks by licensed manufacturers of fireworks. The 41000  
rules shall be designed to promote the safety and security of 41001  
employees of manufacturers, members of the public, and the 41002  
fireworks plant. 41003

The rules shall be consistent with sections 3743.02 to 41004  
3743.08 of the Revised Code, shall be substantially equivalent to 41005  
the most recent versions of chapters 1123, 1124, and 1126 of the 41006  
most recent national fire protection association standards, and 41007  
shall apply to, but not be limited to, the following subject 41008  
matters: 41009

(A) A classification of fireworks by number and letter 41010  
designation, including, specifically, a 1.4G designation of 41011  
fireworks. The classes of fireworks established by the fire 41012  
marshal shall be substantially equivalent to those defined by the 41013  
United States department of transportation by regulation, except 41014  
that, if the fire marshal determines that a type of fireworks 41015  
designated as common fireworks by the United States department of 41016  
transportation meets the criteria of any class of fireworks, other 41017  
than 1.4G fireworks, as adopted by the fire marshal pursuant to 41018  
this section, the fire marshal may include the type of fireworks 41019

in the other class instead of 1.4G. 41020

(B) Appropriate standards for the manufacturing of types of 41021  
fireworks that are consistent with standards adopted by the United 41022  
States department of transportation and the consumer product 41023  
safety commission, including, but not limited to, the following: 41024

(1) Permissible amounts of pyrotechnic or explosive 41025  
composition; 41026

(2) Interior and exterior dimensions; 41027

(3) Structural specifications. 41028

(C) Cleanliness and orderliness in, the heating, lighting, 41029  
and use of stoves and flame-producing items in, smoking in, the 41030  
prevention of fire and explosion in, the availability of fire 41031  
extinguishers or other fire-fighting equipment and their use in, 41032  
and emergency procedures relative to the buildings and other 41033  
structures located on the premises of a fireworks plant. 41034

(D) Appropriate uniforms to be worn by employees of 41035  
manufacturers in the course of the manufacturing, handling, and 41036  
storing of fireworks, and the use of protective clothing and 41037  
equipment by the employees. 41038

(E) The manner in which fireworks are to be packed, packaged, 41039  
and stored. 41040

(F) Required distances between buildings or structures used 41041  
in the manufacturing, storage, or sale of fireworks and occupied 41042  
residential and nonresidential buildings or structures, railroads, 41043  
highways, or any additional buildings or structures located on the 41044  
licensed premises. The rules adopted pursuant to this division do 41045  
not apply to factory buildings in fireworks plants that were 41046  
erected on or before May 30, 1986, and that were legally being 41047  
used for fireworks activities under authority of a valid license 41048  
issued by the fire marshal as of December 1, 1990, pursuant to 41049

<u>sections 3743.03 and 3743.04 of the Revised Code.</u>	41050
<u>(G) Requirements for the operation of storage locations,</u>	41051
<u>including packaging, assembling, and storage of fireworks.</u>	41052
<b>Sec. 3743.06.</b> In addition to conforming to the rules of the	41053
fire marshal adopted pursuant to section 3743.05 of the Revised	41054
Code, licensed manufacturers of fireworks shall operate their	41055
fireworks plants in accordance with the following:	41056
(A) Signs indicating that smoking is generally forbidden and	41057
trespassing is prohibited on the premises of a fireworks plant	41058
shall be posted on the premises in a manner determined by the fire	41059
marshal.	41060
(B) Reasonable precautions shall be taken to protect the	41061
premises of a fireworks plant from trespass, loss, theft, or	41062
destruction. Only persons employed by the manufacturer, authorized	41063
governmental personnel, and persons who have obtained permission	41064
from a member of the manufacturer's office to be on the premises,	41065
are to be allowed to enter and remain on the premises.	41066
(C) Smoking or the carrying of pipes, cigarettes, or cigars,	41067
matches, lighters, other flame-producing items, or open flame on,	41068
or the carrying of a concealed source of ignition into, the	41069
premises of a fireworks plant is prohibited, except that a	41070
manufacturer may permit smoking in specified lunchrooms or	41071
restrooms in buildings or other structures in which no	41072
manufacturing, handling, sales, or storage of fireworks takes	41073
place. "NO SMOKING" signs shall be posted on the premises as	41074
required by the fire marshal.	41075
(D) Fire and explosion prevention and other reasonable safety	41076
measures and precautions shall be implemented by a manufacturer.	41077
(E) Persons shall not be permitted to have in their	41078
possession or under their control, while they are on the premises	41079

of the fireworks plant, any intoxicating liquor, beer, or 41080  
controlled substance, and they shall not be permitted to enter or 41081  
remain on the premises if they are found to be under the influence 41082  
of any intoxicating liquor, beer, or controlled substance. 41083

(F) A manufacturer shall conform to all building, safety, and 41084  
zoning statutes, ordinances, rules, or other enactments that apply 41085  
to the premises of its fireworks plant. 41086

~~(G) No building used in the manufacture, storage, or sale of 41087  
fireworks shall be situated nearer than one thousand feet to any 41088  
structure that is not located on the property of and that does not 41089  
belong to the licensed fireworks manufacturer, or nearer than 41090  
three hundred feet to any highway or railroad, or nearer than one 41091  
hundred feet to any building used for the storage of explosives or 41092  
fireworks, or nearer than fifty feet to any factory building. This 41093  
division does not apply to factory buildings in fireworks plants 41094  
that were erected on or before May 30, 1986, and that were legally 41095  
being used for fireworks activities under authority of a valid 41096  
license issued by the fire marshal as of December 1, 1990, 41097  
pursuant to sections 3743.03 and 3743.04 of the Revised Code. 41098~~

~~(H)~~ Each fireworks plant shall have at least one class 1 41099  
magazine that is approved by the bureau of alcohol, tobacco, and 41100  
firearms of the United States department of the treasury and that 41101  
is otherwise in conformity with federal law. This division does 41102  
not apply to fireworks plants existing on or before August 3, 41103  
1931. 41104

~~(I)~~(H) Awnings, tents, and canopies shall not be used as 41105  
facilities for the sale or storage of fireworks. This division 41106  
does not prohibit the use of an awning or canopy attached to a 41107  
public access showroom for storing nonflammable shopping 41108  
convenience items such as shopping carts or baskets or providing a 41109  
shaded area for patrons waiting to enter the public sales area. 41110



~~(J)~~(I) Fireworks may be stored in trailers if the trailers 41111  
are properly enclosed, secured, and grounded and are separated 41112  
from any structure to which the public is admitted by a distance 41113  
that will, in the fire marshal's judgment, allow fire-fighting 41114  
equipment to have full access to the structures on the licensed 41115  
premises. Such trailers may be moved into closer proximity to any 41116  
structure only to accept or discharge cargo for a period not to 41117  
exceed forty-eight hours. Only two such trailers may be placed in 41118  
such closer proximity at any one time. At no time may trailers be 41119  
used for conducting sales of any class of fireworks, nor may 41120  
members of the public have access to the trailers. 41121

Storage areas for fireworks that are in the same building 41122  
where fireworks are displayed and sold to the public shall be 41123  
separated from the areas to which the public has access by an 41124  
appropriately rated fire wall. 41125

~~(K)~~(J) A fire suppression system as defined in section 41126  
3781.108 of the Revised Code may be turned off only for repair, 41127  
drainage of the system to prevent damage by freezing during the 41128  
period of time, approved by the fire marshal, that the facility is 41129  
closed to all public access during winter months, or maintenance 41130  
of the system. If any repair or maintenance is necessary during 41131  
times when the facility is open for public access and business as 41132  
approved by the fire marshal, the licensed manufacturer shall 41133  
notify in advance the appropriate insurance company and fire chief 41134  
or fire prevention officer regarding the nature of the maintenance 41135  
or repair and the time when it will be performed. 41136

~~(L)~~(K) If any fireworks item is removed from its original 41137  
package or is manufactured with any fuse other than a safety fuse 41138  
approved by the consumer product safety commission, then the item 41139  
shall be covered completely by repackaging or bagging or it shall 41140  
otherwise be covered so as to prevent ignition prior to sale. 41141

~~(M)~~(L) A safety officer shall be present during regular 41142  
business hours at a building open to the public during the period 41143  
commencing fourteen days before, and ending two days after, each 41144  
fourth day of July. The officer shall be highly visible, enforce 41145  
this chapter and any applicable building codes to the extent the 41146  
officer is authorized by law, and be one of the following: 41147

(1) A deputy sheriff; 41148

(2) A law enforcement officer of a municipal corporation, 41149  
township, or township or joint township police district; 41150

(3) A private uniformed security guard registered under 41151  
section 4749.06 of the Revised Code. 41152

~~(N)~~(M) All doors of all buildings on the licensed premises 41153  
shall swing outward. 41154

~~(O)~~(N) All wholesale and commercial sales of fireworks shall 41155  
be packaged, shipped, placarded, and transported in accordance 41156  
with United States department of transportation regulations 41157  
applicable to the transportation, and the offering for 41158  
transportation, of hazardous materials. For purposes of this 41159  
division, "wholesale and commercial sales" includes all sales for 41160  
resale and any nonretail sale made in furtherance of a commercial 41161  
enterprise. For purposes of enforcement of these regulations under 41162  
section 4905.83 of the Revised Code, any sales transaction 41163  
exceeding one thousand pounds shall be rebuttably presumed to be a 41164  
wholesale or commercial sale. 41165

**Sec. 3743.15.** (A) Except as provided in division (C) of this 41166  
section, any person who wishes to be a wholesaler of fireworks in 41167  
this state shall submit to the fire marshal an application for 41168  
licensure as a wholesaler of fireworks before the first day of 41169  
October of each year. The application shall be submitted prior to 41170  
commencement of business operations, shall be on a form prescribed 41171

by the fire marshal, shall contain all information requested by 41172  
the fire marshal, and shall be accompanied by the license fee, 41173  
fingerprints, and proof of insurance coverage described in 41174  
division (B) of this section. 41175

The fire marshal shall prescribe a form for applications for 41176  
licensure as a wholesaler of fireworks and make a copy of the form 41177  
available, upon request, to persons who seek that licensure. 41178

(B) An applicant for licensure as a wholesaler of fireworks 41179  
shall submit with the application all of the following: 41180

(1) A license fee of two thousand seven hundred fifty 41181  
dollars, which the fire marshal shall use to pay for fireworks 41182  
safety education, training programs, and inspections~~+~~. If the 41183  
applicant has any storage locations approved in accordance with 41184  
division (G) of section 3743.17 of the Revised Code, the applicant 41185  
also shall submit a fee of one hundred dollars per storage 41186  
location for the inspection of each storage location. 41187

(2) Proof of comprehensive general liability insurance 41188  
coverage, specifically including fire and smoke casualty on 41189  
premises, in an amount not less than one million dollars for each 41190  
occurrence for bodily injury liability and wrongful death 41191  
liability at its business location. Proof of such insurance 41192  
coverage shall be submitted together with proof of coverage for 41193  
products liability on all inventory located at the business 41194  
location. All applicants shall submit evidence of comprehensive 41195  
general liability insurance coverage verified by the insurer and 41196  
certified as to its provision of the minimum coverage required 41197  
under this division. 41198

(3) One complete set of the applicant's fingerprints and a 41199  
complete set of fingerprints of any individual holding, owning, or 41200  
controlling a five per cent or greater beneficial or equity 41201  
interest in the applicant for the license. 41202

(C) A licensed manufacturer of fireworks is not required to 41203  
apply for and obtain a wholesaler of fireworks license in order to 41204  
engage in the wholesale sale of fireworks as authorized by 41205  
division (C)(2) of section 3743.04 of the Revised Code. A business 41206  
which is not a licensed manufacturer of fireworks may engage in 41207  
the wholesale and retail sale of fireworks in the same manner as a 41208  
licensed manufacturer of fireworks is authorized to do under this 41209  
chapter without the necessity of applying for and obtaining a 41210  
license pursuant to this section, but only if the business sells 41211  
the fireworks on the premises of a fireworks plant covered by a 41212  
license issued under section 3743.03 of the Revised Code and the 41213  
holder of that license owns at least a majority interest in that 41214  
business. However, if a licensed manufacturer of fireworks wishes 41215  
to engage in the wholesale sale of fireworks in this state at a 41216  
location other than the premises of the fireworks plant described 41217  
in its application for licensure as a manufacturer or in a 41218  
notification submitted under division (B) of section 3743.04 of 41219  
the Revised Code, the manufacturer shall first apply for and 41220  
obtain a wholesaler of fireworks license before engaging in 41221  
wholesale sales of fireworks at the other location. 41222

(D) A separate application for licensure as a wholesaler of 41223  
fireworks shall be submitted for each location at which a person 41224  
wishes to engage in wholesale sales of fireworks. 41225

**Sec. 3743.17.** (A) The license of a wholesaler of fireworks is 41226  
effective for one year beginning on the first day of December. The 41227  
fire marshal shall issue or renew a license only on that date and 41228  
at no other time. If a wholesaler of fireworks wishes to continue 41229  
engaging in the wholesale sale of fireworks at the particular 41230  
location after its then effective license expires, it shall apply 41231  
not later than the first day of October for a new license pursuant 41232  
to section 3743.15 of the Revised Code. The fire marshal shall 41233

send a written notice of the expiration of its license to a 41234  
licensed wholesaler at least three months before the expiration 41235  
date. 41236

(B) If, during the effective period of its licensure, a 41237  
licensed wholesaler of fireworks wishes to perform any 41238  
construction, or make any structural change or renovation, on the 41239  
premises on which the fireworks are sold, the wholesaler shall 41240  
notify the fire marshal in writing. The fire marshal may require a 41241  
licensed wholesaler also to submit documentation, including, but 41242  
not limited to, plans covering the proposed construction or 41243  
structural change or renovation, if the fire marshal determines 41244  
the documentation is necessary for evaluation purposes in light of 41245  
the proposed construction or structural change or renovation. 41246

Upon receipt of the notification and additional documentation 41247  
required by the fire marshal, the fire marshal shall inspect the 41248  
premises on which the fireworks are sold to determine if the 41249  
proposed construction or structural change or renovation conforms 41250  
to sections 3743.15 to 3743.21 of the Revised Code and the rules 41251  
adopted by the fire marshal pursuant to section 3743.18 of the 41252  
Revised Code. The fire marshal shall issue a written authorization 41253  
to the wholesaler for the construction or structural change or 41254  
renovation if the fire marshal determines, upon the inspection and 41255  
a review of submitted documentation, that the construction or 41256  
structural change or renovation conforms to those sections and 41257  
rules. 41258

(C) The license of a wholesaler of fireworks authorizes the 41259  
wholesaler to engage only in the following activities: 41260

(1) Possess for sale at wholesale and sell at wholesale 41261  
fireworks to persons who are licensed wholesalers of fireworks, to 41262  
out-of-state residents in accordance with section 3743.44 of the 41263  
Revised Code, to residents of this state in accordance with 41264  
section 3743.45 of the Revised Code, or to persons located in 41265

another state provided the fireworks are shipped directly out of 41266  
this state to them by the wholesaler. The possession for sale 41267  
shall be at the location described in the application for 41268  
licensure or in the notification submitted under division (B) of 41269  
this section, and the sale shall be from the inside of a licensed 41270  
building and from no structure or device outside a licensed 41271  
building. At no time shall a licensed wholesaler sell any class of 41272  
fireworks outside a licensed building. 41273

(2) Possess for sale at retail and sell at retail fireworks, 41274  
other than 1.4G fireworks as designated by the fire marshal in 41275  
rules adopted pursuant to division (A) of section 3743.05 of the 41276  
Revised Code, to licensed exhibitors in accordance with sections 41277  
3743.50 to 3743.55 of the Revised Code, and possess for sale at 41278  
retail and sell at retail fireworks, including 1.4G fireworks, to 41279  
out-of-state residents in accordance with section 3743.44 of the 41280  
Revised Code, to residents of this state in accordance with 41281  
section 3743.45 of the Revised Code, or to persons located in 41282  
another state provided the fireworks are shipped directly out of 41283  
this state to them by the wholesaler. The possession for sale 41284  
shall be at the location described in the application for 41285  
licensure or in the notification submitted under division (B) of 41286  
this section, and the sale shall be from the inside of the 41287  
licensed building and from no other structure or device outside 41288  
this licensed building. At no time shall a licensed wholesaler 41289  
sell any class of fireworks outside a licensed building. 41290

A licensed wholesaler of fireworks shall sell under division 41291  
(C) of this section only fireworks that meet the standards set by 41292  
the consumer product safety commission or by the American 41293  
fireworks standard laboratories or that have received an EX number 41294  
from the United States department of transportation. 41295

(D)~~(1)~~ The license of a wholesaler of fireworks shall be 41296  
protected under glass and posted in a conspicuous place at the 41297

location described in the application for licensure or in the 41298  
notification submitted under division (B) of this section. Except 41299  
as otherwise provided in this ~~division~~ section, the license is not 41300  
transferable or assignable. A license may be transferred to 41301  
another person for the same location for which the license was 41302  
issued if the assets of the wholesaler are transferred to that 41303  
person by inheritance or by a sale approved by the fire marshal. 41304  
The license is subject to revocation in accordance with section 41305  
3743.21 of the Revised Code. 41306

~~(2)~~(E) The fire marshal shall adopt rules for the expansion 41307  
or contraction of a licensed premises and for the approval of an 41308  
expansion or contraction. The boundaries of a licensed premises, 41309  
including any geographic expansion or contraction of those 41310  
boundaries, shall be approved by the fire marshal in accordance 41311  
with rules the fire marshal adopts. If the licensed premises of a 41312  
licensed wholesaler from which the wholesaler operates consists of 41313  
more than one parcel of real estate, those parcels must be 41314  
contiguous, unless an exception is allowed pursuant to division 41315  
(G) of this section. 41316

(F)(1) Upon application by a licensed wholesaler of 41317  
fireworks, a wholesaler license may be transferred from one 41318  
geographic location to another within the same municipal 41319  
corporation or within the unincorporated area of the same 41320  
township, but only if all of the following apply: 41321

(a) The identity of the holder of the license remains the 41322  
same in the new location. 41323

(b) The former location is closed prior to the opening of the 41324  
new location and no fireworks business of any kind is conducted at 41325  
the former location after the transfer of the license. 41326

(c) The new location has received a local certificate of 41327  
zoning compliance and a local certificate of occupancy, and 41328

otherwise is in compliance with all local building regulations. 41329

(d) The transfer of the license is requested by the licensee 41330  
because the existing facility poses an immediate hazard to the 41331  
public. 41332

(e) ~~Any Every building or structure~~ at the new location is 41333  
~~situated no closer than one thousand feet to any property line or~~ 41334  
~~structure that does not belong to the licensee requesting the~~ 41335  
~~transfer, no closer than three hundred feet to any highway or~~ 41336  
~~railroad, no closer than one hundred feet to any building used for~~ 41337  
~~the storage of explosives or fireworks by the licensee, no closer~~ 41338  
~~than fifty feet to any factory building owned or used by the~~ 41339  
~~licensee, and no closer than two thousand feet to any building~~ 41340  
~~used for the sale, storage, or manufacturing of fireworks that~~ 41341  
~~does not belong to the licensee separated from occupied~~ 41342  
~~residential and nonresidential buildings or structures, railroads,~~ 41343  
~~highways, or any other buildings or structures located on the~~ 41344  
~~licensed premises in accordance with the distances specified in~~ 41345  
~~the rules adopted by the fire marshal pursuant to section 3743.18~~ 41346  
~~of the Revised Code.~~ If the licensee fails to comply with the 41347  
requirements of division ~~(D)(2)(e)~~(F)(1)(e) of this section by the 41348  
licensee's own act, the license at the new location is forfeited. 41349

(f) Neither the licensee nor any person holding, owning, or 41350  
controlling a five per cent or greater beneficial or equity 41351  
interest in the licensee has been convicted of or has pleaded 41352  
guilty to a felony under the laws of this state, any other state, 41353  
or the United States after ~~the effective date of this amendment~~ 41354  
June 30, 1997. 41355

(g) The fire marshal approves the request for the transfer. 41356

(2) The new location shall comply with the requirements 41357  
specified in divisions (A)(1) and (2) of section 3743.25 of the 41358  
Revised Code whether or not the fireworks showroom at the new 41359



location is constructed, expanded, or first begins operating on 41360  
and after ~~the effective date of this amendment~~ June 30, 1997. 41361

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed 41362  
premises within this state to include not more than two storage 41363  
locations that are located upon one or more real estate parcels 41364  
that are noncontiguous to the licensed premises as that licensed 41365  
premises exists on the date a licensee submits an application as 41366  
described below, if all of the following apply: 41367

(a) The licensee submits an application to the fire marshal 41368  
requesting the expansion and an application fee of one hundred 41369  
dollars per storage location for which the licensee is requesting 41370  
approval. 41371

(b) The identity of the holder of the license remains the 41372  
same at the storage location. 41373

(c) The storage location has received a valid certificate of 41374  
zoning compliance, as applicable, and a valid certificate of 41375  
occupancy for each building or structure at the storage location 41376  
issued by the authority having jurisdiction to issue the 41377  
certificate for the storage location, and those certificates 41378  
permit the distribution and storage of fireworks regulated under 41379  
this chapter at the storage location and in the buildings or 41380  
structures. The storage location shall be in compliance with all 41381  
other applicable federal, state, and local laws and regulations. 41382

(d) Every building or structure located upon the storage 41383  
location is separated from occupied residential and nonresidential 41384  
buildings or structures, railroads, highways, and any other 41385  
buildings or structures on the licensed premises in accordance 41386  
with the distances specified in the rules adopted by the fire 41387  
marshal pursuant to section 3743.18 of the Revised Code. 41388

(e) Neither the licensee nor any person holding, owning, or 41389  
controlling a five per cent or greater beneficial or equity 41390

interest in the licensee has been convicted of or pleaded guilty 41391  
to a felony under the laws of this state, any other state, or the 41392  
United States, after the effective date of this amendment. 41393

(f) The fire marshal approves the application for expansion. 41394

(2) The fire marshal shall approve an application for 41395  
expansion requested under division (G)(1) of this section if the 41396  
fire marshal receives the application fee and proof that the 41397  
requirements of divisions (G)(1)(b) to (e) of this section are 41398  
satisfied. The storage location shall be considered part of the 41399  
original licensed premises and shall use the same distinct number 41400  
assigned to the original licensed premises with any additional 41401  
designations as the fire marshal deems necessary in accordance 41402  
with section 3743.16 of the Revised Code. 41403

(H)(1) A licensee who obtains approval for use of a storage 41404  
location in accordance with division (G) of this section shall use 41405  
the site exclusively for the following activities, in accordance 41406  
with division (C)(1) of this section: 41407

(a) Packaging, assembling, or storing fireworks, which shall 41408  
occur only in buildings approved for such hazardous uses by the 41409  
building code official having jurisdiction for the storage 41410  
location and shall be in accordance with the rules adopted by the 41411  
fire marshal under division (B)(4) of section 3743.18 of the 41412  
Revised Code for the packaging, assembling, and storage of 41413  
fireworks. 41414

(b) Distributing fireworks to other parcels of real estate 41415  
located on the wholesaler's licensed premises, to licensed 41416  
manufacturers or other licensed wholesalers in this state or to 41417  
similarly licensed persons located in another state or country; 41418

(c) Distributing fireworks to a licensed exhibitor of 41419  
fireworks pursuant to a properly issued permit in accordance with 41420  
section 3743.54 of the Revised Code. 41421

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section.

(I) A licensee shall prohibit public access to all storage locations it uses. The fire marshal shall adopt rules establishing acceptable measures a wholesaler shall use to prohibit access to storage sites.

(J) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this

division shall contain a provision requiring the insurer to give 41453  
not less than fifteen days' prior written notice to the fire 41454  
marshal before termination, lapse, or cancellation of the policy, 41455  
or any change in the policy that reduces the coverage below the 41456  
minimum required under this division. Prior to canceling or 41457  
reducing the amount of coverage of any comprehensive general 41458  
liability insurance coverage required under this division, a 41459  
licensed wholesaler shall secure supplemental insurance in an 41460  
amount and type that satisfies the requirements of this division 41461  
so that no lapse in coverage occurs at any time. A licensed 41462  
wholesaler who secures supplemental insurance shall file evidence 41463  
of the supplemental insurance with the fire marshal prior to 41464  
canceling or reducing the amount of coverage of any comprehensive 41465  
general liability insurance coverage required under this division. 41466

**Sec. 3743.18.** (A) The fire marshal shall adopt rules pursuant 41467  
to Chapter 119. of the Revised Code governing the storage of 41468  
fireworks by and the business operations of licensed wholesalers 41469  
of fireworks. These rules shall be designed to promote the safety 41470  
and security of employees of wholesalers, members of the public, 41471  
and the premises upon which fireworks are sold. 41472

(B) The rules shall be consistent with sections 3743.15 to 41473  
3743.21 of the Revised Code, shall be substantially equivalent to 41474  
the most recent versions of chapters 1123, 1124, and 1126 of the 41475  
most recent national fire protection association standards, and 41476  
shall apply to, but not be limited to, the following subject 41477  
matters: 41478

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, 41479  
and use of stoves and flame-producing items in, smoking in, the 41480  
prevention of fire and explosion in, the availability of fire 41481  
extinguishers or other fire-fighting equipment and their use in, 41482  
and emergency procedures relative to the buildings and other 41483

structures on a wholesaler's premises-; 41484

~~(B)~~(2) Appropriate uniforms to be worn by employees of 41485  
wholesalers in the course of handling and storing of fireworks, 41486  
and the use of protective clothing and equipment by the 41487  
employees-; 41488

~~(C)~~(3) The manner in which fireworks are to be stored; 41489

(4) Required distances between buildings or structures used 41490  
in the manufacturing, storage, or sale of fireworks and occupied 41491  
residential and nonresidential buildings or structures, railroads, 41492  
highways, or any additional buildings or structures on a licensed 41493  
premises. 41494

(5) Requirements for the operation of storage locations, 41495  
including packaging, assembling, and storage of fireworks. 41496

(C) Rules adopted pursuant to division (B)(4) of this section 41497  
do not apply to buildings that were erected on or before May 30, 41498  
1986, and that were legally being used for fireworks activities 41499  
under authority of a valid license issued by the fire marshal as 41500  
of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of 41501  
the Revised Code. 41502

**Sec. 3743.19.** In addition to conforming to the rules of the 41503  
fire marshal adopted pursuant to section 3743.18 of the Revised 41504  
Code, licensed wholesalers of fireworks shall conduct their 41505  
business operations in accordance with the following: 41506

(A) A wholesaler shall conduct its business operations from 41507  
the location described in its application for licensure or in a 41508  
notification submitted under division (B) of section 3743.17 of 41509  
the Revised Code. 41510

(B) Signs indicating that smoking is generally forbidden and 41511  
trespassing is prohibited on the premises of a wholesaler shall be 41512  
posted on the premises as determined by the fire marshal. 41513

(C) Reasonable precautions shall be taken to protect the 41514  
premises of a wholesaler from trespass, loss, theft, or 41515  
destruction. 41516

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 41517  
matches, lighters, other flame-producing items, or open flame on, 41518  
or the carrying of a concealed source of ignition into, the 41519  
premises of a wholesaler is prohibited, except that a wholesaler 41520  
may permit smoking in specified lunchrooms or restrooms in 41521  
buildings or other structures in which no sales, handling, or 41522  
storage of fireworks takes place. "NO SMOKING" signs shall be 41523  
posted on the premises as required by the fire marshal. 41524

(E) Fire and explosion prevention and other reasonable safety 41525  
measures and precautions shall be implemented by a wholesaler. 41526

(F) Persons shall not be permitted to have in their 41527  
possession or under their control, while they are on the premises 41528  
of a wholesaler, any intoxicating liquor, beer, or controlled 41529  
substance, and they shall not be permitted to enter or remain on 41530  
the premises if they are found to be under the influence of any 41531  
intoxicating liquor, beer, or controlled substance. 41532

(G) A wholesaler shall conform to all building, safety, and 41533  
zoning statutes, ordinances, rules, or other enactments that apply 41534  
to its premises. 41535

(H) ~~No building used in the storage or sale of fireworks 41536  
shall be situated nearer than one thousand feet to any structure 41537  
that is not located on the property of and that does not belong to 41538  
the licensed fireworks wholesaler, nearer than three hundred feet 41539  
to any highway or railroad, or nearer than one hundred feet to any 41540  
building used for the storage of explosives or fireworks. This 41541  
division does not apply to buildings that were erected on or 41542  
before May 30, 1986, and that were legally being used for 41543  
fireworks activities under authority of a valid license issued by 41544~~

~~the fire marshal as of December 1, 1990, pursuant to sections 41545  
3743.16 and 3743.17 of the Revised Code. 41546~~

~~(I)~~ Each building used in the sale of fireworks shall be kept 41547  
open to the public for at least four hours each day between the 41548  
hours of eight a.m. and five p.m., five days of each week, every 41549  
week of the year. Upon application from a licensed wholesaler, the 41550  
fire marshal may waive any of the requirements of this division. 41551

~~(J)~~(I) Awnings, tents, or canopies shall not be used as 41552  
facilities for the storage or sale of fireworks. This division 41553  
does not prohibit the use of an awning or canopy attached to a 41554  
public access showroom for storing nonflammable shopping 41555  
convenience items such as shopping carts or baskets or providing a 41556  
shaded area for patrons waiting to enter the public sales area. 41557

~~(K)~~(J) Fireworks may be stored in trailers if the trailers 41558  
are properly enclosed, secured, and grounded and are separated 41559  
from any structure to which the public is admitted by a distance 41560  
that will, in the fire marshal's judgment, allow fire-fighting 41561  
equipment to have full access to the structures on the licensed 41562  
premises. Such trailers may be moved into closer proximity to any 41563  
structure only to accept or discharge cargo for a period not to 41564  
exceed forty-eight hours. Only two such trailers may be placed in 41565  
such closer proximity at any one time. At no time may trailers be 41566  
used for conducting sales of any class of fireworks nor may 41567  
members of the public have access to the trailers. 41568

Storage areas for fireworks that are in the same building 41569  
where fireworks are displayed and sold to the public shall be 41570  
separated from the areas to which the public has access by an 41571  
appropriately rated fire wall. 41572

~~(L)~~(K) A fire suppression system as defined in section 41573  
3781.108 of the Revised Code may be turned off only for repair, 41574  
drainage of the system to prevent damage by freezing during the 41575

period of time, approved by the fire marshal under division (I) of 41576  
this section, that the facility is closed to public access during 41577  
winter months, or maintenance of the system. If any repair or 41578  
maintenance is necessary during times when the facility is open 41579  
for public access and business, the licensed wholesaler shall 41580  
notify in advance the appropriate insurance company and fire chief 41581  
or fire prevention officer regarding the nature of the maintenance 41582  
or repair and the time when it will be performed. 41583

~~(M)~~(L) If any fireworks item is removed from its original 41584  
package or is manufactured with any fuse other than a fuse 41585  
approved by the consumer product safety commission, then the item 41586  
shall be covered completely by repackaging or bagging or it shall 41587  
otherwise be covered so as to prevent ignition prior to sale. 41588

~~(N)~~(M) A safety officer shall be present during regular 41589  
business hours at a building open to the public during the period 41590  
commencing fourteen days before, and ending two days after, each 41591  
fourth day of July. The officer shall be highly visible, enforce 41592  
this chapter and any applicable building codes to the extent the 41593  
officer is authorized by law, and be one of the following: 41594

(1) A deputy sheriff; 41595

(2) A law enforcement officer of a municipal corporation, 41596  
township, or township or joint township police district; 41597

(3) A private uniformed security guard registered under 41598  
section 4749.06 of the Revised Code. 41599

~~(O)~~(N) All doors of all buildings on the licensed premises 41600  
shall swing outward. 41601

~~(P)~~(O) All wholesale and commercial sales of fireworks shall 41602  
be packaged, shipped, placarded, and transported in accordance 41603  
with United States department of transportation regulations 41604  
applicable to the transportation, and the offering for 41605  
transportation, of hazardous materials. For purposes of this 41606



division, "wholesale and commercial sales" includes all sales for 41607  
resale and any nonretail sale made in furtherance of a commercial 41608  
enterprise. For purposes of enforcement of these regulations under 41609  
section 4905.83 of the Revised Code, any sales transaction 41610  
exceeding one thousand pounds shall be rebuttably presumed to be a 41611  
wholesale or commercial sale. 41612

**Sec. 3743.57.** (A) All fees collected by the fire marshal for 41613  
licenses or permits issued pursuant to this chapter shall be 41614  
deposited into the state fire marshal's fund, and interest earned 41615  
on the amounts in the fund shall be credited by the treasurer of 41616  
state to the fund. 41617

~~(B) There is hereby established in the state treasury the 41618  
fire marshal's fireworks training and education fund. The fire 41619  
marshal shall deposit all assessments paid under this division 41620  
into the state treasury to the credit of the fund. Each fireworks 41621  
manufacturer and fireworks wholesaler licensed under this chapter 41622  
shall pay assessments to the fire marshal for deposit into the 41623  
fund as required by this division. 41624~~

~~The fire marshal shall impose an initial assessment upon each 41625  
licensed fireworks manufacturer and wholesaler in order to 41626  
establish a fund balance of fifteen thousand dollars. The fund 41627  
balance shall at no time exceed fifteen thousand dollars, and the 41628  
fire marshal shall impose no further assessments unless the fund 41629  
balance is reduced to five thousand dollars or less. If the fund 41630  
balance is reduced to five thousand dollars or less, the fire 41631  
marshal shall impose an additional assessment upon each licensed 41632  
fireworks manufacturer and wholesaler in order to increase the 41633  
fund balance to fifteen thousand dollars. The fire marshal shall 41634  
determine the amount of the initial assessment on each 41635  
manufacturer or wholesaler and each additional assessment by 41636  
dividing the total amount needed to be paid into the fund by the 41637~~

~~total number of fireworks manufacturers and wholesalers licensed 41638  
under this chapter. If a licensed fireworks manufacturer or 41639  
wholesaler fails to pay an assessment required by this division 41640  
within thirty days after receiving notice of the assessment, the 41641  
fire marshal, in accordance with Chapter 119. of the Revised Code, 41642  
may refuse to issue, or may revoke, the appropriate license. 41643~~

The fire marshal shall in the fire marshal's discretion use 41644  
amounts in the state fire marshal's fund for fireworks training 41645  
and education purposes, including, but not limited to, the 41646  
creation of educational and training programs, attendance by the 41647  
fire marshal and the fire marshal's employees at conferences and 41648  
seminars, the payment of travel and meal expenses associated with 41649  
such attendance, participation by the fire marshal and the fire 41650  
marshal's employees in committee meetings and other meetings 41651  
related to pyrotechnic codes, and the payment of travel and meal 41652  
expenses associated with such participation. The use of the fund 41653  
shall comply with rules of the department of commerce, policies 41654  
and procedures established by the director of budget and 41655  
management, and all other applicable laws. 41656

**Sec. 3743.59.** (A) Upon application by an affected party, the 41657  
fire marshal may grant variances from the requirements of this 41658  
chapter or from the requirements of rules adopted pursuant to this 41659  
chapter if the fire marshal determines that a literal enforcement 41660  
of the requirement will result in ~~unnecessary hardship~~ practical 41661  
difficulty in complying with the requirements of this chapter or 41662  
the rules adopted pursuant to this chapter and that the variance 41663  
will not be contrary to the public health, safety, or welfare. A 41664  
variance shall not be granted to a person who is initially 41665  
licensed as a manufacturer or wholesaler of fireworks after June 41666  
14, 1988. 41667

(B) The fire marshal may authorize a variance from the 41668

prohibitions in this chapter against the possession and use of 41669  
pyrotechnic compounds to a person who submits proof that the 41670  
person is certified and in good standing with the Ohio state board 41671  
of education, provided that the pyrotechnic compounds are used for 41672  
educational purposes only, or are used only at an authorized 41673  
educational function approved by the governing board that 41674  
exercises authority over the educational function. 41675

(C) The fire marshal may authorize a variance from the 41676  
prohibitions in this chapter against the possession and use of 41677  
pyrotechnic compounds to a person who possesses and uses the 41678  
pyrotechnic compounds for personal and noncommercial purposes as a 41679  
hobby. The fire marshal may rescind a variance authorized under 41680  
this division at any time, exclusively at the fire marshal's 41681  
discretion. 41682

**Sec. 3743.65.** (A) No person shall possess fireworks in this 41683  
state or shall possess for sale or sell fireworks in this state, 41684  
except a licensed manufacturer of fireworks as authorized by 41685  
sections 3743.02 to 3743.08 of the Revised Code, a licensed 41686  
wholesaler of fireworks as authorized by sections 3743.15 to 41687  
3743.21 of the Revised Code, a shipping permit holder as 41688  
authorized by section 3743.40 of the Revised Code, an out-of-state 41689  
resident as authorized by section 3743.44 of the Revised Code, a 41690  
resident of this state as authorized by section 3743.45 of the 41691  
Revised Code, or a licensed exhibitor of fireworks as authorized 41692  
by sections 3743.50 to 3743.55 of the Revised Code, and except as 41693  
provided in section 3743.80 of the Revised Code. 41694

(B) Except as provided in section 3743.80 of the Revised Code 41695  
and except for licensed exhibitors of fireworks authorized to 41696  
conduct a fireworks exhibition pursuant to sections 3743.50 to 41697  
3743.55 of the Revised Code, no person shall discharge, ignite, or 41698  
explode any fireworks in this state. 41699

(C) No person shall use in a theater or public hall, what is 41700  
technically known as fireworks showers, or a mixture containing 41701  
potassium chlorate and sulphur. 41702

(D) No person shall sell fireworks of any kind to a person 41703  
under eighteen years of age. 41704

(E) No person shall advertise 1.4G fireworks for sale. A sign 41705  
located on a seller's premises identifying the seller as a seller 41706  
of fireworks is not the advertising of fireworks for sale. 41707

(F) No person, other than a licensed manufacturer, licensed 41708  
wholesaler, licensed exhibitor, or shipping permit holder, shall 41709  
possess 1.3G fireworks in this state. 41710

(G) Except as otherwise provided in division ~~(K)~~(J) of 41711  
section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the 41712  
Revised Code, no person shall knowingly disable a fire suppression 41713  
system as defined in section 3781.108 of the Revised Code on the 41714  
premises of a fireworks plant of a licensed manufacturer of 41715  
fireworks or on the premises of the business operations of a 41716  
licensed wholesaler of fireworks. 41717

**Sec. 3743.75.** (A) During the period beginning on June 29, 41718  
2001, and ending on December 15, 2008, the state fire marshal 41719  
shall not do any of the following: 41720

(1) Issue a license as a manufacturer of fireworks under 41721  
sections 3743.02 and 3743.03 of the Revised Code to a person for a 41722  
particular fireworks plant unless that person possessed such a 41723  
license for that fireworks plant immediately prior to June 29, 41724  
2001; 41725

(2) Issue a license as a wholesaler of fireworks under 41726  
sections 3743.15 and 3743.16 of the Revised Code to a person for a 41727  
particular location unless that person possessed such a license 41728  
for that location immediately prior to June 29, 2001; 41729

(3) Except as provided in division (B) of this section, 41730  
approve the geographic transfer of a license as a manufacturer or 41731  
wholesaler of fireworks issued under this chapter to any location 41732  
other than a location for which a license was issued under this 41733  
chapter immediately prior to June 29, 2001. 41734

(B) Division (A)(3) of this section does not apply to a 41735  
transfer that the state fire marshal approves under division 41736  
~~(D)(2)(F)~~ of section 3743.17 of the Revised Code. ~~Section~~ 41737

(C) Notwithstanding section 3743.59 of the Revised Code does 41738  
not apply to this section, the prohibited activities established 41739  
in divisions (A)(1) and (2) of this section, geographic transfers 41740  
approved pursuant to division (F) of section 3743.17 of the 41741  
Revised Code, and storage locations allowed pursuant to division 41742  
(I) of section 3743.04 of the Revised Code or division (G) of 41743  
section 3743.17 of the Revised Code are not subject to any 41744  
variance, waiver, or exclusion. 41745

(D) As used in division (A) of this section: 41746

(1) "Person" includes any person or entity, in whatever form 41747  
or name, that acquires possession of a manufacturer or wholesaler 41748  
of fireworks license issued pursuant to this chapter by transfer 41749  
of possession of a license, whether that transfer occurs by 41750  
purchase, assignment, inheritance, bequest, stock transfer, or any 41751  
other type of transfer, on the condition that the transfer is in 41752  
accordance with division (D) of section 3743.04 of the Revised 41753  
Code or division (D) of section 3743.17 of the Revised Code and is 41754  
approved by the fire marshal. 41755

(2) "Particular location" includes a licensed premises and, 41756  
regardless of when approved, any storage location approved in 41757  
accordance with section 3743.04 or 3743.17 of the Revised Code. 41758

Sec. 3745.015. There is hereby created in the state treasury 41759

the environmental protection fund consisting of money credited to 41760  
the fund under division (A)(3) of section 3734.57 of the Revised 41761  
Code. The environmental protection agency shall use money in the 41762  
fund to pay the agency's costs associated with administering and 41763  
enforcing, or otherwise conducting activities under, this chapter 41764  
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 41765  
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 41766  
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 41767  
the Revised Code. 41768

**Sec. 3745.11.** (A) Applicants for and holders of permits, 41769  
licenses, variances, plan approvals, and certifications issued by 41770  
the director of environmental protection pursuant to Chapters 41771  
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 41772  
to the environmental protection agency for each such issuance and 41773  
each application for an issuance as provided by this section. No 41774  
fee shall be charged for any issuance for which no application has 41775  
been submitted to the director. 41776

(B) Each person who is issued a permit to install prior to 41777  
July 1, 2003, pursuant to rules adopted under division (F) of 41778  
section 3704.03 of the Revised Code shall pay the fees specified 41779  
in the following schedules: 41780

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers) 41781  
Input capacity (maximum) 41782  
(million British thermal units per hour) Permit to install 41783  
Greater than 0, but less than 10 \$ 200 41784  
10 or more, but less than 100 400 41785  
100 or more, but less than 300 800 41786  
300 or more, but less than 500 1500 41787  
500 or more, but less than 1000 2500 41788  
1000 or more, but less than 5000 4000 41789

5000 or more	6000	41790
Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.		41791 41792 41793
(2) Incinerators		41794
Input capacity (pounds per hour)	Permit to install	41795
0 to 100	\$ 100	41796
101 to 500	400	41797
501 to 2000	750	41798
2001 to 20,000	1000	41799
more than 20,000	2500	41800
(3)(a) Process		41801
Process weight rate (pounds per hour)	Permit to install	41802
0 to 1000	\$ 200	41803
1001 to 5000	400	41804
5001 to 10,000	600	41805
10,001 to 50,000	800	41806
more than 50,000	1000	41807
In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.		41808 41809
(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:		41810 41811 41812 41813 41814 41815 41816 41817 41818
1211 Bituminous coal and lignite mining;		41819
1213 Bituminous coal and lignite mining services;		41820

1411 Dimension stone;	41821
1422 Crushed and broken limestone;	41822
1427 Crushed and broken stone, not elsewhere classified;	41823
1442 Construction sand and gravel;	41824
1446 Industrial sand;	41825
3281 Cut stone and stone products;	41826
3295 Minerals and earth, ground or otherwise treated.	41827

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	41833
10,001 to 50,000	300	41834
50,001 to 100,000	400	41835
100,001 to 200,000	500	41836
200,001 to 400,000	600	41837
400,001 or more	700	41838

(4) Storage tanks 41839

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	41841
20,001 to 40,000	150	41842
40,001 to 100,000	200	41843
100,001 to 250,000	250	41844
250,001 to 500,000	350	41845
500,001 to 1,000,000	500	41846
1,000,001 or greater	750	41847

(5) Gasoline/fuel dispensing facilities 41848

For each gasoline/fuel dispensing facility	Permit to install	
	\$ 100	41850



(6) Dry cleaning facilities		41851
For each dry cleaning facility	Permit to install	41852
(includes all units at the facility)	\$ 100	41853
(7) Registration status		41854
For each source covered	Permit to install	41855
by registration status	\$ 75	41856
(C)(1) Except as otherwise provided in division (C)(2) of		41857
this section, beginning July 1, 1994, each person who owns or		41858
operates an air contaminant source and who is required to apply		41859
for and obtain a Title V permit under section 3704.036 of the		41860
Revised Code shall pay the fees set forth in division (C)(1) of		41861
this section. For the purposes of that division, total emissions		41862
of air contaminants may be calculated using engineering		41863
calculations, emissions factors, material balance calculations, or		41864
performance testing procedures, as authorized by the director.		41865
The following fees shall be assessed on the total actual		41866
emissions from a source in tons per year of the regulated		41867
pollutants particulate matter, sulfur dioxide, nitrogen oxides,		41868
organic compounds, and lead:		41869
(a) Fifteen dollars per ton on the total actual emissions of		41870
each such regulated pollutant during the period July through		41871
December 1993, to be collected no sooner than July 1, 1994;		41872
(b) Twenty dollars per ton on the total actual emissions of		41873
each such regulated pollutant during calendar year 1994, to be		41874
collected no sooner than April 15, 1995;		41875
(c) Twenty-five dollars per ton on the total actual emissions		41876
of each such regulated pollutant in calendar year 1995, and each		41877
subsequent calendar year, to be collected no sooner than the		41878
fifteenth day of April of the year next succeeding the calendar		41879
year in which the emissions occurred.		41880

The fees levied under division (C)(1) of this section do not 41881  
apply to that portion of the emissions of a regulated pollutant at 41882  
a facility that exceed four thousand tons during a calendar year. 41883

(2) The fees assessed under division (C)(1) of this section 41884  
are for the purpose of providing funding for the Title V permit 41885  
program. 41886

(3) The fees assessed under division (C)(1) of this section 41887  
do not apply to emissions from any electric generating unit 41888  
designated as a Phase I unit under Title IV of the federal Clean 41889  
Air Act prior to calendar year 2000. Those fees shall be assessed 41890  
on the emissions from such a generating unit commencing in 41891  
calendar year 2001 based upon the total actual emissions from the 41892  
generating unit during calendar year 2000 and shall continue to be 41893  
assessed each subsequent calendar year based on the total actual 41894  
emissions from the generating unit during the preceding calendar 41895  
year. 41896

(4) The director shall issue invoices to owners or operators 41897  
of air contaminant sources who are required to pay a fee assessed 41898  
under division (C) or (D) of this section. Any such invoice shall 41899  
be issued no sooner than the applicable date when the fee first 41900  
may be collected in a year under the applicable division, shall 41901  
identify the nature and amount of the fee assessed, and shall 41902  
indicate that the fee is required to be paid within thirty days 41903  
after the issuance of the invoice. 41904

(D)(1) Except as provided in division (D)(3) of this section, 41905  
from January 1, 1994, through December 31, 2003, each person who 41906  
owns or operates an air contaminant source; who is required to 41907  
apply for a permit to operate pursuant to rules adopted under 41908  
division (G), or a variance pursuant to division (H), of section 41909  
3704.03 of the Revised Code; and who is not required to apply for 41910  
and obtain a Title V permit under section 3704.036 of the Revised 41911

Code shall pay a single fee based upon the sum of the actual  
annual emissions from the facility of the regulated pollutants  
particulate matter, sulfur dioxide, nitrogen oxides, organic  
compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	41919
50 or more, but less than 100	300	41920
100 or more	700	41921

(2) Except as provided in division (D)(3) of this section,  
beginning January 1, 2004, each person who owns or operates an air  
contaminant source; who is required to apply for a permit to  
operate pursuant to rules adopted under division (G), or a  
variance pursuant to division (H), of section 3704.03 of the  
Revised Code; and who is not required to apply for and obtain a  
Title V permit under section 3704.03 of the Revised Code shall pay  
a single fee based upon the sum of the actual annual emissions  
from the facility of the regulated pollutants particulate matter,  
sulfur dioxide, nitrogen oxides, organic compounds, and lead in  
accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	41936
10 or more, but less than 50	200	41937
50 or more, but less than 100	300	41938
100 or more	700	41939

(3)(a) As used in division (D) of this section, "synthetic  
minor facility" means a facility for which one or more permits to  
install or permits to operate have been issued for the air  
contaminant sources at the facility that include terms and

conditions that lower the facility's potential to emit air 41944  
contaminants below the major source thresholds established in 41945  
rules adopted under section 3704.036 of the Revised Code. 41946

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, 41947  
each person who owns or operates a synthetic minor facility shall 41948  
pay an annual fee based on the sum of the actual annual emissions 41949  
from the facility of particulate matter, sulfur dioxide, nitrogen 41950  
dioxide, organic compounds, and lead in accordance with the 41951  
following schedule: 41952

Combined total tons 41953		
per year of all regulated 41954	Annual fee	
pollutants emitted 41955	per facility	
Less than 10 41956	\$ 170	
10 or more, but less than 20 41957	340	
20 or more, but less than 30 41958	670	
30 or more, but less than 40 41959	1,010	
40 or more, but less than 50 41960	1,340	
50 or more, but less than 60 41961	1,680	
60 or more, but less than 70 41962	2,010	
70 or more, but less than 80 41963	2,350	
80 or more, but less than 90 41964	2,680	
90 or more, but less than 100 41965	3,020	
100 or more 41966	3,350	

(4) The fees assessed under division (D)(1) of this section 41967  
shall be collected annually no sooner than the fifteenth day of 41968  
April, commencing in 1995. The fees assessed under division (D)(2) 41969  
of this section shall be collected annually no sooner than the 41970  
fifteenth day of April, commencing in 2005. The fees assessed 41971  
under division (D)(3) of this section shall be collected no sooner 41972  
than the fifteenth day of April, commencing in 2000. The fees 41973  
assessed under division (D) of this section in a calendar year 41974  
shall be based upon the sum of the actual emissions of those 41975

regulated pollutants during the preceding calendar year. For the  
purpose of division (D) of this section, emissions of air  
contaminants may be calculated using engineering calculations,  
emission factors, material balance calculations, or performance  
testing procedures, as authorized by the director. The director,  
by rule, may require persons who are required to pay the fees  
assessed under division (D) of this section to pay those fees  
biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs  
of the Title V permit program, the director annually shall  
increase the fees prescribed in division (C)(1) of this section by  
the percentage, if any, by which the consumer price index for the  
most recent calendar year ending before the beginning of a year  
exceeds the consumer price index for calendar year 1989. Upon  
calculating an increase in fees authorized by division (E)(1) of  
this section, the director shall compile revised fee schedules for  
the purposes of division (C)(1) of this section and shall make the  
revised schedules available to persons required to pay the fees  
assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of  
the consumer price index for all urban consumers published by the  
United States department of labor as of the close of the  
twelve-month period ending on the thirty-first day of August of  
that year.

(b) If the 1989 consumer price index is revised, the director  
shall use the revision of the consumer price index that is most  
consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to  
rules adopted under division (F) of section 3704.03 of the Revised  
Code on or after July 1, 2003, shall pay the fees specified in the

following schedules:		42007
(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)		42008 42009 42010
Input capacity (maximum)		42011
(million British thermal units per hour)	Permit to install	42012
Greater than 0, but less than 10	\$ 200	42013
10 or more, but less than 100	400	42014
100 or more, but less than 300	1000	42015
300 or more, but less than 500	2250	42016
500 or more, but less than 1000	3750	42017
1000 or more, but less than 5000	6000	42018
5000 or more	9000	42019
Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.		42020 42021 42022
(2) Combustion turbines and stationary internal combustion engines designed to generate electricity		42023 42024
Generating capacity (mega watts)	Permit to install	42025
0 or more, but less than 10	\$ 25	42026
10 or more, but less than 25	150	42027
25 or more, but less than 50	300	42028
50 or more, but less than 100	500	42029
100 or more, but less than 250	1000	42030
250 or more	2000	42031
(3) Incinerators		42032
Input capacity (pounds per hour)	Permit to install	42033
0 to 100	\$ 100	42034
101 to 500	500	42035
501 to 2000	1000	42036
2001 to 20,000	1500	42037

more than 20,000	3750	42038
(4)(a) Process		42039
Process weight rate (pounds per hour)	Permit to install	42040
0 to 1000	\$ 200	42041
1001 to 5000	500	42042
5001 to 10,000	750	42043
10,001 to 50,000	1000	42044
more than 50,000	1250	42045

In any process where process weight rate cannot be 42046  
ascertained, the minimum fee shall be assessed. A boiler, furnace, 42047  
combustion turbine, stationary internal combustion engine, or 42048  
process heater designed to provide direct heat or power to a 42049  
process not designed to generate electricity shall be assessed a 42050  
fee established in division (F)(4)(a) of this section. A 42051  
combustion turbine or stationary internal combustion engine 42052  
designed to generate electricity shall be assessed a fee 42053  
established in division (F)(2) of this section. 42054

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 42055  
any person issued a permit to install pursuant to rules adopted 42056  
under division (F) of section 3704.03 of the Revised Code shall 42057  
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 42058  
for a process used in any of the following industries, as 42059  
identified by the applicable two-digit, three-digit, or four-digit 42060  
standard industrial classification code according to the Standard 42061  
Industrial Classification Manual published by the United States 42062  
office of management and budget in the executive office of the 42063  
president, ~~1972~~ 1987, as revised: 42064

- ~~1211 Bituminous coal and lignite mining;~~ 42065
- ~~1213 Bituminous coal and lignite mining services;~~ 42066
- ~~1411 Dimension stone;~~ 42067
- ~~1422 Crushed and broken limestone;~~ 42068

<del>1427</del> Crushed and broken stone, not elsewhere classified;	42069	
<del>1442</del> Construction sand and gravel;	42070	
<del>1446</del> Industrial sand; <u>Major group 10, metal mining;</u>	42071	
<u>Major group 12, coal mining;</u>	42072	
<u>Major group 14, mining and quarrying of nonmetallic minerals;</u>	42073	
<u>Industry group 204, grain mill products;</u>	42074	
<u>2873 Nitrogen fertilizers;</u>	42075	
<u>2874 Phosphatic fertilizers;</u>	42076	
3281 Cut stone and stone products;	42077	
3295 Minerals and earth, ground or otherwise treated;	42078	
<u>4221 Grain elevators (storage only);</u>	42079	
<u>5159 Farm related raw materials;</u>	42080	
<u>5261 Retail nurseries and lawn and garden supply stores.</u>	42081	
(c) The fees set forth in the following schedule apply to the	42082	
issuance of a permit to install pursuant to rules adopted under	42083	
division (F) of section 3704.03 of the Revised Code for a process	42084	
identified in division (F) <del>(3)</del> (4)(b) of this section:	42085	
Process weight rate (pounds per	Permit to install	42086
hour)		
0 to 10,000	\$ 200	42087
10,001 to 50,000	400	42088
50,001 to 100,000	500	42089
100,001 to 200,000	600	42090
200,001 to 400,000	750	42091
400,001 or more	900	42092
(5) Storage tanks		42093
Gallons (maximum useful capacity)	Permit to install	42094
0 to 20,000	\$ 100	42095



20,001 to 40,000	150	42096
40,001 to 100,000	250	42097
100,001 to 500,000	400	42098
500,001 or greater	750	42099
(6) Gasoline/fuel dispensing facilities		42100
For each gasoline/fuel		42101
dispensing facility (includes all	Permit to install	42102
units at the facility)	\$ 100	42103
(7) Dry cleaning facilities		42104
For each dry cleaning		42105
facility (includes all units	Permit to install	42106
at the facility)	\$ 100	42107
(8) Registration status		42108
For each source covered	Permit to install	42109
by registration status	\$ 75	42110
(G) An owner or operator who is responsible for an asbestos		42111
demolition or renovation project pursuant to rules adopted under		42112
section 3704.03 of the Revised Code shall pay the fees set forth		42113
in the following schedule:		42114
Action	Fee	42115
Each notification	\$75	42116
Asbestos removal	\$3/unit	42117
Asbestos cleanup	\$4/cubic yard	42118
For purposes of this division, "unit" means any combination of		42119
linear feet or square feet equal to fifty.		42120
(H) A person who is issued an extension of time for a permit		42121
to install an air contaminant source pursuant to rules adopted		42122
under division (F) of section 3704.03 of the Revised Code shall		42123
pay a fee equal to one-half the fee originally assessed for the		42124
permit to install under this section, except that the fee for such		42125
an extension shall not exceed two hundred dollars.		42126

(I) A person who is issued a modification to a permit to  
install an air contaminant source pursuant to rules adopted under  
section 3704.03 of the Revised Code shall pay a fee equal to  
one-half of the fee that would be assessed under this section to  
obtain a permit to install the source. The fee assessed by this  
division only applies to modifications that are initiated by the  
owner or operator of the source and shall not exceed two thousand  
dollars.

(J) Notwithstanding division (B) or (F) of this section, a  
person who applies for or obtains a permit to install pursuant to  
rules adopted under division (F) of section 3704.03 of the Revised  
Code after the date actual construction of the source began shall  
pay a fee for the permit to install that is equal to twice the fee  
that otherwise would be assessed under the applicable division  
unless the applicant received authorization to begin construction  
under division (W) of section 3704.03 of the Revised Code. This  
division only applies to sources for which actual construction of  
the source begins on or after July 1, 1993. The imposition or  
payment of the fee established in this division does not preclude  
the director from taking any administrative or judicial  
enforcement action under this chapter, Chapter 3704., 3714.,  
3734., or 6111. of the Revised Code, or a rule adopted under any  
of them, in connection with a violation of rules adopted under  
division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source"  
means the initiation of physical on-site construction activities  
in connection with improvements to the source that are permanent  
in nature, including, without limitation, the installation of  
building supports and foundations and the laying of underground  
pipework.

(K) Fifty cents per ton of each fee assessed under division  
(C) of this section on actual emissions from a source and received

by the environmental protection agency pursuant to that division 42159  
shall be deposited into the state treasury to the credit of the 42160  
small business assistance fund created in section 3706.19 of the 42161  
Revised Code. The remainder of the moneys received by the division 42162  
pursuant to that division and moneys received by the agency 42163  
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 42164  
section shall be deposited in the state treasury to the credit of 42165  
the clean air fund created in section 3704.035 of the Revised 42166  
Code. 42167

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 42168  
or (c) of this section, a person issued a water discharge permit 42169  
or renewal of a water discharge permit pursuant to Chapter 6111. 42170  
of the Revised Code shall pay a fee based on each point source to 42171  
which the issuance is applicable in accordance with the following 42172  
schedule: 42173

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	42175
1,001 to 5000	100	42176
5,001 to 50,000	200	42177
50,001 to 100,000	300	42178
100,001 to 300,000	525	42179
over 300,000	750	42180

(b) Notwithstanding the fee schedule specified in division 42181  
(L)(1)(a) of this section, the fee for a water discharge permit 42182  
that is applicable to coal mining operations regulated under 42183  
Chapter 1513. of the Revised Code shall be two hundred fifty 42184  
dollars per mine. 42185

(c) Notwithstanding the fee schedule specified in division 42186  
(L)(1)(a) of this section, the fee for a water discharge permit 42187  
for a public discharger identified by I in the third character of 42188  
the permittee's NPDES permit number shall not exceed seven hundred 42189  
fifty dollars. 42190

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee

established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by	
	January 30,	42250
	<del>2004</del> <u>2006</u> , and	42252
	January 30, <del>2005</del>	42253

	<u>2007</u>	
5,000 to 49,999	\$ 200	42254
50,000 to 100,000	500	42255
100,001 to 250,000	1,050	42256
250,001 to 1,000,000	2,600	42257
1,000,001 to 5,000,000	5,200	42258
5,000,001 to 10,000,000	10,350	42259
10,000,001 to 20,000,000	15,550	42260
20,000,001 to 50,000,000	25,900	42261
50,000,001 to 100,000,000	41,400	42262
100,000,001 or more	62,100	42263

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by	
	January 30,	42276
	<del>2004</del> <u>2006</u> , and	42278
	January 30, <del>2005</del>	42279

	<u>2007</u>	
5,000 to 49,999	\$ 250	42280
50,000 to 250,000	1,200	42281
250,001 to 1,000,000	2,950	42282
1,000,001 to 5,000,000	5,850	42283

5,000,001 to 10,000,000	8,800	42284
10,000,001 to 20,000,000	11,700	42285
20,000,001 to 100,000,000	14,050	42286
100,000,001 to 250,000,000	16,400	42287
250,000,001 or more	18,700	42288

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall

pay an additional amount per year equal to ten per cent of the 42316  
annual fee that is unpaid. 42317

(7) The director shall transmit all moneys collected under 42318  
division (L) of this section to the treasurer of state for deposit 42319  
into the state treasury to the credit of the surface water 42320  
protection fund created in section 6111.038 of the Revised Code. 42321

(8) As used in division (L) of this section: 42322

(a) "NPDES" means the federally approved national pollutant 42323  
discharge elimination system program for issuing, modifying, 42324  
revoking, reissuing, terminating, monitoring, and enforcing 42325  
permits and imposing and enforcing pretreatment requirements under 42326  
Chapter 6111. of the Revised Code and rules adopted under it. 42327

(b) "Public discharger" means any holder of an NPDES permit 42328  
identified by P in the second character of the NPDES permit number 42329  
assigned by the director. 42330

(c) "Industrial discharger" means any holder of an NPDES 42331  
permit identified by I in the second character of the NPDES permit 42332  
number assigned by the director. 42333

(d) "Major discharger" means any holder of an NPDES permit 42334  
classified as major by the regional administrator of the United 42335  
States environmental protection agency in conjunction with the 42336  
director. 42337

(M) Through June 30, ~~2006~~ 2008, a person applying for a 42338  
license or license renewal to operate a public water system under 42339  
section 6109.21 of the Revised Code shall pay the appropriate fee 42340  
established under this division at the time of application to the 42341  
director. Any person who fails to pay the fee at that time shall 42342  
pay an additional amount that equals ten per cent of the required 42343  
fee. The director shall transmit all moneys collected under this 42344  
division to the treasurer of state for deposit into the drinking 42345



water protection fund created in section 6109.30 of the Revised Code. 42346  
42347

Except as provided in division (M)(4) of this section, fees 42348  
required under this division shall be calculated and paid in 42349  
accordance with the following schedule: 42350

(1) For the initial license required under division (A)(1) of 42351  
section 6109.21 of the Revised Code for any public water system 42352  
that is a community water system as defined in section 6109.01 of 42353  
the Revised Code, and for each license renewal required for such a 42354  
system prior to January 31, ~~2006~~ 2008, the fee is: 42355

Number of service connections	Fee amount	
Not more than 49	\$ 112	42357
50 to 99	176	42358
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	42360
2,500 to 4,999	1.48	42361
5,000 to 7,499	1.42	42362
7,500 to 9,999	1.34	42363
10,000 to 14,999	1.16	42364
15,000 to 24,999	1.10	42365
25,000 to 49,999	1.04	42366
50,000 to 99,999	.92	42367
100,000 to 149,999	.86	42368
150,000 to 199,999	.80	42369
200,000 or more	.76	42370

A public water system may determine how it will pay the total 42371  
amount of the fee calculated under division (M)(1) of this 42372  
section, including the assessment of additional user fees that may 42373  
be assessed on a volumetric basis. 42374

As used in division (M)(1) of this section, "service 42375  
connection" means the number of active or inactive pipes, 42376  
goosenecks, pigtails, and any other fittings connecting a water 42377

main to any building outlet. 42378

(2) For the initial license required under division (A)(2) of 42379  
section 6109.21 of the Revised Code for any public water system 42380  
that is not a community water system and serves a nontransient 42381  
population, and for each license renewal required for such a 42382  
system prior to January 31, ~~2006~~ 2008, the fee is: 42383

Population served	Fee amount	
Fewer than 150	\$ 112	42385
150 to 299	176	42386
300 to 749	384	42387
750 to 1,499	628	42388
1,500 to 2,999	1,268	42389
3,000 to 7,499	2,816	42390
7,500 to 14,999	5,510	42391
15,000 to 22,499	9,048	42392
22,500 to 29,999	12,430	42393
30,000 or more	16,820	42394

As used in division (M)(2) of this section, "population 42395  
served" means the total number of individuals receiving water from 42396  
the water supply during a twenty-four-hour period for at least 42397  
sixty days during any calendar year. In the absence of a specific 42398  
population count, that number shall be calculated at the rate of 42399  
three individuals per service connection. 42400

(3) For the initial license required under division (A)(3) of 42401  
section 6109.21 of the Revised Code for any public water system 42402  
that is not a community water system and serves a transient 42403  
population, and for each license renewal required for such a 42404  
system prior to January 31, ~~2006~~ 2008, the fee is: 42405

Number of wells supplying system	Fee amount	
1	\$112	42407
2	112	42408
3	176	42409

4	278	42410
5	568	42411
System designated as using a		42412
surface water source	792	42413
As used in division (M)(3) of this section, "number of wells		42414
supplying system" means those wells that are physically connected		42415
to the plumbing system serving the public water system.		42416
(4) A public water system designated as using a surface water		42417
source shall pay a fee of seven hundred ninety-two dollars or the		42418
amount calculated under division (M)(1) or (2) of this section,		42419
whichever is greater.		42420
(N)(1) A person applying for a plan approval for a public		42421
water supply system under section 6109.07 of the Revised Code		42422
shall pay a fee of one hundred fifty dollars plus thirty-five		42423
hundredths of one per cent of the estimated project cost, except		42424
that the total fee shall not exceed twenty thousand dollars		42425
through June 30, <del>2006</del> <u>2008</u> , and fifteen thousand dollars on and		42426
after July 1, <del>2006</del> <u>2008</u> . The fee shall be paid at the time the		42427
application is submitted.		42428
(2) A person who has entered into an agreement with the		42429
director under division (A)(2) of section 6109.07 of the Revised		42430
Code shall pay an administrative service fee for each plan		42431
submitted under that section for approval that shall not exceed		42432
the minimum amount necessary to pay administrative costs directly		42433
attributable to processing plan approvals. The director annually		42434
shall calculate the fee and shall notify all persons that have		42435
entered into agreements under that division, or who have applied		42436
for agreements, of the amount of the fee.		42437
(3) Through June 30, <del>2006</del> <u>2008</u> , the following fee, on a per		42438
survey basis, shall be charged any person for services rendered by		42439
the state in the evaluation of laboratories and laboratory		42440

personnel for compliance with accepted analytical techniques and		42441
procedures established pursuant to Chapter 6109. of the Revised		42442
Code for determining the qualitative characteristics of water:		42443
microbiological		42444
MMO-MUG	\$2,000	42445
MF	2,100	42446
MMO-MUG and MF	2,550	42447
organic chemical	5,400	42448
trace metals	5,400	42449
standard chemistry	2,800	42450
limited chemistry	1,550	42451

On and after July 1, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	42454
organic chemicals	3,500	42455
trace metals	3,500	42456
standard chemistry	1,800	42457
limited chemistry	1,000	42458

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2006~~ 2008, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration. 42467
- (b) "MMO" means minimal medium ONPG. 42468
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 42469
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 42470

The director shall transmit all moneys collected under this 42471  
division to the treasurer of state for deposit into the drinking 42472  
water protection fund created in section 6109.30 of the Revised 42473  
Code. 42474

~~(O) Any person applying to the director for examination for 42475  
certification as an operator of a water supply system or 42476  
wastewater system under Chapter 6109. or 6111. of the Revised 42477  
Code, at the time the application is submitted, shall pay an 42478  
application fee of twenty five dollars through November 30, 2003. 42479  
Upon approval from the director that the applicant is eligible to 42480  
take the examination therefor, the applicant shall pay a fee in 42481  
accordance with the following schedule through November 30, 2003:~~ 42482

<del>Class I operator</del>	<del>\$45</del>	42483
<del>Class II operator</del>	<del>55</del>	42484
<del>Class III operator</del>	<del>65</del>	42485
<del>Class IV operator</del>	<del>75</del>	42486

~~On and after December 1, 2003, any person applying to the 42487  
director for examination for certification as an operator of a 42488  
water supply system or wastewater system under Chapter 6109. or 42489  
6111. of the Revised Code, at the time the application is 42490  
submitted, shall pay an application fee of forty-five dollars 42491  
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 42492  
after December 1, ~~2006~~ 2008. Upon approval from the director that 42493  
the applicant is eligible to take the examination therefor, the 42494  
applicant shall pay a fee in accordance with the following 42495  
schedule through November 30, ~~2006~~ 2008:~~ 42496

<del>Class A operator</del>	<del>\$35</del>	42497
<del>Class I operator</del>	<del>60</del>	42498
<del>Class II operator</del>	<del>75</del>	42499
<del>Class III operator</del>	<del>85</del>	42500
<del>Class IV operator</del>	<del>100</del>	42501

On and after December 1, ~~2006~~ 2008, the applicant shall pay a 42502

fee in accordance with the following schedule:		42503
Class A operator	\$25	42504
Class I operator	\$45	42505
Class II operator	55	42506
Class III operator	65	42507
Class IV operator	75	42508

A person shall pay a biennial certification renewal fee for 42509  
each applicable class of certification in accordance with the 42510  
following schedule: 42511

Class A operator	\$25	42512
Class I operator	35	42513
Class II operator	45	42514
Class III operator	55	42515
Class IV operator	65	42516

If a certification renewal fee is received by the director 42517  
more than thirty days, but not more than one year after the 42518  
expiration date of the certification, the person shall pay a 42519  
certification renewal fee in accordance with the following 42520  
schedule: 42521

Class A operator	\$45	42522
Class I operator	55	42523
Class II operator	65	42524
Class III operator	75	42525
Class IV operator	85	42526

A person who requests a replacement certificate shall pay a 42527  
fee of twenty-five dollars at the time the request is made. 42528

The director shall transmit all moneys collected under this 42529  
division to the treasurer of state for deposit into the drinking 42530  
water protection fund created in section 6109.30 of the Revised 42531  
Code. 42532

(P) Any person submitting an application for an industrial 42533

water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after ~~the effective date of this amendment~~ June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install

a new or to modify an existing solid waste incineration or 42566  
composting facility, or an existing infectious waste treatment 42567  
facility using incineration as its principal method of treatment, 42568  
under that chapter shall pay a fee of one thousand dollars. The 42569  
increases in the permit fees under this division resulting from 42570  
the amendments made by Amended Substitute House Bill 592 of the 42571  
117th general assembly do not apply to any person who submitted an 42572  
application for a permit to install a new, or modify an existing, 42573  
solid waste disposal facility under that chapter prior to 42574  
September 1, 1987; any such person shall pay the permit fee 42575  
established in this division as it existed prior to June 24, 1988. 42576  
In addition to the applicable permit fee under this division, a 42577  
person issued a permit to install or modify a solid waste facility 42578  
or an infectious waste treatment facility under that chapter who 42579  
fails to pay the permit fee to the director in compliance with 42580  
division (V) of this section shall pay an additional ten per cent 42581  
of the amount of the fee for each week that the permit fee is 42582  
late. 42583

Permit and late payment fees paid to the director under this 42584  
division shall be credited to the general revenue fund. 42585

(R)(1) A person issued a registration certificate for a scrap 42586  
tire collection facility under section 3734.75 of the Revised Code 42587  
shall pay a fee of two hundred dollars, except that if the 42588  
facility is owned or operated by a motor vehicle salvage dealer 42589  
licensed under Chapter 4738. of the Revised Code, the person shall 42590  
pay a fee of twenty-five dollars. 42591

(2) A person issued a registration certificate for a new 42592  
scrap tire storage facility under section 3734.76 of the Revised 42593  
Code shall pay a fee of three hundred dollars, except that if the 42594  
facility is owned or operated by a motor vehicle salvage dealer 42595  
licensed under Chapter 4738. of the Revised Code, the person shall 42596  
pay a fee of twenty-five dollars. 42597



(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section

3734.05 of the Revised Code, section 3734.79 of the Revised Code, 42629  
and rules adopted under division (T)(1) of this section, any 42630  
person applying for a registration certificate under section 42631  
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 42632  
variance, or plan approval under Chapter 3734. of the Revised Code 42633  
shall pay a nonrefundable fee of fifteen dollars at the time the 42634  
application is submitted. 42635

Except as otherwise provided, any person applying for a 42636  
permit, variance, or plan approval under Chapter 6109. or 6111. of 42637  
the Revised Code shall pay a nonrefundable fee of one hundred 42638  
dollars at the time the application is submitted through June 30, 42639  
~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time 42640  
the application is submitted on and after July 1, ~~2006~~ 2008. 42641  
Through June 30, ~~2006~~ 2008, any person applying for a national 42642  
pollutant discharge elimination system permit under Chapter 6111. 42643  
of the Revised Code shall pay a nonrefundable fee of two hundred 42644  
dollars at the time of application for the permit. On and after 42645  
July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of 42646  
fifteen dollars at the time of application. 42647

In addition to the application fee established under division 42648  
(S)(1) of this section, any person applying for a national 42649  
pollutant discharge elimination system general storm water 42650  
construction permit shall pay a nonrefundable fee of twenty 42651  
dollars per acre for each acre that is permitted above five acres 42652  
at the time the application is submitted. However, the per acreage 42653  
fee shall not exceed three hundred dollars. In addition, any 42654  
person applying for a national pollutant discharge elimination 42655  
system general storm water industrial permit shall pay a 42656  
nonrefundable fee of one hundred fifty dollars at the time the 42657  
application is submitted. 42658

The director shall transmit all moneys collected under 42659  
division (S)(1) of this section pursuant to Chapter 6109. of the 42660

Revised Code to the treasurer of state for deposit into the 42661  
drinking water protection fund created in section 6109.30 of the 42662  
Revised Code. 42663

The director shall transmit all moneys collected under 42664  
division (S)(1) of this section pursuant to Chapter 6111. of the 42665  
Revised Code to the treasurer of state for deposit into the 42666  
surface water protection fund created in section 6111.038 of the 42667  
Revised Code. 42668

If a registration certificate is issued under section 42669  
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 42670  
the application fee paid shall be deducted from the amount of the 42671  
registration certificate fee due under division (R)(1), (2), or 42672  
(5) of this section, as applicable. 42673

If a person submits an electronic application for a 42674  
registration certificate, permit, variance, or plan approval for 42675  
which an application fee is established under division (S)(1) of 42676  
this section, the person shall pay the applicable application fee 42677  
as expeditiously as possible after the submission of the 42678  
electronic application. An application for a registration 42679  
certificate, permit, variance, or plan approval for which an 42680  
application fee is established under division (S)(1) of this 42681  
section shall not be reviewed or processed until the applicable 42682  
application fee, and any other fees established under this 42683  
division, are paid. 42684

(2) Division (S)(1) of this section does not apply to an 42685  
application for a registration certificate for a scrap tire 42686  
collection or storage facility submitted under section 3734.75 or 42687  
3734.76 of the Revised Code, as applicable, if the owner or 42688  
operator of the facility or proposed facility is a motor vehicle 42689  
salvage dealer licensed under Chapter 4738. of the Revised Code. 42690

(T) The director may adopt, amend, and rescind rules in 42691

accordance with Chapter 119. of the Revised Code that do all of 42692  
the following: 42693

(1) Prescribe fees to be paid by applicants for and holders 42694  
of any license, permit, variance, plan approval, or certification 42695  
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 42696  
the Revised Code that are not specifically established in this 42697  
section. The fees shall be designed to defray the cost of 42698  
processing, issuing, revoking, modifying, denying, and enforcing 42699  
the licenses, permits, variances, plan approvals, and 42700  
certifications. 42701

The director shall transmit all moneys collected under rules 42702  
adopted under division (T)(1) of this section pursuant to Chapter 42703  
6109. of the Revised Code to the treasurer of state for deposit 42704  
into the drinking water protection fund created in section 6109.30 42705  
of the Revised Code. 42706

The director shall transmit all moneys collected under rules 42707  
adopted under division (T)(1) of this section pursuant to Chapter 42708  
6111. of the Revised Code to the treasurer of state for deposit 42709  
into the surface water protection fund created in section 6111.038 42710  
of the Revised Code. 42711

(2) Exempt the state and political subdivisions thereof, 42712  
including education facilities or medical facilities owned by the 42713  
state or a political subdivision, or any person exempted from 42714  
taxation by section 5709.07 or 5709.12 of the Revised Code, from 42715  
any fee required by this section; 42716

(3) Provide for the waiver of any fee, or any part thereof, 42717  
otherwise required by this section whenever the director 42718  
determines that the imposition of the fee would constitute an 42719  
unreasonable cost of doing business for any applicant, class of 42720  
applicants, or other person subject to the fee; 42721

(4) Prescribe measures that the director considers necessary 42722

to carry out this section. 42723

(U) When the director reasonably demonstrates that the direct 42724  
cost to the state associated with the issuance of a permit to 42725  
install, license, variance, plan approval, or certification 42726  
exceeds the fee for the issuance or review specified by this 42727  
section, the director may condition the issuance or review on the 42728  
payment by the person receiving the issuance or review of, in 42729  
addition to the fee specified by this section, the amount, or any 42730  
portion thereof, in excess of the fee specified under this 42731  
section. The director shall not so condition issuances for which 42732  
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 42733  
section. 42734

(V) Except as provided in divisions (L), (M), and (P) of this 42735  
section or unless otherwise prescribed by a rule of the director 42736  
adopted pursuant to Chapter 119. of the Revised Code, all fees 42737  
required by this section are payable within thirty days after the 42738  
issuance of an invoice for the fee by the director or the 42739  
effective date of the issuance of the license, permit, variance, 42740  
plan approval, or certification. If payment is late, the person 42741  
responsible for payment of the fee shall pay an additional ten per 42742  
cent of the amount due for each month that it is late. 42743

(W) As used in this section, "fuel-burning equipment," 42744  
"fuel-burning equipment input capacity," "incinerator," 42745  
"incinerator input capacity," "process," "process weight rate," 42746  
"storage tank," "gasoline dispensing facility," "dry cleaning 42747  
facility," "design flow discharge," and "new source treatment 42748  
works" have the meanings ascribed to those terms by applicable 42749  
rules or standards adopted by the director under Chapter 3704. or 42750  
6111. of the Revised Code. 42751

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 42752  
and (J) of this section, and in any other provision of this 42753

section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code: 42754  
42755

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code. 42756  
42757  
42758

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least: 42759  
42760  
42761

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement; 42762  
42763  
42764

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal; 42765  
42766  
42767  
42768

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry; 42769  
42770  
42771

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions; 42772  
42773  
42774

(e) Emission and ambient monitoring; 42775

(f) Modeling, analyses, or demonstrations; 42776

(g) Preparing inventories and tracking emissions; 42777

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the 42778  
42779  
42780  
42781  
42782  
42783

Revised Code. 42784

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 42785  
of this section, each sewage sludge facility shall pay a 42786  
nonrefundable annual sludge fee equal to three dollars and fifty 42787  
cents per dry ton of sewage sludge, including the dry tons of 42788  
sewage sludge in materials derived from sewage sludge, that the 42789  
sewage sludge facility treats or disposes of in this state. The 42790  
annual volume of sewage sludge treated or disposed of by a sewage 42791  
sludge facility shall be calculated using the first day of January 42792  
through the thirty-first day of December of the calendar year 42793  
preceding the date on which payment of the fee is due. 42794

(2)(a) Except as provided in division (Y)(2)(d) of this 42795  
section, each sewage sludge facility shall pay a minimum annual 42796  
sewage sludge fee of one hundred dollars. 42797

(b) The annual sludge fee required to be paid by a sewage 42798  
sludge facility that treats or disposes of exceptional quality 42799  
sludge in this state shall be thirty-five per cent less per dry 42800  
ton of exceptional quality sludge than the fee assessed under 42801  
division (Y)(1) of this section, subject to the following 42802  
exceptions: 42803

(i) Except as provided in division (Y)(2)(d) of this section, 42804  
a sewage sludge facility that treats or disposes of exceptional 42805  
quality sludge shall pay a minimum annual sewage sludge fee of one 42806  
hundred dollars. 42807

(ii) A sewage sludge facility that treats or disposes of 42808  
exceptional quality sludge shall not be required to pay the annual 42809  
sludge fee for treatment or disposal in this state of exceptional 42810  
quality sludge generated outside of this state and contained in 42811  
bags or other containers not greater than one hundred pounds in 42812  
capacity. 42813

A thirty-five per cent reduction for exceptional quality 42814

sludge applies to the maximum annual fees established under 42815  
division (Y)(3) of this section. 42816

(c) A sewage sludge facility that transfers sewage sludge to 42817  
another sewage sludge facility in this state for further treatment 42818  
prior to disposal in this state shall not be required to pay the 42819  
annual sludge fee for the tons of sewage sludge that have been 42820  
transferred. In such a case, the sewage sludge facility that 42821  
disposes of the sewage sludge shall pay the annual sludge fee. 42822  
However, the facility transferring the sewage sludge shall pay the 42823  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42824  
of this section. 42825

In the case of a sewage sludge facility that treats sewage 42826  
sludge in this state and transfers it out of this state to another 42827  
entity for disposal, the sewage sludge facility in this state 42828  
shall be required to pay the annual sludge fee for the tons of 42829  
sewage sludge that have been transferred. 42830

(d) A sewage sludge facility that generates sewage sludge 42831  
resulting from an average daily discharge flow of less than five 42832  
thousand gallons per day is not subject to the fees assessed under 42833  
division (Y) of this section. 42834

(3) No sewage sludge facility required to pay the annual 42835  
sludge fee shall be required to pay more than the maximum annual 42836  
fee for each disposal method that the sewage sludge facility uses. 42837  
The maximum annual fee does not include the additional amount that 42838  
may be charged under division (Y)(5) of this section for late 42839  
payment of the annual sludge fee. The maximum annual fee for the 42840  
following methods of disposal of sewage sludge is as follows: 42841

(a) Incineration: five thousand dollars; 42842

(b) Preexisting land reclamation project or disposal in a 42843  
landfill: five thousand dollars; 42844



(c) Land application, land reclamation, surface disposal, or 42845  
any other disposal method not specified in division (Y)(3)(a) or 42846  
(b) of this section: twenty thousand dollars. 42847

(4)(a) In the case of an entity that generates sewage sludge 42848  
or a sewage sludge facility that treats sewage sludge and 42849  
transfers the sewage sludge to an incineration facility for 42850  
disposal, the incineration facility, and not the entity generating 42851  
the sewage sludge or the sewage sludge facility treating the 42852  
sewage sludge, shall pay the annual sludge fee for the tons of 42853  
sewage sludge that are transferred. However, the entity or 42854  
facility generating or treating the sewage sludge shall pay the 42855  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42856  
of this section. 42857

(b) In the case of an entity that generates sewage sludge and 42858  
transfers the sewage sludge to a landfill for disposal or to a 42859  
sewage sludge facility for land reclamation or surface disposal, 42860  
the entity generating the sewage sludge, and not the landfill or 42861  
sewage sludge facility, shall pay the annual sludge fee for the 42862  
tons of sewage sludge that are transferred. 42863

(5) Not later than the first day of April of the calendar 42864  
year following March 17, 2000, and each first day of April 42865  
thereafter, the director shall issue invoices to persons who are 42866  
required to pay the annual sludge fee. The invoice shall identify 42867  
the nature and amount of the annual sludge fee assessed and state 42868  
the first day of May as the deadline for receipt by the director 42869  
of objections regarding the amount of the fee and the first day of 42870  
July as the deadline for payment of the fee. 42871

Not later than the first day of May following receipt of an 42872  
invoice, a person required to pay the annual sludge fee may submit 42873  
objections to the director concerning the accuracy of information 42874  
regarding the number of dry tons of sewage sludge used to 42875

calculate the amount of the annual sludge fee or regarding whether 42876  
the sewage sludge qualifies for the exceptional quality sludge 42877  
discount established in division (Y)(2)(b) of this section. The 42878  
director may consider the objections and adjust the amount of the 42879  
fee to ensure that it is accurate. 42880

If the director does not adjust the amount of the annual 42881  
sludge fee in response to a person's objections, the person may 42882  
appeal the director's determination in accordance with Chapter 42883  
119. of the Revised Code. 42884

Not later than the first day of June, the director shall 42885  
notify the objecting person regarding whether the director has 42886  
found the objections to be valid and the reasons for the finding. 42887  
If the director finds the objections to be valid and adjusts the 42888  
amount of the annual sludge fee accordingly, the director shall 42889  
issue with the notification a new invoice to the person 42890  
identifying the amount of the annual sludge fee assessed and 42891  
stating the first day of July as the deadline for payment. 42892

Not later than the first day of July, any person who is 42893  
required to do so shall pay the annual sludge fee. Any person who 42894  
is required to pay the fee, but who fails to do so on or before 42895  
that date shall pay an additional amount that equals ten per cent 42896  
of the required annual sludge fee. 42897

(6) The director shall transmit all moneys collected under 42898  
division (Y) of this section to the treasurer of state for deposit 42899  
into the surface water protection fund created in section 6111.038 42900  
of the Revised Code. The moneys shall be used to defray the costs 42901  
of administering and enforcing provisions in Chapter 6111. of the 42902  
Revised Code and rules adopted under it that govern the use, 42903  
storage, treatment, or disposal of sewage sludge. 42904

(7) Beginning in fiscal year 2001, and every two years 42905  
thereafter, the director shall review the total amount of moneys 42906

generated by the annual sludge fees to determine if that amount  
exceeded six hundred thousand dollars in either of the two  
preceding fiscal years. If the total amount of moneys in the fund  
exceeded six hundred thousand dollars in either fiscal year, the  
director, after review of the fee structure and consultation with  
affected persons, shall issue an order reducing the amount of the  
fees levied under division (Y) of this section so that the  
estimated amount of moneys resulting from the fees will not exceed  
six hundred thousand dollars in any fiscal year.

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If, upon review of the fees under division (Y)(7) of this  
section and after the fees have been reduced, the director  
determines that the total amount of moneys collected and  
accumulated is less than six hundred thousand dollars, the  
director, after review of the fee structure and consultation with  
affected persons, may issue an order increasing the amount of the  
fees levied under division (Y) of this section so that the  
estimated amount of moneys resulting from the fees will be  
approximately six hundred thousand dollars. Fees shall never be  
increased to an amount exceeding the amount specified in division  
(Y)(7) of this section.

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Notwithstanding section 119.06 of the Revised Code, the  
director may issue an order under division (Y)(7) of this section  
without the necessity to hold an adjudicatory hearing in  
connection with the order. The issuance of an order under this  
division is not an act or action for purposes of section 3745.04  
of the Revised Code.

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(8) As used in division (Y) of this section:

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(a) "Sewage sludge facility" means an entity that performs  
treatment on or is responsible for the disposal of sewage sludge.

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(b) "Sewage sludge" means a solid, semi-solid, or liquid  
residue generated during the treatment of domestic sewage in a

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treatment works as defined in section 6111.01 of the Revised Code. 42938  
"Sewage sludge" includes, but is not limited to, scum or solids 42939  
removed in primary, secondary, or advanced wastewater treatment 42940  
processes. "Sewage sludge" does not include ash generated during 42941  
the firing of sewage sludge in a sewage sludge incinerator, grit 42942  
and screenings generated during preliminary treatment of domestic 42943  
sewage in a treatment works, animal manure, residue generated 42944  
during treatment of animal manure, or domestic septage. 42945

(c) "Exceptional quality sludge" means sewage sludge that 42946  
meets all of the following qualifications: 42947

(i) Satisfies the class A pathogen standards in 40 C.F.R. 42948  
503.32(a); 42949

(ii) Satisfies one of the vector attraction reduction 42950  
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 42951

(iii) Does not exceed the ceiling concentration limitations 42952  
for metals listed in table one of 40 C.F.R. 503.13; 42953

(iv) Does not exceed the concentration limitations for metals 42954  
listed in table three of 40 C.F.R. 503.13. 42955

(d) "Treatment" means the preparation of sewage sludge for 42956  
final use or disposal and includes, but is not limited to, 42957  
thickening, stabilization, and dewatering of sewage sludge. 42958

(e) "Disposal" means the final use of sewage sludge, 42959  
including, but not limited to, land application, land reclamation, 42960  
surface disposal, or disposal in a landfill or an incinerator. 42961

(f) "Land application" means the spraying or spreading of 42962  
sewage sludge onto the land surface, the injection of sewage 42963  
sludge below the land surface, or the incorporation of sewage 42964  
sludge into the soil for the purposes of conditioning the soil or 42965  
fertilizing crops or vegetation grown in the soil. 42966

(g) "Land reclamation" means the returning of disturbed land 42967

to productive use. 42968

(h) "Surface disposal" means the placement of sludge on an 42969  
area of land for disposal, including, but not limited to, 42970  
monofills, surface impoundments, lagoons, waste piles, or 42971  
dedicated disposal sites. 42972

(i) "Incinerator" means an entity that disposes of sewage 42973  
sludge through the combustion of organic matter and inorganic 42974  
matter in sewage sludge by high temperatures in an enclosed 42975  
device. 42976

(j) "Incineration facility" includes all incinerators owned 42977  
or operated by the same entity and located on a contiguous tract 42978  
of land. Areas of land are considered to be contiguous even if 42979  
they are separated by a public road or highway. 42980

(k) "Annual sludge fee" means the fee assessed under division 42981  
(Y)(1) of this section. 42982

(l) "Landfill" means a sanitary landfill facility, as defined 42983  
in rules adopted under section 3734.02 of the Revised Code, that 42984  
is licensed under section 3734.05 of the Revised Code. 42985

(m) "Preexisting land reclamation project" means a 42986  
property-specific land reclamation project that has been in 42987  
continuous operation for not less than five years pursuant to 42988  
approval of the activity by the director and includes the 42989  
implementation of a community outreach program concerning the 42990  
activity. 42991

Sec. 3745.114. (A) A person that applies for a section 401 42992  
water quality certification under Chapter 6111. of the Revised 42993  
Code and rules adopted under it shall pay an application fee of 42994  
two hundred dollars at the time of application plus any of the 42995  
following fees, as applicable: 42996

(1) If the water resource to be impacted is a wetland, a 42997

<u>review fee of five hundred dollars per acre of wetland to be</u>	42998
<u>impacted;</u>	42999
<u>(2) If the water resource to be impacted is a stream one of</u>	43000
<u>the following fees, as applicable:</u>	43001
<u>(a) For an ephemeral stream, a review fee of three dollars</u>	43002
<u>per linear foot of stream to be impacted, or two hundred dollars,</u>	43003
<u>whichever is greater;</u>	43004
<u>(b) For an intermittent stream, a review fee of six dollars</u>	43005
<u>per linear foot of stream to be impacted, or two hundred dollars,</u>	43006
<u>whichever is greater;</u>	43007
<u>(c) For a perennial stream, a review fee of ten dollars per</u>	43008
<u>linear foot of stream to be impacted, or two hundred dollars,</u>	43009
<u>whichever is greater.</u>	43010
<u>(3) If the water resource to be impacted is a lake, a review</u>	43011
<u>fee of three dollars per cubic yard of dredged or fill material to</u>	43012
<u>be moved.</u>	43013
<u>(B) One-half of all applicable review fees levied under this</u>	43014
<u>section shall be due at the time of application for a section 401</u>	43015
<u>water quality certification. The remainder of the fees shall be</u>	43016
<u>paid upon the issuance of the section 401 water quality</u>	43017
<u>certification. The total fee to be paid under this section shall</u>	43018
<u>not exceed twenty-five thousand dollars per application. However,</u>	43019
<u>if the applicant is a county, township, or municipal corporation</u>	43020
<u>in this state, the total fee to be paid shall not exceed five</u>	43021
<u>thousand dollars per application.</u>	43022
<u>(C) All money collected under this section shall be</u>	43023
<u>transmitted to the treasurer of state for deposit into the state</u>	43024
<u>treasury to the credit of the surface water protection fund</u>	43025
<u>created in section 6111.038 of the Revised Code.</u>	43026
<u>(D) The fees established under this section do not apply to</u>	43027

any state agency as defined in section 119.01 of the Revised Code. 43028

(E) The fees established under this section do not apply to 43029  
projects that are authorized by the environmental protection 43030  
agency's general certifications of nationwide permits or general 43031  
permits issued by the United States army corps of engineers. As 43032  
used in this division, "general permit" and "nationwide permit" 43033  
have the same meanings as in rules adopted under Chapter 6111. of 43034  
the Revised Code. 43035

(F) As used in this section: 43036

(1) "Ephemeral stream" means a stream that flows only in 43037  
direct response to precipitation in the immediate watershed or in 43038  
response to the melting of a cover of snow and ice and that has 43039  
channel bottom that is always above the local water table. 43040

(2) "Intermittent stream" means a stream that is below the 43041  
local water table and flows for at least a part of each year and 43042  
that obtains its flow from both surface runoff and ground water 43043  
discharge. 43044

(3) "Perennial stream" means a stream or a part of a stream 43045  
that flows continuously during all of the calendar year as a 43046  
result of ground water discharge or surface water runoff. 43047  
"Perennial stream" does not include an intermittent stream or an 43048  
ephemeral stream. 43049

**Sec. 3745.12.** (A) There is hereby created in the state 43050  
treasury the immediate removal fund, which shall be administered 43051  
by the director of environmental protection. The fund may be used 43052  
for both of the following purposes: 43053

(1) To pay costs incurred by the environmental protection 43054  
agency in investigating, mitigating, minimizing, removing, or 43055  
abating any unauthorized spill, release, or discharge of material 43056  
into or upon the environment that requires emergency action to 43057

protect the public health or safety or the environment; 43058

(2) Conducting remedial actions under section 3752.13 of the 43059  
Revised Code. 43060

(B) Any person responsible for causing or allowing the 43061  
unauthorized spill, release, or discharge is liable to the 43062  
director for the costs incurred by the agency regardless of 43063  
whether those costs were paid out of the fund created under 43064  
division (A) of this section or any other fund of the agency. Upon 43065  
the request of the director, the attorney general shall bring a 43066  
civil action against the responsible person to recover those 43067  
costs. Moneys recovered under this division shall be paid into the 43068  
state treasury to the credit of the immediate removal fund, except 43069  
that moneys recovered for costs paid from the hazardous waste 43070  
clean-up fund created in section 3734.28 of the Revised Code shall 43071  
be credited to the hazardous waste clean-up fund. 43072

**Sec. 3746.04.** Within one year after September 28, 1994, the 43073  
director of environmental protection, in accordance with Chapter 43074  
119. of the Revised Code and with the advice of the 43075  
multidisciplinary council appointed under section 3746.03 of the 43076  
Revised Code, shall adopt, and subsequently may amend, suspend, or 43077  
rescind, rules that do both of the following: 43078

(A) Revise the rules adopted under Chapters 3704., 3714., 43079  
3734., 6109., and 6111. of the Revised Code to incorporate the 43080  
provisions necessary to conform those rules to the requirements of 43081  
this chapter. The amended rules adopted under this division also 43082  
shall establish response times for all submittals to the 43083  
environmental protection agency required under this chapter or 43084  
rules adopted under it. 43085

(B) Establish requirements and procedures that are reasonably 43086  
necessary for the implementation and administration of this 43087



chapter, including, without limitation, all of the following: 43088

(1) Appropriate generic numerical clean-up standards for the 43089  
treatment or removal of soils, sediments, and water media for 43090  
hazardous substances and petroleum. The rules shall establish 43091  
separate generic numerical clean-up standards based upon the 43092  
intended use of properties after the completion of voluntary 43093  
actions, including industrial, commercial, and residential uses 43094  
and such other categories of land use as the director considers to 43095  
be appropriate. The generic numerical clean-up standards 43096  
established for each category of land use shall be the 43097  
concentration of each contaminant that may be present on a 43098  
property that shall ensure protection of public health and safety 43099  
and the environment for the reasonable exposure for that category 43100  
of land use. When developing the standards, the director shall 43101  
consider such factors as all of the following: 43102

(a) Scientific information, including, without limitation, 43103  
toxicological information and realistic assumptions regarding 43104  
human and environmental exposure to hazardous substances or 43105  
petroleum; 43106

(b) Climatic factors; 43107

(c) Human activity patterns; 43108

(d) Current statistical techniques; 43109

(e) For petroleum at industrial property, alternatives to the 43110  
use of total petroleum hydrocarbons. 43111

The generic numerical clean-up standards established in the 43112  
rules adopted under division (B)(1) of this section shall be 43113  
consistent with and equivalent in scope, content, and coverage to 43114  
any applicable standard established by federal environmental laws 43115  
and regulations adopted under them, including, without limitation, 43116  
the "Federal Water Pollution Control Act Amendments of 1972," 86 43117

Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource 43118  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 43119  
6921, as amended; the "Toxic Substances Control Act," 90 Stat. 43120  
2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive 43121  
Environmental Response, Compensation, and Liability Act of 1980," 43122  
94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe 43123  
Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as 43124  
amended. 43125

In order for the rules adopted under division (B)(1) of this 43126  
section to require that any such federal environmental standard 43127  
apply to a property, the property shall meet the requirements of 43128  
the particular federal statute or regulation involved in the 43129  
manner specified by the statute or regulation. 43130

The generic numerical clean-up standards for petroleum at 43131  
commercial or residential property shall be the standards 43132  
established in rules adopted under division (B) of section 43133  
3737.882 of the Revised Code. 43134

(2)(a) Procedures for performing property-specific risk 43135  
assessments that would be performed at a property to demonstrate 43136  
that the remedy evaluated in a risk assessment results in 43137  
protection of public health and safety and the environment instead 43138  
of complying with the generic numerical clean-up standards 43139  
established in the rules adopted under division (B)(1) of this 43140  
section. The risk assessment procedures shall describe a 43141  
methodology to establish, on a property-specific basis, allowable 43142  
levels of contamination to remain at a property to ensure 43143  
protection of public health and safety and the environment on the 43144  
property and off the property when the contamination is emanating 43145  
off the property, taking into account all of the following: 43146

(i) The implementation of treatment, storage, or disposal, or 43147  
a combination thereof, of hazardous substances or petroleum; 43148

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section,

at a minimum, shall require that a phase I property assessment 43179  
include all of the following: 43180

(a) A review and analysis of deeds, mortgages, easements of 43181  
record, and similar documents relating to the chain of title to 43182  
the property that are publicly available or that are known to and 43183  
reasonably available to the owner or operator; 43184

(b) A review and analysis of any previous environmental 43185  
assessments, property assessments, environmental studies, or 43186  
geologic studies of the property and any land within two thousand 43187  
feet of the boundaries of the property that are publicly available 43188  
or that are known to and reasonably available to the owner or 43189  
operator; 43190

(c) A review of current and past environmental compliance 43191  
histories of persons who owned or operated the property; 43192

(d) A review of aerial photographs of the property that 43193  
indicate prior uses of the property; 43194

(e) Interviews with managers of activities conducted at the 43195  
property who have knowledge of environmental conditions at the 43196  
property; 43197

(f) Conducting an inspection of the property consisting of a 43198  
walkover; 43199

(g) Identifying the current and past uses of the property, 43200  
adjoining tracts of land, and the area surrounding the property, 43201  
including, without limitation, interviews with persons who reside 43202  
or have resided, or who are or were employed, within the area 43203  
surrounding the property regarding the current and past uses of 43204  
the property and adjacent tracts of land. 43205

The rules adopted under division (B)(3) of this section shall 43206  
establish criteria to determine when a phase II property 43207  
assessment shall be conducted when a phase I property assessment 43208

reveals facts that establish a reason to believe that hazardous 43209  
substances or petroleum have been treated, stored, managed, or 43210  
disposed of on the property if the person undertaking the phase I 43211  
property assessment wishes to obtain a covenant not to sue under 43212  
section 3746.12 of the Revised Code. 43213

(4) Minimum standards for phase II property assessments. The 43214  
standards shall specify the information needed to demonstrate that 43215  
any contamination present at the property does not exceed 43216  
applicable standards or that the remedial activities conducted at 43217  
the property have achieved compliance with applicable standards. 43218  
The rules adopted under division (B)(4) of this section, at a 43219  
minimum, shall require that a phase II property assessment include 43220  
all of the following: 43221

(a) A review and analysis of all documentation prepared in 43222  
connection with a phase I property assessment conducted within the 43223  
one hundred eighty days before the phase II property assessment 43224  
begins. The rules adopted under division (B)(4)(a) of this section 43225  
shall require that if a period of more than one hundred eighty 43226  
days has passed between the time that the phase I assessment of 43227  
the property was completed and the phase II assessment begins, the 43228  
phase II assessment shall include a reasonable inquiry into the 43229  
change in the environmental condition of the property during the 43230  
intervening period. 43231

(b) Quality assurance objectives for measurements taken in 43232  
connection with a phase II assessment; 43233

(c) Sampling procedures to ensure the representative sampling 43234  
of potentially contaminated environmental media; 43235

(d) Quality assurance and quality control requirements for 43236  
samples collected in connection with phase II assessments; 43237

(e) Analytical and data assessment procedures; 43238

(f) Data objectives to ensure that samples collected in 43239  
connection with phase II assessments are biased toward areas where 43240  
information indicates that contamination by hazardous substances 43241  
or petroleum is likely to exist. 43242

(5) Standards governing the conduct of certified 43243  
professionals, criteria and procedures for the certification of 43244  
professionals to issue no further action letters under section 43245  
3746.11 of the Revised Code, and criteria for the suspension and 43246  
revocation of those certifications. The director shall take an 43247  
action regarding a certification as a final action. The issuance, 43248  
denial, renewal, suspension, and revocation of those 43249  
certifications are subject to Chapter 3745. of the Revised Code, 43250  
~~and the director shall take any such action regarding a~~ 43251  
~~certification as a final action~~ except that, in lieu of publishing 43252  
an action regarding a certification in a newspaper of general 43253  
circulation as required in section 3745.07 of the Revised Code, 43254  
such an action shall be published on the environmental protection 43255  
agency's web site and in the agency's weekly review not later than 43256  
fifteen days after the date of the issuance, denial, renewal, 43257  
suspension, or revocation of the certification and not later than 43258  
thirty days before a hearing or public meeting concerning the 43259  
action. 43260

The rules adopted under division (B)(5) of this section shall 43261  
do all of the following: 43262

(a) Provide for the certification of environmental 43263  
professionals to issue no further action letters pertaining to 43264  
investigations and remedies in accordance with the criteria and 43265  
procedures set forth in the rules. The rules adopted under 43266  
division (B)(5)(a) of this section shall do at least all of the 43267  
following: 43268

(i) Authorize the director to consider such factors as an 43269

environmental professional's previous performance record regarding 43270  
such investigations and remedies and the environmental 43271  
professional's environmental compliance history when determining 43272  
whether to certify the environmental professional; 43273

(ii) Ensure that an application for certification is reviewed 43274  
in a timely manner; 43275

(iii) Require the director to certify any environmental 43276  
professional who the director determines complies with those 43277  
criteria; 43278

(iv) Require the director to deny certification for any 43279  
environmental professional who does not comply with those 43280  
criteria. 43281

(b) Establish an annual fee to be paid by environmental 43282  
professionals certified pursuant to the rules adopted under 43283  
division (B)(5)(a) of this section. The fee shall be established 43284  
at an amount calculated to defray the costs to the ~~environmental~~ 43285  
~~protection~~ agency for the required reviews of the qualifications 43286  
of environmental professionals for certification and for the 43287  
issuance of the certifications. 43288

(c) Develop a schedule for and establish requirements 43289  
governing the review by the director of the credentials of 43290  
environmental professionals who were deemed to be certified 43291  
professionals under division (D) of section 3746.07 of the Revised 43292  
Code in order to determine if they comply with the criteria 43293  
established in rules adopted under division (B)(5) of this 43294  
section. The rules adopted under division (B)(5)(c) of this 43295  
section shall do at least all of the following: 43296

(i) Ensure that the review is conducted in a timely fashion; 43297

(ii) Require the director to certify any such environmental 43298  
professional who the director determines complies with those 43299

criteria;	43300
(iii) Require any such environmental professional initially	43301
to pay the fee established in the rules adopted under division	43302
(B)(5)(b) of this section at the time that the environmental	43303
professional is so certified by the director;	43304
(iv) Establish a time period within which any such	43305
environmental professional who does not comply with those criteria	43306
may obtain the credentials that are necessary for certification;	43307
(v) Require the director to deny certification for any such	43308
environmental professional who does not comply with those criteria	43309
and who fails to obtain the necessary credentials within the	43310
established time period.	43311
(d) Require that any information submitted to the director	43312
for the purposes of <u>the rules adopted under</u> division (B)(5)(a) or	43313
(c) of this section comply with division (A) of section 3746.20 of	43314
the Revised Code;	43315
(e) Authorize the director to suspend or revoke the	43316
certification of an environmental professional if the director	43317
finds that the environmental professional's performance has	43318
resulted in the issuance of no further action letters under	43319
section 3746.11 of the Revised Code that are not consistent with	43320
applicable standards or finds that the certified environmental	43321
professional has not substantially complied with section 3746.31	43322
of the Revised Code;	43323
(f) Authorize the director to suspend for a period of not	43324
more than five years or to permanently revoke a certified	43325
environmental professional's certification for any violation of or	43326
failure to comply with an ethical standard established in rules	43327
adopted under division (B)(5) of this section- <u>i</u>	43328
(g) Require the director to revoke the certification of an	43329



environmental professional if the director finds that the 43330  
environmental professional falsified any information on the 43331  
environmental professional's application for certification 43332  
regarding the environmental professional's credentials or 43333  
qualifications or any other information generated for the purposes 43334  
of or use under this chapter or rules adopted under it; 43335

(h) Require the director permanently to revoke the 43336  
certification of an environmental professional who has violated or 43337  
is violating division (A) of section 3746.18 of the Revised Code; 43338

(i) Preclude the director from revoking the certification of 43339  
an environmental professional who only conducts investigations and 43340  
remedies at property contaminated solely with petroleum unless the 43341  
director first consults with the director of commerce. 43342

(6) Criteria and procedures for the certification of 43343  
laboratories to perform analyses under this chapter and rules 43344  
adopted under it. The issuance, denial, suspension, and revocation 43345  
of those certifications are subject to Chapter 3745. of the 43346  
Revised Code, and the director of environmental protection shall 43347  
take any such action regarding a certification as a final action. 43348

The rules adopted under division (B)(6) of this section shall 43349  
do all of the following: 43350

(a) Provide for the certification to perform analyses of 43351  
laboratories in accordance with the criteria and procedures 43352  
established in the rules adopted under division (B)(6)(a) of this 43353  
section and establish an annual fee to be paid by those 43354  
laboratories. The fee shall be established at an amount calculated 43355  
to defray the costs to the agency for the review of the 43356  
qualifications of those laboratories for certification and for the 43357  
issuance of the certifications. The rules adopted under division 43358  
(B)(6)(a) of this section may provide for the certification of 43359  
those laboratories to perform only particular types or categories 43360

of analyses, specific test parameters or group of test parameters, 43361  
or a specific matrix or matrices under this chapter. 43362

(b) Develop a schedule for and establish requirements 43363  
governing the review by the director of the operations of 43364  
laboratories that were deemed to be certified laboratories under 43365  
division (E) of section 3746.07 of the Revised Code in order to 43366  
determine if they comply with the criteria established in rules 43367  
adopted under division (B)(6) of this section. The rules adopted 43368  
under division (B)(6)(b) of this section shall do at least all of 43369  
the following: 43370

(i) Ensure that the review is conducted in a timely fashion; 43371

(ii) Require the director to certify any such laboratory that 43372  
the director determines complies with those criteria; 43373

(iii) Require any such laboratory initially to pay the fee 43374  
established in the rules adopted under division (B)(6)(a) of this 43375  
section at the time that the laboratory is so certified by the 43376  
director; 43377

(iv) Establish a time period within which any such laboratory 43378  
that does not comply with those criteria may make changes in its 43379  
operations necessary for the performance of analyses under this 43380  
chapter and rules adopted under it in order to be certified by the 43381  
director; 43382

(v) Require the director to deny certification for any such 43383  
laboratory that does not comply with those criteria and that fails 43384  
to make the necessary changes in its operations within the 43385  
established time period. 43386

(c) Require that any information submitted to the director 43387  
for the purposes of the rules adopted under division (B)(6)(a) or 43388  
(b) of this section comply with division (A) of section 3746.20 of 43389  
the Revised Code; 43390

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents	43421
relied upon by the certified environmental professional in	43422
preparing the no further action letter.	43423
(8) Methods for determining fees to be paid for the following	43424
services provided by the agency under this chapter and rules	43425
adopted under it:	43426
(a) Site- or property-specific technical assistance in	43427
developing or implementing plans in connection with a voluntary	43428
action;	43429
(b) Reviewing applications for and issuing consolidated	43430
standards permits under section 3746.15 of the Revised Code and	43431
monitoring compliance with those permits;	43432
(c) Negotiating, preparing, and entering into agreements	43433
necessary for the implementation and administration of this	43434
chapter and rules adopted under it;	43435
(d) Reviewing no further action letters, issuing covenants	43436
not to sue, and monitoring compliance with any terms and	43437
conditions of those covenants and with operation and maintenance	43438
agreements entered into pursuant to those covenants, including,	43439
without limitation, conducting audits of properties where	43440
voluntary actions are being or were conducted under this chapter	43441
and rules adopted under it.	43442
The fees established pursuant to the rules adopted under	43443
division (B)(8) of this section shall be at a level sufficient to	43444
defray the direct and indirect costs incurred by the agency for	43445
the administration and enforcement of this chapter and rules	43446
adopted under it other than the provisions regarding the	43447
certification of professionals and laboratories.	43448
(9) Criteria for selecting the no further action letters	43449
issued under section 3746.11 of the Revised Code that will be	43450

audited under section 3746.17 of the Revised Code, and the scope 43451  
and procedures for conducting those audits. The rules adopted 43452  
under division (B)(9) of this section, at a minimum, shall require 43453  
the director to establish priorities for auditing no further 43454  
action letters to which any of the following applies: 43455

(a) The letter was prepared by an environmental professional 43456  
who was deemed to be a certified professional under division (D) 43457  
of section 3746.07 of the Revised Code, but who does not comply 43458  
with the criteria established in rules adopted under division 43459  
(B)(5) of this section as determined pursuant to rules adopted 43460  
under division (B)(5)(d) of this section-;i 43461

(b) The letter was submitted fraudulently-;i 43462

(c) The letter was prepared by a certified environmental 43463  
professional whose certification subsequently was revoked in 43464  
accordance with rules adopted under division (B)(5) of this 43465  
section, or analyses were performed for the purposes of the no 43466  
further action letter by a certified laboratory whose 43467  
certification subsequently was revoked in accordance with rules 43468  
adopted under division (B)(6) of this section-;i 43469

(d) A covenant not to sue that was issued pursuant to the 43470  
letter was revoked under this chapter-;i 43471

(e) The letter was for a voluntary action that was conducted 43472  
pursuant to a risk assessment in accordance with rules adopted 43473  
under division (B)(2) of this section-;i 43474

(f) The letter was for a voluntary action that included as 43475  
remedial activities engineering controls or institutional controls 43476  
or activity and use limitations authorized under section 3746.05 43477  
of the Revised Code. 43478

The rules adopted under division (B)(9) of this section shall 43479  
provide for random audits of no further action letters to which 43480

the rules adopted under divisions (B)(9)(a) to (f) of this section 43481  
do not apply. 43482

(10) A classification system to characterize ground water 43483  
according to its capability to be used for human use and its 43484  
impact on the environment and a methodology that shall be used to 43485  
determine when ground water that has become contaminated from 43486  
sources on a property for which a covenant not to sue is requested 43487  
under section 3746.11 of the Revised Code shall be remediated to 43488  
the standards established in the rules adopted under division 43489  
(B)(1) or (2) of this section. 43490

(a) In adopting rules under division (B)(10) of this section 43491  
to characterize ground water according to its capability for human 43492  
use, the director shall consider all of the following: 43493

(i) The presence of legally enforceable, reliable 43494  
restrictions on the use of ground water, including, without 43495  
limitation, local rules or ordinances; 43496

(ii) The presence of regional commingled contamination from 43497  
multiple sources that diminishes the quality of ground water; 43498

(iii) The natural quality of ground water; 43499

(iv) Regional availability of ground water and reasonable 43500  
alternative sources of drinking water; 43501

(v) The productivity of the aquifer; 43502

(vi) The presence of restrictions on the use of ground water 43503  
implemented under this chapter and rules adopted under it; 43504

(vii) The existing use of ground water. 43505

(b) In adopting rules under division (B)(10) of this section 43506  
to characterize ground water according to its impacts on the 43507  
environment, the director shall consider both of the following: 43508

(i) The risks posed to humans, fauna, surface water, 43509

sediments, soil, air, and other resources by the continuing  
presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy  
ground water contamination.

(11) Governing the application for and issuance of variances  
under section 3746.09 of the Revised Code;

(12)(a) In the case of voluntary actions involving  
contaminated ground water, specifying the circumstances under  
which the generic numerical clean-up standards established in  
rules adopted under division (B)(1) of this section and standards  
established through a risk assessment conducted pursuant to rules  
adopted under division (B)(2) of this section shall be  
inapplicable to the remediation of contaminated ground water and  
under which the standards for remediating contaminated ground  
water shall be established on a case-by-case basis prior to the  
commencement of the voluntary action pursuant to rules adopted  
under division (B)(12)(b) of this section;

(b) Criteria and procedures for the case-by-case  
establishment of standards for the remediation of contaminated  
ground water under circumstances in which the use of the generic  
numerical clean-up standards and standards established through a  
risk assessment are precluded by the rules adopted under division  
(B)(12)(a) of this section. The rules governing the procedures for  
the case-by-case development of standards for the remediation of  
contaminated ground water shall establish application, public  
participation, adjudication, and appeals requirements and  
procedures that are equivalent to the requirements and procedures  
established in section 3746.09 of the Revised Code and rules  
adopted under division (B)(11) of this section, except that the  
procedural rules shall not require an applicant to make the  
demonstrations set forth in divisions (A)(1) to (3) of section

3746.09 of the Revised Code. 43541

(13) A definition of the evidence that constitutes sufficient 43542  
evidence for the purpose of division (A)(5) of section 3746.02 of 43543  
the Revised Code. 43544

At least thirty days before filing the proposed rules 43545  
required to be adopted under this section with the secretary of 43546  
state, director of the legislative service commission, and joint 43547  
committee on agency rule review in accordance with divisions (B) 43548  
and (H) of section 119.03 of the Revised Code, the director of 43549  
environmental protection shall hold at least one public meeting on 43550  
the proposed rules in each of the five districts into which the 43551  
agency has divided the state for administrative purposes. 43552

**Sec. 3746.071.** (A) As used in this section, "certified 43553  
professional" means a certified professional deemed to be 43554  
certified under division (D) of section 3746.07 of the Revised 43555  
Code. 43556

(B) A certified professional shall do all of the following: 43557

(1) Protect the safety, health, and welfare of the public in 43558  
the performance of ~~his~~ professional duties. If a circumstance 43559  
arises where the certified professional faces a situation where 43560  
the safety, health, or welfare of the public would not be 43561  
protected, ~~he~~ the certified professional shall do all of the 43562  
following: 43563

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 43564  
professional's employer or client; 43565

(b) Refuse to accept responsibility for the design, report, 43566  
or statement involved; 43567

(c) Notify the director of environmental protection if, in 43568  
the opinion of the certified professional, the situation is 43569  
sufficiently important. 43570



(2) Undertake to perform assignments only when ~~he~~ the certified professional or ~~his~~ the certified professional's consulting support is qualified by training and experience in the specific technical fields involved;

(3) Be completely objective in any professional report, statement, or testimony. ~~He~~ The certified professional shall include all relevant and pertinent information in the report, statement, or testimony when the result of an omission would or reasonably could lead to a fallacious conclusion.

(4) Express an opinion as a technical or expert witness before any court, commission, or other tribunal only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of ~~his~~ the testimony.

(C) A certified professional shall not issue statements, criticisms, or arguments on matters connected with public policy that are inspired or paid for by an interested party, unless ~~he~~ the certified professional has prefaced ~~his~~ the remarks by explicitly identifying ~~himself~~ the certified professional, by disclosing the identity of the parties on whose behalf ~~he~~ the certified professional is speaking, and by revealing the existence of any pecuniary interest ~~he~~ the certified professional may have in the instant matters.

(D)(1) A certified professional shall conscientiously avoid any conflict of interest with ~~his~~ the certified professional's employer or client.

(2) A certified professional promptly shall inform ~~his~~ the certified professional's employer or client of any business association, interests, or circumstances that could influence ~~his~~ the certified professional's judgment or the quality of ~~his~~ the

certified professional's service to ~~his~~ the employer or client. 43602

(3) A certified professional shall not accept compensation, 43603  
financial or otherwise, from more than one party for services on 43604  
or pertaining to the same project, unless the circumstances are 43605  
fully disclosed to, and agreed to, by all interested parties or 43606  
their duly authorized agents. 43607

(4) A certified professional shall not solicit or accept 43608  
financial or other valuable considerations from material or 43609  
equipment suppliers for specifying their products. 43610

(5) A certified professional shall not solicit or accept 43611  
gratuities, directly or indirectly, from contractors, their 43612  
agents, or other parties dealing directly with ~~his~~ the certified 43613  
professional's employer or client in connection with the work for 43614  
which ~~he~~ the certified professional is responsible. 43615

(E)(1) A certified professional shall not pay, solicit, or 43616  
offer, directly or indirectly, any bribe or commission for 43617  
professional employment with the exception of ~~his~~ payment of the 43618  
usual commission for securing salaried positions through licensed 43619  
employment agencies. 43620

(2) A certified professional shall seek professional 43621  
employment on the basis of qualification and competence for proper 43622  
accomplishment of the work. A certified professional may submit 43623  
proposed fee information prior to ~~his~~ selection to serve as a 43624  
certified professional under this chapter and rules adopted under 43625  
it. 43626

(3) A certified professional shall not falsify or permit 43627  
misrepresentation of ~~his~~ the certified professional's or ~~his~~ the 43628  
certified professional's associates' academic or professional 43629  
qualifications. ~~He~~ The certified professional shall not 43630  
misrepresent or exaggerate ~~his~~ the certified professional's degree 43631  
of responsibility in or for the subject matter of prior 43632

assignments. 43633

(4) Brochures or other presentations incident to the 43634  
solicitation of employment by a certified professional shall not 43635  
misrepresent pertinent facts concerning ~~his~~ the certified 43636  
professional's employers, employees, associates, or joint 43637  
ventures, or ~~his or their~~ the past accomplishments of any of them, 43638  
with the intent and purpose of enhancing ~~his~~ the certified 43639  
professional's qualifications for ~~his~~ the certified professional's 43640  
work. 43641

(F)(1) A certified professional shall not sign or seal 43642  
professional work for which ~~he~~ the certified professional does not 43643  
have personal professional knowledge and direct supervisory 43644  
control and responsibility. 43645

(2) A certified professional shall not knowingly associate 43646  
with, or permit the use of ~~his~~ the certified professional's own 43647  
name or ~~his firm's~~ the name of the certified professional's firm 43648  
in, a business venture by any person or firm that ~~he~~ the certified 43649  
professional knows, or has reason to believe, is engaging in 43650  
business or professional practices of a fraudulent or dishonest 43651  
nature. 43652

(3) If a certified professional has knowledge or reason to 43653  
believe that another person or firm has violated any of the 43654  
provisions of this chapter or any requirement of this section, ~~he~~ 43655  
the certified professional shall present the information to the 43656  
director in writing. 43657

(G) The director, in accordance with ~~Chapter 3745-~~ rules 43658  
adopted under section 3746.04 of the Revised Code, may suspend for 43659  
a period of not more than five years or permanently revoke a 43660  
certified professional's certification for a violation of or 43661  
failure to comply with any requirement or obligation set forth in 43662  
this section. 43663

**Sec. 3748.07.** (A) Every facility that proposes to handle 43664  
radioactive material or radiation-generating equipment for which 43665  
licensure or registration, respectively, by its handler is 43666  
required shall apply in writing to the director of health on forms 43667  
prescribed and provided by the director for licensure or 43668  
registration. Terms and conditions of licenses and certificates of 43669  
registration may be amended in accordance with rules adopted under 43670  
section 3748.04 of the Revised Code or orders issued by the 43671  
director pursuant to section 3748.05 of the Revised Code. 43672

(B) Until rules are adopted under section 3748.04 of the 43673  
Revised Code, an application for a certificate of registration 43674  
shall be accompanied by a biennial registration fee of two hundred 43675  
eighteen dollars. On and after the effective date of those rules, 43676  
an applicant for a license, registration certificate, or renewal 43677  
of either shall pay the appropriate fee established in those 43678  
rules. 43679

All fees collected under this section shall be deposited in 43680  
the state treasury to the credit of the general operations fund 43681  
created in section 3701.83 of the Revised Code. The fees shall be 43682  
used solely to administer and enforce this chapter and rules 43683  
adopted under it. 43684

Any fee required under this section that has not been paid 43685  
within ninety days after the invoice date shall be assessed at two 43686  
times the original invoiced fee. Any fee that has not been paid 43687  
within one hundred eighty days after the invoice date shall be 43688  
assessed at five times the original invoiced fee. 43689

(C) The director shall grant a license or registration to any 43690  
applicant who has paid the required fee and is in compliance with 43691  
this chapter and rules adopted under it. 43692

Until rules are adopted under section 3748.04 of the Revised 43693

Code, certificates of registration shall be effective for two 43694  
years from the date of issuance. On and after the effective date 43695  
of those rules, licenses and certificates of registration shall be 43696  
effective for the applicable period established in those rules. 43697  
Licenses and certificates of registration shall be renewed in 43698  
accordance with the standard renewal procedure established in 43699  
Chapter 4745. of the Revised Code. 43700

**Sec. 3748.13.** (A) The director of health shall inspect 43701  
sources of radiation for which licensure or registration by the 43702  
handler is required, and the sources' shielding and surroundings, 43703  
according to the schedule established in rules adopted under 43704  
division (D) of section 3748.04 of the Revised Code. In accordance 43705  
with rules adopted under that section, the director shall inspect 43706  
all records and operating procedures of handlers that install 43707  
sources of radiation and all sources of radiation for which 43708  
licensure of radioactive material or registration of 43709  
radiation-generating equipment by the handler is required. The 43710  
director may make other inspections upon receiving complaints or 43711  
other evidence of violation of this chapter or rules adopted under 43712  
it. 43713

The director shall require any hospital registered under 43714  
division (A) of section 3701.07 of the Revised Code to develop and 43715  
maintain a quality assurance program for all sources of 43716  
radiation-generating equipment. A certified radiation expert shall 43717  
conduct oversight and maintenance of the program and shall file a 43718  
report of audits of the program with the director on forms 43719  
prescribed by the director. The audit reports shall become part of 43720  
the inspection record. 43721

(B) Until rules are adopted under division (A)(8) of section 43722  
3748.04 of the Revised Code, a facility shall pay inspection fees 43723  
according to the following schedule and categories: 43724

First dental x-ray tube	\$ <del>118.00</del> <u>129.00</u>	43725
Each additional dental x-ray tube at the same location	\$ <del>59.00</del> <u>64.00</u>	43726
First medical x-ray tube	\$ <del>235.00</del> <u>256.00</u>	43727
Each additional medical x-ray tube at the same location	\$ <del>125.00</del> <u>136.00</u>	43728
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ <del>466.00</del> <u>508.00</u>	43729
First nonionizing radiation-generating equipment of any kind	\$ <del>235.00</del> <u>256.00</u>	43730
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ <del>125.00</del> <u>136.00</u>	43731
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ <del>291.00</del> <u>317.00</u>	43732
Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted, the fee for the inspection of a facility that is not licensed or registered and for which no license or registration application is pending at the time of inspection is three hundred <del>sixty-three</del> <u>ninety-five</u> dollars plus the fee applicable under the schedule in this division.		43733 43734 43735 43736 43737 43738 43739 43740 43741 43742
The director may conduct a review of shielding plans or the		43743

adequacy of shielding on the request of a licensee or registrant 43744  
or an applicant for licensure or registration or during an 43745  
inspection when the director considers a review to be necessary. 43746  
Until rules are adopted under division (A)(8) of section 3748.04 43747  
of the Revised Code, the fee for the review is ~~five~~ six hundred 43748  
~~eighty-three~~ thirty-five dollars for each room where a source of 43749  
radiation is used and is in addition to any other fee applicable 43750  
under the schedule in this division. 43751

All fees shall be paid to the department of health no later 43752  
than thirty days after the invoice for the fee is mailed. Fees 43753  
shall be deposited in the general operations fund created in 43754  
section 3701.83 of the Revised Code. The fees shall be used solely 43755  
to administer and enforce this chapter and rules adopted under it. 43756

Any fee required under this section that has not been paid 43757  
within ninety days after the invoice date shall be assessed at two 43758  
times the original invoiced fee. Any fee that has not been paid 43759  
within one hundred eighty days after the invoice date shall be 43760  
assessed at five times the original invoiced fee. 43761

(C) If the director determines that a board of health of a 43762  
city or general health district is qualified to conduct 43763  
inspections of radiation-generating equipment, the director may 43764  
delegate to the board, by contract, the authority to conduct such 43765  
inspections. In making a determination of the qualifications of a 43766  
board of health to conduct those inspections, the director shall 43767  
evaluate the credentials of the individuals who are to conduct the 43768  
inspections of radiation-generating equipment and the radiation 43769  
detection and measuring equipment available to them for that 43770  
purpose. If a contract is entered into, the board shall have the 43771  
same authority to make inspections of radiation-generating 43772  
equipment as the director has under this chapter and rules adopted 43773  
under it. The contract shall stipulate that only individuals 43774  
approved by the director as qualified shall be permitted to 43775

inspect radiation-generating equipment under the contract's 43776  
provisions. The contract shall provide for such compensation for 43777  
services as is agreed to by the director and the board of health 43778  
of the contracting health district. The director may reevaluate 43779  
the credentials of the inspection personnel and their radiation 43780  
detecting and measuring equipment as often as the director 43781  
considers necessary and may terminate any contract with the board 43782  
of health of any health district that, in the director's opinion, 43783  
is not satisfactorily performing the terms of the contract. 43784

(D) The director may enter at all reasonable times upon any 43785  
public or private property to determine compliance with this 43786  
chapter and rules adopted under it. 43787

Sec. 3770.061. There is hereby created in the state treasury 43788  
the charitable gaming oversight fund. The state lottery commission 43789  
shall credit to the fund any money it receives from the office of 43790  
the attorney general under any agreement the commission and the 43791  
office have entered into under division (I) of section 2915.08 of 43792  
the Revised Code. The commission shall use money in the fund to 43793  
provide oversight, licensing, and monitoring of charitable gaming 43794  
activities in this state in accordance with the agreement and 43795  
Chapter 2915. of the Revised Code. Not later than the first day of 43796  
July of each fiscal year, or as soon as possible thereafter, the 43797  
commission may certify to the office of budget and management any 43798  
unobligated fund balances not necessary to be used under this 43799  
section. The commission may request the office of budget and 43800  
management to transfer these balances to the lottery profits 43801  
education fund for use in accordance with section 3770.06 of the 43802  
Revised Code. 43803

**Sec. 3773.34.** (A) The Ohio athletic commission shall adopt 43804  
and may amend or rescind rules in accordance with Chapter 119. of 43805



the Revised Code, prescribing the conditions under which prize 43806  
fights and public boxing or wrestling matches or exhibitions may 43807  
be conducted, classifying professional boxers by weight, and 43808  
providing for the administration of sections 3773.31 to 3773.57 of 43809  
the Revised Code. The rules may require that an applicant for a 43810  
contestant's license to participate in a public boxing match or 43811  
exhibition take an HIV test, as defined in section 3701.24 of the 43812  
Revised Code, before being issued the contestant's license and may 43813  
require that a licensed contestant take such an HIV test before 43814  
participating in a public boxing match or exhibition. The 43815  
commission, or the commission's executive director when authorized 43816  
by the commission, may issue, deny, suspend, or revoke permits to 43817  
hold prize fights and public boxing or wrestling matches or 43818  
exhibitions,~~and.~~ The commission may issue, deny, suspend, or 43819  
revoke licenses to persons engaged in any public boxing match or 43820  
exhibition as authorized by sections 3773.31 to 3773.57 of the 43821  
Revised Code. 43822

(B) In addition to the duties set forth in this chapter, the 43823  
Ohio athletic commission shall take action as necessary to carry 43824  
out the provisions of Chapter 4771. of the Revised Code governing 43825  
athlete agents. 43826

(C) On or before the thirty-first day of December of each 43827  
year, the commission shall make a report to the governor of its 43828  
proceedings for the year ending on the first day of December of 43829  
that calendar year, and may include in the report any 43830  
recommendations pertaining to its duties. 43831

**Sec. 3773.38.** Each person who holds a promoter's license 43832  
issued under section 3773.36 of the Revised Code who desires to 43833  
conduct a public boxing or wrestling match or exhibition where one 43834  
or more contests are to be held shall obtain a permit from the 43835  
Ohio athletic commission or the commission's executive director 43836

when the executive director is authorized by the commission to 43837  
issue those types of permits. Application for such a permit shall 43838  
be made in writing and on forms prescribed by the commission, 43839  
shall be filed with the commission, and shall be accompanied by 43840  
the permit fee prescribed in section 3773.43 of the Revised Code. 43841

The application for a permit issued under this section shall 43842  
include the date and starting time of the match or exhibition, the 43843  
address of the place where the match or exhibition is to be held, 43844  
the names of the contestants, the seating capacity of the building 43845  
or hall where the exhibition is to be held, the admission charge 43846  
or any other charges, the amount of compensation or the percentage 43847  
of gate receipts to be paid to each contestant, the name and 43848  
address of the applicant, a copy of the current official rules 43849  
that govern the particular sport, and the serial number of the 43850  
applicant's promoter's license. 43851

The commission, or the commission's executive director when 43852  
authorized by the commission, may require the applicant to deposit 43853  
with the commission before a public boxing match or exhibition a 43854  
cash bond, certified check, bank draft, or surety bond in an 43855  
amount equal to five per cent of the estimated gross receipts from 43856  
the match or exhibition. 43857

**Sec. 3773.39.** (A) Upon receipt of an application for a permit 43858  
to hold a public boxing or wrestling match or exhibition under 43859  
section 3773.38 of the Revised Code, the Ohio athletic commission, 43860  
or the commission's executive director when authorized by the 43861  
commission, shall determine if the applicant holds a valid 43862  
promoter's license issued pursuant to section 3773.36 of the 43863  
Revised Code. Upon receipt of an application for a permit to hold 43864  
a public boxing match or exhibition, the commission, or the 43865  
commission's executive director when authorized by the commission, 43866  
also shall determine if the contestants are evenly and fairly 43867

matched according to skill, experience, and weight so as to 43868  
produce a fair and sportsmanlike contest, and whether the 43869  
applicant is financially responsible and is able to pay to each 43870  
contestant the compensation or percentage of the gate receipts 43871  
named in the application. The commission, or the commission's 43872  
executive director when authorized by the commission, may, if 43873  
applicable, require the applicant to deposit with it within 43874  
forty-eight hours before the match or exhibition the total 43875  
compensation or estimated portion of gate receipts to be paid all 43876  
contestants named in the application made under section 3773.38 of 43877  
the Revised Code. 43878

(B) If the commission, or the commission's executive director 43879  
when authorized by the commission, determines that the applicant 43880  
has met all the requirements specified in division (A) of this 43881  
section, ~~it~~ the commission or executive director shall issue the 43882  
applicant a permit to conduct the match or exhibition. If the 43883  
applicant fails to deposit any compensation or portion of gate 43884  
receipts required by the commission, or executive director before 43885  
the first contest of the match or exhibition is held, the 43886  
commission, or the commission's executive director when authorized 43887  
by the commission, may revoke the permit and order the applicant 43888  
not to conduct the match or exhibition described in the permit. 43889

(C) Each permit issued pursuant to this section shall bear 43890  
the name and post office address of the applicant, the address of 43891  
the place where the public boxing or wrestling match or exhibition 43892  
is to be held, the date and starting time of the match or 43893  
exhibition, and a serial number designated by the commission. 43894

A permit issued under this section shall allow the permit 43895  
holder to conduct only the match or exhibition named in the 43896  
permit. A permit is not transferable. 43897

**Sec. 3773.40.** No person who holds a promoter's license to 43898

conduct a public boxing match or exhibition under section 3773.36 43899  
of the Revised Code shall: 43900

(A) Hold any match or exhibition at any time or place other 43901  
than that stated on a permit issued under section 3773.38 of the 43902  
Revised Code; 43903

(B) Allow any contestant to participate in the match or 43904  
exhibition unless the contestant is the licensed contestant named 43905  
in the application for such permit or a licensed contestant 43906  
authorized to compete as a substitute for such a contestant by the 43907  
inspector assigned to the facility where the match or exhibition 43908  
is held for that match or exhibition; 43909

(C) Charge a higher admission price for a match or exhibition 43910  
than that stated in the application; 43911

(D) Pay a greater compensation or percentage of the gate 43912  
receipts to any contestant than that stated in the application. 43913

The Ohio athletic commission, or the commission's executive 43914  
director when authorized by the commission, upon application by a 43915  
holder of a permit under section 3773.38 of the Revised Code, may 43916  
allow the permit holder to hold the match or exhibition for which 43917  
the permit was issued at an alternative site that is within the 43918  
same municipal corporation or township and that offers 43919  
substantially similar seating facilities, or allow the permit 43920  
holder to substitute contestants or seconds, provided that the 43921  
substitute contestants are evenly matched with their opponents in 43922  
skill, experience, and weight. 43923

**Sec. 3773.57.** The Ohio athletic commission and the 43924  
commission's executive director shall not issue a license or 43925  
permit to conduct public boxing or wrestling matches or 43926  
exhibitions in a municipal corporation or the unincorporated 43927  
portion of a township if the commission or the commission's 43928

executive director determines that the legislative authority of 43929  
the municipal corporation or board of township trustees has in 43930  
effect an ordinance or resolution prohibiting such matches or 43931  
exhibitions. 43932

**Sec. 3781.07.** There is hereby established in the department 43933  
of commerce a board of building standards consisting of ~~ten~~ eleven 43934  
members appointed by the governor with the advice and consent of 43935  
the senate. The board shall appoint a secretary who shall serve in 43936  
the unclassified civil service for a term of six years at a salary 43937  
fixed pursuant to Chapter 124. of the Revised Code. The board may 43938  
employ additional staff in the classified civil service. The 43939  
secretary may be removed by the board under the rules the board 43940  
adopts. Terms of office shall be for four years, commencing on the 43941  
fourteenth day of October and ending on the thirteenth day of 43942  
October. Each member shall hold office from the date of 43943  
appointment until the end of the term for which the member was 43944  
appointed. Any member appointed to fill a vacancy occurring prior 43945  
to the expiration of the term for which the member's predecessor 43946  
was appointed shall hold office for the remainder of such term. 43947  
Any member shall continue in office subsequent to the expiration 43948  
date of the member's term until the member's successor takes 43949  
office, or until a period of sixty days has elapsed, whichever 43950  
occurs first. One of the members appointed to the board shall be 43951  
an attorney at law, admitted to the bar of this state; two shall 43952  
be registered architects; two shall be professional engineers, one 43953  
in the field of mechanical and one in the field of structural 43954  
engineering, each of whom shall be duly licensed to practice such 43955  
profession in this state; one shall be a person of recognized 43956  
ability, broad training, and fifteen years experience in problems 43957  
and practice incidental to the construction and equipment of 43958  
buildings specified in section 3781.06 of the Revised Code; one 43959  
shall be a person with recognized ability and experience in the 43960

manufacture and construction of industrialized units as defined in 43961  
section 3781.06 of the Revised Code; one shall be a member of the 43962  
fire service with recognized ability and broad training in the 43963  
field of fire protection and suppression; one shall be a person 43964  
with at least ten years of experience and recognized expertise in 43965  
building codes and standards and the manufacture of construction 43966  
materials; ~~and~~ one shall be a general contractor with experience 43967  
in residential and commercial construction; and one, chosen from a 43968  
list of three names the Ohio municipal league submits to the 43969  
governor, shall be the mayor of a municipal corporation in which 43970  
the Ohio residential and nonresidential building codes are being 43971  
enforced in the municipal corporation by a certified building 43972  
department. Each member of the board, not otherwise required to 43973  
take an oath of office, shall take the oath prescribed by the 43974  
constitution. Each member shall receive as compensation an amount 43975  
fixed pursuant to division (J) of section 124.15 of the Revised 43976  
Code, and shall receive actual and necessary expenses in the 43977  
performance of official duties. The amount of such expenses shall 43978  
be certified by the secretary of the board and paid in the same 43979  
manner as the expenses of employees of the department of commerce 43980  
are paid. 43981

**Sec. 3781.10.** (A)(1) The board of building standards shall 43982  
formulate and adopt rules governing the erection, construction, 43983  
repair, alteration, and maintenance of all buildings or classes of 43984  
buildings specified in section 3781.06 of the Revised Code, 43985  
including land area incidental to those buildings, the 43986  
construction of industrialized units, the installation of 43987  
equipment, and the standards or requirements for materials used in 43988  
connection with those buildings. The board shall incorporate those 43989  
rules into separate residential and nonresidential building codes. 43990  
The standards shall relate to the conservation of energy and the 43991  
safety and sanitation of those buildings. 43992

(2) The rules governing nonresidential buildings are the 43993  
lawful minimum requirements specified for those buildings and 43994  
industrialized units, except that no rule other than as provided 43995  
in division (C) of section 3781.108 of the Revised Code that 43996  
specifies a higher requirement than is imposed by any section of 43997  
the Revised Code is enforceable. The rules governing residential 43998  
buildings are uniform requirements for residential buildings in 43999  
any area with a building department certified to enforce the state 44000  
residential building code. In no case shall any local code or 44001  
regulation differ from the state residential building code unless 44002  
that code or regulation addresses subject matter not addressed by 44003  
the state residential building code or is adopted pursuant to 44004  
section 3781.01 of the Revised Code. 44005

(3) The rules adopted pursuant to this section are complete, 44006  
lawful alternatives to any requirements specified for buildings or 44007  
industrialized units in any section of the Revised Code. The board 44008  
shall, on its own motion or on application made under sections 44009  
3781.12 and 3781.13 of the Revised Code, formulate, propose, 44010  
adopt, modify, amend, or repeal the rules to the extent necessary 44011  
or desirable to effectuate the purposes of sections 3781.06 to 44012  
3781.18 of the Revised Code. 44013

(B) The board shall report to the general assembly proposals 44014  
for amendments to existing statutes relating to the purposes 44015  
declared in section 3781.06 of the Revised Code that public health 44016  
and safety and the development of the arts require and shall 44017  
recommend any additional legislation to assist in carrying out 44018  
fully, in statutory form, the purposes declared in that section. 44019  
The board shall prepare and submit to the general assembly a 44020  
summary report of the number, nature, and disposition of the 44021  
petitions filed under sections 3781.13 and 3781.14 of the Revised 44022  
Code. 44023

(C) On its own motion or on application made under sections 44024

3781.12 and 3781.13 of the Revised Code, and after thorough  
testing and evaluation, the board shall determine by rule that any  
particular fixture, device, material, process of manufacture,  
manufactured unit or component, method of manufacture, system, or  
method of construction complies with performance standards adopted  
pursuant to section 3781.11 of the Revised Code. The board shall  
make its determination with regard to adaptability for safe and  
sanitary erection, use, or construction, to that described in any  
section of the Revised Code, wherever the use of a fixture,  
device, material, method of manufacture, system, or method of  
construction described in that section of the Revised Code is  
permitted by law. The board shall amend or annul any rule or issue  
an authorization for the use of a new material or manufactured  
unit on any like application. No department, officer, board, or  
commission of the state other than the board of building standards  
or the board of building appeals shall permit the use of any  
fixture, device, material, method of manufacture, newly designed  
product, system, or method of construction at variance with what  
is described in any rule the board of building standards adopts or  
issues or that is authorized by any section of the Revised Code.  
Nothing in this section shall be construed as requiring approval,  
by rule, of plans for an industrialized unit that conforms with  
the rules the board of building standards adopts pursuant to  
section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to  
help carry out the purposes of section 3781.06 of the Revised Code  
and to help secure uniformity of state administrative rulings and  
local legislation and administrative action to the bureau of  
workers' compensation, the director of commerce, any other  
department, officer, board, or commission of the state, and to  
legislative authorities and building departments of counties,  
townships, and municipal corporations, and shall recommend that



they audit those recommended rules, codes, and standards by any  
appropriate action that they are allowed pursuant to law or the  
constitution.

(E)(1) The board shall certify municipal, township, and  
county building departments and the personnel of those building  
departments, and persons and employees of individuals, firms, or  
corporations as described in division (E)(7) of this section to  
exercise enforcement authority, to accept and approve plans and  
specifications, and to make inspections, pursuant to sections  
3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and  
persons to enforce the state residential building code, to enforce  
the nonresidential building code, or to enforce both the  
residential and the nonresidential building codes. Any department,  
personnel, or person may enforce only the type of building code  
for which certified.

(3) The board shall not require a building department, its  
personnel, or any persons that it employs to be certified for  
residential building code enforcement if that building department  
does not enforce the state residential building code. The board  
shall specify, in rules adopted pursuant to Chapter 119. of the  
Revised Code, the requirements for certification for residential  
and nonresidential building code enforcement, which shall be  
consistent with this division. The requirements for residential  
and nonresidential certification may differ. Except as otherwise  
provided in this division, the requirements shall include, but are  
not limited to, the satisfactory completion of an initial  
examination and, to remain certified, the completion of a  
specified number of hours of continuing building code education  
within each three-year period following the date of certification  
which shall be not less than thirty hours. The rules shall provide  
that continuing education credits and certification issued by the

council of American building officials, national model code 44089  
organizations, and agencies or entities the board recognizes are 44090  
acceptable for purposes of this division. The rules shall specify 44091  
requirements that are compatible, to the extent possible, with 44092  
requirements the council of American building officials and 44093  
national model code organizations establish. 44094

(4) The board shall establish and collect a certification and 44095  
renewal fee for building department personnel, and persons and 44096  
employees of persons, firms, or corporations as described in this 44097  
section, who are certified pursuant to this division. 44098

(5) Any individual certified pursuant to this division shall 44099  
complete the number of hours of continuing building code education 44100  
that the board requires or, for failure to do so, forfeit 44101  
certification. 44102

(6) This division does not require or authorize the board to 44103  
certify personnel of municipal, township, and county building 44104  
departments, and persons and employees of persons, firms, or 44105  
corporations as described in this section, whose responsibilities 44106  
do not include the exercise of enforcement authority, the approval 44107  
of plans and specifications, or making inspections under the state 44108  
residential and nonresidential building codes. 44109

(7) Enforcement authority for approval of plans and 44110  
specifications and enforcement authority for inspections may be 44111  
exercised, and plans and specifications may be approved and 44112  
inspections may be made on behalf of a municipal corporation, 44113  
township, or county, by any of the following who the board of 44114  
building standards certifies: 44115

(a) Officers or employees of the municipal corporation, 44116  
township, or county; 44117

(b) Persons, or employees of persons, firms, or corporations, 44118  
pursuant to a contract to furnish architectural ~~or~~ engineering, 44119

<u>or other</u> services to the municipal corporation, township, or	44120
county;	44121
(c) Officers or employees of, and persons under contract	44122
with, a municipal corporation, township, county, health district,	44123
or other political subdivision, pursuant to a contract to furnish	44124
architectural <del>or</del> , <u>engineering, or other</u> services.	44125
(8) Municipal, township, and county building departments have	44126
jurisdiction within the meaning of sections 3781.03, 3791.04, and	44127
4104.43 of the Revised Code, only with respect to the types of	44128
buildings and subject matters for which they are certified under	44129
this section.	44130
(9) Certification shall be granted upon application by the	44131
municipal corporation, the board of township trustees, or the	44132
board of county commissioners and approval of that application by	44133
the board of building standards. The application shall set forth:	44134
(a) Whether the certification is requested for residential or	44135
nonresidential buildings, or both;	44136
(b) The number and qualifications of the staff composing the	44137
building department;	44138
(c) The names, addresses, and qualifications of persons,	44139
firms, or corporations contracting to furnish work or services	44140
pursuant to division (E)(7)(b) of this section;	44141
(d) The names of any other municipal corporation, township,	44142
county, health district, or political subdivision under contract	44143
to furnish work or services pursuant to division (E)(7) of this	44144
section;	44145
(e) The proposed budget for the operation of the building	44146
department.	44147
(10) The board of building standards shall adopt rules	44148
governing all of the following:	44149

(a) The certification of building department personnel and 44150  
persons and employees of persons, firms, or corporations 44151  
exercising authority pursuant to division (E)(7) of this section. 44152  
The rules shall disqualify any employee of the department or 44153  
person who contracts for services with the department from 44154  
performing services for the department when that employee or 44155  
person would have to pass upon, inspect, or otherwise exercise 44156  
authority over any labor, material, or equipment the employee or 44157  
person furnishes for the construction, alteration, or maintenance 44158  
of a building or the preparation of working drawings or 44159  
specifications for work within the jurisdictional area of the 44160  
department. The department shall provide other similarly qualified 44161  
personnel to enforce the residential and nonresidential building 44162  
codes as they pertain to that work. 44163

(b) The minimum services to be provided by a certified 44164  
building department. 44165

(11) The board of building standards may revoke or suspend 44166  
certification to enforce the residential and nonresidential 44167  
building codes, on petition to the board by any person affected by 44168  
that enforcement or approval of plans, or by the board on its own 44169  
motion. Hearings shall be held and appeals permitted on any 44170  
proceedings for certification or revocation or suspension of 44171  
certification in the same manner as provided in section 3781.101 44172  
of the Revised Code for other proceedings of the board of building 44173  
standards. 44174

(12) Upon certification, and until that authority is revoked, 44175  
any county or township building department shall enforce the 44176  
residential and nonresidential building codes for which it is 44177  
certified without regard to limitation upon the authority of 44178  
boards of county commissioners under Chapter 307. of the Revised 44179  
Code or boards of township trustees under Chapter 505. of the 44180  
Revised Code. 44181

(F) In addition to hearings sections 3781.06 to 3781.18 and 44182  
3791.04 of the Revised Code require, the board of building 44183  
standards shall make investigations and tests, and require from 44184  
other state departments, officers, boards, and commissions 44185  
information the board considers necessary or desirable to assist 44186  
it in the discharge of any duty or the exercise of any power 44187  
mentioned in this section or in sections 3781.06 to 3781.18, 44188  
3791.04, and 4104.43 of the Revised Code. 44189

(G) The board shall adopt rules and establish reasonable fees 44190  
for the review of all applications submitted where the applicant 44191  
applies for authority to use a new material, assembly, or product 44192  
of a manufacturing process. The fee shall bear some reasonable 44193  
relationship to the cost of the review or testing of the 44194  
materials, assembly, or products and for the notification of 44195  
approval or disapproval as provided in section 3781.12 of the 44196  
Revised Code. 44197

(H) The residential construction advisory committee shall 44198  
provide the board with a proposal for a state residential building 44199  
code that the committee recommends pursuant to division (C)(1) of 44200  
section 4740.14 of the Revised Code. Upon receiving a 44201  
recommendation from the committee that is acceptable to the board, 44202  
the board shall adopt rules establishing that code as the state 44203  
residential building code. 44204

(I) The board shall cooperate with the director of job and 44205  
family services when the director promulgates rules pursuant to 44206  
section 5104.05 of the Revised Code regarding safety and 44207  
sanitation in type A family day-care homes. 44208

(J) The board shall adopt rules to implement the requirements 44209  
of section 3781.108 of the Revised Code. 44210

**Sec. 3781.102.** (A) Any county or municipal building 44211

department certified pursuant to division (E) of section 3781.10 44212  
of the Revised Code as of September 14, 1970, and that, as of that 44213  
date, was inspecting single-family, two-family, and three-family 44214  
residences, and any township building department certified 44215  
pursuant to division (E) of section 3781.10 of the Revised Code, 44216  
is hereby declared to be certified to inspect single-family, 44217  
two-family, and three-family residences containing industrialized 44218  
units, and shall inspect the buildings or classes of buildings 44219  
subject to division (E) of section 3781.10 of the Revised Code. 44220

(B) Each board of county commissioners may adopt, by 44221  
resolution, rules establishing standards and providing for the 44222  
licensing of electrical and heating, ventilating, and air 44223  
conditioning contractors who are not required to hold a valid and 44224  
unexpired license pursuant to Chapter 4740. of the Revised Code. 44225

Rules adopted by a board of county commissioners pursuant to 44226  
this division may be enforced within the unincorporated areas of 44227  
the county and within any municipal corporation where the 44228  
legislative authority of the municipal corporation has contracted 44229  
with the board for the enforcement of the county rules within the 44230  
municipal corporation pursuant to section 307.15 of the Revised 44231  
Code. The rules shall not conflict with rules adopted by the board 44232  
of building standards pursuant to section 3781.10 of the Revised 44233  
Code or by the department of commerce pursuant to Chapter 3703. of 44234  
the Revised Code. This division does not impair or restrict the 44235  
power of municipal corporations under Section 3 of Article XVIII, 44236  
Ohio Constitution, to adopt rules concerning the erection, 44237  
construction, repair, alteration, and maintenance of buildings and 44238  
structures or of establishing standards and providing for the 44239  
licensing of specialty contractors pursuant to section 715.27 of 44240  
the Revised Code. 44241

A board of county commissioners, pursuant to this division, 44242

may require all electrical contractors and heating, ventilating, 44243  
and air conditioning contractors, other than those who hold a 44244  
valid and unexpired license issued pursuant to Chapter 4740. of 44245  
the Revised Code, to successfully complete an examination, test, 44246  
or demonstration of technical skills, and may impose a fee and 44247  
additional requirements for a license to engage in their 44248  
respective occupations within the jurisdiction of the board's 44249  
rules under this division. 44250

(C) No board of county commissioners shall require any 44251  
specialty contractor who holds a valid and unexpired license 44252  
issued pursuant to Chapter 4740. of the Revised Code to 44253  
successfully complete an examination, test, or demonstration of 44254  
technical skills in order to engage in the type of contracting for 44255  
which the license is held, within the unincorporated areas of the 44256  
county and within any municipal corporation whose legislative 44257  
authority has contracted with the board for the enforcement of 44258  
county regulations within the municipal corporation, pursuant to 44259  
section 307.15 of the Revised Code. 44260

(D) A board may impose a fee for registration of a specialty 44261  
contractor who holds a valid and unexpired license issued pursuant 44262  
to Chapter 4740. of the Revised Code before that specialty 44263  
contractor may engage in the type of contracting for which the 44264  
license is held within the unincorporated areas of the county and 44265  
within any municipal corporation whose legislative authority has 44266  
contracted with the board for the enforcement of county 44267  
regulations within the municipal corporation, pursuant to section 44268  
307.15 of the Revised Code, provided that the fee is the same for 44269  
all specialty contractors who wish to engage in that type of 44270  
contracting. If a board imposes such a fee, the board immediately 44271  
shall permit a specialty contractor who presents proof of holding 44272  
a valid and unexpired license and pays the required fee to engage 44273  
in the type of contracting for which the license is held within 44274

the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the industrial compliance operating fund under this division shall be used exclusively for the following:



(a) Operating costs of the board;	44306
(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;	44307 44308 44309
<u>(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.</u>	44310 44311 44312
(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.	44313 44314 44315 44316 44317 44318 44319 44320 44321 44322 44323
(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.	44324 44325 44326 44327
(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.	44328 44329 44330 44331 44332
<u>Sec. 3781.191. The Ohio board of building appeals has no authority to hear any case based on the Ohio residential building code or to grant any variance to the Ohio residential building</u>	44333 44334 44335

code.

44336

**Sec. 3793.09.** (A) There is hereby created the council on 44337  
alcohol and drug addiction services which shall consist of the 44338  
public officials specified in division (B) of this section, or 44339  
their designees, and thirteen members appointed by the governor 44340  
with the advice and consent of the senate. The members appointed 44341  
by the governor shall be representatives of the following: boards 44342  
of alcohol, drug addiction, and mental health services; the 44343  
criminal and juvenile justice systems; and alcohol and drug 44344  
addiction programs. At least four of the appointed members shall 44345  
be persons who have received or are receiving alcohol or drug 44346  
addiction services or are parents or other relatives of such 44347  
persons; of these at least two shall be women and at least one 44348  
shall be a member of a minority group. 44349

The governor shall make initial appointments to the council 44350  
not later than thirty days after October 10, 1989. Of the initial 44351  
appointments, six shall be for terms ending July 31, 1991, and 44352  
seven shall be for terms ending July 31, 1992. Thereafter, terms 44353  
of office shall be two years, with each term ending on the same 44354  
day of the same month as the term it succeeds. Each member shall 44355  
hold office from the date of the member's appointment until the 44356  
end of the term for which the member was appointed. Members may be 44357  
reappointed. Vacancies shall be filled in the same manner as 44358  
original appointments. Any member appointed to fill a vacancy 44359  
occurring prior to the expiration of the term for which the 44360  
member's predecessor was appointed shall hold office as a member 44361  
for the remainder of the term. A member shall continue in office 44362  
subsequent to the expiration of the member's term until the 44363  
member's successor takes office or until a period of sixty days 44364  
has elapsed, whichever occurs first. 44365

(B) The directors of health, public safety, mental health, rehabilitation and correction, and youth services; the superintendents of public instruction and liquor control; the attorney general; the adjutant general; and the executive director of the ~~office~~ division of criminal justice services in the department of public safety shall be voting members of the council, except that any of these officials may designate an individual to serve in the official's place as a voting member of the council. The director of alcohol and drug addiction services shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a ~~chairman~~ chairperson from among the members of the council. The council shall meet quarterly and at other times the ~~chairman~~ chairperson considers necessary. In addition to other duties specified in this chapter, the council shall review the development of the comprehensive statewide plan for alcohol and drug addiction services, revisions of the plan, and other actions taken to implement the purposes of this chapter by the department of alcohol and drug addiction services and shall act as an advisory council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation, but shall be paid actual and necessary expenses incurred in the performance of their duties.

**Sec. 3901.021.** (A) Three-fourths of all appointment and other fees collected under section 3905.10~~7~~, and division (B) of section 3905.20~~7~~, ~~and division (A)(6) of section 3905.40~~ of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund, which is hereby created. The remaining one-fourth shall be credited to the general revenue fund. All other revenues collected by the superintendent of insurance, such as registration fees for sponsored seminars or

conferences and grants from private entities, shall be paid into 44397  
the state treasury to the credit of the department of insurance 44398  
operating fund. 44399

(B) Seven-tenths of all fees collected under divisions 44400  
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 44401  
shall be paid into the state treasury to the credit of the 44402  
department of insurance operating fund. The remaining three-tenths 44403  
shall be credited to the general revenue fund. 44404

(C) All operating expenses of the department of insurance 44405  
except those expenses defined under section 3901.07 of the Revised 44406  
Code shall be paid from the department of insurance operating 44407  
fund. 44408

**Sec. 3901.17.** (A) As used in this section: 44409

(1) "Captive insurer" has the meaning defined in section 44410  
3905.36 of the Revised Code. 44411

(2) "Insurer" includes, but is not limited to, any person 44412  
that is an affiliate of or affiliated with the insurer, as defined 44413  
in division (A) of section 3901.32 of the Revised Code, and any 44414  
person that is a subsidiary of the insurer as defined in division 44415  
(F) of section 3901.32 of the Revised Code. 44416

~~(2)~~(3) "Laws of this state relating to insurance" has the 44417  
meaning defined in division (A)(1) of section 3901.04 of the 44418  
Revised Code. 44419

~~(3)~~(4) "Person" has the meaning defined in division (A) of 44420  
section 3901.19 of the Revised Code. 44421

(B) Any of the following acts in this state, effected by mail 44422  
or otherwise, by any foreign or alien insurer not authorized to 44423  
transact business within this state, any nonresident person acting 44424  
on behalf of an insurer, or any nonresident insurance agent 44425  
subjects the insurer, person, or agent to the exercise of personal 44426

jurisdiction over the insurer, person, or agent to the extent	44427
permitted by the constitutions of this state and of the United	44428
States:	44429
(1) Issuing or delivering contracts of insurance to residents	44430
of this state or to corporations authorized to do business	44431
therein;	44432
(2) Making or proposing to make any insurance contracts;	44433
(3) Soliciting, taking, or receiving any application for	44434
insurance;	44435
(4) Receiving or collecting any premium, commission,	44436
membership fee, assessment, dues, or other consideration for any	44437
insurance contract or any part thereof;	44438
(5) Disseminating information as to coverage or rates,	44439
forwarding applications, inspecting risks, fixing rates,	44440
investigating or adjusting claims or losses, transacting any	44441
matters subsequent to effecting a contract of insurance and	44442
arising out of it;	44443
(6) Doing any kind of business recognized as constituting the	44444
doing of an insurance business under Title XXXIX of the Revised	44445
Code or subject to regulation by the superintendent of insurance	44446
under the laws of this state relating to insurance.	44447
Any such act shall be considered to be the doing of an	44448
insurance business in this state by such insurer, person, or agent	44449
and shall be its agreement that service of any lawful subpoena,	44450
notice, order, or process is of the same legal force and validity	44451
as personal service of the subpoena, notice, order, or process in	44452
this state upon the insurer, person, or agent.	44453
(C) Service of process in judicial proceedings shall be as	44454
provided by the Rules of Civil Procedure. Service in or out of	44455
this state of notice, orders, or subpoenas in administrative	44456

proceedings before the superintendent shall be as provided in 44457  
section 3901.04 of the Revised Code. 44458

(D) Service of any notice, order, subpoena, or process in any 44459  
such action, suit, or proceeding shall, in addition to the manner 44460  
provided in division (C) of this section, be valid if served upon 44461  
any person within this state who, in this state on behalf of such 44462  
insurer, person, or agent is or has been: 44463

(1) Soliciting, procuring, effecting, or negotiating for 44464  
insurance; 44465

(2) Making, issuing, or delivering any contract of insurance; 44466

(3) Collecting or receiving any premium, membership fees, 44467  
assessment, dues, or other consideration for insurance; 44468

(4) Disseminating information as to coverage or rates, 44469  
forwarding applications, inspecting risks, fixing rates, 44470  
investigating or adjusting claims or losses, or transacting any 44471  
matters subsequent to effecting a contract of insurance and 44472  
arising out of it. 44473

(E) Nothing in this section shall limit or abridge the right 44474  
to serve any subpoena, order, process, notice, or demand upon any 44475  
insurer, person, or agent in any other manner permitted by law. 44476

(F) Every person investigating or adjusting any loss or claim 44477  
under a policy of insurance not excepted under division (I) of 44478  
this section and issued by any such insurer and covering a subject 44479  
of insurance that was resident, located, or to be performed in 44480  
this state at the time of issuance shall immediately report the 44481  
policy to the superintendent. 44482

(G) Each such insurer that does any of the acts set forth in 44483  
division (B) of this section in this state by mail or otherwise 44484  
shall be subject to a tax of five per cent on the gross premiums, 44485  
membership fees, assessments, dues, and other considerations 44486

received on all contracts of insurance covering subjects of 44487  
insurance resident, located, or to be performed within this state. 44488  
Such insurer shall annually, on or before the first day of July, 44489  
pay such tax to the treasurer of state, as calculated on a form 44490  
prescribed by the treasurer of state. If the tax is not paid when 44491  
due, the tax shall be increased by a penalty of twenty-five per 44492  
cent. An interest charge computed as set forth in section 5725.221 44493  
of the Revised Code shall be made on the entire sum of the tax 44494  
plus penalty, which interest shall be computed from the date the 44495  
tax is due until it is paid. The treasurer of state shall 44496  
determine and report all claims for penalties and interest 44497  
accruing under this section to the attorney general for 44498  
collection. 44499

For purposes of this division, payment is considered made 44500  
when it is received by the treasurer of state, irrespective of any 44501  
United States postal service marking or other stamp or mark 44502  
indicating the date on which the payment may have been mailed. 44503

(H) No contract of insurance effected in this state by mail 44504  
or otherwise by any such insurer is enforceable by the insurer. 44505

(I) This section does not apply to: 44506

(1) Insurance obtained pursuant to sections 3905.30 to 44507  
3905.36 of the Revised Code; 44508

(2) The transaction of reinsurance by insurers; 44509

(3) Transactions in this state involving a policy solicited, 44510  
written, and delivered outside this state covering only subjects 44511  
of insurance not resident, located, or to be performed in this 44512  
state at the time of issuance, provided such transactions are 44513  
subsequent to the issuance of the policy; 44514

(4) Transactions in this state involving a policy of group 44515  
life or group accident and sickness insurance solicited, written, 44516

and delivered outside this state; 44517

(5) Transactions involving contracts of insurance 44518  
independently procured through negotiations occurring entirely 44519  
outside this state which are reported to the superintendent and 44520  
with respect to which the tax provided by section 3905.36 of the 44521  
Revised Code is paid; 44522

(6) An attorney at law acting on behalf of the attorney's 44523  
clients in the adjustment of claims or losses; 44524

(7) Any Except as provided in division (G) of this section, 44525  
any insurance company underwriter issuing contracts of insurance 44526  
to employer insureds or contracts of insurance issued to an 44527  
employer insured. For purposes of this section, an "employer 44528  
insured" is an insured to whom all of the following apply: 44529

(a) The insured procures the insurance of any risk or risks 44530  
by use of the services of a full-time employee acting as an 44531  
insurance manager or buyer or the services of a regularly and 44532  
continuously qualified insurance consultant. As used in division 44533  
(I)(7)(a) of this section, a "regularly and continuously qualified 44534  
insurance consultant" does not include any person licensed under 44535  
Chapter 3905. of the Revised Code. 44536

(b) The insured's aggregate annual premiums for insurance on 44537  
all risks total at least twenty-five thousand dollars; and 44538

(c) The insured has at least twenty-five full-time employees. 44539

(8) Ocean marine insurance; 44540

(9) Transactions involving policies issued by a captive 44541  
insurer. 44542

**Sec. 3901.3814.** Sections 3901.38 and 3901.381 to 3901.3813 of 44543  
the Revised Code do not apply to the following: 44544

(A) Policies offering coverage that is regulated under 44545



Chapters 3935. and 3937. of the Revised Code; 44546

(B) An employer's self-insurance plan and any of its 44547  
administrators, as defined in section 3959.01 of the Revised Code, 44548  
to the extent that federal law supersedes, preempts, prohibits, or 44549  
otherwise precludes the application of any provisions of those 44550  
sections to the plan and its administrators; 44551

(C)(1) A third-party payer for coverage provided under the 44552  
medicare ~~plus choice or medicaid programs~~ advantage program 44553  
operated under Title XVIII ~~and XIX~~ of the "Social Security Act," 44554  
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 44555

(2) A third-party payer for coverage provided under the 44556  
medicaid program operated under Title XIX of the Social Security 44557  
Act, except that if a federal waiver applied for under section 44558  
5101.94 of the Revised Code is granted or the director of job and 44559  
family services determines that this provision can be implemented 44560  
without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of 44561  
the Revised Code apply to coverage of medicaid recipients by 44562  
health insuring corporations licensed under Chapter 1751. of the 44563  
Revised Code; 44564

(D) A third-party payer for coverage provided under the 44565  
tricare program offered by the United States department of 44566  
defense. 44567

**Sec. 3901.78.** ~~Upon the filing of each of its annual 44568  
statements, or as soon thereafter as practicable, the 44569  
superintendent of insurance shall issue to each insurance company 44570  
or association authorized to do business in this state but not 44571  
incorporated under the laws of this state a certificate of 44572  
compliance, an original of which must be published in accordance 44573  
with section 3901.781 of the Revised Code in every county where 44574  
the insurance company or association has an agency. Upon request 44575~~

or in any other circumstance that the superintendent of insurance 44576  
determines to be appropriate, the superintendent may issue ~~either~~ 44577  
~~certificates of compliance, which certificates are not subject to~~ 44578  
~~section 3901.781 of the Revised Code,~~ to insurance companies and 44579  
associations authorized to do business in this state. ~~Certificates~~ 44580  
~~of compliance either must,~~ which shall be on either forms 44581  
established by the national association of insurance commissioners 44582  
or on such other forms as the superintendent may prescribe. 44583

**Sec. 3903.14.** (A) The superintendent of insurance as 44584  
rehabilitator may appoint one or more special deputies, who shall 44585  
have all the powers and responsibilities of the rehabilitator 44586  
granted under this section, and the superintendent may employ such 44587  
clerks and assistants as considered necessary. The compensation of 44588  
the special deputies, clerks, and assistants and all expenses of 44589  
taking possession of the insurer and of conducting the proceedings 44590  
shall be fixed by the superintendent, with the approval of the 44591  
court and shall be paid out of the funds or assets of the insurer. 44592  
The persons appointed under this section shall serve at the 44593  
pleasure of the superintendent. In the event that the property of 44594  
the insurer does not contain sufficient cash or liquid assets to 44595  
defray the costs incurred, the superintendent may advance the 44596  
costs so incurred out of any appropriation for the maintenance of 44597  
the department of insurance. Any amounts so advanced for expenses 44598  
of administration shall be repaid to the superintendent for the 44599  
use of the department out of the first available money of the 44600  
insurer. 44601

(B) The rehabilitator may take such action as ~~he~~ the 44602  
rehabilitator considers necessary or appropriate to reform and 44603  
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 44604  
powers of the directors, officers, and managers, whose authority 44605  
shall be suspended, except as they are redelegated by the 44606  
rehabilitator. ~~He~~ The rehabilitator shall have full power to 44607

direct and manage, to hire and discharge employees subject to any 44608  
contract rights they may have, and to deal with the property and 44609  
business of the insurer. 44610

(C) If it appears to the rehabilitator that there has been 44611  
criminal or tortious conduct, or breach of any contractual or 44612  
fiduciary obligation detrimental to the insurer by any officer, 44613  
manager, agent, director, trustee, broker, employee, or other 44614  
person, ~~he~~ the rehabilitator may pursue all appropriate legal 44615  
remedies on behalf of the insurer. 44616

(D) If the rehabilitator determines that reorganization, 44617  
consolidation, conversion, reinsurance, merger, or other 44618  
transformation of the insurer is appropriate, ~~he~~ the rehabilitator 44619  
shall prepare a plan to effect such changes. Upon application of 44620  
the rehabilitator for approval of the plan, and after such notice 44621  
and hearings as the court may prescribe, the court may either 44622  
approve or disapprove the plan proposed, or may modify it and 44623  
approve it as modified. Any plan approved under this section shall 44624  
be, in the judgment of the court, fair and equitable to all 44625  
parties concerned. If the plan is approved, the rehabilitator 44626  
shall carry out the plan. In the case of a life insurer, the plan 44627  
proposed may include the imposition of liens upon the policies of 44628  
the company, if all rights of shareholders are first relinquished. 44629  
A plan for a life insurer may also propose imposition of a 44630  
moratorium upon loan and cash surrender rights under policies, for 44631  
such period and to such an extent as may be necessary. 44632

(E) In the case of a medicaid health insuring corporation 44633  
that has posted a bond or deposited securities in accordance with 44634  
section 1751.271 of the Revised Code, the plan proposed under 44635  
division (D) of this section may include the use of the proceeds 44636  
of the bond or securities to first pay the claims of contracted 44637  
providers for covered health care services provided to medicaid 44638  
recipients, then next to pay other claimants with any remaining 44639

funds, consistent with the priorities set forth in sections 44640  
3903.421 and 3903.42 of the Revised Code. 44641

(F) The rehabilitator shall have the power under sections 44642  
3903.26 and 3903.27 of the Revised Code to avoid fraudulent 44643  
transfers. 44644

(G) As used in this section: 44645

(1) "Contracted provider" means a provider with a contract 44646  
with a medicaid health insuring corporation to provide covered 44647  
health care services to medicaid recipients. 44648

(2) "Medicaid recipient" means a person eligible for 44649  
assistance under the medicaid program operated pursuant to Chapter 44650  
5111. of the Revised Code. 44651

**Sec. 3903.42.** The priority of distribution of claims from the 44652  
insurer's estate shall be in accordance with the order in which 44653  
each class of claims is set forth in this section. Every claim in 44654  
each class shall be paid in full or adequate funds retained for 44655  
such payment before the members of the next class receive any 44656  
payment. No subclasses shall be established within any class. The 44657  
order of distribution of claims shall be: 44658

(A) Class 1. The costs and expenses of administration, 44659  
including but not limited to the following: 44660

(1) The actual and necessary costs of preserving or 44661  
recovering the assets of the insurer; 44662

(2) Compensation for all services rendered in the 44663  
liquidation; 44664

(3) Any necessary filing fees; 44665

(4) The fees and mileage payable to witnesses; 44666

(5) Reasonable attorney's fees; 44667

(6) The reasonable expenses of a guaranty association or 44668

foreign guaranty association in handling claims. 44669

(B) Class 2. All claims under policies for losses incurred, 44670  
including third party claims, all claims against a health insuring 44671  
corporation by the corporation's contracted providers, all claims 44672  
against the insurer for liability for bodily injury or for injury 44673  
to or destruction of tangible property that are not under 44674  
policies, and all claims of a guaranty association or foreign 44675  
guaranty association. All claims under life insurance and annuity 44676  
policies, whether for death proceeds, annuity proceeds, or 44677  
investment values, shall be treated as loss claims. That portion 44678  
of any loss, indemnification for which is provided by other 44679  
benefits or advantages recovered by the claimant, shall not be 44680  
included in this class, other than benefits or advantages 44681  
recovered or recoverable in discharge of familial obligations of 44682  
support or by way of succession at death or as proceeds of life 44683  
insurance, or as gratuities. No payment by an employer to an 44684  
employee shall be treated as a gratuity. Claims under 44685  
nonassessable policies for unearned premium or other premium 44686  
refunds. 44687

(C) Class 3. Claims of the federal government. 44688

(D) Class 4. Debts due to employees for services performed to 44689  
the extent that they do not exceed one thousand dollars and 44690  
represent payment for services performed within one year before 44691  
the filing of the complaint for liquidation. Officers and 44692  
directors shall not be entitled to the benefit of this priority. 44693  
Such priority shall be in lieu of any other similar priority that 44694  
may be authorized by law as to wages or compensation of employees. 44695

(E) Class 5. Claims of general creditors. 44696

(F) Class 6. Claims of any state or local government. Claims, 44697  
including those of any state or local governmental body for a 44698  
penalty or forfeiture, shall be allowed in this class only to the 44699

extent of the pecuniary loss sustained from the act, transaction, 44700  
or proceeding out of which the penalty or forfeiture arose, with 44701  
reasonable and actual costs occasioned thereby. The remainder of 44702  
such claims shall be postponed to the class of claims under 44703  
division (I) of this section. 44704

(G) Class 7. Claims filed late or any other claims other than 44705  
claims under divisions (H) and (I) of this section. 44706

(H) Class 8. Surplus or contribution notes, or similar 44707  
obligations, and premium refunds on assessable policies. Payments 44708  
to members of domestic mutual insurance companies shall be limited 44709  
in accordance with law. 44710

(I) Class 9. The claims of shareholders or other owners. 44711

If any provision of this section or the application of any 44712  
provision of this section to any person or circumstance is held 44713  
invalid, the invalidity does not affect other provisions or 44714  
applications of this section, and to this end the provisions are 44715  
severable. 44716

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the 44717  
Revised Code, both of the following apply to medicaid health 44718  
insuring corporation performance bonds and securities: 44719

(1) Proceeds from the bond issued or securities held pursuant 44720  
to section 1751.271 of the Revised Code that have been paid to or 44721  
deposited with the department of insurance shall be considered 44722  
special deposits for purposes of satisfying claims of contracted 44723  
providers for covered health care services provided to medicaid 44724  
recipients; 44725

(2) Contracted providers that have claims against a health 44726  
insuring corporation for covered health care services provided to 44727  
medicaid recipients shall be given first priority against the 44728  
proceeds of the bond or securities held pursuant to section 44729

1751.27 of the Revised Code, to the exclusion of other creditors, 44730  
except as provided for in this section. 44731

(B) If the amount of the proceeds of the bond or securities 44732  
are not sufficient to satisfy all of the allowed claims of 44733  
contracted providers for covered health care services provided to 44734  
medicaid recipients, payment shall proceed as follows: 44735

(1) Contracted providers shall share in the proceeds of the 44736  
bond or securities pro rata based on the allowed amount of the 44737  
providers' claims against the health insuring corporation for 44738  
covered health care services provided to medicaid recipients; 44739

(2) After payments are made under division (B)(1) of this 44740  
section, the net unpaid balance of the claims of contracted 44741  
providers shall be allowed for payment from the general assets of 44742  
the estate in accordance with the priorities set forth in section 44743  
3903.42 of the Revised Code. 44744

(C) If the amount of the proceeds of the bond or securities 44745  
exceeds the allowed claims of contracted providers for covered 44746  
health care services provided to medicaid recipients, the excess 44747  
amount shall be considered a general asset of the health insuring 44748  
corporation's estate to be distributed to other claimants in 44749  
accordance with the priorities set forth in section 3903.42 of the 44750  
Revised Code. 44751

(D) As used in this section: 44752

(1) "Contracted provider" means a provider with a contract 44753  
with a medicaid health insuring corporation to provide covered 44754  
health care services to medicaid recipients. 44755

(2) "Medicaid recipient" means a person eligible for 44756  
assistance under the medicaid program operated pursuant to Chapter 44757  
5111. of the Revised Code. 44758

**Sec. 3905.04.** (A) Except as otherwise provided in section 44759

3905.041 of the Revised Code, a resident individual applying for 44760  
an insurance agent license for any of the lines of authority 44761  
described in division (B) of this section shall take a written 44762  
examination. The examination shall test the knowledge of the 44763  
individual with respect to the lines of authority for which 44764  
application is made, the duties and responsibilities of an 44765  
insurance agent, and the insurance laws of this state. Before 44766  
admission to the examination, each individual shall pay the 44767  
nonrefundable fee required under division ~~(D)~~(C) of section 44768  
3905.40 of the Revised Code. 44769

(B) The examination described in division (A) of this section 44770  
shall be required for the following lines of authority: 44771

(1) Any of the lines of authority set forth in divisions 44772  
(B)(1) to (6) of section 3905.06 of the Revised Code; 44773

(2) Title insurance; 44774

(3) Surety bail bonds as provided in sections 3905.83 to 44775  
3905.95 of the Revised Code; 44776

(4) Any other line of authority designated by the 44777  
superintendent of insurance. 44778

(C) An individual shall not be permitted to take the 44779  
examination described in division (A) of this section unless one 44780  
or both of the following apply: 44781

(1) The individual has earned a bachelor's or associate's 44782  
degree in insurance from an accredited institution. 44783

(2) The individual has completed, for each line of authority 44784  
for which the individual has applied, twenty hours of study in a 44785  
program of insurance education approved by the superintendent, in 44786  
consultation with the insurance agent education advisory council, 44787  
under criteria established by the superintendent. Division (C) of 44788  
this section does not apply with respect to title insurance or any 44789



other line of authority designated by the superintendent. 44790

(D) An individual who fails to appear for an examination as 44791  
scheduled, or fails to pass an examination, may reapply for the 44792  
examination if the individual pays the required fee and submits 44793  
any necessary forms prior to being rescheduled for the 44794  
examination. 44795

(E)(1) The superintendent may, in accordance with Chapter 44796  
119. of the Revised Code, adopt any rule necessary for the 44797  
implementation of this section. 44798

(2) The superintendent may make any necessary arrangements, 44799  
including contracting with an outside testing service, for the 44800  
administration of the examinations and the collection of the fees 44801  
required by this section. 44802

**Sec. 3905.36.** ~~Every~~ (A) Except as provided in divisions (B) 44803  
and (C) of this section, every insured association, company, 44804  
corporation, or other person that enters, directly or indirectly, 44805  
into any agreements with any insurance company, association, 44806  
individual, firm, underwriter, or Lloyd, not authorized to do 44807  
business in this state, whereby the insured shall procure, 44808  
continue, or renew contracts of insurance covering subjects of 44809  
insurance resident, located, or to be performed within this state, 44810  
with such unauthorized insurance company, association, individual, 44811  
firm, underwriter, or Lloyd, for which insurance there is a gross 44812  
premium, membership fee, assessment, dues, or other consideration 44813  
charged or collected, shall annually, on or before the 44814  
thirty-first day of January, return to the superintendent of 44815  
insurance a statement under oath showing the name and address of 44816  
the insured, name and address of the insurer, subject of the 44817  
insurance, general description of the coverage, and amount of 44818  
gross premium, fee, assessment, dues, or other consideration for 44819  
such insurance for the preceding twelve-month period and shall at 44820

the same time pay to the treasurer of state a tax of five per cent 44821  
of such gross premium, fee, assessment, dues, or other 44822  
consideration, after a deduction for return premium, if any, as 44823  
calculated on a form prescribed by the treasurer of state. All 44824  
taxes collected under this section by the treasurer of state shall 44825  
be paid into the general revenue fund. If the tax is not paid when 44826  
due, the tax shall be increased by a penalty of twenty-five per 44827  
cent. An interest charge computed as set forth in section 5725.221 44828  
of the Revised Code shall be made on the entire sum of the tax 44829  
plus penalty, which interest shall be computed from the date the 44830  
tax is due until it is paid. For purposes of this section, payment 44831  
is considered made when it is received by the treasurer of state, 44832  
irrespective of any United States postal service marking or other 44833  
stamp or mark indicating the date on which the payment may have 44834  
been mailed. ~~This~~ 44835

(B) ~~This~~ section does not apply to: 44836

~~(A) Insurance obtained pursuant to sections 3905.30 to 44837  
3905.35 of the Revised Code;~~ 44838

~~(B)(1) Transactions in this state involving a policy 44839  
solicited, written, and delivered outside this state covering only 44840  
subjects of insurance not resident, located, or to be performed in 44841  
this state at the time of issuance, provided such transactions are 44842  
subsequent to the issuance of the policy;~~ 44843

~~(C)(2) Attorneys-at-law acting on behalf of their clients in 44844  
the adjustment of claims or losses;~~ 44845

~~(D) Any insurance company underwriter issuing contracts of 44846  
insurance to employer insureds or contracts of insurance issued to 44847  
an employer insured. For purposes of this section an "employer 44848  
insured" is an insured;~~ 44849

~~(1) Who procures the insurance of any risk or risks by use of 44850  
the services of a full time employee acting as an insurance 44851~~

~~manager or buyer or the services of a regularly and continuously  
qualified insurance consultant. As used in division (D)(1) of this  
section, a "regularly and continuously qualified insurance  
consultant" does not include any person licensed under Chapter  
3905. of the Revised Code.~~ 44852  
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~~(2) Whose aggregate annual premiums for insurance on all  
risks total at least twenty five thousand dollars; and~~ 44857  
44858

~~(3) Who has at least twenty five full time employees.~~ 44859

(3) Transactions involving policies issued by a captive  
insurer. For this purpose, a "captive insurer" means any of the  
following: 44860  
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(a) An insurer owned by one or more individuals or  
organizations, whose exclusive purpose is to insure risks of one  
or more of the parent organizations or individual owners and risks  
of one or more affiliates of the parent organizations or  
individual owners; 44863  
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(b) In the case of groups and associations, insurers owned by  
the group or association whose exclusive purpose is to insure  
risks of members of the group or association and affiliates of the  
members; 44868  
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(c) Other types of insurers, licensed and operated in  
accordance with the captive insurance laws of their jurisdictions  
of domicile and operated in a manner so as to self-insure risks of  
their owners and insureds. 44872  
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~~Each~~ (C) In transactions that are subject to sections 3905.30  
to 3905.35 of the Revised Code, each person licensed under section  
3905.30 of the Revised Code shall pay to the treasurer of state,  
on or before the thirty-first day of January of each year, five  
per cent of the balance of the gross premiums charged for  
insurance placed or procured under the license after a deduction 44876  
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for return premiums, as reported on a form prescribed by the 44882  
treasurer of state. The tax shall be collected from the insured by 44883  
the surplus line broker who placed or procured the policy of 44884  
insurance at the time the policy is delivered to the insured. No 44885  
license issued under section 3905.30 of the Revised Code shall be 44886  
renewed until payment is made. If the tax is not paid when due, 44887  
the tax shall be increased by a penalty of twenty-five per cent. 44888  
An interest charge computed as set forth in section 5725.221 of 44889  
the Revised Code shall be made on the entire sum of the tax plus 44890  
penalty, which interest shall be computed from the date the tax is 44891  
due until it is paid. For purposes of this section, payment is 44892  
considered made when it is received by the treasurer of state, 44893  
irrespective of any United States postal service marking or other 44894  
stamp or mark indicating the date on which the payment may have 44895  
been mailed. 44896

**Sec. 3905.40.** There shall be paid to the superintendent of 44897  
insurance the following fees: 44898

(A) Each insurance company doing business in this state shall 44899  
pay: 44900

(1) For filing a copy of its charter or deed of settlement, 44901  
two hundred fifty dollars; 44902

(2) For filing each statement, ~~twenty-five~~ one hundred  
seventy-five dollars; 44903  
44904

(3) For each certificate of authority or license, one hundred  
seventy-five, and for each certified copy thereof, five dollars; 44905  
44906

(4) For each copy of a paper filed in the superintendent's 44907  
office, twenty cents per page; 44908

(5) For issuing certificates of deposits or certified copies 44909  
thereof, five dollars for the first certificate or copy and one 44910  
dollar for each additional certificate or copy; 44911

(6) For issuing certificates of compliance or certified 44912  
copies thereof, ~~twenty~~ sixty dollars; 44913

(7) For affixing the seal of office and certifying documents, 44914  
other than those enumerated herein, two dollars. 44915

(B) Each domestic life insurance company doing business in 44916  
this state shall pay for annual valuation of its policies, one 44917  
cent on every one thousand dollars of insurance. 44918

~~(C) Each foreign insurance company doing business in this 44919  
state shall pay for making and forwarding annually, semiannually,  
and quarterly the interest checks and coupons accruing upon bonds 44920  
and securities deposited, fifty dollars each year on each one 44921  
hundred thousand dollars deposited. 44922  
44923~~

~~(D)~~ Each applicant for licensure as an insurance agent shall 44924  
pay ten dollars before admission to any examination required by 44925  
the superintendent. Such fee shall not be paid by the appointing 44926  
insurance company. 44927

~~(E)~~ (D) Each domestic mutual life insurance company shall pay 44928  
for verifying that any amendment to its articles of incorporation 44929  
was regularly adopted, two hundred fifty dollars with each 44930  
application for verification. Any such amendment shall be 44931  
considered to have been regularly adopted when approved by the 44932  
affirmative vote of two-thirds of the policyholders present in 44933  
person or by proxy at any annual meeting of policyholders or at a 44934  
special meeting of policyholders called for that purpose. 44935

**Sec. 3923.27.** No policy of sickness and accident insurance 44936  
delivered, issued for delivery, or renewed in this state after ~~the~~ 44937  
~~effective date of this section~~ August 26, 1976, including both 44938  
individual and group policies, that provides hospitalization 44939  
coverage for mental illness shall exclude such coverage for the 44940  
reason that the insured is hospitalized in an institution or 44941

facility receiving tax support from the state, any municipal 44942  
corporation, county, or joint county board, whether such 44943  
institution or facility is deemed charitable or otherwise, 44944  
provided the institution or facility or portion thereof is fully 44945  
accredited by the joint commission on accreditation of hospitals 44946  
or certified under Titles XVIII and XIX of the "Social Security 44947  
Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The 44948  
insurance coverage shall provide payment amounting to the lesser 44949  
of either the full amount of the statutory charge for the cost of 44950  
the services pursuant to ~~division (B)(8) of section 5121.04~~ 44951  
section 5121.33 of the Revised Code or the benefits payable for 44952  
the services under the applicable insurance policy. Insurance 44953  
benefits for the coverage shall be paid so long as patients and 44954  
their liable relatives retain their statutory liability pursuant 44955  
to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 44956  
of the Revised Code. Only that portion or per cent of the benefits 44957  
shall be payable that has been assigned, or ordered to be paid, to 44958  
the state or other appropriate provider for services rendered by 44959  
the institution or facility. 44960

**Sec. 4112.12.** (A) There is hereby created the commission on 44961  
African-American males, which shall consist of not more than 44962  
forty-one members as follows: the directors or their designees of 44963  
the departments of health, development, alcohol and drug addiction 44964  
services, job and family services, rehabilitation and correction, 44965  
mental health, and youth services; the adjutant general or the 44966  
adjutant general's designee; the equal employment opportunity 44967  
officer of the department of administrative services or the equal 44968  
employment opportunity officer's designee; the executive director 44969  
or the executive director's designee of the Ohio civil rights 44970  
commission; the executive director or the executive director's 44971  
designee of the ~~office~~ division of criminal justice services in 44972  
the department of public safety; the superintendent of public 44973

instruction; the chancellor or the chancellor's designee of the 44974  
Ohio board of regents; two members of the house of representatives 44975  
appointed by the speaker of the house of representatives; three 44976  
members of the senate appointed by the president of the senate; 44977  
and not more than twenty-three members appointed by the governor. 44978  
The members appointed by the governor shall include an additional 44979  
member of the governor's cabinet and at least one representative 44980  
of each of the following: the national association for the 44981  
advancement of colored people; the urban league; an organization 44982  
representing black elected officials; an organization representing 44983  
black attorneys; the black religious community; the black business 44984  
community; the nonminority business community; and organized 44985  
labor; at least one black medical doctor, one black elected member 44986  
of a school board, and one black educator; and at least two 44987  
representatives of local private industry councils. The remaining 44988  
members that may be appointed by the governor shall be selected 44989  
from elected officials, civic and community leaders, and 44990  
representatives of the employment, criminal justice, education, 44991  
and health communities. 44992

(B) Terms of office shall be for three years, with each term 44993  
ending on the same day of the same month as did the term that it 44994  
succeeds. Each member shall hold office from the date of 44995  
appointment until the end of the term for which the member was 44996  
appointed. Members may be reappointed. Vacancies shall be filled 44997  
in the manner provided for original appointments. Any member 44998  
appointed to fill a vacancy occurring prior to the expiration date 44999  
of the term for which the member's predecessor was appointed shall 45000  
hold office as a member for the remainder of that term. A member 45001  
shall continue in office subsequent to the expiration date of the 45002  
member's term until the member's successor takes office or until a 45003  
period of sixty days has elapsed, whichever occurs first. 45004

The commission annually shall elect a chairperson from among 45005

its members. 45006

(C) Members of the commission and members of subcommittees 45007  
appointed under division (B) of section 4112.13 of the Revised 45008  
Code shall not be compensated, but shall be reimbursed for their 45009  
necessary and actual expenses incurred in the performance of their 45010  
official duties. 45011

(D)(1) The Ohio civil rights commission shall serve as the 45012  
commission on African-American males' fiscal agent and shall 45013  
perform all of the following services: 45014

(a) Prepare and process payroll and other personnel documents 45015  
that the commission on African-American males approves; 45016

(b) Maintain ledgers of accounts and reports of account 45017  
balances, and monitor budgets and allotment plans in consultation 45018  
with the commission on African-American males; 45019

(c) Perform other routine support services that the executive 45020  
director of the Ohio civil rights commission or the executive 45021  
director's designee and the Commission on African-American males 45022  
or its designee consider appropriate to achieve efficiency. 45023

(2) The Ohio civil rights commission shall not approve any 45024  
payroll or other personnel-related documents or any biennial 45025  
budget, grant, expenditure, audit, or fiscal-related document 45026  
without the advice and consent of the commission on 45027  
African-American males. 45028

(3) The Ohio civil rights commission shall determine fees to 45029  
be charged to the commission on African-American males for 45030  
services performed under this division, which shall be in 45031  
proportion to the services performed for the commission on 45032  
African-American males. 45033

(4) The commission on African-American males or its designee 45034  
has: 45035



- (a) Sole authority to draw funds for any federal program in which the commission is authorized to participate; 45036  
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- (b) Sole authority to expend funds from accounts for programs and any other necessary expenses the commission on African-American males may incur; 45038  
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- (c) The duty to cooperate with the Ohio civil rights commission to ensure that the Ohio civil rights commission is fully apprised of all financial transactions. 45041  
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- (E) The commission on African-American males shall appoint an executive director, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission. 45044  
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- The responsibilities assigned to the executive director do not relieve the members of the commission from final responsibility for the proper performance of the requirements of this division. 45051  
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- (F) The commission on African-American males shall: 45055
- (1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section; 45056  
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- (2) Maintain its office in Columbus; 45059
- (3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses. 45060  
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- (4) Prepare and submit to the office of budget and management 45065

a budget for each biennium in accordance with sections 101.55 and 45066  
107.03 of the Revised Code. The budget submitted shall cover the 45067  
costs of the commission and its staff in the discharge of any duty 45068  
imposed upon the commission by law. The commission shall pay its 45069  
own payroll and other operating expenses from appropriation items 45070  
designated by the general assembly. The commission shall not 45071  
delegate any authority to obligate funds. 45072

(5) Establish the overall policy and management of the 45073  
commission in accordance with this chapter; 45074

(6) Follow all state procurement requirements; 45075

(7) Pay fees owed to the Ohio civil rights commission under 45076  
division (D) of this section from the commission on 45077  
African-American males' general revenue fund or from any other 45078  
fund from which the operating expenses of the commission on 45079  
African-American males are paid. Any amounts set aside for a 45080  
fiscal year for the payment of such fees shall be used only for 45081  
the services performed for the commission on African-American 45082  
males by the Ohio civil rights commission in that fiscal year. 45083

(G) The commission on African-American males may: 45084

(1) Hold sessions at any place within the state; 45085

(2) Establish, change, or abolish positions, and assign and 45086  
reassign duties and responsibilities of any employee of the 45087  
commission on African-American males as necessary to achieve the 45088  
most efficient performance of its functions. 45089

**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of the 45090  
Revised Code: 45091

(A) "Public authority" means any officer, board, or 45092  
commission of the state, or any political subdivision of the 45093  
state, authorized to enter into a contract for the construction of 45094  
a public improvement or to construct the same by the direct 45095

employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means either of the following:

(1) Any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than fifty thousand dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that

is constructed pursuant to a contract with a soil and water  
conservation district, as defined in section 1515.01 of the  
Revised Code, or performed as a result of a petition filed  
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code,  
wherein no less than seventy-five per cent of the project is  
located on private land and no less than seventy-five per cent of  
the cost of the improvement is paid for by private property owners  
pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised  
Code.

(D) "Locality" means the county wherein the physical work  
upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor  
or subcontractor to a trustee or to a third person pursuant to a  
fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor  
which may be reasonably anticipated in providing the following  
fringe benefits to laborers and mechanics pursuant to an  
enforceable commitment to carry out a financially responsible plan  
or program which was communicated in writing to the laborers and  
mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide  
such;

(c) Compensation for injuries or illnesses resulting from  
occupational activities if it is in addition to that coverage  
required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition  
to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;	45157
(f) Disability and sickness insurance;	45158
(g) Accident insurance;	45159
(h) Vacation and holiday pay;	45160
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	45161 45162 45163
(j) Other bona fide fringe benefits.	45164
None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	45165 45166 45167 45168
(F) <del>"Interested party," with respect to a particular public improvement, means:</del>	45169 45170
<del>(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;</del>	45171 45172 45173
<del>(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;</del>	45174 45175
<del>(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;</del>	45176 45177 45178 45179 45180 45181
<del>(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.</del>	45182 45183
<del>(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an</del>	45184 45185

office of trust, command, or authority in a corporation, business trust, partnership, or association. 45186  
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**Sec. 4115.032.** Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies is hereby deemed to be construction of a public improvement within section 4115.03 of the Revised Code. All contractors and subcontractors working on such projects, facilities, or project facilities shall be subject to and comply with sections 4115.03 to 4115.16 of the Revised Code, and the director of commerce shall ~~and any interested party may~~, bring proceedings under such sections to enforce compliance. 45188  
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The director shall make the determination of wages as required under sections 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, and 3706.042 of the Revised Code and shall designate one of the director's employees to act as the prevailing wage coordinator under section 4115.071 for any project, facility, or project facility for which a coordinator has not been designated by any public authority. 45198  
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**Sec. 4115.071.** (A) Each contracting public authority that enters into a contract other than a contract for printing, binding, and related services, whose contractor and subcontractors are subject to sections 4115.03 to 4115.16 of the Revised Code shall, no later than ten days before the first payment of wages is payable to any employee of any contractor or subcontractor, designate and appoint one of its own employees to serve as the prevailing wage coordinator during the life of the contract. The duties of the coordinator shall include: 45205  
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(1) Setting up and maintaining, available for public inspection including inspection by ~~interested parties or~~ affected 45214  
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employees, files of payroll reports and affidavits submitted by 45216  
contractors and subcontractors pursuant to sections 4115.03 to 45217  
4115.16 of the Revised Code; 45218

(2) Ascertaining from each contractor or subcontractor, at 45219  
the beginning of performance under the contract, the dates during 45220  
its life when payments of wages to employees are to be made; 45221

(3) Receiving from each contractor or subcontractor, a copy 45222  
of the contractor's or subcontractor's complete payroll for each 45223  
date exhibiting for each employee paid any wages, the employee's 45224  
name, current address, social security number, number of hours 45225  
worked each day during the pay period and the total for each week, 45226  
the employee's hourly rate of pay, the employee's job 45227  
classification, fringe payments, and deductions from the 45228  
employee's wages; 45229

(4) Establishing and following procedures to monitor the 45230  
compliance by each contractor and subcontractor with the 45231  
requirement imposed by this section for timely filing of copies of 45232  
payroll records; 45233

(5) Receiving from each contractor or subcontractor upon 45234  
completion of the public improvement and prior to final payment 45235  
therefor the affidavit required by section 4115.07 of the Revised 45236  
Code; 45237

(6) Reporting any delinquency in the filing of the certified 45238  
copy of the payroll and the affidavit to the chief officer of the 45239  
contracting public authority and the director of commerce. 45240

(B) Any contracting public authority having a permanent 45241  
employee with the title, powers, and functions described in 45242  
division (A) of this section for the prevailing wage coordinator 45243  
need not separately designate and appoint an employee for each 45244  
public work contract entered into by the contracting public 45245  
authority. 45246

(C) Every contractor and subcontractor who is subject to 45247  
sections 4115.03 to 4115.16 of the Revised Code shall, upon 45248  
beginning performance under the contractor's or subcontractor's 45249  
contract with any contracting public authority, supply to the 45250  
prevailing wage coordinator of the contracting public authority a 45251  
schedule of the dates during the life of the contract with the 45252  
authority on which the contractor or subcontractor is required to 45253  
pay wages to employees. The contractor or subcontractor shall also 45254  
deliver to the prevailing wage coordinator a certified copy of the 45255  
contractor's or subcontractor's payroll, within two weeks after 45256  
the initial pay date, and supplemental reports for each month 45257  
thereafter which shall exhibit for each employee paid any wages, 45258  
the employee's name, current address, social security number, 45259  
number of hours worked during each day of the pay periods covered 45260  
and the total for each week, the employee's hourly rate of pay, 45261  
the employee's job classification, fringe payments, and deductions 45262  
from the employee's wages. If the life of the contract is expected 45263  
to be no more than four months from the beginning of performance 45264  
by the contractor or subcontractor, such supplemental reports 45265  
shall be filed each week after the initial report. The 45266  
certification of each payroll shall be executed by the contractor, 45267  
subcontractor, or duly appointed agent thereof and shall recite 45268  
that the payroll is correct and complete and that the wage rates 45269  
shown are not less than those required by the contract. 45270

(D) If it is found that a public authority or prevailing wage 45271  
coordinator has not complied with this section, the director shall 45272  
give notice thereof in writing to the public authority or 45273  
prevailing wage coordinator. Sufficient time shall be allowed for 45274  
compliance as the director deems necessary. At the expiration of 45275  
the time prescribed in the notice, the director shall, in writing, 45276  
inform the attorney general of the fact that notice has been given 45277  
and that the public authority or prevailing wage coordinator to 45278



whom it was directed has not complied with it. On receipt thereof, 45279  
the attorney general shall bring suit in the name of the state in 45280  
the court of common pleas of the county in which the public 45281  
authority is located, to require the public authority or 45282  
prevailing wage coordinator to comply with this section. 45283

**Sec. ~~4115.21~~ 4115.16.** A person who files a complaint with the 45284  
director of commerce alleging a violation of sections 4115.03 to 45285  
4115.16 of the Revised Code shall file the complaint within two 45286  
years after the completion of the public improvement upon which 45287  
the violation is alleged to have occurred or be barred from 45288  
further administrative action under this chapter. 45289

**Sec. 4115.32.** (A) ~~There~~ Subject to section 4115.36 of the 45290  
Revised Code, there is hereby created the state committee for the 45291  
purchase of products and services provided by persons with severe 45292  
disabilities. The committee shall be composed ex officio of the 45293  
following persons, or their designees: 45294

(1) The directors of administrative services, mental health, 45295  
mental retardation and developmental disabilities, transportation, 45296  
natural resources, and commerce; 45297

(2) The administrators of the rehabilitation services 45298  
commission and the bureau of workers' compensation; 45299

(3) The secretary of state; 45300

(4) One representative of a purchasing department of a 45301  
political subdivision who is designated by the governor. 45302

The governor shall appoint two representatives of a qualified 45303  
nonprofit agency for persons with severe disabilities, and a 45304  
person with a severe disability to the committee. 45305

(B) Within thirty days after September 29, 1995, the governor 45306  
shall appoint the representatives of a qualified nonprofit agency 45307

for persons with severe disabilities to the committee for a term 45308  
ending August 31, 1996. Thereafter, terms for such representatives 45309  
are for three years, each term ending on the same day of the same 45310  
month of the year as did the term that it succeeds. Each committee 45311  
member shall serve from the date of the member's appointment until 45312  
the end of the term for which the member was appointed. Vacancies 45313  
shall be filled in the same manner provided for original 45314  
appointments. Any member appointed to fill a vacancy occurring 45315  
prior to the expiration date of the term for which the member's 45316  
predecessor was appointed shall serve as a member for the 45317  
remainder of that term. A member shall serve subsequent to the 45318  
expiration of the member's term and shall continue to serve until 45319  
the member's successor takes office. 45320

(C) Members of the committee shall serve without 45321  
compensation. Except as otherwise provided in divisions (C)(1) and 45322  
(2) of this section, members shall be reimbursed for actual and 45323  
necessary expenses, including travel expenses, incurred while away 45324  
from their homes or regular places of business and incurred while 45325  
performing services for the committee. 45326

(1) The members listed in divisions (A)(1) to (3) of this 45327  
section, or their designees, shall not be reimbursed for any 45328  
expenses. 45329

(2) No member of the committee who is entitled to receive 45330  
reimbursement for the performance of services for the committee 45331  
from another agency or entity shall receive reimbursement from the 45332  
committee. 45333

(D) The committee shall elect from among its members a 45334  
chairperson. The committee may request from any agency of the 45335  
state, political subdivision, or instrumentality of the state any 45336  
information necessary to enable it to carry out the intent of 45337  
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 45338

the committee, the agency, subdivision, or instrumentality shall 45339  
furnish the information to the chairperson of the committee. 45340

(E) The committee shall not later than one hundred eighty 45341  
days following the close of each fiscal year transmit to the 45342  
governor, the general assembly, and each qualified nonprofit 45343  
agency for persons with severe disabilities a report that includes 45344  
the names of the committee members serving during the preceding 45345  
fiscal year, the dates of committee meetings in that year, and any 45346  
recommendations for changes in sections 4115.31 to 4115.35 of the 45347  
Revised Code that the committee determines are necessary. 45348

(F) The director of ~~mental retardation and developmental~~ 45349  
~~disabilities~~ administrative services shall designate a subordinate 45350  
to act as executive director of the committee and shall furnish 45351  
other staff and clerical assistance, office space, and supplies 45352  
required by the committee. 45353

**Sec. 4115.34.** (A) ~~If~~ Except as provided in section 4115.36 of 45354  
the Revised Code, if any state agency, political subdivision, or 45355  
instrumentality of the state intends to procure any product or 45356  
service, it shall determine whether the product or service is on 45357  
the procurement list published pursuant to section 4115.33 of the 45358  
Revised Code; and it shall, in accordance with rules of the state 45359  
committee for the purchase of products and services provided by 45360  
persons with severe disabilities, procure such product or service 45361  
at the fair market price established by the committee from a 45362  
qualified nonprofit agency for persons with severe disabilities, 45363  
if the product or service is on the procurement list and is 45364  
available within the period required by that agency, subdivision, 45365  
or instrumentality, notwithstanding any law requiring the purchase 45366  
of products and services on a competitive bid basis. Sections 45367  
4115.31 to 4115.35 of the Revised Code do not apply if the 45368  
products or services are available for procurement from any state 45369

agency, political subdivision, or instrumentality of the state and 45370  
procurement from such agency, subdivision, or instrumentality is 45371  
required under any law in effect on August 13, 1976. 45372

(B) The committee and any state agency, political 45373  
subdivision, or instrumentality of the state may enter into 45374  
contractual agreements, cooperative working relationships, or 45375  
other arrangements determined necessary for effective coordination 45376  
and efficient realization of the objectives of sections 4115.31 to 45377  
4115.35 of the Revised Code and any other law requiring 45378  
procurement of products or services from any state agency, 45379  
political subdivision, or instrumentality of the state. 45380

(C) Notwithstanding any other section of the Revised Code, or 45381  
any appropriations act, that may require a state agency, political 45382  
subdivision, or instrumentality of the state to purchase supplies, 45383  
services, or materials by means of a competitive bid procedure, 45384  
state agencies, political subdivisions, or instrumentalities of 45385  
the state need not utilize the required bidding procedures if the 45386  
supplies, services, or materials are to be purchased from a 45387  
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 45388  
of the Revised Code. 45389

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code 45390  
have no effect after the director of administrative services 45391  
abolishes the state committee for the purchase of products and 45392  
services provided by persons with severe disabilities. Upon 45393  
abolishment of the committee, sections 125.60 to 125.6012 of the 45394  
Revised Code shall govern the procurement of products and services 45395  
provided by persons with work-limiting disabilities from qualified 45396  
nonprofit agencies. 45397

**Sec. 4117.10.** (A) An agreement between a public employer and 45398  
an exclusive representative entered into pursuant to this chapter 45399

governs the wages, hours, and terms and conditions of public 45400  
employment covered by the agreement. If the agreement provides for 45401  
a final and binding arbitration of grievances, public employers, 45402  
employees, and employee organizations are subject solely to that 45403  
grievance procedure and the state personnel board of review or 45404  
civil service commissions have no jurisdiction to receive and 45405  
determine any appeals relating to matters that were the subject of 45406  
a final and binding grievance procedure. Where no agreement exists 45407  
or where an agreement makes no specification about a matter, the 45408  
public employer and public employees are subject to all applicable 45409  
state or local laws or ordinances pertaining to the wages, hours, 45410  
and terms and conditions of employment for public employees. Laws 45411  
pertaining to civil rights, affirmative action, unemployment 45412  
compensation, workers' compensation, the retirement of public 45413  
employees, and residency requirements, the minimum educational 45414  
requirements contained in the Revised Code pertaining to public 45415  
education including the requirement of a certificate by the fiscal 45416  
officer of a school district pursuant to section 5705.41 of the 45417  
Revised Code, the provisions of division (A) of section 124.34 of 45418  
the Revised Code governing the disciplining of officers and 45419  
employees who have been convicted of a felony, and the minimum 45420  
standards promulgated by the state board of education pursuant to 45421  
division (D) of section 3301.07 of the Revised Code prevail over 45422  
conflicting provisions of agreements between employee 45423  
organizations and public employers. The law pertaining to the 45424  
leave of absence and compensation provided under section 5923.05 45425  
of the Revised Code prevails over any conflicting provisions of 45426  
such agreements if the terms of the agreement contain benefits 45427  
which are less than those contained in that section or the 45428  
agreement contains no such terms and the public authority is the 45429  
state or any agency, authority, commission, or board of the state 45430  
or if the public authority is another entity listed in division 45431  
(B) of section 4117.01 of the Revised Code that elects to provide 45432

leave of absence and compensation as provided in section 5923.05 45433  
of the Revised Code. Except for sections 306.08, 306.12, 306.35, 45434  
and 4981.22 of the Revised Code and arrangements entered into 45435  
thereunder, and section 4981.21 of the Revised Code as necessary 45436  
to comply with section 13(c) of the "Urban Mass Transportation Act 45437  
of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and 45438  
arrangements entered into thereunder, this chapter prevails over 45439  
any and all other conflicting laws, resolutions, provisions, 45440  
present or future, except as otherwise specified in this chapter 45441  
or as otherwise specified by the general assembly. Nothing in this 45442  
section prohibits or shall be construed to invalidate the 45443  
provisions of an agreement establishing supplemental workers' 45444  
compensation or unemployment compensation benefits or exceeding 45445  
minimum requirements contained in the Revised Code pertaining to 45446  
public education or the minimum standards promulgated by the state 45447  
board of education pursuant to division (D) of section 3301.07 of 45448  
the Revised Code. 45449

(B) The public employer shall submit a request for funds 45450  
necessary to implement an agreement and for approval of any other 45451  
matter requiring the approval of the appropriate legislative body 45452  
to the legislative body within fourteen days of the date on which 45453  
the parties finalize the agreement, unless otherwise specified, 45454  
but if the appropriate legislative body is not in session at the 45455  
time, then within fourteen days after it convenes. The legislative 45456  
body must approve or reject the submission as a whole, and the 45457  
submission is deemed approved if the legislative body fails to act 45458  
within thirty days after the public employer submits the 45459  
agreement. The parties may specify that those provisions of the 45460  
agreement not requiring action by a legislative body are effective 45461  
and operative in accordance with the terms of the agreement, 45462  
provided there has been compliance with division (C) of this 45463  
section. If the legislative body rejects the submission of the 45464  
public employer, either party may reopen all or part of the entire 45465

agreement. 45466

As used in this section, "legislative body" includes ~~the~~ 45467  
~~general assembly,~~ the governing board of a municipal corporation, 45468  
school district, college or university, village, township, or 45469  
board of county commissioners or any other body that has authority 45470  
to approve the budget of their public jurisdiction and, with 45471  
regard to the state, "legislative body" means the controlling 45472  
board. 45473

(C) The chief executive officer, or the chief executive 45474  
officer's representative, of each municipal corporation, the 45475  
designated representative of the board of education of each school 45476  
district, college or university, or any other body that has 45477  
authority to approve the budget of their public jurisdiction, the 45478  
designated representative of the board of county commissioners and 45479  
of each elected officeholder of the county whose employees are 45480  
covered by the collective negotiations, and the designated 45481  
representative of the village or the board of township trustees of 45482  
each township is responsible for negotiations in the collective 45483  
bargaining process; except that the legislative body may accept or 45484  
reject a proposed collective bargaining agreement. When the 45485  
matters about which there is agreement are reduced to writing and 45486  
approved by the employee organization and the legislative body, 45487  
the agreement is binding upon the legislative body, the employer, 45488  
and the employee organization and employees covered by the 45489  
agreement. 45490

(D) There is hereby established an office of collective 45491  
bargaining in the department of administrative services for the 45492  
purpose of negotiating with and entering into written agreements 45493  
between state agencies, departments, boards, and commissions and 45494  
the exclusive representative on matters of wages, hours, terms and 45495  
other conditions of employment and the continuation, modification, 45496  
or deletion of an existing provision of a collective bargaining 45497

agreement. Nothing in any provision of law to the contrary shall  
be interpreted as excluding the bureau of workers' compensation  
and the industrial commission from the preceding sentence. This  
office shall not negotiate on behalf of other statewide elected  
officials or boards of trustees of state institutions of higher  
education who shall be considered as separate public employers for  
the purposes of this chapter; however, the office may negotiate on  
behalf of these officials or trustees where authorized by the  
officials or trustees. The staff of the office of collective  
bargaining are in the unclassified service. The director of  
administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

(1) Assist the director in formulating management's  
philosophy for public collective bargaining as well as planning  
bargaining strategies;

(2) Conduct negotiations with the exclusive representatives  
of each employee organization;

(3) Coordinate the state's resources in all mediation,  
fact-finding, and arbitration cases as well as in all labor  
disputes;

(4) Conduct systematic reviews of collective bargaining  
agreements for the purpose of contract negotiations;

(5) Coordinate the systematic compilation of data by all  
agencies that is required for negotiating purposes;

(6) Prepare and submit an annual report and other reports as  
requested to the governor and the general assembly on the  
implementation of this chapter and its impact upon state  
government.

Sec. 4117.103. Notwithstanding any provision of section  
4117.08 or 4117.10 of the Revised Code to the contrary, no



agreement entered into under this chapter on or after the 45528  
effective date of this section shall prohibit a school district 45529  
board of education from utilizing volunteers to assist the 45530  
district and its schools in performing any of their functions, 45531  
other than functions for which a license, permit, or certificate 45532  
issued by the state board of education under section 3301.074 or 45533  
Chapter 3319. of the Revised Code or a certificate issued under 45534  
division (A) or (B) of section 3327.10 of the Revised Code is 45535  
required. 45536

**Sec. 4117.24.** The training ~~and~~, publications, and grants fund 45537  
is hereby created in the state treasury. The state employment 45538  
relations board shall deposit into the training ~~and~~, publications, 45539  
and grants fund all ~~payments~~ moneys received from the following 45540  
sources: 45541

(A) Payments received by the board for copies of documents, 45542  
rulebooks, and other publications; ~~fees~~ 45543

(B) Fees received from seminar participants; ~~and receipts~~ 45544

(C) Receipts from the sale of clearinghouse data; 45545

(D) Moneys received from grants, donations, awards, bequests, 45546  
gifts, reimbursements, and similar funds; 45547

(E) Reimbursement received for professional services and 45548  
expenses related to professional services; 45549

(F) Funds received to support the development of labor 45550  
relations services and programs. The state employment relations 45551  
board shall use all moneys deposited into the training ~~and~~, 45552  
publications, and grants fund to defray the costs of furnishing 45553  
and making available copies of documents, rulebooks, and other 45554  
publications; the costs of planning, organizing, and conducting 45555  
training seminars; ~~the costs associated with grant projects,~~ 45556

innovative labor-management cooperation programs, research 45557  
projects related to these grants and programs, and the advancement 45558  
in professionalism of public sector relations; the professional 45559  
development of board employees; and the costs of compiling 45560  
clearinghouse data. 45561

The board may seek, solicit, apply for, receive, and accept 45562  
grants, gifts, and contributions of money, property, labor, and 45563  
other things of value to be held for, used for, and applied to 45564  
only the purpose for which the grants, gifts, and contributions 45565  
are made, from individuals, private and public corporations, the 45566  
United States or any agency thereof, the state or any agency 45567  
thereof, and any political subdivision of the state, and may enter 45568  
into any contract with any such public or private source in 45569  
connection therewith to be held for, used for, and applied to only 45570  
the purposes for which such grants are made and contracts are 45571  
entered into, all subject to and in accordance with the purposes 45572  
of this chapter. Any money received from the grants, gifts, 45573  
contributions, or contracts shall be deposited into the training, 45574  
publications, and grants fund. 45575

**Sec. 4121.12.** (A) There is hereby created the workers' 45576  
compensation oversight commission consisting of ~~nine~~ eleven 45577  
members, of which members the governor shall appoint five with the 45578  
advice and consent of the senate. Of the five members the governor 45579  
appoints, two shall be individuals who, on account of their 45580  
previous vocation, employment, or affiliations, can be classed as 45581  
representative of employees, at least one of whom is 45582  
representative of employees who are members of an employee 45583  
organization; two shall be individuals who, on account of their 45584  
previous vocation, employment, or affiliations, can be classed as 45585  
representative of employers, one of whom represents self-insuring 45586  
employers and one of whom has experience as an employer in 45587  
compliance with section 4123.35 of the Revised Code other than a 45588

self-insuring employer, and one of those two representatives also 45589  
shall represent employers whose employees are not members of an 45590  
employee organization; and one shall represent the public and also 45591  
be an individual who, on account of the individual's previous 45592  
vocation, employment, or affiliations, cannot be classed as either 45593  
predominantly representative of employees or of employers. The 45594  
governor shall select the chairperson of the commission who shall 45595  
serve as chairperson at the pleasure of the governor. No more than 45596  
three members appointed by the governor shall belong to or be 45597  
affiliated with the same political party. 45598

Each of these five members shall have at least three years' 45599  
experience in the field of insurance, finance, workers' 45600  
compensation, law, accounting, actuarial, personnel, investments, 45601  
or data processing, or in the management of an organization whose 45602  
size is commensurate with that of the bureau of workers' 45603  
compensation. At least one of these five members shall be an 45604  
attorney licensed under Chapter 4705. of the Revised Code to 45605  
practice law in this state. 45606

(B) Of the initial appointments made to the commission, the 45607  
governor shall appoint one member who represents employees to a 45608  
term ending one year after September 1, 1995, one member who 45609  
represents employers to a term ending two years after September 1, 45610  
1995, the member who represents the public to a term ending three 45611  
years after September 1, 1995, one member who represents employees 45612  
to a term ending four years after September 1, 1995, and one 45613  
member who represents employers to a term ending five years after 45614  
September 1, 1995. Thereafter, terms of office shall be for ~~five~~ 45615  
three years, with each term ending on the same day of the same 45616  
month as did the term that it succeeds. Each member shall hold 45617  
office from the date of the member's appointment until the end of 45618  
the term for which the member was appointed. 45619

The governor shall not appoint any person to more than two 45620

full terms of office on the commission. This restriction does not  
prevent the governor from appointing a person to fill a vacancy  
caused by the death, resignation, or removal of a commission  
member and also appointing that person twice to full terms on the  
commission, or from appointing a person previously appointed to  
fill less than a full term twice to full terms on the commission.  
Any member appointed to fill a vacancy occurring prior to the  
expiration date of the term for which the member's predecessor was  
appointed shall hold office as a member for the remainder of that  
term. A member shall continue in office subsequent to the  
expiration date of the member's term until a successor takes  
office or until a period of sixty days has elapsed, whichever  
occurs first.

(C) In making appointments to the commission, the governor  
shall select the members from the list of names submitted by the  
workers' compensation oversight commission nominating committee  
pursuant to this division. Within fourteen days after the governor  
calls the initial meeting of the nominating committee pursuant to  
division (C) of section 4121.123 of the Revised Code, the  
nominating committee shall submit to the governor, for the initial  
appointments, a list containing four separate names for each of  
the members on the commission. Within fourteen days after the  
submission of the list, the governor shall appoint individuals  
from the list.

For the appointment of the member who is representative of  
employees who are members of an employee organization, both for  
initial appointments and for the filling of vacancies, the list of  
four names submitted by the nominating committee shall be  
comprised of four individuals who are members of the executive  
committee of the largest statewide labor federation.

Thereafter, within sixty days after a vacancy occurring as a  
result of the expiration of a term and within thirty days after

other vacancies occurring on the commission, the nominating  
committee shall submit a list containing four names for each  
vacancy. Within fourteen days after the submission of the list,  
the governor shall appoint individuals from the list. With respect  
to the filling of vacancies, the nominating committee shall  
provide the governor with a list of four individuals who are, in  
the judgment of the nominating committee, the most fully qualified  
to accede to membership on the commission. The nominating  
committee shall not include the name of an individual upon the  
list for the filling of vacancies if the appointment of that  
individual by the governor would result in more than three members  
of the commission belonging to or being affiliated with the same  
political party. The committee shall include on the list for the  
filling of vacancies only the names of attorneys admitted to  
practice law in this state if, to fulfill the requirement of  
division (A) of section 4121.12 of the Revised Code, the vacancy  
must be filled by an attorney.

In order for the name of an individual to be submitted to the  
governor under this division, the nominating committee shall  
approve the individual by an affirmative vote of a majority of its  
members.

(D) The commission shall also consist of two members, known  
as the investment expert members. One investment expert member  
shall be appointed by the treasurer of state and one investment  
expert member shall be jointly appointed by the speaker of the  
house of representatives and the president of the senate. Each  
investment expert member shall have the following qualifications:

(1) Be a resident of this state:

(2) Within the three years immediately preceding the  
appointment, not have been employed by the bureau of workers'  
compensation or by any person, partnership, or corporation that

has provided to the bureau services of a financial or investment 45684  
nature, including the management, analysis, supervision, or 45685  
investment of assets; 45686

(3) Have direct experience in the management, analysis, 45687  
supervision, or investment of assets. 45688

Terms of office of the investment expert members shall be for 45689  
three years, with each term ending on the same day of the same 45690  
month as did the term that it succeeds. Each member shall hold 45691  
office for the date of the member's appointment until the end of 45692  
the term for which the member was appointed. The president, 45693  
speaker, and treasurer shall not appoint any person to more than 45694  
two full terms of office on the commission. This restriction does 45695  
not prevent the president, speaker, and treasurer from appointing 45696  
a person to fill a vacancy caused by the death, resignation, or 45697  
removal of a commission member and also appointing that person 45698  
twice to full terms on the commission, or from appointing a person 45699  
previously appointed to fill less than a full term twice to full 45700  
terms on the commission. Any investment expert member appointed to 45701  
fill a vacancy occurring prior to the expiration of the term for 45702  
which the member's predecessor was appointed shall hold office 45703  
until the end of that term. The member shall continue in office 45704  
subsequent to the expiration date of the member's term until the 45705  
member's successor takes office or until a period of sixty days 45706  
has elapsed, whichever occurs first. 45707

The investment expert members of the oversight commission 45708  
shall vote only on investment matters. 45709

(E) The remaining four members of the commission shall be the 45710  
chairperson and ranking minority member of the standing committees 45711  
of the house of representatives and of the senate to which 45712  
legislation concerning this chapter and Chapters 4123., 4127., and 45713  
4131. of the Revised Code normally are referred, or a designee of 45714

the chairperson or ranking minority member, provided that the 45715  
designee is a member of the standing committee. Legislative 45716  
members shall serve during the session of the general assembly to 45717  
which they are elected and for as long as they are members of the 45718  
general assembly. Legislative members shall serve in an advisory 45719  
capacity to the commission and shall have no voting rights on 45720  
matters coming before the commission. Membership on the commission 45721  
by legislative members shall not be deemed as holding a public 45722  
office. 45723

~~(E)(F)~~ All members of the commission shall receive their 45724  
reasonable and necessary expenses pursuant to section 126.31 of 45725  
the Revised Code while engaged in the performance of their duties 45726  
as members. ~~Legislative members also shall receive fifty dollars~~ 45727  
~~per meeting that they attend.~~ Members appointed by the governor 45728  
and the investment expert members also shall receive an annual 45729  
salary ~~as follows:~~ 45730

~~(1) On and before August 31, 1998, not to exceed six thousand~~ 45731  
~~dollars payable at the rate of five hundred dollars per month. A~~ 45732  
~~member shall receive the monthly five hundred dollar salary only~~ 45733  
~~if the member has attended at least one meeting of the commission~~ 45734  
~~during that month. A member may receive no more than the monthly~~ 45735  
~~five hundred dollar salary regardless of the number of meetings~~ 45736  
~~held by the commission during a month or the number of meetings in~~ 45737  
~~excess of one within a month that the member attends.~~ 45738

~~(2) After August 31, 1998, not to exceed eighteen thousand~~ 45739  
dollars payable on the following basis: 45740

~~(a)(1)~~ Except as provided in division ~~(E)(F)(2)(b)~~ of this 45741  
section, a member shall receive two thousand dollars during a 45742  
month in which the member attends one or more meetings of the 45743  
commission and shall receive no payment during a month in which 45744  
the member attends no meeting of the commission. 45745

~~(b)~~(2) A member may receive no more than the annual eighteen 45746  
thousand dollar salary regardless of the number of meetings held 45747  
by the commission during a year or the number of meetings in 45748  
excess of nine within a year that the member attends. 45749

The chairperson of the commission shall set the meeting dates 45750  
of the commission as necessary to perform the duties of the 45751  
commission under this chapter and Chapters 4123., 4127., and 4131. 45752  
of the Revised Code. The commission shall meet at least nine times 45753  
during the period commencing on the first day of September and 45754  
ending on the thirty-first day of August of the following year. 45755  
The administrator of workers' compensation shall provide 45756  
professional and clerical assistance to the commission, as the 45757  
commission considers appropriate. 45758

~~(F)~~(G) The commission shall: 45759

(1) Review progress of the bureau in meeting its cost and 45760  
quality objectives and in complying with this chapter and Chapters 45761  
4123., 4127., and 4131. of the Revised Code; 45762

(2) Issue an annual report on the cost and quality objectives 45763  
of the bureau to the president of the senate, the speaker of the 45764  
house of representatives, and the governor; 45765

(3) Review all independent financial audits of the bureau. 45766  
The administrator shall provide access to records of the bureau to 45767  
facilitate the review required under this division. 45768

(4) Study issues as requested by the administrator or the 45769  
governor; 45770

(5) Contract with an independent actuarial firm to assist the 45771  
commission in making recommendations to the administrator 45772  
regarding premium rates; 45773

(6) Establish objectives, policies, and criteria for the 45774  
administration of the investment program that include asset 45775



allocation targets and ranges, risk factors, asset class 45776  
benchmarks, time horizons, total return objectives, and 45777  
performance evaluation guidelines, and monitor the administrator's 45778  
progress in implementing the objectives, policies, and criteria on 45779  
a quarterly basis. The commission shall review and publish the 45780  
objectives, policies, and criteria no less than annually and shall 45781  
make copies available to interested parties. The commission shall 45782  
prohibit, on a prospective basis, any specific investment activity 45783  
it finds to be contrary to its investment objectives, policies, 45784  
and criteria. 45785

~~The investment policy in existence on March 7, 1997, shall 45786  
continue until the commission approves objectives, policies, and 45787  
criteria for the administration of the investment program pursuant 45788  
to this section. 45789~~

The objectives, policies, and criteria adopted by the 45790  
commission for the operation of the investment program shall 45791  
prohibit investing assets of funds, directly or indirectly, in 45792  
vehicles that target any of the following: 45793

(a) Coins; 45794

(b) Artwork; 45795

(c) Horses; 45796

(d) Jewelry or gems; 45797

(e) Stamps; 45798

(f) Antiques; 45799

(g) Artifacts; 45800

(h) Collectibles; 45801

(i) Memorabilia; 45802

(j) Similar unregulated investments that are not commonly 45803  
part of an institutional portfolio, that lack liquidity, and that 45804

lack readily determinable valuation. 45805

(7) Specify in the objectives, policies, and criteria for the investment program that the administrator is permitted to invest in an investment class only if the commission, by a majority vote, opens that class. After the commission opens a class but prior to the administrator investing in that class, the commission shall adopt rules establishing due diligence standards for employees' of the bureau to follow when investing in that class and shall establish policies and procedures to review and monitor the performance and value of each investment class. The commission shall submit a report annually on the performance and value of each investment class to the governor, the president of the senate, and the speaker of the house of representatives. The commission may vote to close any investment class. 45806  
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(8) Advise and consent on all of the following: 45819

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating; 45820  
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(b) The overall policy of the bureau of workers' compensation as set by the administrator; 45826  
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(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code; 45828  
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(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 45830  
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(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk 45833  
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reduction program and the protection of public health care workers 45835  
from exposure incidents. 45836

As used in this division, "public health care worker" and 45837  
"exposure incident" have the same meanings as in section 4167.25 45838  
of the Revised Code. 45839

~~(8)~~(9) Perform all duties required under section 4121.125 of 45840  
the Revised Code. 45841

~~(G)~~(H) The office of a member of the commission who is 45842  
convicted of or pleads guilty to a felony, a theft offense as 45843  
defined in section 2913.01 of the Revised Code, or a violation of 45844  
section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 45845  
2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code 45846  
shall be deemed vacant. The vacancy shall be filled in the same 45847  
manner as the original appointment. A person who has pleaded 45848  
guilty to or been convicted of an offense of that nature is 45849  
ineligible to be a member of the commission. A member who receives 45850  
a bill of indictment for any of the offenses specified in this 45851  
section shall be automatically suspended from the commission 45852  
pending resolution of the criminal matter. 45853

(I) As used in this section, "employee organization" means 45854  
any labor or bona fide organization in which employees participate 45855  
and which exists for the purpose, in whole or in part, of dealing 45856  
with employers concerning grievances, labor disputes, wages, 45857  
hours, terms and other conditions of employment. 45858

**Sec. 4121.121.** (A) There is hereby created the bureau of 45859  
workers' compensation, which shall be administered by the 45860  
administrator of workers' compensation. A person appointed to the 45861  
position of administrator shall possess significant management 45862  
experience in effectively managing an organization or 45863  
organizations of substantial size and complexity. The governor 45864

shall appoint the administrator as provided in section 121.03 of 45865  
the Revised Code, and the administrator shall serve at the 45866  
pleasure of the governor. The governor shall fix the 45867  
administrator's salary on the basis of the administrator's 45868  
experience and the administrator's responsibilities and duties 45869  
under this chapter and Chapters 4123., 4127., 4131., and 4167. of 45870  
the Revised Code. The governor shall not appoint to the position 45871  
of administrator any person who has, or whose spouse has, given a 45872  
contribution to the campaign committee of the governor in an 45873  
amount greater than one thousand dollars during the two-year 45874  
period immediately preceding the date of the appointment of the 45875  
administrator. 45876

The administrator shall hold no other public office and shall 45877  
devote full time to the duties of administrator. Before entering 45878  
upon the duties of the office, the administrator shall take an 45879  
oath of office as required by sections 3.22 and 3.23 of the 45880  
Revised Code, and shall file in the office of the secretary of 45881  
state, a bond signed by the administrator and by surety approved 45882  
by the governor, for the sum of fifty thousand dollars payable to 45883  
the state, conditioned upon the faithful performance of the 45884  
administrator's duties. 45885

(B) The administrator is responsible for the management of 45886  
the bureau of workers' compensation and for the discharge of all 45887  
administrative duties imposed upon the administrator in this 45888  
chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised 45889  
Code, and in the discharge thereof shall do all of the following: 45890

(1) Establish the overall administrative policy of the bureau 45891  
for the purposes of this chapter and Chapters 4123., 4127., 4131., 45892  
and 4167. of the Revised Code, and perform all acts and exercise 45893  
all authorities and powers, discretionary and otherwise that are 45894  
required of or vested in the bureau or any of its employees in 45895  
this chapter and Chapters 4123., 4127., 4131., and 4167. of the 45896

Revised Code, except the acts and the exercise of authority and  
power that is required of and vested in the oversight commission  
or the industrial commission pursuant to those chapters. The  
treasurer of state shall honor all warrants signed by the  
administrator, or by one or more of the administrator's employees,  
authorized by the administrator in writing, or bearing the  
facsimile signature of the administrator or such employee under  
sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in  
connection with the performance of the duties assigned to the  
bureau by this chapter and Chapters 4123., 4127., 4131., and 4167.  
of the Revised Code, and may establish job classification plans  
and compensation for all employees of the bureau provided that  
this grant of authority shall not be construed as affecting any  
employee for whom the state employment relations board has  
established an appropriate bargaining unit under section 4117.06  
of the Revised Code. All positions of employment in the bureau are  
in the classified civil service except those employees the  
administrator may appoint to serve at the administrator's pleasure  
in the unclassified civil service pursuant to section 124.11 of  
the Revised Code. The administrator shall fix the salaries of  
employees the administrator appoints to serve at the  
administrator's pleasure, including the chief operating officer,  
staff physicians, and other senior management personnel of the  
bureau and shall establish the compensation of staff attorneys of  
the bureau's legal section and their immediate supervisors, and  
take whatever steps are necessary to provide adequate compensation  
for other staff attorneys.

The administrator may appoint a person holding a certified  
position in the classified service to any state position in the  
unclassified service of the bureau of workers' compensation. A  
person so appointed shall retain the right to resume the position

and status held by the person in the classified service 45929  
immediately prior to the person's appointment in the unclassified 45930  
service. If the position the person previously held has been 45931  
filled or placed in the unclassified service, or is otherwise 45932  
unavailable, the person shall be appointed to a position in the 45933  
classified service within the bureau that the department of 45934  
administrative services certifies is comparable in compensation to 45935  
the position the person previously held. Reinstatement to a 45936  
position in the classified service shall be to a position 45937  
substantially equal to that held previously, as certified by the 45938  
department of administrative services. Service in the position in 45939  
the unclassified service shall be counted as service in the 45940  
position in the classified service held by the person immediately 45941  
prior to the person's appointment in the unclassified service. 45942  
When a person is reinstated to a position in the classified 45943  
service as provided in this section, the person is entitled to all 45944  
rights, status, and benefits accruing to the position during the 45945  
person's time of service in the position in the unclassified 45946  
service. 45947

(3) Reorganize the work of the bureau, its sections, 45948  
departments, and offices to the extent necessary to achieve the 45949  
most efficient performance of its functions and to that end may 45950  
establish, change, or abolish positions and assign and reassign 45951  
duties and responsibilities of every employee of the bureau. All 45952  
persons employed by the commission in positions that, after 45953  
November 3, 1989, are supervised and directed by the administrator 45954  
under this section are transferred to the bureau in their 45955  
respective classifications but subject to reassignment and 45956  
reclassification of position and compensation as the administrator 45957  
determines to be in the interest of efficient administration. The 45958  
civil service status of any person employed by the commission is 45959  
not affected by this section. Personnel employed by the bureau or 45960

the commission who are subject to Chapter 4117. of the Revised  
Code shall retain all of their rights and benefits conferred  
pursuant to that chapter as it presently exists or is hereafter  
amended and nothing in this chapter or Chapter 4123. of the  
Revised Code shall be construed as eliminating or interfering with  
Chapter 4117. of the Revised Code or the rights and benefits  
conferred under that chapter to public employees or to any  
bargaining unit.

(4) Provide offices, equipment, supplies, and other  
facilities for the bureau.

(5) Prepare and submit to the oversight commission  
information the administrator considers pertinent or the oversight  
commission requires, together with the administrator's  
recommendations, in the form of administrative rules, for the  
advice and consent of the oversight commission, for  
classifications of occupations or industries, for premium rates  
and contributions, for the amount to be credited to the surplus  
fund, for rules and systems of rating, rate revisions, and merit  
rating. The administrator shall obtain, prepare, and submit any  
other information the oversight commission requires for the prompt  
and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section  
4123.34 of the Revised Code and all other accounts and records  
necessary to the collection, administration, and distribution of  
the workers' compensation funds and shall obtain the statistical  
and other information required by section 4123.19 of the Revised  
Code.

(7) Exercise the investment powers vested in the  
administrator by section 4123.44 of the Revised Code in accordance  
with the investment objectives, policies, and criteria established  
by the oversight commission pursuant to section 4121.12 of the

Revised Code and in consultation with the chief investment officer 45992  
of the bureau of workers' compensation. The administrator shall 45993  
not engage in any prohibited investment activity specified by the 45994  
oversight commission pursuant to division ~~(F)~~(G)(6) of section 45995  
4121.12 of the Revised Code and shall not invest in any type of 45996  
investment specified in division (G)(6)(a) to (j) of that section. 45997  
All business shall be transacted, all funds invested, all warrants 45998  
for money drawn and payments made, and all cash and securities and 45999  
other property held, in the name of the bureau, or in the name of 46000  
its nominee, provided that nominees are authorized by the 46001  
administrator solely for the purpose of facilitating the transfer 46002  
of securities, and restricted to the administrator and designated 46003  
employees. 46004

(8) Make contracts for and supervise the construction of any 46005  
project or improvement or the construction or repair of buildings 46006  
under the control of the bureau. 46007

(9) Purchase supplies, materials, equipment, and services; 46008  
make contracts for, operate, and superintend the telephone, other 46009  
telecommunication, and computer services for the use of the 46010  
bureau; and make contracts in connection with office reproduction, 46011  
forms management, printing, and other services. Notwithstanding 46012  
sections 125.12 to 125.14 of the Revised Code, the administrator 46013  
may transfer surplus computers and computer equipment directly to 46014  
an accredited public school within the state. The computers and 46015  
computer equipment may be repaired or refurbished prior to the 46016  
transfer. 46017

(10) Separately from the budget the industrial commission 46018  
submits, prepare and submit to the director of budget and 46019  
management a budget for each biennium. The budget submitted shall 46020  
include estimates of the costs and necessary expenditures of the 46021  
bureau in the discharge of any duty imposed by law. 46022



(11) As promptly as possible in the course of efficient 46023  
administration, decentralize and relocate such of the personnel 46024  
and activities of the bureau as is appropriate to the end that the 46025  
receipt, investigation, determination, and payment of claims may 46026  
be undertaken at or near the place of injury or the residence of 46027  
the claimant and for that purpose establish regional offices, in 46028  
such places as the administrator considers proper, capable of 46029  
discharging as many of the functions of the bureau as is 46030  
practicable so as to promote prompt and efficient administration 46031  
in the processing of claims. All active and inactive lost-time 46032  
claims files shall be held at the service office responsible for 46033  
the claim. A claimant, at the claimant's request, shall be 46034  
provided with information by telephone as to the location of the 46035  
file pertaining to the claimant's claim. The administrator shall 46036  
ensure that all service office employees report directly to the 46037  
director for their service office. 46038

(12) Provide a written binder on new coverage where the 46039  
administrator considers it to be in the best interest of the risk. 46040  
The administrator, or any other person authorized by the 46041  
administrator, shall grant the binder upon submission of a request 46042  
for coverage by the employer. A binder is effective for a period 46043  
of thirty days from date of issuance and is nonrenewable. Payroll 46044  
reports and premium charges shall coincide with the effective date 46045  
of the binder. 46046

(13) Set standards for the reasonable and maximum handling 46047  
time of claims payment functions, ensure, by rules, the impartial 46048  
and prompt treatment of all claims and employer risk accounts, and 46049  
establish a secure, accurate method of time stamping all incoming 46050  
mail and documents hand delivered to bureau employees. 46051

(14) Ensure that all employees of the bureau follow the 46052  
orders and rules of the commission as such orders and rules relate 46053  
to the commission's overall adjudicatory policy-making and 46054

management duties under this chapter and Chapters 4123., 4127., 46055  
and 4131. of the Revised Code. 46056

(15) Manage and operate a data processing system with a 46057  
common data base for the use of both the bureau and the commission 46058  
and, in consultation with the commission, using electronic data 46059  
processing equipment, shall develop a claims tracking system that 46060  
is sufficient to monitor the status of a claim at any time and 46061  
that lists appeals that have been filed and orders or 46062  
determinations that have been issued pursuant to section 4123.511 46063  
or 4123.512 of the Revised Code, including the dates of such 46064  
filings and issuances. 46065

(16) Establish and maintain a medical section within the 46066  
bureau. The medical section shall do all of the following: 46067

(a) Assist the administrator in establishing standard medical 46068  
fees, approving medical procedures, and determining eligibility 46069  
and reasonableness of the compensation payments for medical, 46070  
hospital, and nursing services, and in establishing guidelines for 46071  
payment policies which recognize usual, customary, and reasonable 46072  
methods of payment for covered services; 46073

(b) Provide a resource to respond to questions from claims 46074  
examiners for employees of the bureau; 46075

(c) Audit fee bill payments; 46076

(d) Implement a program to utilize, to the maximum extent 46077  
possible, electronic data processing equipment for storage of 46078  
information to facilitate authorizations of compensation payments 46079  
for medical, hospital, drug, and nursing services; 46080

(e) Perform other duties assigned to it by the administrator. 46081

(17) Appoint, as the administrator determines necessary, 46082  
panels to review and advise the administrator on disputes arising 46083  
over a determination that a health care service or supply provided 46084

to a claimant is not covered under this chapter or Chapter 4123. 46085  
of the Revised Code or is medically unnecessary. If an individual 46086  
health care provider is involved in the dispute, the panel shall 46087  
consist of individuals licensed pursuant to the same section of 46088  
the Revised Code as such health care provider. 46089

(18) Pursuant to section 4123.65 of the Revised Code, approve 46090  
applications for the final settlement of claims for compensation 46091  
or benefits under this chapter and Chapters 4123., 4127., and 46092  
4131. of the Revised Code as the administrator determines 46093  
appropriate, except in regard to the applications of self-insuring 46094  
employers and their employees. 46095

(19) Comply with section 3517.13 of the Revised Code, and 46096  
except in regard to contracts entered into pursuant to the 46097  
authority contained in section 4121.44 of the Revised Code, comply 46098  
with the competitive bidding procedures set forth in the Revised 46099  
Code for all contracts into which the administrator enters 46100  
provided that those contracts fall within the type of contracts 46101  
and dollar amounts specified in the Revised Code for competitive 46102  
bidding and further provided that those contracts are not 46103  
otherwise specifically exempt from the competitive bidding 46104  
procedures contained in the Revised Code. 46105

(20) Adopt, with the advice and consent of the oversight 46106  
commission, rules for the operation of the bureau. 46107

(21) Prepare and submit to the oversight commission 46108  
information the administrator considers pertinent or the oversight 46109  
commission requires, together with the administrator's 46110  
recommendations, in the form of administrative rules, for the 46111  
advice and consent of the oversight commission, for the health 46112  
partnership program and the qualified health plan system, as 46113  
provided in sections 4121.44, 4121.441, and 4121.442 of the 46114  
Revised Code. 46115

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

**Sec. 4121.125.** (A) The workers' compensation oversight commission may contract with one or more outside actuarial firms and other professional persons, as the oversight commission determines necessary, to assist the oversight commission in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The oversight commission, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The oversight commission may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The administrator and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the oversight commission to the extent necessary for fulfillment of both of the following

requirements: 46147

(1) Conduct of the measurements and comparisons described in 46148  
division (A) of this section; 46149

(2) Conduct of the management and financial audits and 46150  
establishment of the principles and methods described in division 46151  
(B) of this section. 46152

(D) The oversight commission shall have an independent 46153  
auditor, at least once every ten years, conduct a fiduciary 46154  
performance audit of the investment program of the bureau of 46155  
workers' compensation. That audit shall include an audit of the 46156  
investment policies of the oversight commission and investment 46157  
procedures of the bureau. The oversight commission shall submit a 46158  
copy of that audit to the auditor of state. 46159

(E) The bureau of workers' compensation, with the advice and 46160  
consent of the oversight commission, shall employ an internal 46161  
auditor who shall report directly to the oversight commission on 46162  
investment matters. The oversight commission may request and 46163  
review internal audits conducted by the internal auditor. 46164

(F) The administrator shall pay the expenses incurred by the 46165  
oversight commission to effectively fulfill its duties and 46166  
exercise its powers under this section as the administrator pays 46167  
other operating expenses of the bureau. 46168

Sec. 4121.126. Except as provided in this chapter, no member 46169  
of the workers' compensation oversight commission or employee of 46170  
the bureau of workers' compensation shall have any direct or 46171  
indirect interest in the gains or profits of any investment made 46172  
by the administrator of workers' compensation or shall receive 46173  
directly or indirectly any pay or emolument for the member's or 46174  
employee's services. No member or person connected with the bureau 46175  
directly or indirectly, for self or as an agent or partner of 46176

others, shall borrow any of its funds or deposits or in any manner 46177  
use the funds or deposits except to make current and necessary 46178  
payments that are authorized by the administrator. No member of 46179  
the oversight commission or employee of the bureau shall become an 46180  
indorser or surety or become in any manner an obligor for moneys 46181  
loaned by or borrowed from the bureau. 46182

The administrator shall make no investments through or 46183  
purchases from, or otherwise do any business with, any individual 46184  
who is, or any partnership, association, or corporation that is 46185  
owned or controlled by, a person who within the preceding three 46186  
years was employed by the bureau, a board member of, or an officer 46187  
of the oversight commission, or a person who within the preceding 46188  
three years was employed by or was an officer holding a fiduciary, 46189  
administrative, supervisory, or trust position, or any other 46190  
position in which such person would be involved, on behalf of the 46191  
person's employer, in decisions or recommendations affecting the 46192  
investment policy of the bureau, and in which such person would 46193  
benefit by any monetary gain. 46194

**Sec. 4121.127.** (A) Except as provided in division (B) of this 46195  
section, a fiduciary shall not cause the bureau of workers' 46196  
compensation to engage in a transaction, if the fiduciary knows or 46197  
should know that such transaction constitutes any of the 46198  
following, whether directly or indirectly: 46199

(1) The sale, exchange, or leasing of any property between 46200  
the bureau and a party in interest; 46201

(2) Lending of money or other extension of credit between the 46202  
bureau and a party in interest; 46203

(3) Furnishing of goods, services, or facilities between the 46204  
bureau and a party in interest; 46205

(4) Transfer to, or use by or for the benefit of a party in 46206

interest, of any assets of the bureau; 46207

(5) Acquisition, on behalf of the bureau, of any employer security or employer real property. 46208  
46209

(B) Nothing in this section shall prohibit any transaction between the bureau and any fiduciary or party in interest if both of the following occur: 46210  
46211  
46212

(1) All the terms and conditions of the transaction are comparable to the terms and conditions that might reasonably be expected in a similar transaction between similar parties who are not parties in interest. 46213  
46214  
46215  
46216

(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. 46217  
46218  
46219

(C) A fiduciary shall not do any of the following: 46220

(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account; 46221  
46222

(2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau; 46223  
46224  
46225  
46226  
46227

(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau. 46228  
46229  
46230

(D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to bureau, shall be liable for a breach of fiduciary responsibility in any the following circumstances: 46231  
46232  
46233  
46234

(1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary, 46235  
46236

knowing such act or omission is a breach; 46237

(2) If, by the fiduciary's failure to comply with this 46238  
chapter or Chapter 4123., 4127., or 4131. of the Revised Code, the 46239  
fiduciary has enabled another fiduciary to commit a breach; 46240

(3) If the fiduciary has knowledge of a breach by another 46241  
fiduciary of that fiduciary's duties under this chapter and 46242  
Chapters 4123., 4127., and 4131. of the Revised Code, unless the 46243  
fiduciary makes reasonable efforts under the circumstances to 46244  
remedy the breach. 46245

(E) Every fiduciary of the bureau shall be bonded or insured 46246  
for an amount of not less than one million dollars for loss by 46247  
reason of acts of fraud or dishonesty. 46248

(F) As used in this section, "fiduciary" means a person who 46249  
does any of the following: 46250

(1) Exercises discretionary authority or control with respect 46251  
to the management of the bureau or with respect to the management 46252  
or disposition of its assets; 46253

(2) Renders investment advice for a fee, directly or 46254  
indirectly, with respect to money or property of the bureau; 46255

(3) Has discretionary authority or responsibility in the 46256  
administration of the bureau. 46257

Sec. 4121.128. The attorney general shall be the legal 46258  
adviser of the workers' compensation oversight commission. 46259

Sec. 4123.27. Information contained in the annual statement 46260  
provided for in section 4123.26 of the Revised Code, and such 46261  
other information as may be furnished to the bureau of workers' 46262  
compensation by employers in pursuance of that section, is for the 46263  
exclusive use and information of the bureau in the discharge of 46264  
its official duties, and shall not be open to the public nor be 46265



used in any court in any action or proceeding pending therein 46266  
unless the bureau is a party to the action or proceeding; but the 46267  
information contained in the statement may be tabulated and 46268  
published by the bureau in statistical form for the use and 46269  
information of other state departments and the public. No person 46270  
in the employ of the bureau, except those who are authorized by 46271  
the administrator of workers' compensation, shall divulge any 46272  
information secured by the person while in the employ of the 46273  
bureau in respect to the transactions, property, claim files, 46274  
records, or papers of the bureau or in respect to the business or 46275  
mechanical, chemical, or other industrial process of any company, 46276  
firm, corporation, person, association, partnership, or public 46277  
utility to any person other than the administrator or to the 46278  
superior of such employee of the bureau. 46279

Notwithstanding the restrictions imposed by this section, the 46280  
governor, select or standing committees of the general assembly, 46281  
the auditor of state, the attorney general, or their designees, 46282  
pursuant to the authority granted in this chapter and Chapter 46283  
4121. of the Revised Code, may examine any records, claim files, 46284  
or papers in possession of the industrial commission or the 46285  
bureau. They also are bound by the privilege that attaches to 46286  
these papers. 46287

The administrator shall report to the director of job and 46288  
family services or to the county director of job and family 46289  
services the name, address, and social security number or other 46290  
identification number of any person receiving workers' 46291  
compensation whose name or social security number or other 46292  
identification number is the same as that of a person required by 46293  
a court or child support enforcement agency to provide support 46294  
payments to a recipient or participant of public assistance, and 46295  
whose name is submitted to the administrator by the director under 46296  
section 5101.36 of the Revised Code. The administrator also shall 46297

inform the director of the amount of workers' compensation paid to 46298  
the person during such period as the director specifies. 46299

Within fourteen days after receiving from the director of job 46300  
and family services a list of the names and social security 46301  
numbers of recipients or participants of public assistance 46302  
pursuant to section 5101.181 of the Revised Code, the 46303  
administrator shall inform the auditor of state of the name, 46304  
current or most recent address, and social security number of each 46305  
person receiving workers' compensation pursuant to this chapter 46306  
whose name and social security number are the same as that of a 46307  
person whose name or social security number was submitted by the 46308  
director. The administrator also shall inform the auditor of state 46309  
of the amount of workers' compensation paid to the person during 46310  
such period as the director specifies. 46311

The bureau and its employees, except for purposes of 46312  
furnishing the auditor of state with information required by this 46313  
section, shall preserve the confidentiality of recipients or 46314  
participants of public assistance in compliance with division (A) 46315  
of section 5101.181 of the Revised Code. 46316

For the purposes of this section, "public assistance" means 46317  
medical assistance provided through the medical assistance program 46318  
established under section 5111.01 of the Revised Code, Ohio works 46319  
first provided under Chapter 5107. of the Revised Code, 46320  
prevention, retention, and contingency benefits and services 46321  
provided under Chapter 5108. of the Revised Code, or disability 46322  
financial assistance provided under Chapter 5115. of the Revised 46323  
Code, ~~or disability medical assistance provided under Chapter~~ 46324  
~~5115. of the Revised Code.~~ 46325

**Sec. 4123.44.** The voting members of the workers' compensation 46326  
oversight commission, the administrator of workers' compensation, 46327  
and the bureau of workers' compensation chief investment officer 46328

are the trustees of the state insurance fund. The administrator of 46329  
workers' compensation, in accordance with sections 4121.126 and 46330  
4121.127 of the Revised Code and the investment objectives, 46331  
policies, and criteria established by the workers' compensation 46332  
oversight commission pursuant to section 4121.12 of the Revised 46333  
Code, and in consultation with the bureau of workers' compensation 46334  
chief investment officer, may invest any of the surplus or reserve 46335  
belonging to the state insurance fund. 46336

The administrator shall not invest in any type of investment 46337  
specified in divisions (G)(6)(a) to (j) of section 4121.12 of the 46338  
Revised Code. 46339

The administrator and other fiduciaries shall discharge their 46340  
duties with respect to the funds with the care, skill, prudence, 46341  
and diligence under the circumstances then prevailing that a 46342  
prudent person acting in a like capacity and familiar with such 46343  
matters would use in the conduct of an enterprise of a like 46344  
character and with like aims, and by diversifying the investments 46345  
of the assets of the funds so as to minimize the risk of large 46346  
losses, unless under the circumstances it is clearly prudent not 46347  
to do so. 46348

To facilitate investment of the funds, the administrator may 46349  
establish a partnership, trust, limited liability company, 46350  
corporation, including a corporation exempt from taxation under 46351  
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 46352  
amended, or any other legal entity authorized to transact business 46353  
in this state. 46354

When reporting on the performance of investments, the 46355  
administrator shall comply with the performance presentation 46356  
standards established by the association for investment management 46357  
and research. 46358

All investments shall be purchased at current market prices 46359

and the evidences of title to the investments shall be placed in 46360  
the custody of the treasurer of state, who is hereby designated as 46361  
custodian, or in the custody of the treasurer of state's 46362  
authorized agent. Evidences of title of the investments so 46363  
purchased may be deposited by the treasurer of state for 46364  
safekeeping with an authorized agent selected by the treasurer of 46365  
state who is a qualified trustee under section 135.18 of the 46366  
Revised Code. The treasurer of state or the agent shall collect 46367  
the principal, dividends, distributions, and interest as they 46368  
become due and payable and place them when collected into the 46369  
state insurance fund. 46370

The treasurer of state shall pay for investments purchased by 46371  
the administrator on receipt of written or electronic instructions 46372  
from the administrator or the administrator's designated agent 46373  
authorizing the purchase, and pending receipt of the evidence of 46374  
title of the investment by the treasurer of state or the treasurer 46375  
of state's authorized agent. The administrator may sell 46376  
investments held by the administrator, and the treasurer of state 46377  
or the treasurer of state's authorized agent shall accept payment 46378  
from the purchaser and deliver evidence of title of the investment 46379  
to the purchaser, on receipt of written or electronic instructions 46380  
from the administrator or the administrator's designated agent 46381  
authorizing the sale, and pending receipt of the moneys for the 46382  
investments. The amount received shall be placed in the state 46383  
insurance fund. The administrator and the treasurer of state may 46384  
enter into agreements to establish procedures for the purchase and 46385  
sale of investments under this division and the custody of the 46386  
investments. 46387

No purchase or sale of any investment shall be made under 46388  
this section, except as authorized by the administrator. 46389

Any statement of financial position distributed by the 46390  
administrator shall include the fair value, as of the statement 46391

date, of all investments held by the administrator under this 46392  
section. 46393

When in the judgment of the administrator it is necessary to 46394  
provide available funds for the payment of compensation or 46395  
benefits under this chapter, the administrator may borrow money 46396  
from any available source and pledge as security a sufficient 46397  
amount of bonds or other securities in which the state insurance 46398  
fund is invested. The aggregate unpaid amount of loans existing at 46399  
any one time for money so borrowed shall not exceed ten million 46400  
dollars. The bonds or other securities so pledged as security for 46401  
such loans to the administrator shall be the sole security for the 46402  
payment of the principal and interest of any such loan. The 46403  
administrator shall not be personally liable for the payment of 46404  
the principal or the interest of any such loan. No such loan shall 46405  
be made for a longer period of time than one year. Such loans may 46406  
be renewed but no one renewal shall be for a period in excess of 46407  
one year. Such loans shall bear such rate of interest as the 46408  
administrator determines and in negotiating the loans, the 46409  
administrator shall endeavor to secure as favorable interest rates 46410  
and terms as circumstances will permit. 46411

The treasurer of state may deliver to the person or 46412  
governmental agency making such loan, the bonds or other 46413  
securities which are to be pledged by the administrator as 46414  
security for such loan, upon receipt by the treasurer of state of 46415  
an order of the administrator authorizing such loan. Upon payment 46416  
of any such loan by the administrator, the bonds or other 46417  
securities pledged as security therefor shall be returned to the 46418  
treasurer of state as custodian of such bonds. 46419

The administrator may pledge with the treasurer of state such 46420  
amount of bonds or other securities in which the state insurance 46421  
fund is invested as is reasonably necessary as security for any 46422  
certificates issued, or paid out, by the treasurer of state upon 46423

any warrants drawn by the administrator. 46424

The administrator may secure investment information services, 46425  
consulting services, and other like services to facilitate 46426  
investment of the surplus and reserve belonging to the state 46427  
insurance fund. The administrator shall pay the expense of 46428  
securing such services from the state insurance fund. 46429

Sec. 4123.441. (A) The bureau of workers' compensation, with 46430  
the advice and consent of the workers' compensation oversight 46431  
commission shall employ a person or designate an employee of the 46432  
bureau who is designated as a chartered financial analyst by the 46433  
CFA institute and who is licensed by the division of securities in 46434  
the department of commerce as a bureau of workers' compensation 46435  
chief investment officer to be the chief investment officer for 46436  
the bureau of workers' compensation. After ninety days after the 46437  
effective date of this section, the bureau of workers' 46438  
compensation may not employ a bureau of workers' compensation 46439  
chief investment officer, as defined in section 1707.01 of the 46440  
Revised Code, who does not hold a valid bureau of workers' 46441  
compensation chief investment officer license issued by the 46442  
division of securities in the department of commerce. The 46443  
oversight commission shall notify the division of securities of 46444  
the department of commerce in writing of its designation and of 46445  
any change in its designation within ten calendar days after the 46446  
designation or change. 46447

(B) The bureau of workers' compensation chief investment 46448  
officer shall reasonably supervise employees of the bureau who 46449  
handle investment of assets of funds specified in this chapter and 46450  
Chapters 4121., 4127., and 4131. of the Revised Code with a view 46451  
toward preventing violations of Chapter 1707. of the Revised Code, 46452  
the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the 46453  
"Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the 46454

"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 46455  
and the rules and regulations adopted under those statutes. This 46456  
duty of reasonable supervision shall include the adoption, 46457  
implementation, and enforcement of written policies and procedures 46458  
reasonably designed to prevent employees of the bureau who handle 46459  
investment of assets of the funds specified in this chapter and 46460  
Chapters 4121., 4127., and 4131. of the Revised Code, from 46461  
misusing material, nonpublic information in violation of those 46462  
laws, rules, and regulations. 46463

For purposes of this division, no bureau of workers' 46464  
compensation chief investment officer shall be considered to have 46465  
failed to satisfy the officer's duty of reasonable supervision if 46466  
the officer has done all of the following: 46467

(1) Adopted and implemented written procedures, and a system 46468  
for applying the procedures, that would reasonably be expected to 46469  
prevent and detect, insofar as practicable, any violation by 46470  
employees handling investments of assets of the funds specified in 46471  
this chapter and Chapters 4121., 4127., and 4131. of the Revised 46472  
Code; 46473

(2) Reasonably discharged the duties and obligations 46474  
incumbent on the bureau of workers' compensation chief investment 46475  
officer by reason of the established procedures and the system for 46476  
applying the procedures when the officer had no reasonable cause 46477  
to believe that there was a failure to comply with the procedures 46478  
and systems; 46479

(3) Reviewed, at least annually, the adequacy of the policies 46480  
and procedures established pursuant to this section and the 46481  
effectiveness of their implementation. 46482

(C) The bureau of workers' compensation chief investment 46483  
officer shall establish and maintain a policy to monitor and 46484  
evaluate the effectiveness of securities transactions executed on 46485

behalf of the bureau.

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Sec. 4123.444. (A) As used in this section and section  
4123.445 of the Revised Code:

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(1) "Bureau of workers' compensation funds" means any fund  
specified in Chapter 4121., 4123., 4127., or 4131. of the Revised  
Code that the administrator of workers' compensation has the  
authority to invest, in accordance with the administrator's  
investment authority under section 4123.44 of the Revised Code.

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(2) "Investment manager" means any person with whom the  
administrator of workers' compensation contracts pursuant to  
section 4123.44 of the Revised Code to facilitate the investment  
of assets of bureau of workers' compensation funds.

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(3) "Business entity" means any person with whom an  
investment manager contracts for the investment of assets of  
bureau of workers' compensation funds.

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(4) "Financial or investment crime" means any criminal  
offense involving theft, receiving stolen property, embezzlement,  
forgery, fraud, passing bad checks, money laundering, drug  
trafficking, or any criminal offense involving money or  
securities, as set forth in Chapters 2909., 2911., 2913., 2915.,  
2921., 2923., and 2925. of the Revised Code or other law of this  
state, or the laws of any other state or the United States that  
are substantially equivalent to those offenses.

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(B)(1) Before entering into a contract with an investment  
manager to invest bureau of workers' compensation funds, the  
administrator shall do both of the following:

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(a) Request from any investment manager with whom the  
administrator wishes to contract for those investments a list of  
all employees who will be investing assets of bureau of workers'  
compensation funds. The list shall specify each employee's state

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of residence for the five years prior to the date of the 46516  
administrator's request. 46517

(b) Request that the superintendent of the bureau of criminal 46518  
investigation and identification conduct a criminal records check 46519  
in accordance with this section and section 109.579 of the Revised 46520  
Code with respect to every employee the investment manager names 46521  
in that list. 46522

(2) After an investment manager enters into a contract with 46523  
the administrator to invest bureau of workers' compensation funds 46524  
and before an investment manager enters into a contract with a 46525  
business entity to facilitate those investments, the investment 46526  
manager shall request from any business entity with whom the 46527  
investment manager wishes to contract to make those investments a 46528  
list of all employees who will be investing assets of the bureau 46529  
of workers' compensation funds. The list shall specify each 46530  
employee's state of residence for the five years prior to the 46531  
investment manager's request. The investment manager shall forward 46532  
to the administrator the list received from the business entity. 46533  
The administrator shall request the superintendent to conduct a 46534  
criminal records check in accordance with this section and section 46535  
109.579 of the Revised Code with respect to every employee the 46536  
business entity names in that list. Upon receipt of the results of 46537  
the criminal records check, the administrator shall forward a copy 46538  
of those results to the investment manager. 46539

(3) If, after a contract has been entered into between the 46540  
administrator and an investment manager or between an investment 46541  
manager and a business entity for the investment of assets of 46542  
bureau of workers' compensation funds, the investment manager or 46543  
business entity wishes to have an employee who was not the subject 46544  
of a criminal records check under division (B)(1) or (B)(2) of 46545  
this section invest assets of the bureau of workers' compensation 46546  
funds, that employee shall be the subject of a criminal records 46547

check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code.

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(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation.

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(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C)(1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C)(2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a

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business entity and shall forward the completed form and sheet to 46580  
the administrator, who shall forward these forms and sheets to the 46581  
superintendent. 46582

(3) Any employee who receives a copy of the form and the 46583  
impression sheet pursuant to division (C)(2) of this section and 46584  
who is requested to complete the form and provide a set of 46585  
fingerprint impressions shall complete the form or provide all the 46586  
information necessary to complete the form and shall complete the 46587  
impression sheets in the manner prescribed in division (C)(2) of 46588  
section 109.579 of the Revised Code. 46589

(D) For each criminal records check the administrator 46590  
requests under this section, at the time the administrator makes a 46591  
request the administrator shall pay to the superintendent the fee 46592  
the superintendent prescribes pursuant to division (E) of section 46593  
109.579 of the Revised Code. 46594

**Sec. 4123.445.** (A) The administrator of workers' compensation 46595  
shall not enter into a contract with an investment manager for the 46596  
investment of assets of the bureau of workers' compensation funds 46597  
if any employee of that investment manager who will be investing 46598  
assets of bureau of workers' compensation funds has been convicted 46599  
of or pleaded guilty to a financial or investment crime. 46600

(B) An investment manager who has entered into a contract 46602  
with the bureau of workers' compensation for the investment of 46603  
assets of bureau of workers' compensation funds shall not contract 46604  
with a business entity for the investment of those assets if any 46605  
employee of that business manager who will be investing assets of 46606  
bureau of workers' compensation funds has been convicted of or 46607  
pleaded guilty to a financial or investment crime. 46608

(C) The administrator shall not enter into a contract with an 46609

investment manager who refuses to submit the list of the 46610  
investment manager's employees required under division (B) of 46611  
section 4123.444 of the Revised Code. An investment manager shall 46612  
not enter into a contract with a business entity who refuses to 46613  
submit the list of the business entity's employees required under 46614  
division (B) of section 4123.444 of the Revised Code. 46615

(D) If, after a contract has been awarded to an investment 46616  
manager or business entity for the investment of assets of bureau 46617  
of workers' compensation funds, the investment manager or business 46618  
entity discovers that an employee who is handling the investment 46619  
of those assets has been convicted of or pleaded guilty to a 46620  
financial or investment crime, the investment manager or business 46621  
entity immediately shall notify the administrator. 46622

**Sec. 4123.47.** (A) The administrator of workers' compensation 46623  
shall have actuarial audits of the state insurance fund and all 46624  
other funds specified in this chapter and Chapters 4121., 4127., 46625  
and 4131. of the Revised Code made at least once every two years 46626  
each year. The audits shall be made and certified by recognized 46627  
insurance actuaries who shall be selected as the administrator 46628  
determines. The audits shall cover the premium rates, 46629  
classifications, and all other matters involving the 46630  
administration of the state insurance fund and all other funds 46631  
specified in this chapter and Chapters 4121., 4127., and 4131. of 46632  
the Revised Code. The expense of the audits shall be paid from the 46633  
state insurance fund. The administrator shall make copies of the 46634  
audits available to the public at cost. 46635

(B) The auditor of state annually shall conduct an audit of 46636  
the administration of this chapter by the industrial commission 46637  
and the bureau of workers' compensation and the safety and hygiene 46638  
fund. The cost of the audit shall be charged to the administrative 46639  
costs of the bureau as defined in section 4123.341 of the Revised 46640

Code. The audit shall include audits of all fiscal activities, 46641  
claims processing and handling, and employer premium collections. 46642  
The auditor shall prepare a report of the audit together with 46643  
recommendations and transmit copies of the report to the 46644  
industrial commission the workers' compensation oversight 46645  
commission, the administrator, the governor, and to the general 46646  
assembly. The auditor shall make copies of the report available to 46647  
the public at cost. 46648

(C) The administrator may retain the services of a recognized 46649  
actuary on a consulting basis for the purpose of evaluating the 46650  
actuarial soundness of premium rates and classifications and all 46651  
other matters involving the administration of the state insurance 46652  
fund. The expense of services provided by the actuary shall be 46653  
paid from the state insurance fund. 46654

**Sec. 4301.10.** (A) The division of liquor control shall do all 46655  
of the following: 46656

(1) Control the traffic in beer and intoxicating liquor in 46657  
this state, including the manufacture, importation, and sale of 46658  
beer and intoxicating liquor; 46659

(2) Grant or refuse permits for the manufacture, 46660  
distribution, transportation, and sale of beer and intoxicating 46661  
liquor and the sale of alcohol, as authorized or required by this 46662  
chapter and Chapter 4303. of the Revised Code. A certificate, 46663  
signed by the superintendent of liquor control and to which is 46664  
affixed the official seal of the division, stating that it appears 46665  
from the records of the division that no permit has been issued to 46666  
the person specified in the certificate, or that a permit, if 46667  
issued, has been revoked, canceled, or suspended, shall be 46668  
received as prima-facie evidence of the facts recited in the 46669  
certificate in any court or before any officer of this state. 46670

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and or~~ intoxicating ~~liquors~~ liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code

relating to the manufacture, importation, transportation, 46703  
distribution, and sale of beer ~~and~~ or intoxicating liquor. 46704

(5) Determine the locations of all state liquor stores and 46705  
manufacturing, distributing, and bottling plants required in 46706  
connection with those stores, subject to this chapter and Chapter 46707  
4303. of the Revised Code; 46708

(6) Conduct inspections of liquor permit premises to 46709  
determine compliance with the administrative provisions of this 46710  
chapter and Chapter 4303. of the Revised Code and the rules 46711  
adopted under those provisions by the liquor control commission. 46712

Except as otherwise provided in division (A)(6) of this 46713  
section, those inspections may be conducted only during those 46714  
hours in which the permit holder is open for business and only by 46715  
authorized agents or employees of the division or by any peace 46716  
officer, as defined in section 2935.01 of the Revised Code. 46717  
Inspections may be conducted at other hours only to determine 46718  
compliance with laws or commission rules that regulate the hours 46719  
of sale of beer ~~and~~ or intoxicating liquor and only if the 46720  
investigator has reasonable cause to believe that those laws or 46721  
rules are being violated. Any inspection conducted pursuant to 46722  
division (A)(6) of this section is subject to all of the following 46723  
requirements: 46724

(a) The only property that may be confiscated is contraband, 46725  
as defined in section 2901.01 of the Revised Code, or property 46726  
that is otherwise necessary for evidentiary purposes. 46727

(b) A complete inventory of all property confiscated from the 46728  
premises shall be given to the permit holder or the permit 46729  
holder's agent or employee by the confiscating agent or officer at 46730  
the conclusion of the inspection. At that time, the inventory 46731  
shall be signed by the confiscating agent or officer, and the 46732  
agent or officer shall give the permit holder or the permit 46733

holder's agent or employee the opportunity to sign the inventory. 46734

(c) Inspections conducted pursuant to division (A)(6) of this 46735  
section shall be conducted in a reasonable manner. A finding by 46736  
any court of competent jurisdiction that ~~the~~ an inspection was not 46737  
conducted in a reasonable manner in accordance with this section 46738  
or any rules ~~promulgated~~ adopted by the commission may be 46739  
considered grounds for suppression of evidence. A finding by the 46740  
~~liquor control~~ commission that ~~the~~ an inspection was not conducted 46741  
in a reasonable manner in accordance with this section or any 46742  
rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered 46743  
grounds for dismissal of the commission case. 46744

If any court of competent jurisdiction finds that property 46745  
confiscated as the result of an administrative inspection is not 46746  
necessary for evidentiary purposes and is not contraband, as 46747  
defined in section 2901.01 of the Revised Code, the court shall 46748  
order the immediate return of the confiscated property, provided 46749  
that property is not otherwise subject to forfeiture, to the 46750  
permit holder. However, the return of this property is not grounds 46751  
for dismissal of the case. The commission likewise may order the 46752  
return of confiscated property if no criminal prosecution is 46753  
pending or anticipated. 46754

(7) Delegate to any of its agents or employees any power of 46755  
investigation that the division possesses with respect to the 46756  
enforcement of any of the administrative laws relating to beer ~~and~~ 46757  
or intoxicating liquor, provided that this division does not 46758  
authorize the division to designate any agent or employee to serve 46759  
as an enforcement agent. The employment and designation of 46760  
enforcement agents shall be within the exclusive authority of the 46761  
director of public safety pursuant to sections 5502.13 to 5502.19 46762  
of the Revised Code. 46763

(8) Collect the following fees: 46764



(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 46765  
each agent, solicitor, or salesperson, registered pursuant to 46766  
section 4303.25 of the Revised Code, of a beer or intoxicating 46767  
liquor manufacturer, supplier, broker, or wholesale distributor 46768  
doing business in this state; 46769

(b) A fifty-dollar product registration fee for each new beer 46770  
or intoxicating liquor product sold in this state. The product 46771  
registration fee shall be accompanied by a copy of the federal 46772  
label and product approval for the new product. 46773

(c) An annual three-hundred-dollar supplier registration fee 46774  
from each manufacturer or supplier that produces and ships into 46775  
this state, or ships into this state, intoxicating liquor or beer, 46776  
in addition to an initial application fee of one hundred dollars. 46777

Each supplier, agent, solicitor, or salesperson registration 46778  
issued under this division shall authorize the person named to 46779  
carry on the activity specified in the registration. Each agent, 46780  
solicitor, or salesperson registration is valid for two years or 46781  
for the unexpired portion of a two-year registration period. Each 46782  
supplier registration is valid for one year or for the unexpired 46783  
portion of a one-year registration period. Registrations shall end 46784  
on their respective uniform expiration date, which shall be 46785  
designated by the division, and are subject to suspension, 46786  
revocation, cancellation, or fine as authorized by this chapter 46787  
and Chapter 4303. of the Revised Code. 46788

(9) Establish a system of electronic data interchange within 46789  
the division and regulate the electronic transfer of information 46790  
and funds among persons and governmental entities engaged in the 46791  
manufacture, distribution, and retail sale of alcoholic beverages; 46792

(10) Exercise all other powers expressly or by necessary 46793  
implication conferred upon the division by this chapter and 46794  
Chapter 4303. of the Revised Code, and all powers necessary for 46795

the exercise or discharge of any power, duty, or function 46796  
expressly conferred or imposed upon the division by those 46797  
chapters. 46798

(B) The division may do all of the following: 46799

(1) Sue, but may be sued only in connection with the 46800  
execution of leases of real estate and the purchases and contracts 46801  
necessary for the operation of the state liquor stores that are 46802  
made under this chapter and Chapter 4303. of the Revised Code; 46803

(2) Enter into leases and contracts of all descriptions and 46804  
acquire and transfer title to personal property with regard to the 46805  
sale, distribution, and storage of spirituous liquor within the 46806  
state; 46807

(3) Terminate at will any lease entered into pursuant to 46808  
division (B)(2) of this section upon first giving ninety days' 46809  
notice in writing to the lessor of its intention to do so; 46810

(4) Fix the wholesale and retail prices at which the various 46811  
classes, varieties, and brands of spirituous liquor shall be sold 46812  
by the division. Those retail prices shall be the same at all 46813  
state liquor stores, except to the extent that a price 46814  
differential is required to collect a county sales tax levied 46815  
pursuant to section 5739.021 of the Revised Code and for which tax 46816  
the tax commissioner has authorized prepayment pursuant to section 46817  
5739.05 of the Revised Code. In fixing selling prices, the 46818  
division shall compute an anticipated gross profit at least 46819  
sufficient to provide in each calendar year all costs and expenses 46820  
of the division and also an adequate working capital reserve for 46821  
the division. The gross profit shall not exceed forty per cent of 46822  
the retail selling price based on costs of the division, and in 46823  
addition the sum required by section 4301.12 of the Revised Code 46824  
to be paid into the state treasury. An amount equal to one and 46825  
one-half per cent of that gross profit shall be paid into the 46826

statewide treatment and prevention fund created by section 4301.30 46827  
of the Revised Code and be appropriated by the general assembly 46828  
from the fund to the department of alcohol and drug addiction 46829  
services as provided in section 4301.30 of the Revised Code. 46830

On spirituous liquor manufactured in this state from the 46831  
juice of grapes or fruits grown in this state, the division shall 46832  
compute an anticipated gross profit of not to exceed ten per cent. 46833  
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The wholesale prices fixed under this division shall be at a 46835  
discount of not less than ~~twelve and one-half~~ six per cent of the 46836  
retail selling prices as determined by the division in accordance 46837  
with this section. 46838

(C) The division may approve the expansion or diminution of a 46839  
premises to which a liquor permit has been issued and may adopt 46840  
standards governing such an expansion or diminution. 46841

**Sec. 4301.43.** (A) As used in sections 4301.43 to 4301.50 of 46842  
the Revised Code: 46843

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 46844  
fluid ounces. 46845

(2) "Sale" or "sell" includes exchange, barter, gift, 46846  
distribution, and, except with respect to A-4 permit holders, 46847  
offer for sale. 46848

(B) For the purposes of providing revenues for the support of 46849  
the state and encouraging the grape industries in the state, a tax 46850  
is hereby levied on the sale or distribution of wine in Ohio, 46851  
except for known sacramental purposes, at the rate of thirty cents 46852  
per wine gallon for wine containing not less than four per cent of 46853  
alcohol by volume and not more than fourteen per cent of alcohol 46854  
by volume, ninety-eight cents per wine gallon for wine containing 46855  
more than fourteen per cent but not more than twenty-one per cent 46856

of alcohol by volume, one dollar and eight cents per wine gallon 46857  
for vermouth, and one dollar and forty-eight cents per wine gallon 46858  
for sparkling and carbonated wine and champagne, the tax to be 46859  
paid by the holders of A-2 and B-5 permits or by any other person 46860  
selling or distributing wine upon which no tax has been paid. From 46861  
the tax paid under this section on wine, vermouth, and sparkling 46862  
and carbonated wine and champagne, the treasurer of state shall 46863  
credit to the Ohio grape industries fund created under section 46864  
924.54 of the Revised Code a sum equal to one cent per gallon for 46865  
each gallon upon which the tax is paid. 46866

(C) For the purpose of providing revenues for the support of 46867  
the state, there is hereby levied a tax on prepared and bottled 46868  
highballs, cocktails, cordials, and other mixed beverages at the 46869  
rate of one dollar and twenty cents per wine gallon to be paid by 46870  
holders of A-4 permits or by any other person selling or 46871  
distributing those products upon which no tax has been paid. Only 46872  
one sale of the same article shall be used in computing the amount 46873  
of tax due. The tax on mixed beverages to be paid by holders of 46874  
A-4 permits under this section shall not attach until the 46875  
ownership of the mixed beverage is transferred for valuable 46876  
consideration to a wholesaler or retailer, and no payment of the 46877  
tax shall be required prior to that time. 46878

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 46879  
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 46880  
and sparkling and carbonated wine and champagne, the treasurer of 46881  
state shall credit to the Ohio grape industries fund created under 46882  
section 924.54 of the Revised Code a sum equal to two cents per 46883  
gallon upon which the tax is paid. The amount credited under this 46884  
division is in addition to the amount credited to the Ohio grape 46885  
industries fund under division (B) of this section. 46886

(E) For the purpose of providing revenues for the support of 46887  
the state, there is hereby levied a tax on cider at the rate of 46888

twenty-four cents per wine gallon to be paid by the holders of A-2 46889  
and B-5 permits or by any other person selling or distributing 46890  
cider upon which no tax has been paid. Only one sale of the same 46891  
article shall be used in computing the amount of the tax due. 46892

**Sec. 4303.182.** (A) Except as otherwise provided in divisions 46893  
(B) to (G) of this section, permit D-6 shall be issued to the 46894  
holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, 46895  
D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 46896  
or D-7 permit to allow sale under that permit between the hours of 46897  
ten a.m. and midnight, or between the hours of one p.m. and 46898  
midnight, on Sunday, as applicable, if that sale has been 46899  
authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 46900  
of the Revised Code and under the restrictions of that 46901  
authorization. 46902

(B) Permit D-6 shall be issued to the holder of any permit, 46903  
including a D-4a and D-5d permit, authorizing the sale of 46904  
intoxicating liquor issued for a premises located at any publicly 46905  
owned airport, as defined in section 4563.01 of the Revised Code, 46906  
at which commercial airline companies operate regularly scheduled 46907  
flights on which space is available to the public, to allow sale 46908  
under such permit between the hours of ten a.m. and midnight on 46909  
Sunday, whether or not that sale has been authorized under section 46910  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 46911

(C) Permit D-6 shall be issued to the holder of a D-5a 46912  
permit, and to the holder of a D-3 or D-3a permit who is the owner 46913  
or operator of a hotel or motel that is required to be licensed 46914  
under section 3731.03 of the Revised Code, that contains at least 46915  
fifty rooms for registered transient guests, and that has on its 46916  
premises a retail food establishment or a food service operation 46917  
licensed pursuant to Chapter 3717. of the Revised Code that 46918  
operates as a restaurant for purposes of this chapter and is 46919

affiliated with the hotel or motel and within or contiguous to the 46920  
hotel or motel and serving food within the hotel or motel, to 46921  
allow sale under such permit between the hours of ten a.m. and 46922  
midnight on Sunday, whether or not that sale has been authorized 46923  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 46924  
Revised Code. 46925

(D) The holder of a D-6 permit that is issued to a sports 46926  
facility may make sales under the permit between the hours of 46927  
eleven a.m. and midnight on any Sunday on which a professional 46928  
baseball, basketball, football, hockey, or soccer game is being 46929  
played at the sports facility. As used in this division, "sports 46930  
facility" means a stadium or arena that has a seating capacity of 46931  
at least four thousand and that is owned or leased by a 46932  
professional baseball, basketball, football, hockey, or soccer 46933  
franchise or any combination of those franchises. 46934

(E) Permit D-6 shall be issued to the holder of any permit 46935  
that authorizes the sale of beer or intoxicating liquor and that 46936  
is issued to a premises located in or at the Ohio historical 46937  
society area or the state fairgrounds, as defined in division (B) 46938  
of section 4301.40 of the Revised Code, to allow sale under that 46939  
permit between the hours of ten a.m. and midnight on Sunday, 46940  
whether or not that sale has been authorized under section 46941  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 46942

(F) Permit D-6 shall be issued to the holder of any permit 46943  
that authorizes the sale of intoxicating liquor and that is issued 46944  
to an outdoor performing arts center to allow sale under that 46945  
permit between the hours of one p.m. and midnight on Sunday, 46946  
whether or not that sale has been authorized under section 46947  
4301.361 of the Revised Code. A D-6 permit issued under this 46948  
division is subject to the results of an election, held after the 46949  
D-6 permit is issued, on question (B)(4) as set forth in section 46950  
4301.351 of the Revised Code. Following the end of the period 46951

during which an election may be held on question (B)(4) as set  
forth in that section, sales of intoxicating liquor may continue  
at an outdoor performing arts center under a D-6 permit issued  
under this division, unless an election on that question is held  
during the permitted period and a majority of the voters voting in  
the precinct on that question vote "no."

As used in this division, "outdoor performing arts center"  
means an outdoor performing arts center that is located on not  
less than eight hundred acres of land and that is open for  
performances from the first day of April to the last day of  
October of each year.

(G) Permit D-6 shall be issued to the holder of any permit  
that authorizes the sale of beer or intoxicating liquor and that  
is issued to a golf course owned by the state, a conservancy  
district, a park district created under Chapter 1545. of the  
Revised Code, or another political subdivision to allow sale under  
that permit between the hours of ten a.m. and midnight on Sunday,  
whether or not that sale has been authorized under section  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit  
to allow sale under that permit between the hours of ten a.m. and  
midnight on Sunday, whether or not that sale has been authorized  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the  
Revised Code.

(I) Permit D-6 shall be issued to the holder of a D-5 permit  
for a premises that is licensed under section 3717.43 of the  
Revised Code and that is located at a ski area as defined in  
section 4169.01 of the Revised Code to allow sale under the D-6  
permit between the hours of ten a.m. and midnight on Sunday,  
whether or not that sale has been authorized under section  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(J) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

**Sec. 4501.01.** As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power



cranes, and other equipment used in construction work and not 47014  
designed for or employed in general highway transportation, 47015  
well-drilling machinery, ditch-digging machinery, farm machinery, 47016  
trailers that are used to transport agricultural produce or 47017  
agricultural production materials between a local place of storage 47018  
or supply and the farm when drawn or towed on a public road or 47019  
highway at a speed of twenty-five miles per hour or less, 47020  
threshing machinery, hay-baling machinery, corn sheller, 47021  
hammermill and agricultural tractors, machinery used in the 47022  
production of horticultural, agricultural, and vegetable products, 47023  
and trailers that are designed and used exclusively to transport a 47024  
boat between a place of storage and a marina, or in and around a 47025  
marina, when drawn or towed on a public road or highway for a 47026  
distance of no more than ten miles and at a speed of twenty-five 47027  
miles per hour or less. 47028

(C) "Agricultural tractor" and "traction engine" mean any 47029  
self-propelling vehicle that is designed or used for drawing other 47030  
vehicles or wheeled machinery, but has no provisions for carrying 47031  
loads independently of such other vehicles, and that is used 47032  
principally for agricultural purposes. 47033

(D) "Commercial tractor," except as defined in division (C) 47034  
of this section, means any motor vehicle that has motive power and 47035  
either is designed or used for drawing other motor vehicles, or is 47036  
designed or used for drawing another motor vehicle while carrying 47037  
a portion of the other motor vehicle or its load, or both. 47038

(E) "Passenger car" means any motor vehicle that is designed 47039  
and used for carrying not more than nine persons and includes any 47040  
motor vehicle that is designed and used for carrying not more than 47041  
fifteen persons in a ridesharing arrangement. 47042

(F) "Collector's vehicle" means any motor vehicle or 47043  
agricultural tractor or traction engine that is of special 47044  
interest, that has a fair market value of one hundred dollars or 47045

more, whether operable or not, and that is owned, operated, 47046  
collected, preserved, restored, maintained, or used essentially as 47047  
a collector's item, leisure pursuit, or investment, but not as the 47048  
owner's principal means of transportation. "Licensed collector's 47049  
vehicle" means a collector's vehicle, other than an agricultural 47050  
tractor or traction engine, that displays current, valid license 47051  
tags issued under section 4503.45 of the Revised Code, or a 47052  
similar type of motor vehicle that displays current, valid license 47053  
tags issued under substantially equivalent provisions in the laws 47054  
of other states. 47055

(G) "Historical motor vehicle" means any motor vehicle that 47056  
is over twenty-five years old and is owned solely as a collector's 47057  
item and for participation in club activities, exhibitions, tours, 47058  
parades, and similar uses, but that in no event is used for 47059  
general transportation. 47060

(H) "Noncommercial motor vehicle" means any motor vehicle, 47061  
including a farm truck as defined in section 4503.04 of the 47062  
Revised Code, that is designed by the manufacturer to carry a load 47063  
of no more than one ton and is used exclusively for purposes other 47064  
than engaging in business for profit. 47065

(I) "Bus" means any motor vehicle that has motor power and is 47066  
designed and used for carrying more than nine passengers, except 47067  
any motor vehicle that is designed and used for carrying not more 47068  
than fifteen passengers in a ridesharing arrangement. 47069

(J) "Commercial car" or "truck" means any motor vehicle that 47070  
has motor power and is designed and used for carrying merchandise 47071  
or freight, or that is used as a commercial tractor. 47072

(K) "Bicycle" means every device, other than a tricycle that 47073  
is designed solely for use as a play vehicle by a child, that is 47074  
propelled solely by human power upon which any person may ride, 47075  
and that has either two tandem wheels, or one wheel in front and 47076

two wheels in the rear, any of which is more than fourteen inches  
in diameter. 47077  
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(L) "Motorized bicycle" means any vehicle that either has two 47079  
tandem wheels or one wheel in the front and two wheels in the 47080  
rear, that is capable of being pedaled, and that is equipped with 47081  
a helper motor of not more than fifty cubic centimeters piston 47082  
displacement that produces no more than one brake horsepower and 47083  
is capable of propelling the vehicle at a speed of no greater than 47084  
twenty miles per hour on a level surface. 47085

(M) "Trailer" means any vehicle without motive power that is 47086  
designed or used for carrying property or persons wholly on its 47087  
own structure and for being drawn by a motor vehicle, and includes 47088  
any such vehicle that is formed by or operated as a combination of 47089  
a semitrailer and a vehicle of the dolly type such as that 47090  
commonly known as a trailer dolly, a vehicle used to transport 47091  
agricultural produce or agricultural production materials between 47092  
a local place of storage or supply and the farm when drawn or 47093  
towed on a public road or highway at a speed greater than 47094  
twenty-five miles per hour, and a vehicle that is designed and 47095  
used exclusively to transport a boat between a place of storage 47096  
and a marina, or in and around a marina, when drawn or towed on a 47097  
public road or highway for a distance of more than ten miles or at 47098  
a speed of more than twenty-five miles per hour. "Trailer" does 47099  
not include a manufactured home or travel trailer. 47100

(N) "Noncommercial trailer" means any trailer, except a 47101  
travel trailer or trailer that is used to transport a boat as 47102  
described in division (B) of this section, but, where applicable, 47103  
includes a vehicle that is used to transport a boat as described 47104  
in division (M) of this section, that has a gross weight of no 47105  
more than three thousand pounds, and that is used exclusively for 47106  
purposes other than engaging in business for a profit. 47107

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission

pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 47138

(6) It is classed as one of the following: 47139

(a) "Travel trailer" means a nonself-propelled recreational 47140  
vehicle that does not exceed an overall length of thirty-five 47141  
feet, exclusive of bumper and tongue or coupling, and contains 47142  
less than three hundred twenty square feet of space when erected 47143  
on site. "Travel trailer" includes a tent-type fold-out camping 47144  
trailer as defined in section 4517.01 of the Revised Code. 47145

(b) "Motor home" means a self-propelled recreational vehicle 47146  
that has no fifth wheel and is constructed with permanently 47147  
installed facilities for cold storage, cooking and consuming of 47148  
food, and for sleeping. 47149

(c) "Truck camper" means a nonself-propelled recreational 47150  
vehicle that does not have wheels for road use and is designed to 47151  
be placed upon and attached to a motor vehicle. "Truck camper" 47152  
does not include truck covers that consist of walls and a roof, 47153  
but do not have floors and facilities enabling them to be used as 47154  
a dwelling. 47155

(d) "Fifth wheel trailer" means a vehicle that is of such 47156  
size and weight as to be movable without a special highway permit, 47157  
that has a gross trailer area of four hundred square feet or less, 47158  
that is constructed with a raised forward section that allows a 47159  
bi-level floor plan, and that is designed to be towed by a vehicle 47160  
equipped with a fifth-wheel hitch ordinarily installed in the bed 47161  
of a truck. 47162

(e) "Park trailer" means a vehicle that is commonly known as 47163  
a park model recreational vehicle, meets the American national 47164  
standard institute standard A119.5 (1988) for park trailers, is 47165  
built on a single chassis, has a gross trailer area of four 47166  
hundred square feet or less when set up, is designed for seasonal 47167  
or temporary living quarters, and may be connected to utilities 47168

necessary for the operation of installed features and appliances. 47169

(R) "Pneumatic tires" means tires of rubber and fabric or 47170  
tires of similar material, that are inflated with air. 47171

(S) "Solid tires" means tires of rubber or similar elastic 47172  
material that are not dependent upon confined air for support of 47173  
the load. 47174

(T) "Solid tire vehicle" means any vehicle that is equipped 47175  
with two or more solid tires. 47176

(U) "Farm machinery" means all machines and tools that are 47177  
used in the production, harvesting, and care of farm products, and 47178  
includes trailers that are used to transport agricultural produce 47179  
or agricultural production materials between a local place of 47180  
storage or supply and the farm when drawn or towed on a public 47181  
road or highway at a speed of twenty-five miles per hour or less. 47182

(V) "Owner" includes any person or firm, other than a 47183  
manufacturer or dealer, that has title to a motor vehicle, except 47184  
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 47185  
includes in addition manufacturers and dealers. 47186

(W) "Manufacturer" and "dealer" include all persons and firms 47187  
that are regularly engaged in the business of manufacturing, 47188  
selling, displaying, offering for sale, or dealing in motor 47189  
vehicles, at an established place of business that is used 47190  
exclusively for the purpose of manufacturing, selling, displaying, 47191  
offering for sale, or dealing in motor vehicles. A place of 47192  
business that is used for manufacturing, selling, displaying, 47193  
offering for sale, or dealing in motor vehicles shall be deemed to 47194  
be used exclusively for those purposes even though snowmobiles or 47195  
all-purpose vehicles are sold or displayed for sale thereat, even 47196  
though farm machinery is sold or displayed for sale thereat, or 47197  
even though repair, accessory, gasoline and oil, storage, parts, 47198  
service, or paint departments are maintained thereat, or, in any 47199

county having a population of less than seventy-five thousand at 47200  
the last federal census, even though a department in a place of 47201  
business is used to dismantle, salvage, or rebuild motor vehicles 47202  
by means of used parts, if such departments are operated for the 47203  
purpose of furthering and assisting in the business of 47204  
manufacturing, selling, displaying, offering for sale, or dealing 47205  
in motor vehicles. Places of business or departments in a place of 47206  
business used to dismantle, salvage, or rebuild motor vehicles by 47207  
means of using used parts are not considered as being maintained 47208  
for the purpose of assisting or furthering the manufacturing, 47209  
selling, displaying, and offering for sale or dealing in motor 47210  
vehicles. 47211

(X) "Operator" includes any person who drives or operates a 47212  
motor vehicle upon the public highways. 47213

(Y) "Chauffeur" means any operator who operates a motor 47214  
vehicle, other than a taxicab, as an employee for hire; or any 47215  
operator whether or not the owner of a motor vehicle, other than a 47216  
taxicab, who operates such vehicle for transporting, for gain, 47217  
compensation, or profit, either persons or property owned by 47218  
another. Any operator of a motor vehicle who is voluntarily 47219  
involved in a ridesharing arrangement is not considered an 47220  
employee for hire or operating such vehicle for gain, 47221  
compensation, or profit. 47222

(Z) "State" includes the territories and federal districts of 47223  
the United States, and the provinces of Canada. 47224

(AA) "Public roads and highways" for vehicles includes all 47225  
public thoroughfares, bridges, and culverts. 47226

(BB) "Manufacturer's number" means the manufacturer's 47227  
original serial number that is affixed to or imprinted upon the 47228  
chassis or other part of the motor vehicle. 47229

(CC) "Motor number" means the manufacturer's original number 47230

that is affixed to or imprinted upon the engine or motor of the vehicle. 47231  
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(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership. 47233  
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(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools. 47241  
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(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications: 47245  
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(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds; 47251  
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(2) Is a power unit having three or more axles, regardless of the gross vehicle weight; 47253  
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(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds. 47255  
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"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this 47257  
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state, or any political subdivisions thereof.

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(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

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(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

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(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

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(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

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(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

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(LL) "Chauffeured limousine" means a motor vehicle that is 47292  
designed to carry nine or fewer passengers and is operated for 47293  
hire on an hourly basis pursuant to a prearranged contract for the 47294  
transportation of passengers on public roads and highways along a 47295  
route under the control of the person hiring the vehicle and not 47296  
over a defined and regular route. "Prearranged contract" means an 47297  
agreement, made in advance of boarding, to provide transportation 47298  
from a specific location in a chauffeured limousine at a fixed 47299  
rate per hour or trip. "Chauffeured limousine" does not include 47300  
any vehicle that is used exclusively in the business of funeral 47301  
directing. 47302

(MM) "Manufactured home" has the same meaning as in division 47303  
(C)(4) of section 3781.06 of the Revised Code. 47304

(NN) "Acquired situs," with respect to a manufactured home or 47305  
a mobile home, means to become located in this state by the 47306  
placement of the home on real property, but does not include the 47307  
placement of a manufactured home or a mobile home in the inventory 47308  
of a new motor vehicle dealer or the inventory of a manufacturer, 47309  
remanufacturer, or distributor of manufactured or mobile homes. 47310

(OO) "Electronic" includes electrical, digital, magnetic, 47311  
optical, electromagnetic, or any other form of technology that 47312  
entails capabilities similar to these technologies. 47313

(PP) "Electronic record" means a record generated, 47314  
communicated, received, or stored by electronic means for use in 47315  
an information system or for transmission from one information 47316  
system to another. 47317

(QQ) "Electronic signature" means a signature in electronic 47318  
form attached to or logically associated with an electronic 47319  
record. 47320

(RR) "Financial transaction device" has the same meaning as 47321  
in division (A) of section 113.40 of the Revised Code. 47322

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

Sec. 4501.07. There is hereby created in the state treasury the highway safety building fund. Subject to any applicable provisions of the bond proceedings, all of the proceeds of the sale of highway safety obligations issued pursuant to section 152.09 of the Revised Code shall be credited to the fund. The fund shall be used to pay costs of capital facilities designated by or pursuant to acts of the general assembly. All investment earnings of the fund shall be credited to the fund.

Notwithstanding any provision of law, at any time prior to 47353  
the sale of such obligations, the director of budget and 47354  
management, upon the request of the director of public safety, may 47355  
transfer cash temporarily from the state highway safety fund 47356  
created in section 4501.06 of the Revised Code to the highway 47357  
safety building fund, where such cash may be used to fund capital 47358  
projects for which appropriations have been made from the highway 47359  
safety building fund. At such time as the obligations are sold, 47360  
the director of budget and management shall transfer from the 47361  
highway safety building fund to the highway safety fund any 47362  
amounts originally transferred to the highway safety building fund 47363  
under this section. 47364

**Sec. 4501.37.** (A) No court may reverse, suspend, or delay any 47365  
order made by the registrar of motor vehicles, or enjoin, 47366  
restrain, or interfere with the registrar or a deputy registrar in 47367  
the performance of official duties, except as provided in this 47368  
chapter and Chapter 4507. or 4510. of the Revised Code. 47369

(B) A court shall not order the bureau of motor vehicles to 47370  
delete a record of conviction unless the court finds that deletion 47371  
of the record of conviction is necessary to correct an error. The 47372  
bureau shall not comply with a court order that directs the 47373  
deletion of a record of conviction unless the order states that 47374  
the record of conviction is being deleted in order to correct an 47375  
error. 47376

**Sec. 4503.103.** (A)(1)(a) The registrar of motor vehicles may 47377  
adopt rules to permit any person or lessee, other than a person 47378  
receiving an apportioned license plate under the international 47379  
registration plan, who owns or leases one or more motor vehicles 47380  
to file a written application for registration for no more than 47381  
five succeeding registration years. The rules adopted by the 47382

registrar may designate the classes of motor vehicles that are 47383  
eligible for such registration. At the time of application, all 47384  
annual taxes and fees shall be paid for each year for which the 47385  
person is registering. 47386

(b)(i) Except as provided in division (A)(1)(b)(ii) of this 47387  
section, the registrar shall adopt rules to permit any person who 47388  
owns a motor vehicle to file an application for registration for 47389  
the next two succeeding registration years. At the time of 47390  
application, the person shall pay the annual taxes and fees for 47391  
each registration year, calculated in accordance with division (C) 47392  
of section 4503.11 of the Revised Code. A person who is 47393  
registering a vehicle under division (A)(1)(b) of this section 47394  
shall pay for each year of registration the additional fee 47395  
established under division (C)(1) of section 4503.10 of the 47396  
Revised Code. The person shall also pay one and one-half times the 47397  
amount of the deputy registrar service fee specified in division 47398  
(D) of section 4503.10 of the Revised Code or the bureau of motor 47399  
vehicles service fee specified in division (G) of that section, as 47400  
applicable. 47401

(ii) Division (A)(1)(b)(i) of this section does not apply to 47402  
a person receiving an apportioned license plate under the 47403  
international registration plan, or the owner of a commercial car 47404  
used solely in intrastate commerce, or the owner of a bus as 47405  
defined in section 4513.50 of the Revised Code. 47406

(2) No person applying for a multi-year registration under 47407  
division (A)(1) of this section is entitled to a refund of any 47408  
taxes or fees paid. 47409

(3) The registrar shall not issue to any applicant who has 47410  
been issued a final, nonappealable order under division (B) of 47411  
this section a multi-year registration or renewal thereof under 47412  
this division or rules adopted under it for any motor vehicle that 47413  
is required to be inspected under section 3704.14 of the Revised 47414

Code the district of registration of which, as determined under 47415  
section 4503.10 of the Revised Code, is or is located in the 47416  
county named in the order. 47417

(B) Upon receipt from the director of environmental 47418  
protection of a notice issued under ~~division (J) of~~ rules adopted 47419  
under section 3704.14 of the Revised Code indicating that an owner 47420  
of a motor vehicle that is required to be inspected under that 47421  
section who obtained a multi-year registration for the vehicle 47422  
under division (A) of this section or rules adopted under that 47423  
division has not obtained ~~an~~ a required inspection certificate for 47424  
the vehicle ~~in accordance with that section in a year intervening~~ 47425  
~~between the years of issuance and expiration of the multi-year~~ 47426  
~~registration in which the owner is required to have the vehicle~~ 47427  
~~inspected and obtain an inspection certificate for it under~~ 47428  
~~division (F)(1)(a) of that section,~~ the registrar in accordance 47429  
with Chapter 119. of the Revised Code shall issue an order to the 47430  
owner impounding the certificate of registration and 47431  
identification license plates for the vehicle. The order also 47432  
shall prohibit the owner from obtaining or renewing a multi-year 47433  
registration for any vehicle that is required to be inspected 47434  
under that section, the district of registration of which is or is 47435  
located in the same county as the county named in the order during 47436  
the number of years after expiration of the current multi-year 47437  
registration that equals the number of years for which the current 47438  
multi-year registration was issued. 47439

An order issued under this division shall require the owner 47440  
to surrender to the registrar the certificate of registration and 47441  
license plates for the vehicle named in the order within five days 47442  
after its issuance. If the owner fails to do so within that time, 47443  
the registrar shall certify that fact to the county sheriff or 47444  
local police officials who shall recover the certificate of 47445  
registration and license plates for the vehicle. 47446

(C) Upon the occurrence of either of the following 47447  
circumstances, the registrar in accordance with Chapter 119. of 47448  
the Revised Code shall issue to the owner a modified order 47449  
rescinding the provisions of the order issued under division (B) 47450  
of this section impounding the certificate of registration and 47451  
license plates for the vehicle named in that original order: 47452

(1) Receipt from the director of environmental protection of 47453  
a subsequent notice under ~~division (J) of~~ rules adopted under 47454  
section 3704.14 of the Revised Code that the owner has obtained 47455  
the inspection certificate for the vehicle as required under 47456  
~~division (F)(1)(a) of that section~~ those rules; 47457

(2) Presentation to the registrar by the owner of the 47458  
required inspection certificate for the vehicle. 47459

(D) The owner of a motor vehicle for which the certificate of 47460  
registration and license plates have been impounded pursuant to an 47461  
order issued under division (B) of this section, upon issuance of 47462  
a modified order under division (C) of this section, may apply to 47463  
the registrar for their return. A fee of two dollars and fifty 47464  
cents shall be charged for the return of the certificate of 47465  
registration and license plates for each vehicle named in the 47466  
application. 47467

**Sec. 4503.471.** (A) Any person who is a member in good 47468  
standing of the international association of firefighters may 47469  
apply to the registrar of motor vehicles for the registration of 47470  
any passenger car, noncommercial vehicle, ~~motor home~~ recreational 47471  
vehicle, or other vehicle of a class approved by the registrar 47472  
that the person owns or leases and the issuance of international 47473  
association of firefighters license plates. The application shall 47474  
be accompanied by the written evidence that the registrar may 47475  
require by rule showing that the person is a member in good 47476  
standing of the international association of firefighters. The 47477

application for international association of firefighters license 47478  
plates may be combined with a request for a special reserved 47479  
license plate under section 4503.40 or 4503.42 of the Revised 47480  
Code. 47481

Upon receipt of an application for registration of a vehicle 47482  
under this section and presentation of satisfactory evidence 47483  
showing that the person is a member in good standing of the 47484  
international association of firefighters, the registrar shall 47485  
issue to the applicant the appropriate vehicle registrations, sets 47486  
of license plates and validation stickers, or validation stickers 47487  
alone when required by section 4503.191 of the Revised Code. 47488

In addition to the letters and numbers ordinarily inscribed 47489  
on the license plates, international association of firefighters 47490  
license plates shall be inscribed with a Maltese cross emblem 47491  
designed by the international association of firefighters and 47492  
approved by the registrar. International association of 47493  
firefighters license plates shall bear county identification 47494  
stickers that identify the county of registration by name or 47495  
number. 47496

The license plates and validation stickers shall be issued 47497  
upon payment of the regular license fee as prescribed under 47498  
section 4503.04 of the Revised Code, payment of any local motor 47499  
vehicle tax levied under Chapter 4504. of the Revised Code, and 47500  
payment of an additional fee of ten dollars for the purpose of 47501  
compensating the bureau of motor vehicles for additional services 47502  
required in the issuing of license plates under this section. If 47503  
the application for international association of firefighters 47504  
license plates is combined with a request for a special reserved 47505  
license plate under section 4503.40 or 4503.42 of the Revised 47506  
Code, the license plate and validation sticker shall be issued 47507  
upon payment of the fees and taxes contained in this division and 47508  
the additional fee prescribed under section 4503.40 or 4503.42 of 47509



the Revised Code. The registrar shall deposit the additional fee 47510  
of ten dollars in the state bureau of motor vehicles fund created 47511  
by section 4501.25 of the Revised Code. 47512

Whenever a person no longer is eligible to be issued 47513  
international association of firefighters license plates, the 47514  
person shall surrender the international association of 47515  
firefighters license plates to the bureau in exchange for license 47516  
plates without the Maltese cross emblem described in this section. 47517  
A fee of five dollars shall be charged for the services required 47518  
in the issuing of replacement plates when a person no longer is 47519  
eligible to be issued international association of firefighters 47520  
license plates. 47521

A person may make application for international association 47522  
of firefighters license plates at any time of year, and the 47523  
registrar shall issue international association of firefighters 47524  
license plates and replacement plates at any time of year. 47525

(B) No person who is not a member in good standing of the 47526  
international association of firefighters shall willfully and 47527  
falsely represent that the person is a member in good standing of 47528  
the international association of firefighters for the purpose of 47529  
obtaining international association of firefighters license plates 47530  
under this section. No person shall own or lease a vehicle bearing 47531  
international association of firefighters license plates unless 47532  
the person is eligible to be issued international association of 47533  
firefighters license plates. 47534

(C) Whoever violates division (B) of this section is guilty 47535  
of a misdemeanor of the fourth degree. 47536

**Sec. 4503.48.** Any person who is a member of the Ohio national 47537  
guard or the reserves of the armed forces of the United States may 47538  
apply to the registrar of motor vehicles for the registration of 47539

any passenger car, noncommercial motor vehicle, ~~motor home~~ 47540  
recreational vehicle, or other vehicle of a class approved by the 47541  
registrar that the person owns or leases. The application shall be 47542  
accompanied by such written evidence that the person is a member 47543  
of the Ohio national guard or of the reserves as the registrar 47544  
requires by rule. 47545

Upon receipt of an application for registration of a motor 47546  
vehicle under this section, presentation of satisfactory evidence 47547  
of membership in the Ohio national guard or the reserves, and 47548  
payment of the regular license fees as prescribed under section 47549  
4503.04 of the Revised Code and any local motor vehicle license 47550  
tax levied under Chapter 4504. of the Revised Code, the registrar 47551  
shall issue to the applicant the appropriate motor vehicle 47552  
registration and a set of license plates and a validation sticker, 47553  
or a validation sticker alone when required by section 4503.191 of 47554  
the Revised Code. In addition to the letters and numbers 47555  
ordinarily inscribed thereon, the license plates shall be 47556  
inscribed with identifying words or markings designed by the 47557  
department of public safety. The license plates shall bear county 47558  
identification stickers that identify the county of registration 47559  
by name or number. 47560

**Sec. 4503.50.** (A) The owner or lessee of any passenger car, 47561  
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47562  
other vehicle of a class approved by the registrar of motor 47563  
vehicles may apply to the registrar for the registration of the 47564  
vehicle and issuance of future farmers of America license plates. 47565  
The application for future farmers of America license plates may 47566  
be combined with a request for a special reserved license plate 47567  
under section 4503.40 or 4503.42 of the Revised Code. Upon receipt 47568  
of the completed application and compliance with division (B) of 47569  
this section, the registrar shall issue to the applicant the 47570  
appropriate vehicle registration and a set of future farmers of 47571

America license plates with a validation sticker or a validation  
sticker alone when required by section 4503.191 of the Revised  
Code. 47572  
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In addition to the letters and numbers ordinarily inscribed  
on the license plates, future farmers of America license plates  
shall be inscribed with identifying words or markings representing  
the future farmers of America and approved by the registrar. 47575  
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Future farmers of America license plates shall bear county  
identification stickers that identify the county of registration  
by name or number. 47579  
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(B) The future farmers of America license plates and  
validation sticker shall be issued upon receipt of a contribution  
as provided in division (C) of this section and upon payment of  
the regular license tax as prescribed under section 4503.04 of the  
Revised Code, a fee of ten dollars for the purpose of compensating  
the bureau of motor vehicles for additional services required in  
the issuing of the future farmers of America license plates, any  
applicable motor vehicle tax levied under Chapter 4504. of the  
Revised Code, and compliance with all other applicable laws  
relating to the registration of motor vehicles. If the application  
for future farmers of America license plates is combined with a  
request for a special reserved license plate under section 4503.40  
or 4503.42 of the Revised Code, the license plate and validation  
sticker shall be issued upon payment of the contribution, fees,  
and taxes referred to or established in this division and the  
additional fee prescribed under section 4503.40 or 4503.42 of the  
Revised Code. 47582  
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(C) For each application for registration and registration  
renewal the registrar receives under this section, the registrar  
shall collect a contribution of fifteen dollars. The registrar  
shall transmit this contribution to the treasurer of state for  
deposit in the license plate contribution fund created in section  
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4501.21 of the Revised Code.

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The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's future farmers of America license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

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**Sec. 4503.53.** Any person who served in the armed forces of the United States in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and who is on active duty or is an honorably discharged veteran may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence of the applicant's service as the registrar requires by rule. In the case of an honorably discharged veteran, the written evidence shall include a copy of the applicant's DD-214 form or an equivalent document.

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Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of military service in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and payment of the regular license tax as prescribed under section 4503.04 of the

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Revised Code and any applicable local tax levied under Chapter 47635  
4504. of the Revised Code, the registrar shall issue to the 47636  
applicant the appropriate motor vehicle registration and a set of 47637  
license plates and a validation sticker, or a validation sticker 47638  
alone when required by section 4503.191 of the Revised Code. In 47639  
accordance with rules adopted by the registrar, each license plate 47640  
shall be inscribed with identifying letters or numerals and the 47641  
word "VETERAN"; in addition, each license plate shall be inscribed 47642  
with a design and words indicating service in Saudi Arabia, 47643  
Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam 47644  
conflict, the Korean conflict, World War II, or World War I. 47645

**Sec. 4503.571.** Any person who has been awarded the purple 47646  
heart may apply to the registrar of motor vehicles for the 47647  
registration of any passenger car, noncommercial motor vehicle, 47648  
~~motor home~~ recreational vehicle, or other vehicle of a class 47649  
approved by the registrar that the person owns or leases. The 47650  
application shall be accompanied by such documentary evidence in 47651  
support of the award as the registrar may require. The application 47652  
may be combined with a request for a special reserved license 47653  
plate under section 4503.40 or 4503.42 of the Revised Code. 47654

Upon receipt of an application for registration of a motor 47655  
vehicle under this section and the required taxes and fees, and 47656  
upon presentation of the required supporting evidence of the award 47657  
of the purple heart, the registrar shall issue to the applicant 47658  
the appropriate motor vehicle registration and a set of license 47659  
plates and a validation sticker, or a validation sticker alone 47660  
when required by section 4503.191 of the Revised Code. 47661

In addition to the letters and numbers ordinarily inscribed 47662  
on the license plates, the license plates shall be inscribed with 47663  
the words "PURPLE HEART." The license plates shall bear county 47664  
identification stickers that identify the county of registration 47665

by name or number.

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The license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes referred to in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

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No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

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**Sec. 4503.59.** The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the

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applicant with this section, the registrar shall issue to the 47697  
applicant the appropriate vehicle registration and a set of Pearl 47698  
Harbor license plates with a validation sticker or a validation 47699  
sticker alone when required by section 4503.191 of the Revised 47700  
Code. 47701

In addition to the letters and numbers ordinarily inscribed 47702  
thereon, Pearl Harbor license plates shall be inscribed with the 47703  
words "Pearl Harbor" and a symbol or logo designed by the Pearl 47704  
Harbor survivors association and approved by the registrar. Pearl 47705  
Harbor license plates shall bear county identification stickers 47706  
that identify the county of registration by name or number. 47707

Pearl Harbor license plates and validation stickers shall be 47708  
issued upon payment of the regular license fee required by section 47709  
4503.04 of the Revised Code, payment of any local motor vehicle 47710  
license tax levied under Chapter 4504. of the Revised Code, and 47711  
compliance with all other applicable laws relating to the 47712  
registration of motor vehicles. If the application for Pearl 47713  
Harbor license plates is combined with a request for a special 47714  
reserved license plate under section 4503.40 or 4503.42 of the 47715  
Revised Code, the license plates and validation sticker shall be 47716  
issued upon payment of the fees and taxes contained in this 47717  
section and the additional fee prescribed under section 4503.40 or 47718  
4503.42 of the Revised Code. 47719

**Sec. 4503.73.** (A) The owner or lessee of any passenger car, 47720  
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47721  
other vehicle of a class approved by the registrar of motor 47722  
vehicles may apply to the registrar for the registration of the 47723  
vehicle and issuance of "the leader in flight" license plates. The 47724  
application for "the leader in flight" license plates may be 47725  
combined with a request for a special reserved license plate under 47726  
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 47727

the completed application and compliance with division (B) of this 47728  
section, the registrar shall issue to the applicant the 47729  
appropriate vehicle registration and a set of "the leader in 47730  
flight" license plates with a validation sticker or a validation 47731  
sticker alone when required by section 4503.191 of the Revised 47732  
Code. 47733

In addition to the letters and numbers ordinarily inscribed 47734  
thereon, "the leader in flight" license plates shall be inscribed 47735  
with the words "the leader in flight" and illustrations of a space 47736  
shuttle in a vertical position and the Wright "B" airplane. "The 47737  
leader in flight" license plates shall bear county identification 47738  
stickers that identify the county of registration by name or 47739  
number. 47740

(B) "The leader in flight" license plates and validation 47741  
sticker shall be issued upon receipt of a contribution as provided 47742  
in division (C) of this section and payment of the regular license 47743  
tax as prescribed under section 4503.04 of the Revised Code, a fee 47744  
of ten dollars for the purpose of compensating the bureau of motor 47745  
vehicles for additional services required in the issuing of "the 47746  
leader in flight" license plates, any applicable motor vehicle tax 47747  
levied under Chapter 4504. of the Revised Code, and compliance 47748  
with all other applicable laws relating to the registration of 47749  
motor vehicles. If the application for "the leader in flight" 47750  
license plates is combined with a request for a special reserved 47751  
license plate under section 4503.40 or 4503.42 of the Revised 47752  
Code, the license plate and validation sticker shall be issued 47753  
upon payment of the fees and taxes referred to or established in 47754  
this division and the additional fee prescribed under section 47755  
4503.40 or 4503.42 of the Revised Code. 47756

(C) For each application for registration and registration 47757  
renewal received under this section, the registrar shall collect a 47758  
contribution of fifteen dollars. The registrar shall transmit this 47759



contribution to the treasurer of state for deposit in the license  
plate contribution fund created in section 4501.21 of the Revised  
Code. 47760  
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The registrar shall deposit the additional fee of ten dollars  
specified in division (B) of this section that the applicant for  
registration voluntarily pays for the purpose of compensating the  
bureau for the additional services required in the issuing of the  
applicant's "the leader in flight" license plates in the state  
bureau of motor vehicles fund created in section 4501.25 of the  
Revised Code. 47763  
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**Sec. 4503.85.** (A) The owner or lessee of any passenger car,  
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or  
other vehicle of a class approved by the registrar of motor  
vehicles may apply to the registrar for the registration of the  
vehicle and issuance of "Fish Lake Erie" license plates. The  
application for "Fish Lake Erie" license plates may be combined  
with a request for a special reserved license plate under section  
4503.40 or 4503.42 of the Revised Code. Upon receipt of the  
completed application and compliance with division (B) of this  
section, the registrar shall issue to the applicant the  
appropriate vehicle registration, a set of "Fish Lake Erie"  
license plates, and a validation sticker, or a validation sticker  
alone when required by section 4503.191 of the Revised Code. 47770  
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In addition to the letters and numbers ordinarily inscribed  
on the license plates, "Fish Lake Erie" license plates shall be  
inscribed with identifying words or markings designed by the Ohio  
sea grant college program and approved by the registrar. "Fish  
Lake Erie" license plates shall bear county identification  
stickers that identify the county of registration by name or  
number. 47783  
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(B) "Fish Lake Erie" license plates and a validation sticker 47790

or, when applicable, a validation sticker alone shall be issued 47791  
upon receipt of an application for registration of a motor vehicle 47792  
submitted under this section and a contribution as provided in 47793  
division (C) of this section, payment of the regular license tax 47794  
as prescribed under section 4503.04 of the Revised Code, any 47795  
applicable motor vehicle tax levied under Chapter 4504. of the 47796  
Revised Code, and an additional fee of ten dollars, and compliance 47797  
with all other applicable laws relating to the registration of 47798  
motor vehicles. If the application for "Fish Lake Erie" license 47799  
plates is combined with a request for a special reserved license 47800  
plate under section 4503.40 or 4503.42 of the Revised Code, the 47801  
license plates and validation sticker or validation sticker alone 47802  
shall be issued upon payment of the fees and taxes referred to or 47803  
established in this division plus the additional fee prescribed in 47804  
section 4503.40 or 4503.42 of the Revised Code. 47805

(C) For each application for registration and registration 47806  
renewal that the registrar receives under this section, the 47807  
registrar shall collect a contribution of fifteen dollars. The 47808  
registrar shall deposit this contribution into the state treasury 47809  
to the credit of the license plate contribution fund created in 47810  
section 4501.21 of the Revised Code. 47811

The additional fee of ten dollars described in division (B) 47812  
of this section shall be for the purpose of compensating the 47813  
bureau of motor vehicles for additional services required in 47814  
issuing license plates under this section. The registrar shall 47815  
deposit that fee into the state treasury to the credit of the 47816  
state bureau of motor vehicles fund created by section 4501.25 of 47817  
the Revised Code. 47818

**Sec. 4503.91.** (A) The owner or lessee of any passenger car, 47819  
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47820  
other vehicle of a class approved by the registrar of motor 47821

vehicles may apply to the registrar for the registration of the 47822  
vehicle and issuance of "choose life" license plates. The 47823  
application for "choose life" license plates may be combined with 47824  
a request for a special reserved license plate under section 47825  
4503.40 or 4503.42 of the Revised Code. Upon receipt of the 47826  
completed application and compliance with divisions (B) and (C) of 47827  
this section, the registrar shall issue to the applicant the 47828  
appropriate vehicle registration and a set of "choose life" 47829  
license plates with a validation sticker or a validation sticker 47830  
alone when required by section 4503.191 of the Revised Code. 47831

In addition to the letters and numbers ordinarily inscribed 47832  
on license plates, "choose life" license plates shall be inscribed 47833  
with the words "choose life" and a marking designed by "choose 47834  
life, inc.," a private, nonprofit corporation incorporated in the 47835  
state of Florida. The registrar shall review the design and 47836  
approve it if the design is feasible. If the design is not 47837  
feasible, the registrar shall notify "choose life, inc," and the 47838  
organization may resubmit designs until a feasible one is 47839  
approved. "Choose life" license plates shall bear county 47840  
identification stickers that identify the county of registration 47841  
by name or number. 47842

(B) "Choose life" license plates and a validation sticker, or 47843  
a validation sticker alone, shall be issued upon receipt of a 47844  
contribution as provided in division (C) of this section and upon 47845  
payment of the regular license tax prescribed in section 4503.04 47846  
of the Revised Code, any applicable motor vehicle tax levied under 47847  
Chapter 4504. of the Revised Code, any applicable additional fee 47848  
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 47849  
fee of ten dollars for the purpose of compensating the bureau of 47850  
motor vehicles for additional services required in the issuing of 47851  
"choose life" license plates, and compliance with all other 47852  
applicable laws relating to the registration of motor vehicles. 47853

(C)(1) For each application for registration and registration 47854  
renewal received under this section, the registrar shall collect a 47855  
contribution of twenty dollars. The registrar shall transmit this 47856  
contribution to the treasurer of state for deposit in the "choose 47857  
life" fund created in section 3701.65 of the Revised Code. 47858

(2) The registrar shall deposit the additional fee of ten 47859  
dollars specified in division (B) of this section for the purpose 47860  
of compensating the bureau for the additional services required in 47861  
issuing "choose life" license plates in the state bureau of motor 47862  
vehicles fund created in section 4501.25 of the Revised Code. 47863

**Sec. 4505.06.** (A)(1) Application for a certificate of title 47864  
shall be made in a form prescribed by the registrar of motor 47865  
vehicles and shall be sworn to before a notary public or other 47866  
officer empowered to administer oaths. The application shall be 47867  
filed with the clerk of any court of common pleas. An application 47868  
for a certificate of title may be filed electronically by any 47869  
electronic means approved by the registrar in any county with the 47870  
clerk of the court of common pleas of that county. Any payments 47871  
required by this chapter shall be considered as accompanying any 47872  
electronically transmitted application when payment actually is 47873  
received by the clerk. Payment of any fee or taxes may be made by 47874  
electronic transfer of funds. 47875

(2) The application for a certificate of title shall be 47876  
accompanied by the fee prescribed in section 4505.09 of the 47877  
Revised Code. The fee shall be retained by the clerk who issues 47878  
the certificate of title and shall be distributed in accordance 47879  
with that section. If a clerk of a court of common pleas, other 47880  
than the clerk of the court of common pleas of an applicant's 47881  
county of residence, issues a certificate of title to the 47882  
applicant, the clerk shall transmit data related to the 47883  
transaction to the automated title processing system. 47884

(3) If a certificate of title previously has been issued for 47885  
a motor vehicle in this state, the application for a certificate 47886  
of title also shall be accompanied by that certificate of title 47887  
duly assigned, unless otherwise provided in this chapter. If a 47888  
certificate of title previously has not been issued for the motor 47889  
vehicle in this state, the application, unless otherwise provided 47890  
in this chapter, shall be accompanied by a manufacturer's or 47891  
importer's certificate or by a certificate of title of another 47892  
state from which the motor vehicle was brought into this state. If 47893  
the application refers to a motor vehicle last previously 47894  
registered in another state, the application also shall be 47895  
accompanied by the physical inspection certificate required by 47896  
section 4505.061 of the Revised Code. If the application is made 47897  
by two persons regarding a motor vehicle in which they wish to 47898  
establish joint ownership with right of survivorship, they may do 47899  
so as provided in section 2131.12 of the Revised Code. If the 47900  
applicant requests a designation of the motor vehicle in 47901  
beneficiary form so that upon the death of the owner of the motor 47902  
vehicle, ownership of the motor vehicle will pass to a designated 47903  
transfer-on-death beneficiary or beneficiaries, the applicant may 47904  
do so as provided in section 2131.13 of the Revised Code. A person 47905  
who establishes ownership of a motor vehicle that is transferable 47906  
on death in accordance with section 2131.13 of the Revised Code 47907  
may terminate that type of ownership or change the designation of 47908  
the transfer-on-death beneficiary or beneficiaries by applying for 47909  
a certificate of title pursuant to this section. The clerk shall 47910  
retain the evidence of title presented by the applicant and on 47911  
which the certificate of title is issued, except that, if an 47912  
application for a certificate of title is filed electronically by 47913  
an electronic motor vehicle dealer on behalf of the purchaser of a 47914  
motor vehicle, the clerk shall retain the completed electronic 47915  
record to which the dealer converted the certificate of title 47916  
application and other required documents. The registrar, after 47917

consultation with the attorney general, shall adopt rules that 47918  
govern the location at which, and the manner in which, are stored 47919  
the actual application and all other documents relating to the 47920  
sale of a motor vehicle when an electronic motor vehicle dealer 47921  
files the application for a certificate of title electronically on 47922  
behalf of the purchaser. 47923

The clerk shall use reasonable diligence in ascertaining 47924  
whether or not the facts in the application for a certificate of 47925  
title are true by checking the application and documents 47926  
accompanying it or the electronic record to which a dealer 47927  
converted the application and accompanying documents with the 47928  
records of motor vehicles in the clerk's office. If the clerk is 47929  
satisfied that the applicant is the owner of the motor vehicle and 47930  
that the application is in the proper form, the clerk, within five 47931  
business days after the application is filed and except as 47932  
provided in section 4505.021 of the Revised Code, shall issue a 47933  
physical certificate of title over the clerk's signature and 47934  
sealed with the clerk's seal, unless the applicant specifically 47935  
requests the clerk not to issue a physical certificate of title 47936  
and instead to issue an electronic certificate of title. For 47937  
purposes of the transfer of a certificate of title, if the clerk 47938  
is satisfied that the secured party has duly discharged a lien 47939  
notation but has not canceled the lien notation with a clerk, the 47940  
clerk may cancel the lien notation on the automated title 47941  
processing system and notify the clerk of the county of origin. 47942

(4) In the case of the sale of a motor vehicle to a general 47943  
buyer or user by a dealer, by a motor vehicle leasing dealer 47944  
selling the motor vehicle to the lessee or, in a case in which the 47945  
leasing dealer subleased the motor vehicle, the sublessee, at the 47946  
end of the lease agreement or sublease agreement, or by a 47947  
manufactured home broker, the certificate of title shall be 47948  
obtained in the name of the buyer by the dealer, leasing dealer, 47949

or manufactured home broker, as the case may be, upon application 47950  
signed by the buyer. The certificate of title shall be issued, or 47951  
the process of entering the certificate of title application 47952  
information into the automated title processing system if a 47953  
physical certificate of title is not to be issued shall be 47954  
completed, within five business days after the application for 47955  
title is filed with the clerk. If the buyer of the motor vehicle 47956  
previously leased the motor vehicle and is buying the motor 47957  
vehicle at the end of the lease pursuant to that lease, the 47958  
certificate of title shall be obtained in the name of the buyer by 47959  
the motor vehicle leasing dealer who previously leased the motor 47960  
vehicle to the buyer or by the motor vehicle leasing dealer who 47961  
subleased the motor vehicle to the buyer under a sublease 47962  
agreement. 47963

In all other cases, except as provided in section 4505.032 47964  
and division (D)(2) of section 4505.11 of the Revised Code, such 47965  
certificates shall be obtained by the buyer. 47966

(5)(a)(i) If the certificate of title is being obtained in 47967  
the name of the buyer by a motor vehicle dealer or motor vehicle 47968  
leasing dealer and there is a security interest to be noted on the 47969  
certificate of title, the dealer or leasing dealer shall submit 47970  
the application for the certificate of title and payment of the 47971  
applicable tax to a clerk within seven business days after the 47972  
later of the delivery of the motor vehicle to the buyer or the 47973  
date the dealer or leasing dealer obtains the manufacturer's or 47974  
importer's certificate, or certificate of title issued in the name 47975  
of the dealer or leasing dealer, for the motor vehicle. Submission 47976  
of the application for the certificate of title and payment of the 47977  
applicable tax within the required seven business days may be 47978  
indicated by postmark or receipt by a clerk within that period. 47979

(ii) Upon receipt of the certificate of title with the 47980  
security interest noted on its face, the dealer or leasing dealer 47981

shall forward the certificate of title to the secured party at the 47982  
location noted in the financing documents or otherwise specified 47983  
by the secured party. 47984

(iii) A motor vehicle dealer or motor vehicle leasing dealer 47985  
is liable to a secured party for a late fee of ten dollars per day 47986  
for each certificate of title application and payment of the 47987  
applicable tax that is submitted to a clerk more than seven 47988  
business days but less than twenty-one days after the later of the 47989  
delivery of the motor vehicle to the buyer or the date the dealer 47990  
or leasing dealer obtains the manufacturer's or importer's 47991  
certificate, or certificate of title issued in the name of the 47992  
dealer or leasing dealer, for the motor vehicle and, from then on, 47993  
twenty-five dollars per day until the application and applicable 47994  
tax are submitted to a clerk. 47995

(b) In all cases of transfer of a motor vehicle, the 47996  
application for certificate of title shall be filed within thirty 47997  
days after the assignment or delivery of the motor vehicle. If an 47998  
application for a certificate of title is not filed within the 47999  
period specified in division (A)(5)(b) of this section, the clerk 48000  
shall collect a fee of five dollars for the issuance of the 48001  
certificate, except that no such fee shall be required from a 48002  
motor vehicle salvage dealer, as defined in division (A) of 48003  
section 4738.01 of the Revised Code, who immediately surrenders 48004  
the certificate of title for cancellation. The fee shall be in 48005  
addition to all other fees established by this chapter, and shall 48006  
be retained by the clerk. The registrar shall provide, on the 48007  
certificate of title form prescribed by section 4505.07 of the 48008  
Revised Code, language necessary to give evidence of the date on 48009  
which the assignment or delivery of the motor vehicle was made. 48010

(6) As used in division (A) of this section, "lease 48011  
agreement," "lessee," and "sublease agreement" have the same 48012  
meanings as in section 4505.04 of the Revised Code. 48013



(B)(1) The clerk, except as provided in this section, shall 48014  
refuse to accept for filing any application for a certificate of 48015  
title and shall refuse to issue a certificate of title unless the 48016  
dealer or manufactured home broker or the applicant, in cases in 48017  
which the certificate shall be obtained by the buyer, submits with 48018  
the application payment of the tax levied by or pursuant to 48019  
Chapters 5739. and 5741. of the Revised Code based on the 48020  
purchaser's county of residence. Upon payment of the tax in 48021  
accordance with division (E) of this section, the clerk shall 48022  
issue a receipt prescribed by the registrar and agreed upon by the 48023  
tax commissioner showing payment of the tax or a receipt issued by 48024  
the commissioner showing the payment of the tax. When submitting 48025  
payment of the tax to the clerk, a dealer shall retain any 48026  
discount to which the dealer is entitled under section 5739.12 of 48027  
the Revised Code. 48028

(2) For receiving and disbursing such taxes paid to the clerk 48029  
by a resident of the clerk's county, the clerk may retain a 48030  
poundage fee of one and one one-hundredth per cent, and the clerk 48031  
shall pay the poundage fee into the certificate of title 48032  
administration fund created by section 325.33 of the Revised Code. 48033  
The clerk shall not retain a poundage fee from payments of taxes 48034  
by persons who do not reside in the clerk's county. 48035

A clerk, however, may retain from the taxes paid to the clerk 48036  
an amount equal to the poundage fees associated with certificates 48037  
of title issued by other clerks of courts of common pleas to 48038  
applicants who reside in the first clerk's county. The registrar, 48039  
in consultation with the tax commissioner and the clerks of the 48040  
courts of common pleas, shall develop a report from the automated 48041  
title processing system that informs each clerk of the amount of 48042  
the poundage fees that the clerk is permitted to retain from those 48043  
taxes because of certificates of title issued by the clerks of 48044  
other counties to applicants who reside in the first clerk's 48045

county.

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(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

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(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

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(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter

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the phrase "nonactual: warning - odometer discrepancy" following 48078  
the mileage designation. The clerk shall use reasonable care in 48079  
transferring the information supplied by the transferor, but is 48080  
not liable for any errors or omissions of the clerk or those of 48081  
the clerk's deputies in the performance of the clerk's duties 48082  
created by this chapter. 48083

The registrar shall prescribe an affidavit in which the 48084  
transferor shall swear to the true selling price and, except as 48085  
provided in this division, the true odometer reading of the motor 48086  
vehicle. The registrar may prescribe an affidavit in which the 48087  
seller and buyer provide information pertaining to the odometer 48088  
reading of the motor vehicle in addition to that required by this 48089  
section, as such information may be required by the United States 48090  
secretary of transportation by rule prescribed under authority of 48091  
subchapter IV of the "Motor Vehicle Information and Cost Savings 48092  
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 48093

(2) Division (C)(1) of this section does not require the 48094  
giving of information concerning the odometer and odometer reading 48095  
of a motor vehicle when ownership of a motor vehicle is being 48096  
transferred as a result of a bequest, under the laws of intestate 48097  
succession, to a survivor pursuant to section 2106.18, 2131.12, or 48098  
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 48099  
beneficiaries pursuant to section 2131.13 of the Revised Code, in 48100  
connection with the creation of a security interest or for a 48101  
vehicle with a gross vehicle weight rating of more than sixteen 48102  
thousand pounds. 48103

(D) When the transfer to the applicant was made in some other 48104  
state or in interstate commerce, the clerk, except as provided in 48105  
this section, shall refuse to issue any certificate of title 48106  
unless the tax imposed by or pursuant to Chapter 5741. of the 48107  
Revised Code based on the purchaser's county of residence has been 48108  
paid as evidenced by a receipt issued by the tax commissioner, or 48109

unless the applicant submits with the application payment of the 48110  
tax. Upon payment of the tax in accordance with division (E) of 48111  
this section, the clerk shall issue a receipt prescribed by the 48112  
registrar and agreed upon by the tax commissioner, showing payment 48113  
of the tax. 48114

For receiving and disbursing such taxes paid to the clerk by 48115  
a resident of the clerk's county, the clerk may retain a poundage 48116  
fee of one and one one-hundredth per cent. The clerk shall not 48117  
retain a poundage fee from payments of taxes by persons who do not 48118  
reside in the clerk's county. 48119

A clerk, however, may retain from the taxes paid to the clerk 48120  
an amount equal to the poundage fees associated with certificates 48121  
of title issued by other clerks of courts of common pleas to 48122  
applicants who reside in the first clerk's county. The registrar, 48123  
in consultation with the tax commissioner and the clerks of the 48124  
courts of common pleas, shall develop a report from the automated 48125  
title processing system that informs each clerk of the amount of 48126  
the poundage fees that the clerk is permitted to retain from those 48127  
taxes because of certificates of title issued by the clerks of 48128  
other counties to applicants who reside in the first clerk's 48129  
county. 48130

When the vendor is not regularly engaged in the business of 48131  
selling motor vehicles, the vendor shall not be required to 48132  
purchase a vendor's license or make reports concerning those 48133  
sales. 48134

(E) The clerk shall accept any payment of a tax in cash, or 48135  
by cashier's check, certified check, draft, money order, or teller 48136  
check issued by any insured financial institution payable to the 48137  
clerk and submitted with an application for a certificate of title 48138  
under division (B) or (D) of this section. The clerk also may 48139  
accept payment of the tax by corporate, business, or personal 48140

check, credit card, electronic transfer or wire transfer, debit 48141  
card, or any other accepted form of payment made payable to the 48142  
clerk. The clerk may require bonds, guarantees, or letters of 48143  
credit to ensure the collection of corporate, business, or 48144  
personal checks. Any service fee charged by a third party to a 48145  
clerk for the use of any form of payment may be paid by the clerk 48146  
from the certificate of title administration fund created in 48147  
section 325.33 of the Revised Code, or may be assessed by the 48148  
clerk upon the applicant as an additional fee. Upon collection, 48149  
the additional fees shall be paid by the clerk into that 48150  
certificate of title administration fund. 48151

The clerk shall make a good faith effort to collect any 48152  
payment of taxes due but not made because the payment was returned 48153  
or dishonored, but the clerk is not personally liable for the 48154  
payment of uncollected taxes or uncollected fees. The clerk shall 48155  
notify the tax commissioner of any such payment of taxes that is 48156  
due but not made and shall furnish the information to the 48157  
commissioner that the commissioner requires. The clerk shall 48158  
deduct the amount of taxes due but not paid from the clerk's 48159  
periodic remittance of tax payments, in accordance with procedures 48160  
agreed upon by the tax commissioner. The commissioner may collect 48161  
taxes due by assessment in the manner provided in section 5739.13 48162  
of the Revised Code. 48163

Any person who presents payment that is returned or 48164  
dishonored for any reason is liable to the clerk for payment of a 48165  
penalty over and above the amount of the taxes due. The clerk 48166  
shall determine the amount of the penalty, and the penalty shall 48167  
be no greater than that amount necessary to compensate the clerk 48168  
for banking charges, legal fees, or other expenses incurred by the 48169  
clerk in collecting the returned or dishonored payment. The 48170  
remedies and procedures provided in this section are in addition 48171  
to any other available civil or criminal remedies. Subsequently 48172

collected penalties, poundage fees, and title fees, less any title 48173  
fee due the state, from returned or dishonored payments collected 48174  
by the clerk shall be paid into the certificate of title 48175  
administration fund. Subsequently collected taxes, less poundage 48176  
fees, shall be sent by the clerk to the treasurer of state at the 48177  
next scheduled periodic remittance of tax payments, with 48178  
information as the commissioner may require. The clerk may abate 48179  
all or any part of any penalty assessed under this division. 48180

(F) In the following cases, the clerk shall accept for filing 48181  
an application and shall issue a certificate of title without 48182  
requiring payment or evidence of payment of the tax: 48183

(1) When the purchaser is this state or any of its political 48184  
subdivisions, a church, or an organization whose purchases are 48185  
exempted by section 5739.02 of the Revised Code; 48186

(2) When the transaction in this state is not a retail sale 48187  
as defined by section 5739.01 of the Revised Code; 48188

(3) When the purchase is outside this state or in interstate 48189  
commerce and the purpose of the purchaser is not to use, store, or 48190  
consume within the meaning of section 5741.01 of the Revised Code; 48191

(4) When the purchaser is the federal government; 48192

(5) When the motor vehicle was purchased outside this state 48193  
for use outside this state; 48194

(6) When the motor vehicle is purchased by a nonresident of 48195  
this state for immediate removal from this state, and will be 48196  
permanently titled and registered in another state, as provided by 48197  
division (B)(23) of section 5739.02 of the Revised Code, and upon 48198  
presentation of a copy of the affidavit provided by that section, 48199  
and a copy of the exemption certificate provided by section 48200  
5739.03 of the Revised Code. 48201

~~The clerk shall forward all payments of taxes, less poundage 48202~~

~~fees, to the treasurer of state in a manner to be prescribed by 48203  
the tax commissioner and shall furnish information to the 48204  
commissioner as the commissioner requires. 48205~~

(G) An application, as prescribed by the registrar and agreed 48206  
to by the tax commissioner, shall be filled out and sworn to by 48207  
the buyer of a motor vehicle in a casual sale. The application 48208  
shall contain the following notice in bold lettering: "WARNING TO 48209  
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 48210  
law to state the true selling price. A false statement is in 48211  
violation of section 2921.13 of the Revised Code and is punishable 48212  
by six months' imprisonment or a fine of up to one thousand 48213  
dollars, or both. All transfers are audited by the department of 48214  
taxation. The seller and buyer must provide any information 48215  
requested by the department of taxation. The buyer may be assessed 48216  
any additional tax found to be due." 48217

(H) For sales of manufactured homes or mobile homes occurring 48218  
on or after January 1, 2000, the clerk shall accept for filing, 48219  
pursuant to Chapter 5739. of the Revised Code, an application for 48220  
a certificate of title for a manufactured home or mobile home 48221  
without requiring payment of any tax pursuant to section 5739.02, 48222  
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 48223  
issued by the tax commissioner showing payment of the tax. For 48224  
sales of manufactured homes or mobile homes occurring on or after 48225  
January 1, 2000, the applicant shall pay to the clerk an 48226  
additional fee of five dollars for each certificate of title 48227  
issued by the clerk for a manufactured or mobile home pursuant to 48228  
division (H) of section 4505.11 of the Revised Code and for each 48229  
certificate of title issued upon transfer of ownership of the 48230  
home. The clerk shall credit the fee to the county certificate of 48231  
title administration fund, and the fee shall be used to pay the 48232  
expenses of archiving those certificates pursuant to division (A) 48233  
of section 4505.08 and division (H)(3) of section 4505.11 of the 48234

Revised Code. The tax commissioner shall administer any tax on a  
manufactured or mobile home pursuant to Chapters 5739. and 5741.  
of the Revised Code.

(I) Every clerk shall have the capability to transact by  
electronic means all procedures and transactions relating to the  
issuance of motor vehicle certificates of title that are described  
in the Revised Code as being accomplished by electronic means.

**Sec. 4506.03.** (A) Except as provided in divisions (B) and (C)  
of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a  
highway in this state unless the person holds, and has in the  
person's possession, a valid commercial driver's license with  
proper endorsements for the motor vehicle being driven, issued by  
the registrar of motor vehicles, a valid examiner's commercial  
driving permit issued under section 4506.13 of the Revised Code, a  
valid restricted commercial driver's license and waiver for  
farm-related service industries issued under section 4506.24 of  
the Revised Code, or a valid commercial driver's license temporary  
instruction permit issued by the registrar and is accompanied by  
an authorized state driver's license examiner or tester or a  
person who has been issued and has in the person's immediate  
possession a current, valid commercial driver's license with  
proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license  
until the person surrenders to the registrar of motor vehicles all  
valid licenses issued to the person by another jurisdiction  
recognized by this state. The registrar shall report the surrender  
of a license to the issuing authority, together with information  
that a license is now issued in this state. The registrar shall  
destroy any such license that is not returned to the issuing  
authority.



(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction. 48266  
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(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following: 48270  
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(1) A farm truck; 48273

(2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district; 48274  
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(3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons; 48276  
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(4) A recreational vehicle; 48278

(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance; 48279  
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(6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians. 48289  
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(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as 48293  
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"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle, as provided in 49 C.F.R.. 383.3.

(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

**Sec. 4506.07.** (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor

vehicle in another state or a foreign jurisdiction and, if so, 48326  
when, by what state, and whether the license or driving privileges 48327  
currently are suspended or revoked in any jurisdiction, or the 48328  
applicant otherwise has been disqualified from operating a 48329  
commercial motor vehicle, or is subject to an out-of-service order 48330  
issued under this chapter or any similar law of another state or a 48331  
foreign jurisdiction and, if so, the date of, locations involved, 48332  
and reason for the suspension, revocation, disqualification, or 48333  
out-of-service order; 48334

(3) Whether the applicant is afflicted with or suffering from 48335  
any physical or mental disability or disease that prevents the 48336  
applicant from exercising reasonable and ordinary control over a 48337  
motor vehicle while operating it upon a highway or is or has been 48338  
subject to any condition resulting in episodic impairment of 48339  
consciousness or loss of muscular control and, if so, the nature 48340  
and extent of the disability, disease, or condition, and the names 48341  
and addresses of the physicians attending the applicant; 48342

(4) Whether the applicant has obtained a medical examiner's 48343  
certificate as required by this chapter; 48344

(5) Whether the applicant has pending a citation for 48345  
violation of any motor vehicle law or ordinance except a parking 48346  
violation and, if so, a description of the citation, the court 48347  
having jurisdiction of the offense, and the date when the offense 48348  
occurred; 48349

(6) Whether the applicant wishes to certify willingness to 48350  
make an anatomical donation under section 2108.04 of the Revised 48351  
Code, which shall be given no consideration in the issuance of a 48352  
license; 48353

(7) On and after May 1, 1993, whether the applicant has 48354  
executed a valid durable power of attorney for health care 48355  
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 48356

executed a declaration governing the use or continuation, or the  
withholding or withdrawal, of life-sustaining treatment pursuant  
to sections 2133.01 to 2133.15 of the Revised Code and, if the  
applicant has executed either type of instrument, whether the  
applicant wishes the license issued to indicate that the applicant  
has executed the instrument.

(B) Every applicant shall certify, on a form approved and  
furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to  
take the driving skills test is representative of the type of  
motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification  
or out-of-service order, or license suspension, revocation, or  
cancellation, under the laws of this state, of another state, or  
of a foreign jurisdiction and does not have more than one driver's  
license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence  
that the registrar requires by rule in order to ensure that the  
issuance of a commercial driver's license to the applicant is in  
compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and  
furnished by the registrar, under which the applicant consents to  
the release by the registrar of information from the applicant's  
driving record.

(D) The registrar or a deputy registrar, in accordance with  
section 3503.11 of the Revised Code, shall register as an elector  
any applicant for a commercial driver's license or for a renewal  
or duplicate of such a license under this chapter, if the  
applicant is eligible and wishes to be registered as an elector.  
The decision of an applicant whether to register as an elector  
shall be given no consideration in the decision of whether to

issue the applicant a license or a renewal or duplicate. 48388

(E) The registrar or a deputy registrar, in accordance with 48389  
section 3503.11 of the Revised Code, shall offer the opportunity 48390  
of completing a notice of change of residence or change of name to 48391  
any applicant for a commercial driver's license or for a renewal 48392  
or duplicate of such a license who is a resident of this state, if 48393  
the applicant is a registered elector who has changed the 48394  
applicant's residence or name and has not filed such a notice. 48395

(F) In considering any application submitted pursuant to this 48396  
section, the bureau of motor vehicles may conduct any inquiries 48397  
necessary to ensure that issuance or renewal of a commercial 48398  
driver's license would not violate any provision of the Revised 48399  
Code or federal law. 48400

Sec. 4506.101. Notwithstanding any provision of the Revised 48401  
Code, the bureau of motor vehicles shall not issue or renew a 48402  
commercial driver's license if issuance or renewal of the license 48403  
would violate federal law. 48404

Sec. 4506.161. No court shall issue an order granting limited 48405  
driving privileges for operation of a commercial motor vehicle to 48406  
any person whose driver's license or commercial driver's license 48407  
has been suspended or who has been disqualified from operating a 48408  
commercial motor vehicle. 48409

**Sec. 4511.191.** (A)(1) "Physical control" has the same meaning 48410  
as in section 4511.194 of the Revised Code. 48411

(2) Any person who operates a vehicle, streetcar, or 48412  
trackless trolley upon a highway or any public or private property 48413  
used by the public for vehicular travel or parking within this 48414  
state or who is in physical control of a vehicle, streetcar, or 48415  
trackless trolley shall be deemed to have given consent to a 48416

chemical test or tests of the person's whole blood, blood serum or 48417  
plasma, breath, or urine to determine the alcohol, drug, or 48418  
alcohol and drug content of the person's whole blood, blood serum 48419  
or plasma, breath, or urine if arrested for a violation of 48420  
division (A) or (B) of section 4511.19 of the Revised Code, 48421  
section 4511.194 of the Revised Code or a substantially equivalent 48422  
municipal ordinance, or a municipal OVI ordinance. 48423

(3) The chemical test or tests under division (A)(2) of this 48424  
section shall be administered at the request of a law enforcement 48425  
officer having reasonable grounds to believe the person was 48426  
operating or in physical control of a vehicle, streetcar, or 48427  
trackless trolley in violation of a division, section, or 48428  
ordinance identified in division (A)(2) of this section. The law 48429  
enforcement agency by which the officer is employed shall 48430  
designate which of the tests shall be administered. 48431

(4) Any person who is dead or unconscious, or who otherwise 48432  
is in a condition rendering the person incapable of refusal, shall 48433  
be deemed to have consented as provided in division (A)(2) of this 48434  
section, and the test or tests may be administered, subject to 48435  
sections 313.12 to 313.16 of the Revised Code. 48436

(B)(1) Upon receipt of the sworn report of a law enforcement 48437  
officer who arrested a person for a violation of division (A) or 48438  
(B) of section 4511.19 of the Revised Code, section 4511.194 of 48439  
the Revised Code or a substantially equivalent municipal 48440  
ordinance, or a municipal OVI ordinance that was completed and 48441  
sent to the registrar and a court pursuant to section 4511.192 of 48442  
the Revised Code in regard to a person who refused to take the 48443  
designated chemical test, the registrar shall enter into the 48444  
registrar's records the fact that the person's driver's or 48445  
commercial driver's license or permit or nonresident operating 48446  
privilege was suspended by the arresting officer under this 48447  
division and that section and the period of the suspension, as 48448

determined under this section. The suspension shall be subject to  
appeal as provided in section 4511.197 of the Revised Code. The  
suspension shall be for whichever of the following periods  
applies:

(a) Except when division (B)(1)(b), (c), or (d) of this  
section applies and specifies a different class or length of  
suspension, the suspension shall be a class C suspension for the  
period of time specified in division (B)(3) of section 4510.02 of  
the Revised Code.

(b) If the arrested person, within six years of the date on  
which the person refused the request to consent to the chemical  
test, had refused one previous request to consent to a chemical  
test, the suspension shall be a class B suspension imposed for the  
period of time specified in division (B)(2) of section 4510.02 of  
the Revised Code.

(c) If the arrested person, within six years of the date on  
which the person refused the request to consent to the chemical  
test, had refused two previous requests to consent to a chemical  
test, the suspension shall be a class A suspension imposed for the  
period of time specified in division (B)(1) of section 4510.02 of  
the Revised Code.

(d) If the arrested person, within six years of the date on  
which the person refused the request to consent to the chemical  
test, had refused three or more previous requests to consent to a  
chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the  
driver's or commercial driver's license or permit of a resident or  
of the operating privilege of a nonresident, or a denial of a  
driver's or commercial driver's license or permit, imposed  
pursuant to division (B)(1) of this section upon receipt of notice  
that the person has entered a plea of guilty to, or that the

person has been convicted after entering a plea of no contest to, 48480  
operating a vehicle in violation of section 4511.19 of the Revised 48481  
Code or in violation of a municipal OVI ordinance, if the offense 48482  
for which the conviction is had or the plea is entered arose from 48483  
the same incident that led to the suspension or denial. 48484

The registrar shall credit against any judicial suspension of 48485  
a person's driver's or commercial driver's license or permit or 48486  
nonresident operating privilege imposed pursuant to section 48487  
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 48488  
Revised Code for a violation of a municipal OVI ordinance, any 48489  
time during which the person serves a related suspension imposed 48490  
pursuant to division (B)(1) of this section. 48491

(C)(1) Upon receipt of the sworn report of the law 48492  
enforcement officer who arrested a person for a violation of 48493  
division (A) or (B) of section 4511.19 of the Revised Code or a 48494  
municipal OVI ordinance that was completed and sent to the 48495  
registrar and a court pursuant to section 4511.192 of the Revised 48496  
Code in regard to a person whose test results indicate that the 48497  
person's whole blood, blood serum or plasma, breath, or urine 48498  
contained at least the concentration of alcohol specified in 48499  
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 48500  
Revised Code, the registrar shall enter into the registrar's 48501  
records the fact that the person's driver's or commercial driver's 48502  
license or permit or nonresident operating privilege was suspended 48503  
by the arresting officer under this division and section 4511.192 48504  
of the Revised Code and the period of the suspension, as 48505  
determined under divisions (F)(1) to (4) of this section. The 48506  
suspension shall be subject to appeal as provided in section 48507  
4511.197 of the Revised Code. The suspension described in this 48508  
division does not apply to, and shall not be imposed upon, a 48509  
person arrested for a violation of section 4511.194 of the Revised 48510  
Code or a substantially equivalent municipal ordinance who submits 48511



to a designated chemical test. The suspension shall be for 48512  
whichever of the following periods applies: 48513

(a) Except when division (C)(1)(b), (c), or (d) of this 48514  
section applies and specifies a different period, the suspension 48515  
shall be a class E suspension imposed for the period of time 48516  
specified in division (B)(5) of section 4510.02 of the Revised 48517  
Code. 48518

(b) The suspension shall be a class C suspension for the 48519  
period of time specified in division (B)(3) of section 4510.02 of 48520  
the Revised Code if the person has been convicted of or pleaded 48521  
guilty to, within six years of the date the test was conducted, 48522  
one violation of division (A) or (B) of section 4511.19 of the 48523  
Revised Code or one other equivalent offense. 48524

(c) If, within six years of the date the test was conducted, 48525  
the person has been convicted of or pleaded guilty to two 48526  
violations of a statute or ordinance described in division 48527  
(C)(1)(b) of this section, the suspension shall be a class B 48528  
suspension imposed for the period of time specified in division 48529  
(B)(2) of section 4510.02 of the Revised Code. 48530

(d) If, within six years of the date the test was conducted, 48531  
the person has been convicted of or pleaded guilty to more than 48532  
two violations of a statute or ordinance described in division 48533  
(C)(1)(b) of this section, the suspension shall be a class A 48534  
suspension imposed for the period of time specified in division 48535  
(B)(1) of section 4510.02 of the Revised Code. 48536

(2) The registrar shall terminate a suspension of the 48537  
driver's or commercial driver's license or permit of a resident or 48538  
of the operating privilege of a nonresident, or a denial of a 48539  
driver's or commercial driver's license or permit, imposed 48540  
pursuant to division (C)(1) of this section upon receipt of notice 48541  
that the person has entered a plea of guilty to, or that the 48542

person has been convicted after entering a plea of no contest to, 48543  
operating a vehicle in violation of section 4511.19 of the Revised 48544  
Code or in violation of a municipal OVI ordinance, if the offense 48545  
for which the conviction is had or the plea is entered arose from 48546  
the same incident that led to the suspension or denial. 48547

The registrar shall credit against any judicial suspension of 48548  
a person's driver's or commercial driver's license or permit or 48549  
nonresident operating privilege imposed pursuant to section 48550  
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 48551  
Revised Code for a violation of a municipal OVI ordinance, any 48552  
time during which the person serves a related suspension imposed 48553  
pursuant to division (C)(1) of this section. 48554

(D)(1) A suspension of a person's driver's or commercial 48555  
driver's license or permit or nonresident operating privilege 48556  
under this section for the time described in division (B) or (C) 48557  
of this section is effective immediately from the time at which 48558  
the arresting officer serves the notice of suspension upon the 48559  
arrested person. Any subsequent finding that the person is not 48560  
guilty of the charge that resulted in the person being requested 48561  
to take the chemical test or tests under division (A) of this 48562  
section does not affect the suspension. 48563

(2) If a person is arrested for operating a vehicle, 48564  
streetcar, or trackless trolley in violation of division (A) or 48565  
(B) of section 4511.19 of the Revised Code or a municipal OVI 48566  
ordinance, or for being in physical control of a vehicle, 48567  
streetcar, or trackless trolley in violation of section 4511.194 48568  
of the Revised Code or a substantially equivalent municipal 48569  
ordinance, regardless of whether the person's driver's or 48570  
commercial driver's license or permit or nonresident operating 48571  
privilege is or is not suspended under division (B) or (C) of this 48572  
section or Chapter 4510. of the Revised Code, the person's initial 48573  
appearance on the charge resulting from the arrest shall be held 48574

within five days of the person's arrest or the issuance of the  
citation to the person, subject to any continuance granted by the  
court pursuant to section 4511.197 of the Revised Code regarding  
the issues specified in that division.

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(E) When it finally has been determined under the procedures  
of this section and sections 4511.192 ~~through~~ to 4511.197 of the  
Revised Code that a nonresident's privilege to operate a vehicle  
within this state has been suspended, the registrar shall give  
information in writing of the action taken to the motor vehicle  
administrator of the state of the person's residence and of any  
state in which the person has a license.

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(F) At the end of a suspension period under this section,  
under section 4511.194, section 4511.196, or division (G) of  
section 4511.19 of the Revised Code, or under section 4510.07 of  
the Revised Code for a violation of a municipal OVI ordinance and  
upon the request of the person whose driver's or commercial  
driver's license or permit was suspended and who is not otherwise  
subject to suspension, cancellation, or disqualification, the  
registrar shall return the driver's or commercial driver's license  
or permit to the person upon the occurrence of all of the  
conditions specified in divisions (F)(1) and (2) of this section:

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(1) A showing that the person has proof of financial  
responsibility, a policy of liability insurance in effect that  
meets the minimum standards set forth in section 4509.51 of the  
Revised Code, or proof, to the satisfaction of the registrar, that  
the person is able to respond in damages in an amount at least  
equal to the minimum amounts specified in section 4509.51 of the  
Revised Code.

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(2) Subject to the limitation contained in division (F)(3) of  
this section, payment by the person to the bureau of motor  
vehicles of a license reinstatement fee of four hundred

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twenty-five dollars, which fee shall be deposited in the state 48606  
treasury and credited as follows: 48607

(a) One hundred twelve dollars and fifty cents shall be 48608  
credited to the statewide treatment and prevention fund created by 48609  
section 4301.30 of the Revised Code. The fund shall be used to pay 48610  
the costs of driver treatment and intervention programs operated 48611  
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 48612  
director of alcohol and drug addiction services shall determine 48613  
the share of the fund that is to be allocated to alcohol and drug 48614  
addiction programs authorized by section 3793.02 of the Revised 48615  
Code, and the share of the fund that is to be allocated to 48616  
drivers' intervention programs authorized by section 3793.10 of 48617  
the Revised Code. 48618

(b) Seventy-five dollars shall be credited to the reparations 48619  
fund created by section 2743.191 of the Revised Code. 48620

(c) Thirty-seven dollars and fifty cents shall be credited to 48621  
the indigent drivers alcohol treatment fund, which is hereby 48622  
established. Except as otherwise provided in division (F)(2)(c) of 48623  
this section, moneys in the fund shall be distributed by the 48624  
department of alcohol and drug addiction services to the county 48625  
indigent drivers alcohol treatment funds, the county juvenile 48626  
indigent drivers alcohol treatment funds, and the municipal 48627  
indigent drivers alcohol treatment funds that are required to be 48628  
established by counties and municipal corporations pursuant to 48629  
this section, and shall be used only to pay the cost of an alcohol 48630  
and drug addiction treatment program attended by an offender or 48631  
juvenile traffic offender who is ordered to attend an alcohol and 48632  
drug addiction treatment program by a county, juvenile, or 48633  
municipal court judge and who is determined by the county, 48634  
juvenile, or municipal court judge not to have the means to pay 48635  
for the person's attendance at the program or to pay the costs 48636  
specified in division (H)(4) of this section in accordance with 48637

that division. In addition, a county, juvenile, or municipal court 48638  
judge may use moneys in the county indigent drivers alcohol 48639  
treatment fund, county juvenile indigent drivers alcohol treatment 48640  
fund, or municipal indigent drivers alcohol treatment fund to pay 48641  
the cost of electronic continuous alcohol monitoring devices or 48642  
the cost of the continued use of such devices as described in 48643  
divisions (H)(3) and (4) of this section. Moneys in the fund that 48644  
are not distributed to a county indigent drivers alcohol treatment 48645  
fund, a county juvenile indigent drivers alcohol treatment fund, 48646  
or a municipal indigent drivers alcohol treatment fund under 48647  
division (H) of this section because the director of alcohol and 48648  
drug addiction services does not have the information necessary to 48649  
identify the county or municipal corporation where the offender or 48650  
juvenile offender was arrested may be transferred by the director 48651  
of budget and management to the statewide treatment and prevention 48652  
fund created by section 4301.30 of the Revised Code, upon 48653  
certification of the amount by the director of alcohol and drug 48654  
addiction services. 48655

(d) Seventy-five dollars shall be credited to the Ohio 48656  
rehabilitation services commission established by section 3304.12 48657  
of the Revised Code, to the services for rehabilitation fund, 48658  
which is hereby established. The fund shall be used to match 48659  
available federal matching funds where appropriate, and for any 48660  
other purpose or program of the commission to rehabilitate people 48661  
with disabilities to help them become employed and independent. 48662

(e) Seventy-five dollars shall be deposited into the state 48663  
treasury and credited to the drug abuse resistance education 48664  
programs fund, which is hereby established, to be used by the 48665  
attorney general for the purposes specified in division ~~(L)~~(F)(4) 48666  
of this section. 48667

(f) Thirty dollars shall be credited to the state bureau of 48668  
motor vehicles fund created by section 4501.25 of the Revised 48669

Code. 48670

(g) Twenty dollars shall be credited to the trauma and 48671  
emergency medical services grants fund created by section 4513.263 48672  
of the Revised Code. 48673

(3) If a person's driver's or commercial driver's license or 48674  
permit is suspended under this section, under section 4511.196 or 48675  
division (G) of section 4511.19 of the Revised Code, under section 48676  
4510.07 of the Revised Code for a violation of a municipal OVI 48677  
ordinance or under any combination of the suspensions described in 48678  
division (F)(3) of this section, and if the suspensions arise from 48679  
a single incident or a single set of facts and circumstances, the 48680  
person is liable for payment of, and shall be required to pay to 48681  
the bureau, only one reinstatement fee of four hundred twenty-five 48682  
dollars. The reinstatement fee shall be distributed by the bureau 48683  
in accordance with division (F)(2) of this section. 48684

(4) The attorney general shall use amounts in the drug abuse 48685  
resistance education programs fund to award grants to law 48686  
enforcement agencies to establish and implement drug abuse 48687  
resistance education programs in public schools. Grants awarded to 48688  
a law enforcement agency under this section shall be used by the 48689  
agency to pay for not more than fifty per cent of the amount of 48690  
the salaries of law enforcement officers who conduct drug abuse 48691  
resistance education programs in public schools. The attorney 48692  
general shall not use more than six per cent of the amounts the 48693  
attorney general's office receives under division (F)(2)(e) of 48694  
this section to pay the costs it incurs in administering the grant 48695  
program established by division (F)(2)(e) of this section and in 48696  
providing training and materials relating to drug abuse resistance 48697  
education programs. 48698

The attorney general shall report to the governor and the 48699  
general assembly each fiscal year on the progress made in 48700

establishing and implementing drug abuse resistance education 48701  
programs. These reports shall include an evaluation of the 48702  
effectiveness of these programs. 48703

(G) Suspension of a commercial driver's license under 48704  
division (B) or (C) of this section shall be concurrent with any 48705  
period of disqualification under section 3123.611 or 4506.16 of 48706  
the Revised Code or any period of suspension under section 3123.58 48707  
of the Revised Code. No person who is disqualified for life from 48708  
holding a commercial driver's license under section 4506.16 of the 48709  
Revised Code shall be issued a driver's license under Chapter 48710  
4507. of the Revised Code during the period for which the 48711  
commercial driver's license was suspended under division (B) or 48712  
(C) of this section. No person whose commercial driver's license 48713  
is suspended under division (B) or (C) of this section shall be 48714  
issued a driver's license under Chapter 4507. of the Revised Code 48715  
during the period of the suspension. 48716

(H)(1) Each county shall establish an indigent drivers 48717  
alcohol treatment fund, each county shall establish a juvenile 48718  
indigent drivers alcohol treatment fund, and each municipal 48719  
corporation in which there is a municipal court shall establish an 48720  
indigent drivers alcohol treatment fund. All revenue that the 48721  
general assembly appropriates to the indigent drivers alcohol 48722  
treatment fund for transfer to a county indigent drivers alcohol 48723  
treatment fund, a county juvenile indigent drivers alcohol 48724  
treatment fund, or a municipal indigent drivers alcohol treatment 48725  
fund, all portions of fees that are paid under division ~~(L)~~(F) of 48726  
this section and that are credited under that division to the 48727  
indigent drivers alcohol treatment fund in the state treasury for 48728  
a county indigent drivers alcohol treatment fund, a county 48729  
juvenile indigent drivers alcohol treatment fund, or a municipal 48730  
indigent drivers alcohol treatment fund, and all portions of fines 48731  
that are specified for deposit into a county or municipal indigent 48732

drivers alcohol treatment fund by section 4511.193 of the Revised 48733  
Code shall be deposited into that county indigent drivers alcohol 48734  
treatment fund, county juvenile indigent drivers alcohol treatment 48735  
fund, or municipal indigent drivers alcohol treatment fund in 48736  
accordance with division (H)(2) of this section. Additionally, all 48737  
portions of fines that are paid for a violation of section 4511.19 48738  
of the Revised Code or of any prohibition contained in Chapter 48739  
4510. of the Revised Code, and that are required under section 48740  
4511.19 or any provision of Chapter 4510. of the Revised Code to 48741  
be deposited into a county indigent drivers alcohol treatment fund 48742  
or municipal indigent drivers alcohol treatment fund shall be 48743  
deposited into the appropriate fund in accordance with the 48744  
applicable division. 48745

(2) That portion of the license reinstatement fee that is 48746  
paid under division (F) of this section and that is credited under 48747  
that division to the indigent drivers alcohol treatment fund shall 48748  
be deposited into a county indigent drivers alcohol treatment 48749  
fund, a county juvenile indigent drivers alcohol treatment fund, 48750  
or a municipal indigent drivers alcohol treatment fund as follows: 48751

(a) If the suspension in question was imposed under this 48752  
section, that portion of the fee shall be deposited as follows: 48753

(i) If the fee is paid by a person who was charged in a 48754  
county court with the violation that resulted in the suspension, 48755  
the portion shall be deposited into the county indigent drivers 48756  
alcohol treatment fund under the control of that court; 48757

(ii) If the fee is paid by a person who was charged in a 48758  
juvenile court with the violation that resulted in the suspension, 48759  
the portion shall be deposited into the county juvenile indigent 48760  
drivers alcohol treatment fund established in the county served by 48761  
the court; 48762

(iii) If the fee is paid by a person who was charged in a 48763



municipal court with the violation that resulted in the 48764  
suspension, the portion shall be deposited into the municipal 48765  
indigent drivers alcohol treatment fund under the control of that 48766  
court. 48767

(b) If the suspension in question was imposed under section 48768  
4511.19 of the Revised Code or under section 4510.07 of the 48769  
Revised Code for a violation of a municipal OVI ordinance, that 48770  
portion of the fee shall be deposited as follows: 48771

(i) If the fee is paid by a person whose license or permit 48772  
was suspended by a county court, the portion shall be deposited 48773  
into the county indigent drivers alcohol treatment fund under the 48774  
control of that court; 48775

(ii) If the fee is paid by a person whose license or permit 48776  
was suspended by a municipal court, the portion shall be deposited 48777  
into the municipal indigent drivers alcohol treatment fund under 48778  
the control of that court. 48779

(3) Expenditures from a county indigent drivers alcohol 48780  
treatment fund, a county juvenile indigent drivers alcohol 48781  
treatment fund, or a municipal indigent drivers alcohol treatment 48782  
fund shall be made only upon the order of a county, juvenile, or 48783  
municipal court judge and only for payment of the cost of the 48784  
attendance at an alcohol and drug addiction treatment program of a 48785  
person who is convicted of, or found to be a juvenile traffic 48786  
offender by reason of, a violation of division (A) of section 48787  
4511.19 of the Revised Code or a substantially similar municipal 48788  
ordinance, who is ordered by the court to attend the alcohol and 48789  
drug addiction treatment program, and who is determined by the 48790  
court to be unable to pay the cost of attendance at the treatment 48791  
program or for payment of the costs specified in division (H)(4) 48792  
of this section in accordance with that division. The alcohol and 48793  
drug addiction services board or the board of alcohol, drug 48794

addiction, and mental health services established pursuant to 48795  
section 340.02 or 340.021 of the Revised Code and serving the 48796  
alcohol, drug addiction, and mental health service district in 48797  
which the court is located shall administer the indigent drivers 48798  
alcohol treatment program of the court. When a court orders an 48799  
offender or juvenile traffic offender to attend an alcohol and 48800  
drug addiction treatment program, the board shall determine which 48801  
program is suitable to meet the needs of the offender or juvenile 48802  
traffic offender, and when a suitable program is located and space 48803  
is available at the program, the offender or juvenile traffic 48804  
offender shall attend the program designated by the board. A 48805  
reasonable amount not to exceed five per cent of the amounts 48806  
credited to and deposited into the county indigent drivers alcohol 48807  
treatment fund, the county juvenile indigent drivers alcohol 48808  
treatment fund, or the municipal indigent drivers alcohol 48809  
treatment fund serving every court whose program is administered 48810  
by that board shall be paid to the board to cover the costs it 48811  
incurs in administering those indigent drivers alcohol treatment 48812  
programs. 48813

In addition, a county, juvenile, or municipal court judge may 48814  
use moneys in the county indigent drivers alcohol treatment fund, 48815  
county juvenile indigent drivers alcohol treatment fund, or 48816  
municipal indigent drivers alcohol treatment fund to pay the cost 48817  
of an electronic continuous alcohol monitoring device to be worn 48818  
by the offender or juvenile traffic offender, or to pay for the 48819  
continued use of such a device by an offender or juvenile traffic 48820  
offender, in conjunction with a treatment program approved by the 48821  
department of alcohol and drug addiction services, when such use 48822  
is determined clinically necessary by the treatment program. 48823

(4) If a county, juvenile, or municipal court determines, in 48824  
consultation with the alcohol and drug addiction services board or 48825  
the board of alcohol, drug addiction, and mental health services 48826

established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for ~~alcohol~~:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

~~(a)~~(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

~~(b)~~(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing electronic continuous alcohol monitoring devices or all or part of the cost of the daily monitoring of such devices.

(I) In any case in which an offender or juvenile traffic offender is required by the court to wear an electronic continuous alcohol monitoring device, the court may require the offender or juvenile traffic offender to pay for all or part of the cost of the daily monitoring of the device if the court determines that the offender or juvenile traffic offender is able to pay that amount.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 48858  
trackless trolley upon meeting or overtaking from either direction 48859  
any school bus stopped for the purpose of receiving or discharging 48860  
any school child, person attending programs offered by community 48861  
boards of mental health and county boards of mental retardation 48862  
and developmental disabilities, or child attending a program 48863  
offered by a head start agency, shall stop at least ten feet from 48864  
the front or rear of the school bus and shall not proceed until 48865  
such school bus resumes motion, or until signaled by the school 48866  
bus driver to proceed. 48867

It is no defense to a charge under this division that the 48868  
school bus involved failed to display or be equipped with an 48869  
automatically extended stop warning sign as required by division 48870  
(B) of this section. 48871

(B) Every school bus shall be equipped with amber and red 48872  
visual signals meeting the requirements of section 4511.771 of the 48873  
Revised Code, and an automatically extended stop warning sign of a 48874  
type approved by the state board of education, which shall be 48875  
actuated by the driver of the bus whenever but only whenever the 48876  
bus is stopped or stopping on the roadway for the purpose of 48877  
receiving or discharging school children, persons attending 48878  
programs offered by community boards of mental health and county 48879  
boards of mental retardation and developmental disabilities, or 48880  
children attending programs offered by head start agencies. A 48881  
school bus driver shall not actuate the visual signals or the stop 48882  
warning sign in designated school bus loading areas where the bus 48883  
is entirely off the roadway or at school buildings when children 48884  
or persons attending programs offered by community boards of 48885  
mental health and county boards of mental retardation and 48886  
developmental disabilities are loading or unloading at curbside or 48887  
at buildings when children attending programs offered by head 48888

start agencies are loading or unloading at curbside. The visual 48889  
signals and stop warning sign shall be synchronized or otherwise 48890  
operated as required by rule of the board. 48891

(C) Where a highway has been divided into four or more 48892  
traffic lanes, a driver of a vehicle, streetcar, or trackless 48893  
trolley need not stop for a school bus approaching from the 48894  
opposite direction which has stopped for the purpose of receiving 48895  
or discharging any school child, persons attending programs 48896  
offered by community boards of mental health and county boards of 48897  
mental retardation and developmental disabilities, or children 48898  
attending programs offered by head start agencies. The driver of 48899  
any vehicle, streetcar, or trackless trolley overtaking the school 48900  
bus shall comply with division (A) of this section. 48901

(D) School buses operating on divided highways or on highways 48902  
with four or more traffic lanes shall receive and discharge all 48903  
school children, persons attending programs offered by community 48904  
boards of mental health and county boards of mental retardation 48905  
and developmental disabilities, and children attending programs 48906  
offered by head start agencies on their residence side of the 48907  
highway. 48908

(E) No school bus driver shall start the driver's bus until 48909  
after any child, person attending programs offered by community 48910  
boards of mental health and county boards of mental retardation 48911  
and developmental disabilities, or child attending a program 48912  
offered by a head start agency who may have alighted therefrom has 48913  
reached a place of safety on the child's or person's residence 48914  
side of the road. 48915

(F)(1) Whoever violates division (A) of this section may be 48916  
fined an amount not to exceed five hundred dollars. A person who 48917  
is issued a citation for a violation of division (A) of this 48918  
section is not permitted to enter a written plea of guilty and 48919

waive the person's right to contest the citation in a trial but 48920  
instead must appear in person in the proper court to answer the 48921  
charge. 48922

(2) In addition to and independent of any other penalty 48923  
provided by law, the court or mayor may impose upon an offender 48924  
who violates this section a class seven suspension of the 48925  
offender's driver's license, commercial driver's license, 48926  
temporary instruction permit, probationary license, or nonresident 48927  
operating privilege from the range specified in division (A)(7) of 48928  
section 4510.02 of the Revised Code. When a license is suspended 48929  
under this section, the court or mayor shall cause the offender to 48930  
deliver the license to the court, and the court or clerk of the 48931  
court immediately shall forward the license to the registrar of 48932  
motor vehicles, together with notice of the court's action. 48933

(G) As used in this section: 48934

(1) "Head start agency" has the same meaning as in section 48935  
~~3301.31~~ 3301.32 of the Revised Code. 48936

(2) "School bus," as used in relation to children who attend 48937  
a program offered by a head start agency, means a bus that is 48938  
owned and operated by a head start agency, is equipped with an 48939  
automatically extended stop warning sign of a type approved by the 48940  
state board of education, is painted the color and displays the 48941  
markings described in section 4511.77 of the Revised Code, and is 48942  
equipped with amber and red visual signals meeting the 48943  
requirements of section 4511.771 of the Revised Code, irrespective 48944  
of whether or not the bus has fifteen or more children aboard at 48945  
any time. "School bus" does not include a van owned and operated 48946  
by a head start agency, irrespective of its color, lights, or 48947  
markings. 48948

**Sec. 4517.01.** As used in sections 4517.01 to 4517.65 of the 48949

Revised Code:	48950
(A) "Persons" includes individuals, firms, partnerships,	48951
associations, joint stock companies, corporations, and any	48952
combinations of individuals.	48953
(B) "Motor vehicle" means motor vehicle as defined in section	48954
4501.01 of the Revised Code and also includes "all-purpose	48955
vehicle" and "off-highway motorcycle" as those terms are defined	48956
in section 4519.01 of the Revised Code and manufactured and mobile	48957
homes. <u>"Motor vehicle" does not include a snowmobile as defined in</u>	48958
<u>section 4519.01 of the Revised Code.</u>	48959
(C) "New motor vehicle" means a motor vehicle, the legal	48960
title to which has never been transferred by a manufacturer,	48961
remanufacturer, distributor, or dealer to an ultimate purchaser.	48962
(D) "Ultimate purchaser" means, with respect to any new motor	48963
vehicle, the first person, other than a dealer purchasing in the	48964
capacity of a dealer, who in good faith purchases such new motor	48965
vehicle for purposes other than resale.	48966
(E) "Business" includes any activities engaged in by any	48967
person for the object of gain, benefit, or advantage either direct	48968
or indirect.	48969
(F) "Engaging in business" means commencing, conducting, or	48970
continuing in business, or liquidating a business when the	48971
liquidator thereof holds self out to be conducting such business;	48972
making a casual sale or otherwise making transfers in the ordinary	48973
course of business when the transfers are made in connection with	48974
the disposition of all or substantially all of the transferor's	48975
assets is not engaging in business.	48976
(G) "Retail sale" or "sale at retail" means the act or	48977
attempted act of selling, bartering, exchanging, or otherwise	48978
disposing of a motor vehicle to an ultimate purchaser for use as a	48979

consumer. 48980

(H) "Retail installment contract" includes any contract in 48981  
the form of a note, chattel mortgage, conditional sales contract, 48982  
lease, agreement, or other instrument payable in one or more 48983  
installments over a period of time and arising out of the retail 48984  
sale of a motor vehicle. 48985

(I) "Farm machinery" means all machines and tools used in the 48986  
production, harvesting, and care of farm products. 48987

(J) "Dealer" or "motor vehicle dealer" means any new motor 48988  
vehicle dealer, any motor vehicle leasing dealer, and any used 48989  
motor vehicle dealer. 48990

(K) "New motor vehicle dealer" means any person engaged in 48991  
the business of selling at retail, displaying, offering for sale, 48992  
or dealing in new motor vehicles pursuant to a contract or 48993  
agreement entered into with the manufacturer, remanufacturer, or 48994  
distributor of the motor vehicles. 48995

(L) "Used motor vehicle dealer" means any person engaged in 48996  
the business of selling, displaying, offering for sale, or dealing 48997  
in used motor vehicles, at retail or wholesale, but does not mean 48998  
any new motor vehicle dealer selling, displaying, offering for 48999  
sale, or dealing in used motor vehicles incidentally to engaging 49000  
in the business of selling, displaying, offering for sale, or 49001  
dealing in new motor vehicles, any person engaged in the business 49002  
of dismantling, salvaging, or rebuilding motor vehicles by means 49003  
of using used parts, or any public officer performing official 49004  
duties. 49005

(M) "Motor vehicle leasing dealer" means any person engaged 49006  
in the business of regularly making available, offering to make 49007  
available, or arranging for another person to use a motor vehicle 49008  
pursuant to a bailment, lease, sublease, or other contractual 49009  
arrangement under which a charge is made for its use at a periodic 49010



rate for a term of thirty days or more, and title to the motor  
vehicle is in and remains in the motor vehicle leasing dealer who  
originally leases it, irrespective of whether or not the motor  
vehicle is the subject of a later sublease, and not in the user,  
but does not mean a manufacturer or its affiliate leasing to its  
employees or to dealers.

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(N) "Salesperson" means any person employed by a dealer or  
manufactured home broker to sell, display, and offer for sale, or  
deal in motor vehicles for a commission, compensation, or other  
valuable consideration, but does not mean any public officer  
performing official duties.

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(O) "Casual sale" means any transfer of a motor vehicle by a  
person other than a new motor vehicle dealer, used motor vehicle  
dealer, motor vehicle salvage dealer, as defined in division (A)  
of section 4738.01 of the Revised Code, salesperson, motor vehicle  
auction owner, manufacturer, or distributor acting in the capacity  
of a dealer, salesperson, auction owner, manufacturer, or  
distributor, to a person who purchases the motor vehicle for use  
as a consumer.

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(P) "Motor vehicle show" means a display of current models of  
motor vehicles whereby the primary purpose is the exhibition of  
competitive makes and models in order to provide the general  
public the opportunity to review and inspect various makes and  
models of motor vehicles at a single location.

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(Q) "Motor vehicle auction owner" means any person who is  
engaged wholly or in part in the business of auctioning motor  
vehicles.

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(R) "Manufacturer" means a person who manufactures,  
assembles, or imports motor vehicles, including motor homes, but  
does not mean a person who only assembles or installs a body,  
special equipment unit, finishing trim, or accessories on a motor

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vehicle chassis supplied by a manufacturer or distributor. 49042

(S) "Tent-type fold-out camping trailer" means any vehicle 49043  
intended to be used, when stationary, as a temporary shelter with 49044  
living and sleeping facilities, and that is subject to the 49045  
following properties and limitations: 49046

(1) A minimum of twenty-five per cent of the fold-out portion 49047  
of the top and sidewalls combined must be constructed of canvas, 49048  
vinyl, or other fabric, and form an integral part of the shelter. 49049

(2) When folded, the unit must not exceed: 49050

(a) Fifteen feet in length, exclusive of bumper and tongue; 49051

(b) Sixty inches in height from the point of contact with the 49052  
ground; 49053

(c) Eight feet in width; 49054

(d) One ton gross weight at time of sale. 49055

(T) "Distributor" means any person authorized by a motor 49056  
vehicle manufacturer to distribute new motor vehicles to licensed 49057  
new motor vehicle dealers, but does not mean a person who only 49058  
assembles or installs a body, special equipment unit, finishing 49059  
trim, or accessories on a motor vehicle chassis supplied by a 49060  
manufacturer or distributor. 49061

(U) "Flea market" means a market place, other than a dealer's 49062  
location licensed under this chapter, where a space or location is 49063  
provided for a fee or compensation to a seller to exhibit and 49064  
offer for sale or trade, motor vehicles to the general public. 49065

(V) "Franchise" means any written agreement, contract, or 49066  
understanding between any motor vehicle manufacturer or 49067  
remanufacturer engaged in commerce and any motor vehicle dealer 49068  
that purports to fix the legal rights and liabilities of the 49069  
parties to such agreement, contract, or understanding. 49070

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

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(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

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(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

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(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

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(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

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(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

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(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

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(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and

referred to in division (B) of section 4501.01 of the Revised Code, or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable

federal motor vehicle safety standards. No person shall qualify as  
or be deemed to be a remanufacturer who produces hearses unless  
the person has a written agreement with the manufacturer of the  
chassis the person utilizes to produce the hearses to complete  
properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section,  
"mobile self-contained facility vehicle" means a mobile classroom  
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile,  
testing laboratory, and mobile display vehicle, each of which is  
designed for purposes other than for passenger transportation and  
other than the transportation or displacement of cargo, freight,  
materials, or merchandise. A vehicle is remanufactured into a  
mobile self-contained facility vehicle in part by the addition of  
insulation to the body shell, and installation of all of the  
following: a generator, electrical wiring, plumbing, holding  
tanks, doors, windows, cabinets, shelving, and heating,  
ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section,  
"tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a  
remanufacturer from a new motor vehicle dealer or distributor of  
the cab and chassis and on which the remanufacturer then installs  
in a permanent manner a wrecker body it purchases from a  
manufacturer or distributor of wrecker bodies, installs an  
emergency flashing light pylon and emergency lights upon the mast  
of the wrecker body or rooftop, and installs such other related  
accessories and equipment, including push bumpers, front grille  
guards with pads and other custom-ordered items such as painting,  
special lettering, and safety striping so as to create a complete  
motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a

remanufacturer from a new motor vehicle dealer or distributor of 49194  
the cab and chassis and on which the remanufacturer then installs 49195  
in a permanent manner a car carrier body it purchases from a 49196  
manufacturer or distributor of car carrier bodies, installs an 49197  
emergency flashing light pylon and emergency lights upon the 49198  
rooftop, and installs such other related accessories and 49199  
equipment, including push bumpers, front grille guards with pads 49200  
and other custom-ordered items such as painting, special 49201  
lettering, and safety striping. 49202

As used in division (GG)(6)(b) of this section, "car carrier 49203  
body" means a mechanical or hydraulic apparatus capable of lifting 49204  
and holding a motor vehicle on a flat level surface so that one or 49205  
more motor vehicles can be transported, once the car carrier is 49206  
permanently installed upon an incomplete cab and chassis. 49207

(HH) "Operating as a new motor vehicle dealership" means 49208  
engaging in activities such as displaying, offering for sale, and 49209  
selling new motor vehicles at retail, operating a service facility 49210  
to perform repairs and maintenance on motor vehicles, offering for 49211  
sale and selling motor vehicle parts at retail, and conducting all 49212  
other acts that are usual and customary to the operation of a new 49213  
motor vehicle dealership. For the purposes of this chapter only, 49214  
possession of either a valid new motor vehicle dealer franchise 49215  
agreement or a new motor vehicle dealers license, or both of these 49216  
items, is not evidence that a person is operating as a new motor 49217  
vehicle dealership. 49218

(II) "Manufactured home broker" means any person acting as a 49219  
selling agent on behalf of an owner of a manufactured or mobile 49220  
home that is subject to taxation under section 4503.06 of the 49221  
Revised Code. 49222

(JJ) "Outdoor power equipment" means garden and small utility 49223  
tractors, walk-behind and riding mowers, chainsaws, and tillers. 49224

(KK) "Remote service facility" means premises that are 49225  
separate from a licensed new motor vehicle dealer's sales facility 49226  
by not more than one mile and that are used by the dealer to 49227  
perform repairs, warranty work, recall work, and maintenance on 49228  
motor vehicles pursuant to a franchise agreement entered into with 49229  
a manufacturer of motor vehicles. A remote service facility shall 49230  
be deemed to be part of the franchise agreement and is subject to 49231  
all the rights, duties, obligations, and requirements of Chapter 49232  
4517. of the Revised Code that relate to the performance of motor 49233  
vehicle repairs, warranty work, recall work, and maintenance work 49234  
by new motor vehicle dealers. 49235

**Sec. 4519.01.** As used in this chapter: 49236

(A) "Snowmobile" means any self-propelled vehicle designed 49237  
primarily for use on snow or ice, and steered by skis, runners, or 49238  
caterpillar treads. 49239

(B) "All-purpose vehicle" means any self-propelled vehicle 49240  
designed primarily for cross-country travel on land and water, or 49241  
on more than one type of terrain, and steered by wheels or 49242  
caterpillar treads, or any combination thereof, including vehicles 49243  
that operate on a cushion of air, vehicles commonly known as 49244  
all-terrain vehicles, all-season vehicles, mini-bikes, and trail 49245  
bikes, ~~but excluding any self-propelled vehicle not principally~~ 49246  
~~used for purposes of personal transportation.~~ "All-purpose 49247  
vehicle" does not include a utility vehicle as defined in section 49248  
4501.01 of the Revised Code or any vehicle principally used in 49249  
playing golf, any motor vehicle or aircraft required to be 49250  
registered under Chapter 4503. or 4561. of the Revised Code, and 49251  
any vehicle excepted from definition as a motor vehicle by 49252  
division (B) of section 4501.01 of the Revised Code. 49253

(C) "Owner" means any person or firm, other than a lienholder 49254  
or dealer, having title to a snowmobile, off-highway motorcycle, 49255



or all-purpose vehicle, or other right to the possession thereof. 49256

(D) "Operator" means any person who operates or is in actual 49257  
physical control of a snowmobile, off-highway motorcycle, or 49258  
all-purpose vehicle. 49259

(E) "Dealer" means any person or firm engaged in the business 49260  
of manufacturing or selling snowmobiles, off-highway motorcycles, 49261  
or all-purpose vehicles at wholesale or retail, or who rents, 49262  
leases, or otherwise furnishes snowmobiles, off-highway 49263  
motorcycles, or all-purpose vehicles for hire. 49264

(F) "Street or highway" has the same meaning as in section 49265  
4511.01 of the Revised Code. 49266

(G) "Limited access highway" and "freeway" have the same 49267  
meanings as in section 5511.02 of the Revised Code. 49268

(H) "Interstate highway" means any part of the interstate 49269  
system of highways as defined in subsection (e), 90 Stat. 431 49270  
(1976), 23 U.S.C.A. 103, as amended. 49271

(I) "Off-highway motorcycle" means every motorcycle, as 49272  
defined in section 4511.01 of the Revised Code, that is designed 49273  
to be operated primarily on lands other than a street or highway. 49274

(J) "Electronic" and "electronic record" have the same 49275  
meanings as in section 4501.01 of the Revised Code. 49276

(K) "Electronic dealer" means a dealer whom the registrar of 49277  
motor vehicles designates under section 4519.511 of the Revised 49278  
Code. 49279

**Sec. 4519.02.** (A) Except as provided in divisions (B), (C), 49280  
and (D) of this section, no person shall operate any snowmobile, 49281  
off-highway motorcycle, or all-purpose vehicle within this state 49282  
unless the snowmobile, off-highway motorcycle, or all-purpose 49283  
vehicle is registered and numbered in accordance with sections 49284

4519.03 and 4519.04 of the Revised Code. 49285

(B) No registration is required for a snowmobile, off-highway 49286  
motorcycle, or all-purpose vehicle that is operated exclusively 49287  
upon lands owned by the owner of the snowmobile, off-highway 49288  
motorcycle, or all-purpose vehicle, or on lands to which the owner 49289  
has a contractual right. 49290

(C) ~~No registration is required for a snowmobile, off-highway 49291  
motorcycle, or all purpose vehicle owned and used in this state by 49292  
a resident of another state whenever that state has in effect a 49293  
registration law similar to this chapter and the snowmobile, 49294  
off highway motorcycle, or all purpose vehicle is properly 49295  
registered thereunder.~~ Any snowmobile, off-highway motorcycle, or 49296  
all-purpose vehicle owned and used in this state by a person who 49297  
is not a resident of ~~another~~ this state ~~not having such a~~ 49298  
~~registration requirement~~ shall comply with section 4519.09 of the 49299  
Revised Code. 49300

(D) No registration is required for a snowmobile, off-highway 49301  
motorcycle, or all-purpose vehicle owned and used in this state by 49302  
the United States, another state, or a political subdivision 49303  
thereof, but the snowmobile, off-highway motorcycle, or 49304  
all-purpose vehicle shall display the name of the owner thereon. 49305

(E) The owner or operator of any all-purpose vehicle operated 49306  
or used upon the waters in this state shall comply with Chapters 49307  
1547. and 1548. of the Revised Code relative to the operation of 49308  
watercraft. 49309

(F) Except as otherwise provided in this division, whoever 49310  
violates division (A) of this section shall be fined not more than 49311  
twenty-five dollars. If the offender previously has been convicted 49312  
of or pleaded guilty to a violation of division (A) of this 49313  
section, whoever violates division (A) of this section shall be 49314  
fined not less than twenty-five nor more than fifty dollars. 49315

**Sec. 4519.09.** Every owner or operator of a snowmobile, 49316  
off-highway motorcycle, or all-purpose vehicle who is not a 49317  
resident of a this state ~~not having a registration law similar to~~ 49318  
~~this chapter~~, and who expects to use the snowmobile, off-highway 49319  
motorcycle, or all-purpose vehicle in Ohio, shall apply to the 49320  
registrar of motor vehicles or a deputy registrar for a temporary 49321  
operating permit. The temporary operating permit shall be issued 49322  
for a period not to exceed fifteen days from the date of issuance, 49323  
shall be in such form as the registrar determines, shall include 49324  
the name and address of the owner and operator of the snowmobile, 49325  
off-highway motorcycle, or all-purpose vehicle, and any other 49326  
information as the registrar considers necessary, and shall be 49327  
issued upon payment of a fee of five dollars. Every owner or 49328  
operator receiving a temporary operating permit shall display it 49329  
upon the reasonable request of any law enforcement officer or 49330  
other person as authorized by sections 4519.42 and 4519.43 of the 49331  
Revised Code. 49332

**Sec. 4561.17.** For the purpose of providing revenue for paying 49333  
the expenses of administering sections 4561.17 to 4561.22 of the 49334  
Revised Code relative to the registration of aircraft, for the 49335  
surveying of and the establishment, checking, maintenance, and 49336  
repair of aviation air marking and of air navigation facilities, 49337  
for airport capital improvements, for the acquiring, maintaining, 49338  
and repairing of equipment necessary therefor, and for the cost of 49339  
the creation and distribution of Ohio aeronautical charts and Ohio 49340  
airport and landing field directories, an annual license tax is 49341  
hereby levied upon all aircraft based in this state for which an 49342  
aircraft worthiness certificate issued by the federal aviation 49343  
administration is in effect except the following: 49344

(A) Aircraft owned by the United States or any territory 49345  
thereof; 49346

(B) Aircraft owned by any foreign government;	49347
(C) Aircraft owned by any state or any political subdivision thereof;	49348 49349
(D) Aircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor thereto;	49350 49351 49352
(E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has complied with all the laws in regard to the licensing of aircraft in the state of <del>his</del> <u>the owner's</u> residence;	49353 49354 49355 49356
(F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration;	49357 49358 49359
(G) Aircraft operated for hire over regularly scheduled routes within the state.	49360 49361
Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section.	49362 49363 49364 49365
<b>Sec. 4561.18.</b> Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department.	49366 49367 49368 49369 49370 49371
Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this	49372 49373 49374 49375 49376

state, if such aircraft is acquired or becomes subject to such  
license tax subsequent to the last day of January in any year,  
shall be made for the balance of the year in which the same is  
acquired, within forty-eight hours after such acquisition or after  
becoming subject to such license tax. Each such application shall  
be accompanied by the proper license tax, which, for all aircraft  
other than gliders and balloons, shall be at the annual rate of  
~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the  
manufacturer's maximum listed seating capacity. The license tax  
for gliders and balloons shall be ~~three~~ fifteen dollars annually.

Such taxes are in lieu of all other taxes on or with respect  
to ownership of such aircraft.

**Sec. 4561.21.** (A) The director of transportation shall  
deposit all aircraft transfer fees in the state treasury to the  
credit of the general fund.

(B) The director shall deposit all aircraft license taxes in  
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~  
assistance fund, which is hereby created. Money in the fund shall  
be used ~~to assist counties in maintaining the~~ for maintenance and  
capital improvements to publicly owned airports ~~they own~~, and the  
director shall distribute the money to ~~counties~~ eligible  
recipients in accordance with such procedures, guidelines, and  
criteria as the director shall establish.

**Sec. 4703.15.** (A) The state board of examiners of architects  
may by three concurring votes deny renewal of, revoke, or suspend  
any certificate of qualification to practice architecture, issued  
or renewed under sections 4703.10, 4703.13, and 4703.14 of the  
Revised Code, or any certificate of authorization, issued or  
renewed under sections 4703.13 and 4703.18 of the Revised Code, if  
proof satisfactory to the board is presented in any of the

following cases:	49407
<del>(A)</del> (1) In case it is shown that the certificate was obtained by fraud;	49408 49409
<del>(B)</del> (2) In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or deceit in <del>his</del> <u>the holder's</u> professional practice, or has been convicted of a felony by a court of justice;	49410 49411 49412 49413
<del>(C)</del> (3) In case the holder has been found guilty by the board of gross negligence, incompetency, or misconduct in the performance of <del>his</del> <u>the holder's</u> services as an architect or in the practice of architecture;	49414 49415 49416 49417
<del>(D)</del> (4) In case the holder of the certificate has been found guilty by the board of signing plans for the construction of a building as a "registered architect" where <del>he</del> <u>the holder</u> is not the actual architect of such building and where <del>he</del> <u>the holder</u> is without prior written consent of the architect originating the design or other documents used in the plans;	49418 49419 49420 49421 49422 49423
<del>(E)</del> (5) In case the holder of the certificate has been found guilty by the board of aiding and abetting another person or persons not properly registered as required by sections 4703.01 to 4703.19 of the Revised Code, in the performance of activities that in any manner or extent constitute the practice of architecture.	49424 49425 49426 49427 49428
At any time after the expiration of six months from the date of the revocation or suspension of a certificate, the individual, firm, partnership, association, or corporation may apply for reinstatement of the certificate. Upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and upon the payment of all costs incurred by the board as a result of	49429 49430 49431 49432 49433 49434 49435 49436 49437

the case at issue, the board, at its discretion and upon evidence 49438  
that in its opinion would so warrant, may restore the certificate. 49439

(B) In addition to disciplinary action the board may take 49440  
against a certificate holder under division (A) of this section or 49441  
section 4703.151 of the Revised Code, the board may impose a fine 49442  
against a certificate holder who obtained a certificate by fraud 49443  
or who is found guilty of any act specified in divisions (A)(2) to 49444  
(A)(5) of this section or who violates any rule governing the 49445  
standards of service, conduct, and practice adopted pursuant to 49446  
section 4703.02 of the Revised Code. The fine imposed shall be not 49447  
more than one thousand dollars for each offense but shall not 49448  
exceed five thousand dollars regardless of the number of offenses 49449  
the certificate holder has committed between the time the fine is 49450  
imposed and the time any previous fine was imposed. 49451

**Sec. 4705.09.** (A)(1) Any person admitted to the practice of 49452  
law in this state by order of the supreme court in accordance with 49453  
its prescribed and published rules, or any law firm or legal 49454  
professional association, may establish and maintain an 49455  
interest-bearing trust account, for purposes of depositing client 49456  
funds held by the attorney, firm, or association that are nominal 49457  
in amount or are to be held by the attorney, firm, or association 49458  
for a short period of time, with any bank or savings and loan 49459  
association that is authorized to do business in this state and is 49460  
insured by the federal deposit insurance corporation or the 49461  
successor to that corporation, or any credit union insured by the 49462  
national credit union administration operating under the "Federal 49463  
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each 49464  
account established under this division shall be in the name of 49465  
the attorney, firm, or association that established and is 49466  
maintaining it and shall be identified as an IOLTA or an interest 49467  
on lawyer's trust account. The name of the account may contain 49468

additional identifying features to distinguish it from other trust 49469  
accounts established and maintained by the attorney, firm, or 49470  
association. 49471

(2) Each attorney who receives funds belonging to a client 49472  
shall do one of the following: 49473

(a) Establish and maintain one or more interest-bearing trust 49474  
accounts in accordance with division (A)(1) of this section or 49475  
maintain one or more interest-bearing trust accounts previously 49476  
established in accordance with that division, and deposit all 49477  
client funds held that are nominal in amount or are to be held by 49478  
the attorney for a short period of time in the account or 49479  
accounts; 49480

(b) If the attorney is affiliated with a law firm or legal 49481  
professional association, comply with division (A)(2)(a) of this 49482  
section or deposit all client funds held that are nominal in 49483  
amount or are to be held by the attorney for a short period of 49484  
time in one or more interest-bearing trust accounts established 49485  
and maintained by the firm or association in accordance with 49486  
division (A)(1) of this section. 49487

(3) No funds belonging to any attorney, firm, or legal 49488  
professional association shall be deposited in any 49489  
interest-bearing ~~IOTA~~ IOLTA account established under division 49490  
(A)(1) or (2) of this section, except that funds sufficient to pay 49491  
or enable a waiver of depository institution service charges on 49492  
the account shall be deposited in the account and other funds 49493  
belonging to the attorney, firm, or association may be deposited 49494  
as authorized by the Code of Professional Responsibility adopted 49495  
by the supreme court. The determinations of whether funds held are 49496  
nominal or more than nominal in amount and of whether funds are to 49497  
be held for a short period or longer than a short period of time 49498  
rests in the sound judgment of the particular attorney. No 49499  
imputation of professional misconduct shall arise from the 49500



attorney's exercise of judgment in these matters. 49501

(B) All interest earned on funds deposited in an 49502  
interest-bearing trust account established under division (A)(1) 49503  
or (2) of this section shall be transmitted to the treasurer of 49504  
state for deposit in the legal aid fund established under section 49505  
120.52 of the Revised Code. No part of the interest earned on 49506  
funds deposited in an interest-bearing trust account established 49507  
under division (A)(1) or (2) of this section shall be paid to, or 49508  
inure to the benefit of, the attorney, the attorney's law firm or 49509  
legal professional association, the client or other person who 49510  
owns or has a beneficial ownership of the funds deposited, or any 49511  
other person other than in accordance with this section, section 49512  
4705.10, and sections 120.51 to 120.55 of the Revised Code. 49513

(C) No liability arising out of any act or omission by any 49514  
attorney, law firm, or legal professional association with respect 49515  
to any interest-bearing trust account established under division 49516  
(A)(1) or (2) of this section shall be imputed to the depository 49517  
institution. 49518

(D) The supreme court may adopt and enforce rules of 49519  
professional conduct that pertain to the use, by attorneys, law 49520  
firms, or legal professional associations, of interest-bearing 49521  
trust accounts established under division (A)(1) or (2) of this 49522  
section, and that pertain to the enforcement of division (A)(2) of 49523  
this section. Any rules adopted by the supreme court under this 49524  
authority shall conform to the provisions of this section, section 49525  
4705.10, and sections 120.51 to 120.55 of the Revised Code. 49526

**Sec. 4709.05.** In addition to any other duty imposed on the 49527  
barber board under this chapter, the board shall do all of the 49528  
following: 49529

(A) Organize by electing a chairperson from its members to 49530  
serve a one-year term; 49531

(B) Hold regular meetings, at the times and places as it 49532  
determines for the purpose of conducting the examinations required 49533  
under this chapter, and hold additional meetings for the 49534  
transaction of necessary business; 49535

(C) Provide for suitable quarters, in the city of Columbus, 49536  
for the conduct of its business and the maintenance of its 49537  
records; 49538

(D) Adopt a common seal for the authentication of its orders, 49539  
communications, and records; 49540

(E) Maintain a record of its proceedings and a register of 49541  
persons licensed as barbers. The register shall include each 49542  
licensee's name, place of business, residence, and licensure date 49543  
and number, and a record of all licenses issued, refused, renewed, 49544  
suspended, or revoked. The records are open to public inspection 49545  
at all reasonable times. 49546

(F) Annually, on or before the first day of January, make a 49547  
report to the governor of all its official acts during the 49548  
preceding year, its receipts and disbursements, recommendations it 49549  
determines appropriate, and an evaluation of board activities 49550  
intended to aid or protect consumers of barber services; 49551

(G) Employ an executive director who shall do all things 49552  
requested by the board for the administration and enforcement of 49553  
this chapter. The executive director shall employ inspectors, 49554  
clerks, and other assistants as ~~he~~ the executive director 49555  
determines necessary. 49556

(H) Ensure that the practice of barbering is conducted only 49557  
in a licensed barber shop, except when the practice of barbering 49558  
is performed on a person whose physical or mental disability 49559  
prevents that person from going to a licensed barber shop; 49560

(I) Conduct or have conducted the examination for applicants 49561

to practice as licensed barbers at least four times per year at 49562  
the times and places the board determines; 49563

(J) Adopt rules, in accordance with Chapter 119. of the 49564  
Revised Code, to administer and enforce this chapter and which 49565  
cover all of the following: 49566

(1) Sanitary standards for the operation of barber shops and 49567  
barber schools that conform to guidelines established by the 49568  
department of health; 49569

(2) The content of the examination required of an applicant 49570  
for a barber license. The examination shall include a practical 49571  
demonstration and a written test, shall relate only to the 49572  
practice of barbering, and shall require the applicant to 49573  
demonstrate that the applicant has a thorough knowledge of and 49574  
competence in the proper techniques in the safe use of chemicals 49575  
used in the practice of barbering. 49576

(3) Continuing education requirements for persons licensed 49577  
pursuant to this chapter. The board may impose continuing 49578  
education requirements upon a licensee for a violation of this 49579  
chapter or the rules adopted pursuant thereto or if the board 49580  
determines that the requirements are necessary to preserve the 49581  
health, safety, or welfare of the public. 49582

(4) Requirements for the licensure of barber schools, barber 49583  
teachers, and assistant barber teachers; 49584

(5) Requirements for students of barber schools; 49585

(6) Any other area the board determines appropriate to 49586  
administer or enforce this chapter. 49587

(K) Annually review the rules adopted pursuant to division 49588  
(J) of this section in order to compare those rules with the rules 49589  
adopted by the state board of cosmetology pursuant to section 49590  
4713.08 of the Revised Code. If the barber board determines that 49591

the rules adopted by the state board of cosmetology, including, 49592  
but not limited to, rules concerning using career technical 49593  
schools, would be beneficial to the barbering profession, the 49594  
barber board shall adopt rules similar to those it determines 49595  
would be beneficial for barbers. 49596

(L) Prior to adopting any rule under this chapter, indicate 49597  
at a formal hearing the reasons why the rule is necessary as a 49598  
protection of the persons who use barber services or as an 49599  
improvement of the professional standing of barbers in this state; 49600

~~(L)~~(M) Furnish each owner or manager of a barber shop and 49601  
barber school with a copy of all sanitary rules adopted pursuant 49602  
to division (J) of this section; 49603

~~(M)~~(N) Conduct such investigations and inspections of persons 49604  
and establishments licensed or unlicensed pursuant to this chapter 49605  
and for that purpose, any member of the board or any of its 49606  
authorized agents may enter and inspect any place of business of a 49607  
licensee or a person suspected of violating this chapter or the 49608  
rules adopted pursuant thereto, during normal business hours; 49609

~~(N)~~(O) Upon the written request of an applicant and the 49610  
payment of the appropriate fee, provide to the applicant licensure 49611  
information concerning the applicant; 49612

~~(O)~~(P) Do all things necessary for the proper administration 49613  
and enforcement of this chapter. 49614

**Sec. 4713.02.** (A) There is hereby created the state board of 49615  
cosmetology, consisting of all of the following members appointed 49616  
by the governor, with the advice and consent of the senate: 49617

(1) One person holding a current, valid cosmetologist, 49618  
managing cosmetologist, or cosmetology instructor license at the 49619  
time of appointment; 49620

(2) Two persons holding current, valid managing cosmetologist 49621

licenses and actively engaged in managing beauty salons at the 49622  
time of appointment; 49623

(3) One person who holds a current, valid independent 49624  
contractor license at the time of appointment or the owner or 49625  
manager of a licensed salon in which at least one person holding a 49626  
current, valid independent contractor license practices a branch 49627  
of cosmetology; 49628

(4) One person who represents individuals who teach the 49629  
theory and practice of a branch of cosmetology at a vocational 49630  
school; 49631

(5) One owner of a licensed school of cosmetology; 49632

(6) One owner of at least five licensed salons; 49633

(7) One person who is either a certified nurse practitioner 49634  
or clinical nurse specialist holding a certificate of authority 49635  
issued under Chapter 4723. of the Revised Code, or a physician 49636  
authorized under Chapter 4731. of the Revised Code to practice 49637  
medicine and surgery or osteopathic medicine and surgery; 49638

(8) One person representing the general public. 49639

(B) The superintendent of public instruction shall nominate 49640  
three persons for the governor to choose from when making an 49641  
appointment under division (A)(4) of this section. 49642

(C) All members shall be at least twenty-five years of age, 49643  
residents of the state, and citizens of the United States. No more 49644  
than two members, at any time, shall be graduates of the same 49645  
school of cosmetology. 49646

Except for the initial members appointed under divisions 49647  
(A)(3) and (4) of this section, terms of office are for five 49648  
years. The term of the initial member appointed under division 49649  
(A)(3) of this section shall be three years. The term of the 49650  
initial member appointed under division (A)(4) of this section 49651

shall be four years. Terms shall commence on the first day of  
November and end on the thirty-first day of October. Each member  
shall hold office from the date of appointment until the end of  
the term for which appointed. In case of a vacancy occurring on  
the board, the governor shall, in the same manner prescribed for  
the regular appointment to the board, fill the vacancy by  
appointing a member. Any member appointed to fill a vacancy  
occurring prior to the expiration of the term for which the  
member's predecessor was appointed shall hold office for the  
remainder of such term. Any member shall continue in office  
subsequent to the expiration date of the member's term until the  
member's successor takes office, or until a period of sixty days  
has elapsed, whichever occurs first. Before entering upon the  
discharge of the duties of the office of member, each member shall  
take, and file with the secretary of state, the oath of office  
required by Section 7 of Article XV, Ohio Constitution.

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The members of the board shall receive an amount fixed  
pursuant to Chapter 124. of the Revised Code per diem for every  
meeting of the board which they attend, together with their  
necessary expenses, and mileage for each mile necessarily  
traveled.

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The members of the board shall annually elect, from among  
their number, a chairperson.

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The board shall prescribe the duties of its officers and  
establish an office ~~at Columbus, Ohio~~ within Franklin County. The  
board shall keep all records and files at the office and have the  
records and files at all reasonable hours open to public  
inspection. The board also shall adopt a seal.

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Sec. 4713.441. Notwithstanding divisions (A) and (B) of  
section 4743.03 of the Revised Code, no city, local, exempted  
village, or joint vocational school district shall offer

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postsecondary education in any course regulated by the state board of cosmetology under this chapter, except for a continuing education course, if the school where that course is offered is located within the same county or a county contiguous to the county as is located a proprietary school of cosmetology that holds a license issued by the state board of cosmetology pursuant to section 4713.44 of the Revised Code, unless the board of education of the school district enters into a written agreement with each licensed proprietary school located in the same county or a contiguous county permitting the offering of a specific postsecondary education course regulated by the state board of cosmetology.

If there is no licensed proprietary school of cosmetology within the same county or a contiguous county, the board of education of the school district shall first obtain approval from the state board of cosmetology and the department of education before enrolling any postsecondary student in a cosmetology education program.

The general assembly declares that this measure is necessary in order to protect the public health, safety, and welfare.

**Sec. 4717.05.** (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age and of good moral character.

(2) If the applicant has pleaded guilty to, has been found by

a judge or jury to be guilty of, or has had a judicial finding of  
eligibility for treatment in lieu of conviction entered against  
the applicant in this state for aggravated murder, murder,  
voluntary manslaughter, felonious assault, kidnapping, rape,  
sexual battery, gross sexual imposition, aggravated arson,  
aggravated robbery, or aggravated burglary, or has pleaded guilty  
to, has been found by a judge or jury to be guilty of, or has had  
a judicial finding of eligibility for treatment in lieu of  
conviction entered against the applicant in another jurisdiction  
for a substantially equivalent offense, at least five years has  
elapsed since the applicant was released from incarceration, a  
community control sanction, a post-release control sanction,  
parole, or treatment in connection with the offense.

(3) The applicant holds at least a bachelor's degree from a  
college or university authorized to confer degrees by the Ohio  
board of regents or the comparable legal agency of another state  
in which the college or university is located and submits an  
official transcript from that college or university with the  
application.

(4) The applicant has satisfactorily completed at least  
twelve months of instruction in a prescribed course in mortuary  
science as approved by the board and has presented to the board a  
certificate showing successful completion of the course. The  
course of mortuary science college training may be completed  
either before or after the completion of the educational standard  
set forth in division (A)(3) of this section.

(5) The applicant has registered with the board prior to  
beginning an embalmer apprenticeship.

(6) The applicant has satisfactorily completed at least one  
year of apprenticeship under an embalmer licensed in this state  
and has assisted that person in embalming at least twenty-five



dead human bodies. 49744

(7) The applicant, upon meeting the educational standards 49745  
provided for in divisions (A)(3) and (4) of this section and 49746  
completing the apprenticeship required in division (A)(6) of this 49747  
section, has completed the examination for an embalmer's license 49748  
required by the board. 49749

(B) Upon receiving satisfactory evidence verified by oath 49750  
that the applicant meets all the requirements of division (A) of 49751  
this section, the board shall issue the applicant an embalmer's 49752  
license. 49753

(C) Any person who desires to be licensed as a funeral 49754  
director shall apply to the board on a form provided by the board. 49755  
The application shall include an initial license fee as set forth 49756  
in section 4717.07 of the Revised Code and evidence, verified by 49757  
oath and satisfactory to the board, that the applicant meets all 49758  
of the following requirements: 49759

(1) Except as otherwise provided in division (D) of this 49760  
section, the applicant has satisfactorily met all the requirements 49761  
for an embalmer's license as described in divisions (A)(1) to (4) 49762  
of this section. 49763

(2) The applicant has registered with the board prior to 49764  
beginning a funeral director apprenticeship. 49765

(3) The applicant, following mortuary science college 49766  
training described in division (A)(4) of this section, has ~~served~~ 49767  
satisfactorily completed a one-year apprenticeship under a 49768  
licensed funeral director in this state and has assisted that 49769  
person in directing at least twenty-five funerals. 49770

(4) The applicant has satisfactorily completed the 49771  
examination for a funeral director's license as required by the 49772  
board. 49773

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license.

(F) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

**Sec. 4723.32.** This chapter does not prohibit any of the following:

(A) The practice of nursing by a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program approved by the board of nursing, if the student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor;

(B) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

(C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

(D) The provision of nursing services to family members or in emergency situations; 49804  
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(E) The care of the sick when done in connection with the practice of religious tenets of any church and by or for its members; 49806  
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(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board to practice nursing in the specialty, if both of the following are the case: 49809  
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(1) The program qualifies the student to sit for the examination of a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code or the program prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code; 49815  
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(2) The student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor. 49822  
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(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case: 49826  
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(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof; 49832  
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(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

(H) The administration of medication by an individual who holds a valid medication aide certificate issued under this chapter, if the medication is administered to a resident of a nursing home or residential care facility authorized by section 4723.63 or 4723.64 of the Revised Code to use a certified

medication aide and the medication is administered in accordance 49866  
with section 4723.67 of the Revised Code. 49867

Sec. 4723.61. As used in this section and in sections 4723.62 49868  
to 4723.69 of the Revised Code: 49869

(A) "Medication" means a drug, as defined in section 4729.01 49870  
of the Revised Code. 49871

(B) "Medication error" means a failure to follow the 49872  
prescriber's instructions when administering a prescription 49873  
medication. 49874

(C) "Nursing home" and "residential care facility" have the 49875  
same meanings as in section 3721.01 of the Revised Code. 49876

(D) "Prescription medication" means a medication that may be 49877  
dispensed only pursuant to a prescription. 49878

(E) "Prescriber" and "prescription" have the same meanings as 49879  
in section 4729.01 of the Revised Code. 49880

Sec. 4723.62. (A) There is hereby created the medication aide 49881  
advisory council. The council shall consist of the following 49882  
members: 49883

(1) A registered nurse working in long-term care, appointed 49884  
by the governing body of the Ohio nurses association; 49885

(2) A licensed practical nurse working in long-term care, 49886  
appointed by the governing body of the licensed practical nurse 49887  
association of Ohio; 49888

(3) A registered nurse with experience in researching 49889  
gerontology issues, appointed by the governing body of the Ohio 49890  
nurses association; 49891

(4) An advanced practice nurse with experience in 49892  
gerontology, appointed by the governing body of the Ohio 49893

<u>association of advanced practice nurses;</u>	49894
<u>(5) A representative of the Ohio health care association,</u>	49895
<u>appointed by the governing body of the association;</u>	49896
<u>(6) A representative of the association of Ohio philanthropic</u>	49897
<u>homes, housing, and services for the aging, appointed by the</u>	49898
<u>governing body of the association;</u>	49899
<u>(7) A representative of the Ohio academy of nursing homes,</u>	49900
<u>appointed by the governing body of the academy;</u>	49901
<u>(8) A representative of the Ohio assisted living association,</u>	49902
<u>appointed by the governing body of the association;</u>	49903
<u>(9) A representative of the Ohio association of long-term</u>	49904
<u>care ombudsmen, appointed by the governing body of the</u>	49905
<u>association;</u>	49906
<u>(10) A representative of the American association of retired</u>	49907
<u>persons, appointed by the governing body of the association;</u>	49908
<u>(11) A representative of facility residents and families of</u>	49909
<u>facility residents, appointed by the board of nursing;</u>	49910
<u>(12) A representative of the senior care pharmacy alliance,</u>	49911
<u>appointed by the governing body of the alliance;</u>	49912
<u>(13) A representative of nurse aides, as defined in section</u>	49913
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	49914
<u>(14) A representative of the department of health with</u>	49915
<u>expertise in competency evaluation programs, as defined in section</u>	49916
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	49917
<u>(15) A representative of the office of the state long-term</u>	49918
<u>care ombudsperson program, appointed by the state long-term care</u>	49919
<u>ombudsperson;</u>	49920
<u>(16) A representative of the department of job and family</u>	49921
<u>services, appointed by the director of job and family services.</u>	49922

(B) Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments. 49923  
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(C) Members shall receive no compensation for their service on the council, except to the extent that serving on the council is part of their regular duties of employment. 49926  
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(D) The board of nursing shall appoint one of its members or a representative of the board to serve as the council's chairperson. 49929  
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**Sec. 4723.621.** The medication aide advisory council created under section 4723.62 of the Revised Code shall make recommendations to the board of nursing with respect to all of the following: 49932  
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(A) The design and operation of the medication aide pilot program conducted under section 4723.63 of the Revised Code, including a method of collecting data through reports submitted by participating nursing homes and residential care facilities; 49936  
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(B) The content of the course of instruction required to obtain certification as a medication aide, including the examination to be used to evaluate the ability to administer prescription medications safely and the score that must be attained to pass the examination; 49940  
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(C) Whether medication aides may administer prescription medications through a gastrostomy or jejunostomy tube and the amount and type of training a medication aide needs to be adequately prepared to administer prescription medications through a gastrostomy or jejunostomy tube; 49945  
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(D) Protection of the health and welfare of the residents of nursing homes and residential care facilities participating in the pilot program and using medication aides pursuant to section 49950  
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4723.64 of the Revised Code on or after July 1, 2007; 49953

(E) The board's adoption of rules under section 4723.69 of the Revised Code; 49954  
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(F) Any other issue the council considers relevant to the use of medication aides in nursing homes and residential care facilities. 49956  
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**Sec. 4723.63.** (A) In consultation with the medication aide advisory council established under section 4723.62 of the Revised Code, the board of nursing shall conduct a pilot program for the use of medication aides in nursing homes and residential care facilities. The board shall conduct the pilot program in a manner consistent with human protection and other ethical concerns typically associated with research studies involving live subjects. The pilot program shall be commenced not later than May 1, 2006, and shall be conducted until July 1, 2007. 49959  
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During the period the pilot program is conducted, a nursing home or residential care facility participating in the pilot program may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions: 49968  
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(1) Each individual used as a medication aide must hold a current, valid certificate issued by the board of nursing under section 4723.65 of the Revised Code. 49973  
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(2) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met. 49976  
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(B) The board, in consultation with the medication aide advisory council, shall do all of the following not later than February 1, 2006: 49979  
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(1) Design the pilot program; 49982



(2) Establish standards to govern medication aides and the nursing homes and residential care facilities participating in the pilot program, including standards for the training of medication aides and the staff of participating nursing homes and residential care facilities; 49983  
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(3) Establish standards to protect the health and safety of the residents of the nursing homes and residential care facilities participating in the program; 49988  
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(4) Implement a process for selecting the nursing homes and residential care facilities to participate in the program. 49991  
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(C)(1) A nursing home or residential care facility may volunteer to participate in the pilot program by submitting an application to the board on a form prescribed and provided by the board. From among the applicants, the board shall select eighty nursing homes and forty residential care facilities to participate in the pilot program. 49993  
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(2) To be eligible to participate, a nursing home or residential care facility shall agree to observe the standards established by the board for the use of medication aides. A nursing home is eligible to participate only if the department of health has found in the two most recent surveys or inspections of the home that the home is free from deficiencies related to the administration of medication. A residential care facility is eligible to participate only if the department has found that the facility is free from deficiencies related to the provision of skilled nursing care or the administration of medication. 49999  
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(D) As a condition of participation in the pilot program, a nursing home and residential care facility selected by the board shall pay the participation fee established in rules adopted under section 4723.69 of the Revised Code. The participation fee is not reimbursable under the medicaid program established under Chapter 50009  
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5111. of the Revised Code. 50014

(E) On receipt of evidence found credible by the board that 50015  
continued participation by a nursing home or residential care 50016  
facility poses an imminent danger, risk of serious harm, or 50017  
jeopardy to a resident of the home or facility, the board may 50018  
terminate the authority of the home or facility to participate in 50019  
the pilot program. 50020

(F)(1) With the assistance of the medication aide advisory 50021  
council, the board shall conduct an evaluation of the pilot 50022  
program. In conducting the evaluation, the board shall do all of 50023  
the following: 50024

(a) Assess whether medication aides are able to administer 50025  
prescription medications safely to nursing home and residential 50026  
care facility residents; 50027

(b) Determine the financial implications of using medication 50028  
aides in nursing homes and residential care facilities; 50029

(c) Consider any other issue the board or council considers 50030  
relevant to the evaluation. 50031

(2) Not later than March 1, 2007, the board shall prepare a 50032  
report of its findings and recommendations derived from the 50033  
evaluation of the pilot program. The board shall submit the report 50034  
to the governor, president and minority leader of the senate, 50035  
speaker and minority leader of the house of representatives, and 50036  
director of health. 50037

**Sec. 4723.64.** On and after July 1, 2007, any nursing home or 50038  
residential care facility may use one or more medication aides to 50039  
administer prescription medications to its residents, subject to 50040  
both of the following conditions: 50041

(A) Each individual used as a medication aide must hold a 50042  
current, valid certificate issued by the board of nursing under 50043

<u>section 4723.65 of the Revised Code.</u>	50044
<u>(B) The nursing home or residential care facility shall</u>	50045
<u>ensure that the requirements of section 4723.67 of the Revised</u>	50046
<u>Code are met.</u>	50047
<b><u>Sec. 4723.65.</u></b> (A) <u>An individual seeking certification as a</u>	50048
<u>medication aide shall apply to the board of nursing on a form</u>	50049
<u>prescribed and provided by the board. If the application is</u>	50050
<u>submitted on or after July 1, 2007, the application shall be</u>	50051
<u>accompanied by the certification fee established in rules adopted</u>	50052
<u>under section 4723.69 of the Revised Code.</u>	50053
<u>(B) The board shall issue a medication aide certificate to an</u>	50054
<u>applicant if the applicant satisfies all of the following</u>	50055
<u>requirements:</u>	50056
<u>(1) Is at least eighteen years of age;</u>	50057
<u>(2) Has a high school diploma or a high school equivalence</u>	50058
<u>diploma as defined in section 5107.40 of the Revised Code;</u>	50059
<u>(3) If the applicant is to practice as a medication aide in a</u>	50060
<u>nursing home, is a nurse aide who satisfies the requirements of</u>	50061
<u>division (A)(1), (2), (3), (4), (5), (6), or (8) of section</u>	50062
<u>3721.32 of the Revised Code;</u>	50063
<u>(4) If the applicant is to practice as a medication aide in a</u>	50064
<u>residential care facility, is a nurse aide who satisfies the</u>	50065
<u>requirements of division (A)(1), (2), (3), (4), (5), (6), or (8)</u>	50066
<u>of section 3721.32 of the Revised Code or an individual who has at</u>	50067
<u>least one year of direct care experience in a residential care</u>	50068
<u>facility;</u>	50069
<u>(5) Successfully completes the course of instruction provided</u>	50070
<u>by a training program approved by the board under section 4723.66</u>	50071
<u>of the Revised Code;</u>	50072

(6) Satisfies all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code. 50073  
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(C) If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (B)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual. 50076  
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(D) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules. 50082  
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(E) The board may deny, suspend, or revoke a medication aide certificate for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke a certificate shall be taken in accordance with Chapter 119. of the Revised Code. 50089  
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**Sec. 4723.66.** (A) A person or government entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the fee established in rules adopted under section 4723.69 of the Revised Code. 50094  
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(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards 50100  
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specified by the board in rules adopted under section 4723.69 of 50103  
the Revised Code and includes all of the following: 50104

(1) At least seventy clock-hours of instruction, including 50105  
both classroom instruction on medication administration and at 50106  
least twenty clock-hours of supervised clinical practice in 50107  
medication administration; 50108

(2) A mechanism for evaluating whether an individual's 50109  
reading, writing, and mathematical skills are sufficient for the 50110  
individual to be able to administer prescription medications 50111  
safely; 50112

(3) An examination that tests the ability to administer 50113  
prescription medications safely and that meets the requirements 50114  
established by the board in rules adopted under section 4723.69 of 50115  
the Revised Code. 50116

(C) The board may deny, suspend, or revoke the approval 50117  
granted to the provider of a medication aide training program for 50118  
reasons specified in rules adopted under section 4723.69 of the 50119  
Revised Code. All actions taken by the board to deny, suspend, or 50120  
revoke the approval of a training program shall be taken in 50121  
accordance with Chapter 119. of the Revised Code. 50122

**Sec. 4723.67.** (A) Except for the prescription medications 50123  
specified in division (C) of this section and the methods of 50124  
medication administration specified in division (D) of this 50125  
section, a medication aide who holds a certificate issued under 50126  
section 4723.65 of the Revised Code may administer prescription 50127  
medications to the residents of nursing homes and residential care 50128  
facilities that use medication aides pursuant to section 4723.63 50129  
or 4723.64 of the Revised Code. A medication aide shall administer 50130  
prescription medications only pursuant to the delegation of a 50131  
registered nurse or a licensed practical nurse acting at the 50132

direction of a registered nurse. 50133

Delegation of medication administration to a medication aide 50134  
shall be carried out in accordance with the rules for nursing 50135  
delegation adopted under this chapter by the board of nursing. A 50136  
nurse who has delegated to a medication aide responsibility for 50137  
the administration of prescription medications to the residents of 50138  
a nursing home or residential care facility shall not withdraw the 50139  
delegation on an arbitrary basis or for any purpose other than 50140  
patient safety. 50141

(B) In exercising the authority to administer prescription 50142  
medications pursuant to nursing delegation, a medication aide may 50143  
administer prescription medications in any of the following 50144  
categories: 50145

(1) Oral medications; 50146

(2) Topical medications; 50147

(3) Medications administered as drops to the eye, ear, or 50148  
nose; 50149

(4) Rectal and vaginal medications; 50150

(5) Medications prescribed with a designation authorizing or 50151  
requiring administration on an as-needed basis, but only if a 50152  
nursing assessment of the patient is completed before the 50153  
medication is administered. 50154

(C) A medication aide shall not administer prescription 50155  
medications in either of the following categories: 50156

(1) Medications containing a schedule II controlled 50157  
substance, as defined in section 3719.01 of the Revised Code; 50158

(2) Medications requiring dosage calculations. 50159

(D) A medication aide shall not administer prescription 50160  
medications by any of the following methods: 50161

<u>(1) Injection;</u>	50162
<u>(2) Intravenous therapy procedures;</u>	50163
<u>(3) Splitting pills for purposes of changing the dose being given.</u>	50164 50165
<u>(E) A nursing home or residential care facility that uses medication aides shall ensure that medication aides do not have access to any schedule II controlled substances within the home or facility for use by its residents.</u>	50166 50167 50168 50169
<b><u>Sec. 4723.68.</u></b> (A) <u>A registered nurse, or licensed practical nurse acting at the direction of a registered nurse, who delegates medication administration to a medication aide certified under section 4723.65 of the Revised Code is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the medication aide in performing the medication administration, if the delegating nurse delegates the medication administration in accordance with this chapter and the rules adopted under this chapter.</u>	50170 50171 50172 50173 50174 50175 50176 50177 50178 50179
<u>(B) A person employed by a nursing home or residential care facility that uses medication aides certified under section 4723.65 of the Revised Code who reports in good faith a medication error at the nursing home or residential care facility is not subject to disciplinary action by the board of nursing or any other government entity regulating that person's professional practice and is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly results from reporting the medication error.</u>	50180 50181 50182 50183 50184 50185 50186 50187 50188 50189
<b><u>Sec. 4723.69.</u></b> (A) <u>In consultation with the medication aide advisory council created under section 4723.62 of the Revised</u>	50190 50191

Code, the board of nursing shall adopt rules to implement sections 50192  
4723.61 to 4723.68 of the Revised Code. Initial rules shall be 50193  
adopted not later than February 1, 2006. All rules adopted under 50194  
this section shall be adopted in accordance with Chapter 119. of 50195  
the Revised Code. 50196

(B) The rules adopted under this section shall establish or 50197  
specify all of the following: 50198

(1) Fees, in an amount sufficient to cover the costs the 50199  
board incurs in implementing sections 4723.61 to 4723.68 of the 50200  
Revised Code, for participation in the medication aide pilot 50201  
program, certification as a medication aide, and approval of a 50202  
medication aide training program; 50203

(2) Requirements to obtain a medication aide certificate that 50204  
are not otherwise specified in section 4723.65 of the Revised 50205  
Code; 50206

(3) Procedures for renewal of medication aide certificates; 50207

(4) Standards for medication aide training programs, 50208  
including the examination to be administered by the training 50209  
program to test an individual's ability to administer prescription 50210  
medications safely; 50211

(5) Reasons for denying, revoking, or suspending a medication 50212  
aide certificate or approval of a medication aide training 50213  
program; 50214

(6) Other standards and procedures the board considers 50215  
necessary to implement sections 4723.61 to 4723.68 of the Revised 50216  
Code. 50217

**Sec. ~~4723.63~~ 4723.91.** On receipt of a notice pursuant to 50218  
section 3123.43 of the Revised Code, the board of nursing shall 50219  
comply with sections 3123.41 to 3123.50 of the Revised Code and 50220



any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license, medication aide certificate, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

**Sec. 4731.65.** As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would

attribute to the proximity or convenience to the lessor if the 50249  
lessor is a potential source of referrals to the lessee. 50250

(D) "Governmental health care program" means any program 50251  
providing health care benefits that is administered by the federal 50252  
government, this state, or a political subdivision of this state, 50253  
including the medicare program established under Title XVIII of 50254  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 50255  
as amended, health care coverage for public employees, health care 50256  
benefits administered by the bureau of workers' compensation, or 50257  
the medical assistance program established under Chapter 5111. of 50258  
the Revised Code, ~~and the disability medical assistance program~~ 50259  
~~established under Chapter 5115. of the Revised Code.~~ 50260

(E)(1) "Group practice" means a group of two or more holders 50261  
of certificates under this chapter legally organized as a 50262  
partnership, professional corporation or association, limited 50263  
liability company, foundation, nonprofit corporation, faculty 50264  
practice plan, or similar group practice entity, including an 50265  
organization comprised of a nonprofit medical clinic that 50266  
contracts with a professional corporation or association of 50267  
physicians to provide medical services exclusively to patients of 50268  
the clinic in order to comply with section 1701.03 of the Revised 50269  
Code and including a corporation, limited liability company, 50270  
partnership, or professional association described in division (B) 50271  
of section 4731.226 of the Revised Code formed for the purpose of 50272  
providing a combination of the professional services of 50273  
optometrists who are licensed, certificated, or otherwise legally 50274  
authorized to practice optometry under Chapter 4725. of the 50275  
Revised Code, chiropractors who are licensed, certificated, or 50276  
otherwise legally authorized to practice chiropractic under 50277  
Chapter 4734. of the Revised Code, psychologists who are licensed, 50278  
certificated, or otherwise legally authorized to practice 50279  
psychology under Chapter 4732. of the Revised Code, registered or 50280

licensed practical nurses who are licensed, certificated, or 50281  
otherwise legally authorized to practice nursing under Chapter 50282  
4723. of the Revised Code, pharmacists who are licensed, 50283  
certificated, or otherwise legally authorized to practice pharmacy 50284  
under Chapter 4729. of the Revised Code, physical therapists who 50285  
are licensed, certificated, or otherwise legally authorized to 50286  
practice physical therapy under sections 4755.40 to 4755.53 of the 50287  
Revised Code, mechanotherapists who are licensed, certificated, or 50288  
otherwise legally authorized to practice mechanotherapy under 50289  
section 4731.151 of the Revised Code, and doctors of medicine and 50290  
surgery, osteopathic medicine and surgery, or podiatric medicine 50291  
and surgery who are licensed, certificated, or otherwise legally 50292  
authorized for their respective practices under this chapter, to 50293  
which all of the following apply: 50294

(a) Each physician who is a member of the group practice 50295  
provides substantially the full range of services that the 50296  
physician routinely provides, including medical care, 50297  
consultation, diagnosis, or treatment, through the joint use of 50298  
shared office space, facilities, equipment, and personnel. 50299

(b) Substantially all of the services of the members of the 50300  
group are provided through the group and are billed in the name of 50301  
the group and amounts so received are treated as receipts of the 50302  
group. 50303

(c) The overhead expenses of and the income from the practice 50304  
are distributed in accordance with methods previously determined 50305  
by members of the group. 50306

(d) The group practice meets any other requirements that the 50307  
state medical board applies in rules adopted under section 4731.70 50308  
of the Revised Code. 50309

(2) In the case of a faculty practice plan associated with a 50310  
hospital with a medical residency training program in which 50311

physician members may provide a variety of specialty services and  
provide professional services both within and outside the group,  
as well as perform other tasks such as research, the criteria in  
division (E)(1) of this section apply only with respect to  
services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have  
the same meanings as in the rules adopted under section 4731.70 of  
the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of  
the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter  
for an item or service, including a request for a consultation  
with another physician and any test or procedure ordered by or to  
be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a  
certificate holder that includes the provision of designated  
health services.

(I) "Third-party payer" has the same meaning as in section  
3901.38 of the Revised Code.

**Sec. 4731.71.** The auditor of state may implement procedures  
to detect violations of section 4731.66 or 4731.69 of the Revised  
Code within governmental health care programs administered by the  
state. The auditor of state shall report any violation of either  
section to the state medical board and shall certify to the  
attorney general in accordance with section 131.02 of the Revised  
Code the amount of any refund owed to a state-administered  
governmental health care program under section 4731.69 of the  
Revised Code as a result of a violation. If a refund is owed to  
the medical assistance program established under Chapter 5111. of

the Revised Code ~~or the disability medical assistance program~~ 50342  
~~established under Chapter 5115. of the Revised Code,~~ the auditor 50343  
of state also shall report the amount to the department of 50344  
commerce. 50345

The state medical board also may implement procedures to 50346  
detect violations of section 4731.66 or 4731.69 of the Revised 50347  
Code. 50348

**Sec. 4736.11.** The state board of sanitarian registration 50349  
shall issue a certificate of registration to any applicant whom it 50350  
registers as a sanitarian or a sanitarian-in-training. Such 50351  
certificate shall bear: 50352

(A) The name of the person; 50353

(B) The date of issue; 50354

(C) A serial number, designated by the board; 50355

(D) The seal of the board and signature of the ~~chairman~~ 50356  
chairperson of the board; 50357

(E) The designation "registered sanitarian" or 50358  
"sanitarian-in-training." 50359

Certificates of registration shall expire annually on the 50360  
date fixed by the board and become invalid on that date unless 50361  
renewed pursuant to this section. All registered sanitarians shall 50362  
be required annually to complete a continuing education program in 50363  
subjects relating to practices of the profession as a sanitarian 50364  
to the end that the utilization and application of new techniques, 50365  
scientific advancements, and research findings will assure 50366  
comprehensive service to the public. The board shall prescribe by 50367  
rule a continuing education program for registered sanitarians to 50368  
meet this requirement. The length of study for this program shall 50369  
be determined by the board but shall be not less than six nor more 50370  
than twenty-five hours during the calendar year. At least once 50371

annually the board shall ~~mail~~ provide to each registered  
sanitarian a list of courses approved by the board as satisfying  
the program prescribed by rule. Upon the request of a registered  
sanitarian, the secretary shall supply a list of ~~any additional~~  
applicable courses that the board has approved ~~since the most~~  
~~recent mailing~~. A certificate may be renewed for a period of one  
year at any time prior to the date of expiration upon payment of  
the renewal fee prescribed by section 4736.12 of the Revised Code  
and upon showing proof of having complied with the continuing  
education requirements of this section. The state board of  
sanitarian registration may waive the continuing education  
requirement in cases of certified illness or disability which  
prevents the attendance at any qualified educational seminars  
during the twelve months immediately preceding the annual  
certificate of registration renewal date. Certificates which  
expire may be reinstated under rules adopted by the board.

**Sec. 4736.12.** (A) The state board of sanitarian registration  
shall charge the following fees:

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty  
dollars;

(2) For sanitarians-in-training to apply for registration as  
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay  
this fee only once regardless of the number of times the applicant  
takes an examination required under section 4736.08 of the Revised  
Code.

(3) For persons other than sanitarians-in-training to apply  
for registration as sanitarians, including persons meeting the  
requirements of section 4736.16 of the Revised Code, one hundred  
~~fifty~~ sixty dollars. The applicant shall pay this fee only once  
regardless of the number of times the applicant takes an  
examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be 50403  
~~sixty-nine~~ seventy-four dollars. 50404

(5) The renewal fee for sanitarians-in-training shall be 50405  
~~sixty-nine~~ seventy-four dollars. 50406

(6) For late application for renewal, ~~twenty-five~~ 50407  
twenty-seven dollars. 50408

The board of sanitarian registration, with the approval of 50409  
the controlling board, may establish fees in excess of the amounts 50410  
provided in this section, provided that such fees do not exceed 50411  
the amounts permitted by this section by more than fifty per cent. 50412

(B) The board of sanitarian registration shall charge 50413  
separate fees for examinations as required by section 4736.08 of 50414  
the Revised Code, provided that the fees are not in excess of the 50415  
actual cost to the board of conducting the examinations. 50416

(C) The board of sanitarian registration may adopt rules 50417  
establishing fees for all of the following: 50418

(1) Application for the registration of a training agency 50419  
approved under rules adopted by the board pursuant to section 50420  
4736.11 of the Revised Code and for the annual registration 50421  
renewal of an approved training agency. 50422

(2) Application for the review of continuing education hours 50423  
submitted for the board's approval by approved training agencies 50424  
or by registered sanitarians or sanitarians-in-training. 50425

**Sec. 4740.14.** (A) There is hereby created within the 50426  
department of commerce the residential construction advisory 50427  
committee consisting of ~~eight~~ nine persons the director of 50428  
commerce appoints. Of the advisory committee's members, three 50429  
shall be general contractors who have recognized ability and 50430  
experience in the construction of residential buildings, two shall 50431  
be building officials who have experience administering and 50432

enforcing a residential building code, one, chosen from a list of 50433  
three names the Ohio fire chief's association submits, shall be 50434  
from the fire service certified as a fire safety inspector who has 50435  
at least ten years of experience enforcing fire or building codes, 50436  
one shall be a residential contractor who has recognized ability 50437  
and experience in the remodeling and construction of residential 50438  
buildings, ~~and~~ one shall be an architect registered pursuant to 50439  
Chapter 4703. of the Revised Code, with recognized ability and 50440  
experience in the architecture of residential buildings, and one, 50441  
chosen from a list of three names the Ohio municipal league 50442  
submits to the director, shall be a mayor of a municipal 50443  
corporation in which the Ohio residential building code is being 50444  
enforced in the municipal corporation by a certified building 50445  
department. 50446

(B) The director shall make appointments to the advisory 50447  
committee within ninety days after ~~the effective date of this~~ 50448  
~~section~~ May 27, 2005. Terms of office shall be for three years, 50449  
with each term ending on the date three years after the date of 50450  
appointment. Each member shall hold office from the date of 50451  
appointment until the end of the term for which the member was 50452  
appointed. The director shall fill a vacancy in the manner 50453  
provided for initial appointments. Any member appointed to fill a 50454  
vacancy in an unexpired term shall hold office for the remainder 50455  
of that term. 50456

(C) The advisory committee shall do all of the following: 50457

(1) Recommend to the board of building standards a building 50458  
code for residential buildings. The committee shall recommend a 50459  
code that it models on a residential building code a national 50460  
model code organization issues, with adaptations necessary to 50461  
implement the code in this state. If the board of building 50462  
standards decides not to adopt a code the committee recommends, 50463



the committee shall revise the code and resubmit it until the  
board adopts a code the committee recommends as the state  
residential building code;

(2) Advise the board regarding the establishment of standards  
for certification of building officials who enforce the state  
residential building code;

(3) Assist the board in providing information and guidance to  
residential contractors and building officials who enforce the  
state residential building code;

(4) Advise the board regarding the interpretation of the  
state residential building code;

(5) Provide other assistance the committee considers  
necessary.

(D) In making its recommendation to the board pursuant to  
division (C)(1) of this section, the advisory committee shall  
consider all of the following:

(1) The impact that the state residential building code may  
have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building  
code;

(3) The technical feasibility of the residential building  
code;

(4) The financial impact that the residential building code  
may have on the public's ability to purchase affordable housing.

(E) Members of the advisory committee shall receive no salary  
for the performance of their duties as members, but shall receive  
their actual and necessary expenses incurred in the performance of  
their duties as members of the advisory committee and shall  
receive a per diem for each day in attendance at an official  
meeting of the committee, to be paid from the industrial

compliance operating fund in the state treasury, using fees 50494  
collected in connection with residential buildings pursuant to 50495  
division (F)(2) of section 3781.102 of the Revised Code and 50496  
deposited in that fund. 50497

(F) The advisory committee is not subject to divisions (A) 50498  
and (B) of section 101.84 of the Revised Code. 50499

**Sec. 4753.03.** There is hereby created the board of 50500  
speech-language pathology and audiology consisting of eight 50501  
residents of this state to be appointed by the governor with the 50502  
advice and consent of the senate. Three members of the board shall 50503  
be licensed speech-language pathologists, and three members shall 50504  
be licensed audiologists, who have been licensed and engaged in 50505  
the practice, teaching, administration, or research in the area of 50506  
appointment for at least five years prior to the dates of their 50507  
appointment. Beginning with the first appointment of an 50508  
audiologist to the board after ~~the effective date of this~~ 50509  
~~amendment~~ November 5, 1992, at all times one of the audiologists 50510  
serving on the board must be an audiologist engaged in the 50511  
practice of fitting and dispensing hearing aids. At all times, two 50512  
members shall be representatives of the general public, and 50513  
neither shall be a speech-language pathologist or audiologist or a 50514  
person licensed under this chapter. At least one of the members 50515  
representing the general public shall be at least sixty years of 50516  
age. ~~Any speech language pathologists and audiologists among the~~ 50517  
~~initial appointees shall have at least a bachelor's degree in~~ 50518  
~~speech language pathology or audiology and shall meet the~~ 50519  
~~standards for licensure, other than examination, established by~~ 50520  
~~section 4753.06 or 4753.08 of the Revised Code. Any~~ 50521  
~~speech language pathologist or audiologist appointed to the board~~ 50522  
~~after the effective date of this amendment, must hold a master's~~ 50523  
~~or doctorate degree.~~ 50524

Terms of office shall be for three years, each term 50525  
commencing on the twenty-seventh day of September and ending on 50526  
the twenty-sixth day of September. Each member shall hold office 50527  
from the date of ~~his~~ appointment until the end of the term for 50528  
which ~~he was~~ appointed. Any member appointed to fill a vacancy 50529  
occurring prior to the expiration of the term for which ~~his~~ the 50530  
member's predecessor was appointed shall hold office for the 50531  
remainder of such term. Any member shall continue in office 50532  
subsequent to the expiration date of ~~his~~ the member's term until 50533  
~~his~~ the member's successor takes office, or until a period of 50534  
sixty days has elapsed, whichever occurs first. No person shall be 50535  
appointed to serve consecutively more than two full terms. The 50536  
executive council of the Ohio speech and hearing association may 50537  
recommend, within forty-five days after any vacancy or expiration 50538  
of a member's term occurs, no more than three persons to fill each 50539  
position or vacancy on the board, and the governor may make ~~his~~ 50540  
the appointment from the persons so recommended. If the council 50541  
fails to make recommendations within the required time, the 50542  
governor shall make the appointment without its recommendations. 50543

The terms of all speech-language pathology members shall not 50544  
end in the same year; the terms of all audiology members shall not 50545  
end in the same year. Upon the first appointment following ~~the~~ 50546  
~~effective date of this amendment~~ November 5, 1992, the governor 50547  
shall appoint speech-language pathology members and audiology 50548  
members to one-, two-, or three-year terms to prevent the terms of 50549  
all speech-language pathology members or all audiology members 50550  
from ending in the same year. Thereafter, all terms shall be for 50551  
three years. 50552

**Sec. 4753.06.** No person is eligible for licensure as a 50553  
speech-language pathologist or audiologist unless: 50554

(A) ~~He~~ The person has obtained a broad general education to 50555

serve as a background for ~~his~~ the person's specialized academic 50556  
training and preparatory professional experience. Such background 50557  
may include study from among the areas of human psychology, 50558  
sociology, psychological and physical development, the physical 50559  
sciences, especially those that pertain to acoustic and biological 50560  
phenomena, and human anatomy and physiology, including 50561  
neuroanatomy and neurophysiology. 50562

(B) ~~He~~ If the person seeks licensure as a speech-language 50563  
pathologist, the person submits to the board of speech-language 50564  
pathology and audiology an official transcript demonstrating that 50565  
~~he~~ the person has at least a master's degree in ~~the area in which~~ 50566  
~~licensure is sought~~ speech-language pathology or the equivalent as 50567  
determined by the board. ~~His~~ The person's academic credit must 50568  
include course work accumulated in the completion of a 50569  
well-integrated course of study approved by the board and 50570  
delineated by rule dealing with the normal aspects of human 50571  
communication, development and disorders thereof, and clinical 50572  
techniques for the evaluation and the improvement or eradication 50573  
of such disorders. The course work must have been completed at 50574  
colleges or universities accredited by regional or national 50575  
accrediting organizations recognized by the board. 50576

(C) ~~He~~ If the person seeks licensure as an audiologist, the 50577  
person submits to the board an official transcript demonstrating 50578  
that the person has at least a doctor of audiology degree or the 50579  
equivalent as determined by the board. The person's academic 50580  
credit must include course work accumulated in the completion of a 50581  
well-integrated course of study approved by the board and 50582  
delineated by rules dealing with the normal aspects of human 50583  
hearing, balance, and related development and clinical evaluation, 50584  
audiologic diagnosis, and treatment of disorders of human hearing, 50585  
balance, and related development. The course work must have been 50586  
completed in an audiology program that is accredited by an 50587

organization recognized by the United States department of 50588  
education and operated by a college or university accredited by a 50589  
regional or national accrediting organization recognized by the 50590  
board. 50591

(D) The person submits to the board evidence of the 50592  
completion of appropriate, supervised clinical experience in the 50593  
professional area, speech-language pathology or audiology, for 50594  
which licensure is requested, dealing with a variety of 50595  
communication disorders. The appropriateness of the experience 50596  
shall be determined under rules of the board. This experience 50597  
shall have been obtained in an accredited college or university, 50598  
in a cooperating program of an accredited college or university, 50599  
or in another program approved by the board. 50600

~~(D) He~~ (E) The person submits to the board evidence that the 50601  
person has passed the examination for licensure to practice 50602  
speech-language pathology or audiology pursuant to division (B) of 50603  
section 4753.05 of the Revised Code. 50604

(F) If the person submits to the board an application for 50605  
licensure as an audiologist before January 1, 2006, and meets the 50606  
requirements of division (B) of this section regarding a master's 50607  
degree in audiology as that division existed on December 31, 2005, 50608  
but not the requirements of division (C) of this section regarding 50609  
a doctor of audiology degree or if the person seeks licensure as a 50610  
speech-language pathologist, the person presents to the board 50611  
written evidence that ~~he~~ the person has obtained professional 50612  
experience. The professional experience shall be appropriately 50613  
supervised as determined by board rule. The amount of professional 50614  
experience shall be determined by board rule and shall be bona 50615  
fide clinical work that has been accomplished in the major 50616  
professional area, speech-language pathology or audiology, in 50617  
which licensure is being sought. ~~This~~ If the person seeks 50618  
licensure as a speech-language pathologist, this experience shall 50619

not begin until the requirements of divisions (B) ~~and (C), (D),~~ 50620  
~~and (E)~~ of this section have been completed unless approved by the 50621  
board. If the person seeks licensure as an audiologist, this 50622  
experience shall not begin until the requirements of division (B) 50623  
of this section, as that division existed on December 31, 2005, 50624  
and divisions (D) and (E) of this section have been completed 50625  
unless approved by the board. Before beginning the supervised 50626  
professional experience pursuant to this section, ~~any~~ the 50627  
applicant for licensure to practice speech-language pathology or 50628  
audiology shall ~~meet the requirements for~~ obtain a conditional 50629  
license pursuant to section 4753.071 of the Revised Code. 50630

~~(E) He submits to the board evidence that he has passed the~~ 50631  
~~examination for licensure to practice speech language pathology or~~ 50632  
~~audiology pursuant to division (B) of section 4753.05 of the~~ 50633  
~~Revised Code.~~ 50634

**Sec. 4753.071.** A person who is required to meet the 50635  
supervised professional experience requirement of division (F) of 50636  
section 4753.06 of the Revised Code shall submit to the board of 50637  
speech-language pathology and audiology an application for a 50638  
conditional license. The application shall include a plan for the 50639  
content of the supervised professional experience on a form the 50640  
board shall prescribe. The board ~~of speech language pathology and~~ 50641  
~~audiology~~ shall issue a the conditional license to ~~an~~ the 50642  
applicant ~~who, except for the supervised professional experience:~~ 50643

~~(A) Meets~~ if the applicant meets the academic, ~~practicum, and~~ 50644  
~~examination~~ requirements of divisions ~~(B), (C), and (E)~~ of section 50645  
4753.06 of the Revised Code. 50646

~~(B) Submits an application to the board, including a plan for~~ 50647  
~~the content of the supervised professional experience on a form~~ 50648  
~~prescribed by the board,~~ other than the requirement to have 50649  
obtained the supervised professional experience, and pays to the 50650

board the appropriate fee for a conditional license. An applicant 50651  
may not begin employment until the conditional license has been 50652  
~~approved~~ issued. 50653

A conditional license authorizes an individual to practice 50654  
speech-language pathology or audiology while completing the 50655  
supervised professional experience as required by division ~~(D)~~(F) 50656  
of section 4753.06 of the Revised Code. A person holding a 50657  
conditional license may practice speech-language pathology or 50658  
audiology while working under the supervision of a person fully 50659  
licensed in accordance with this chapter. A conditional license is 50660  
valid for eighteen months unless suspended or revoked pursuant to 50661  
section 3123.47 or 4753.10 of the Revised Code. 50662

A person holding a conditional license may perform services 50663  
for which reimbursement will be sought under the medicare program 50664  
established under Title XVIII of the "Social Security Act," ~~49~~ 79 50665  
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1395, as amended, or the 50666  
~~medical assistance~~ medicaid program established under Chapter 50667  
5111. of the Revised Code ~~and Title XIX of the "Social Security~~ 50668  
~~Act"~~ but all requests for reimbursement for such services shall be 50669  
made by the person who supervises the person performing the 50670  
services. 50671

**Sec. 4753.08.** The board of speech-language pathology and 50672  
audiology shall waive the examination, educational, and 50673  
professional experience requirements for any applicant who meets 50674  
any of the following requirements: 50675

(A) On September 26, 1975, has at least a bachelor's degree 50676  
with a major in speech-language pathology or audiology from an 50677  
accredited college or university, or who has been employed as a 50678  
speech-language pathologist or audiologist for at least nine 50679  
months at any time within the three years prior to September 26, 50680  
1975, if an application providing bona fide proof of such degree 50681

or employment is filed with the board within one year after 50682  
September 26, 1975, and is accompanied by the application fee as 50683  
prescribed in division (A) of section 4753.11 of the Revised Code; 50684

(B) Presents proof of current certification or licensure in 50685  
good standing in the area in which licensure is sought in a state 50686  
~~which that~~ has standards at least equal to those the standards for 50687  
licensure that are in effect in this state at the time the 50688  
applicant applies for the license; 50689

(C) Presents proof of both of the following: 50690

(1) Having current certification or licensure in good 50691  
standing in audiology in a state that has standards at least equal 50692  
to the standards for licensure as an audiologist that were in 50693  
effect in this state on December 31, 2005; 50694

(2) Having first obtained that certification or licensure not 50695  
later than December 31, 2007. 50696

(D) Presents proof of a current certificate of clinical 50697  
competence in speech-language pathology or audiology that is in 50698  
good standing and received from the American 50699  
speech-language-hearing association in the area in which licensure 50700  
is sought. 50701

**Sec. 4753.09.** Except as provided in this section and in 50702  
section 4753.10 of the Revised Code, a license issued by the board 50703  
of speech-language pathology and audiology shall be renewed 50704  
biennially in accordance with the standard renewal procedure 50705  
contained in Chapter 4745. of the Revised Code. If the application 50706  
for renewal is made ~~after~~ one year or longer after the renewal 50707  
application is due, the person shall apply for licensure as 50708  
provided in section 4753.06 or division (B) ~~or,~~ (C), or (D) of 50709  
section 4753.08 of the Revised Code. The board shall not renew a 50710  
conditional license; however, the board may grant an applicant a 50711



second conditional license. 50712

The board shall establish by rule adopted pursuant to Chapter 50713  
119. of the Revised Code the qualifications for license renewal. 50714  
Applicants shall demonstrate continued competence, which may 50715  
include continuing education, examination, self-evaluation, peer 50716  
review, performance appraisal, or practical simulation. The board 50717  
may establish other requirements as a condition for license 50718  
renewal as considered appropriate by the board. 50719

The board may renew a license which expires while the license 50720  
is suspended, but the renewal shall not affect the suspension. The 50721  
board shall not renew a license which has been revoked. If a 50722  
revoked license is reinstated under section 4753.10 of the Revised 50723  
Code after it has expired, the licensee, as a condition of 50724  
reinstatement, shall pay a reinstatement fee in the amount equal 50725  
to the renewal fee in effect on the last preceding regular renewal 50726  
date on which it is reinstated, plus any delinquent fees accrued 50727  
from the time of the revocation, if such a fee is prescribed by 50728  
the board by rule. ~~A license shall not be renewed six years after~~ 50729  
~~the initial date on which the license was granted for a person~~ 50730  
~~initially licensed by exemption until that person presents to the~~ 50731  
~~board proof of completion of the following requirements:~~ 50732

~~(A) Upon presentation of proof of a bachelor's degree with a~~ 50733  
~~major in the area of licensure or successful completion of at~~ 50734  
~~least eighteen semester hours of academic credit, or its~~ 50735  
~~equivalent as determined by the board by rule for colleges and~~ 50736  
~~universities not using semesters, accumulated from accredited~~ 50737  
~~colleges and universities. These eighteen semester hours shall be~~ 50738  
~~in a variety of courses that provide instruction related to the~~ 50739  
~~nature of communication disorders and present information~~ 50740  
~~pertaining to and training in the evaluation and management of~~ 50741  
~~speech, language, and hearing disorders and shall be in the~~ 50742  
~~professional area, speech language pathology or audiology, for~~ 50743

~~which licensure is requested.~~

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~~(B) Successful completion of at least one hundred fifty clock  
hours of appropriately supervised, as determined by board rule,  
clinical experience in the professional area, speech language  
pathology or audiology, for which licensure is requested, with  
individuals who present a variety of communication disorders, and  
the experience shall have been obtained under the supervision of a  
licensed speech language pathologist or audiologist, or within  
another program approved by the board.~~

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**Sec. 4755.03.** There is hereby created the Ohio occupational  
therapy, physical therapy, and athletic trainers board consisting  
of sixteen residents of this state, who shall be appointed by the  
governor with the advice and consent of the senate. The board  
shall be composed of a physical therapy section, an occupational  
therapy section, and an athletic trainers section.

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Five members of the board shall be physical therapists who  
are licensed to practice physical therapy and who have been  
engaged in or actively associated with the practice of physical  
therapy in this state for at least five years immediately  
preceding appointment. Such members of the board shall sit on the  
physical therapy section. The physical therapy section also shall  
consist of four additional members, appointed by the governor with  
the advice and consent of the senate, who satisfy the same  
qualifications as the members of the board sitting on the physical  
therapy section, but who are not members of the board. Such  
additional members of the physical therapy section are vested with  
only such powers and shall perform only such duties as relate to  
the affairs of that section, shall serve for the same terms as do  
members of the board sitting on the physical therapy section, and  
shall subscribe to and file with the secretary of state the  
constitutional oath of office.

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~~Five~~ Four members of the board shall be occupational 50775  
therapists ~~who~~ and one member shall be a licensed occupational 50776  
therapy assistant, all of whom have been engaged in or actively 50777  
associated with the practice of occupational therapy or practice 50778  
as an occupational therapy assistant in this state for at least 50779  
five years immediately preceding appointment. Such members of the 50780  
board shall sit on the occupational therapy section. 50781

Four members of the board shall be athletic trainers who have 50782  
been engaged in the practice of athletic training in Ohio for at 50783  
least five years immediately preceding appointment. One member of 50784  
the board shall be a physician licensed to practice medicine and 50785  
surgery in this state. Such members of the board shall sit on the 50786  
athletic trainers section. 50787

One member of the board shall represent the public and shall 50788  
be at least sixty years of age. This member shall sit on the 50789  
board. 50790

Terms of office are for three years, each term commencing on 50791  
the twenty-eighth day of August and ending on the twenty-seventh 50792  
day of August. Each member shall serve subsequent to the 50793  
expiration of ~~his~~ the member's term until ~~his~~ the member's 50794  
successor is appointed and qualifies, or until a period of sixty 50795  
days has elapsed, whichever occurs first. Each member, before 50796  
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 50797  
to and file with the secretary of state the constitutional oath of 50798  
office. All vacancies shall be filled in the manner prescribed for 50799  
the regular appointments to the board and are limited to the 50800  
unexpired terms. 50801

Annually, upon the qualification of the member or members 50802  
appointed in that year, the board shall organize by selecting from 50803  
its members a president and secretary. Each section of the board 50804  
shall organize by selecting from its members a ~~chairman~~ 50805

chairperson and secretary. 50806

The majority of the members of the board constitutes a quorum 50807  
to transact and vote on the business of the board. A majority of 50808  
the members of each section constitutes a quorum to transact and 50809  
vote on the affairs of that section. 50810

Each member of the board and each additional member of the 50811  
physical therapy section shall receive an amount fixed pursuant to 50812  
division (J) of section 124.15 of the Revised Code for each day 50813  
employed in the discharge of ~~his~~ official duties. In addition, 50814  
each member of the board and each additional member of the 50815  
physical therapy section shall receive ~~his~~ the member's actual and 50816  
necessary expenses incurred in the performance of ~~his~~ official 50817  
duties. 50818

The board of trustees of the Ohio occupational therapy 50819  
association, inc., may recommend, after any term expires or 50820  
vacancy occurs in an occupational therapy position, at least three 50821  
persons to fill each such position or vacancy on the board, and 50822  
the governor may make ~~his~~ the appointment from the persons so 50823  
recommended. The executive board of the Ohio chapter, inc., of the 50824  
American physical therapy association may recommend, after any 50825  
term expires or vacancy occurs in a physical therapy position, at 50826  
least three persons to fill each such vacancy on the board, and 50827  
the governor may make ~~his~~ appointments from the persons so 50828  
recommended. The Ohio athletic trainers association shall 50829  
recommend to the governor at least three persons for each of the 50830  
initial appointments to an athletic trainer's position. The Ohio 50831  
athletic trainers association shall also recommend to the governor 50832  
at least three persons when any term expires or any vacancy occurs 50833  
in such a position. The governor may select one of the 50834  
association's recommendations in making such an appointment. 50835

The board shall meet as a whole to determine all 50836  
administrative, personnel, and budgetary matters. The executive 50837

director of the board appointed by the board shall not be a  
physical therapist, an occupational therapist, or an athletic  
trainer who has been licensed to practice physical therapy,  
occupational therapy, or as an athletic trainer in this state  
within three years immediately preceding appointment. The  
executive director shall serve at the pleasure of the board.

The occupational therapy section of the board shall have the  
full authority to act on behalf of the board on all matters  
concerning the practice of occupational therapy and, in  
particular, the examination, licensure, and suspension or  
revocation of licensure of applicants, occupational therapists,  
and occupational therapy assistants. The physical therapy section  
of the board shall have the full authority to act on behalf of the  
board on all matters concerning the practice of physical therapy  
and, in particular, the examination, licensure, and suspension or  
revocation of licensure of applicants, physical therapists, and  
physical therapist assistants. The athletic trainers section of  
the board shall have the full authority to act on behalf of the  
board on all matters concerning the practice of athletic training  
and, in particular, the examination, licensure, and suspension or  
revocation of licensure of applicants and athletic trainers. All  
actions taken by any section of the board under this paragraph  
shall be in accordance with Chapter 119. of the Revised Code.

**Sec. 4755.48.** (A) No person shall employ fraud or deception  
in applying for or securing a license to practice physical therapy  
or to be a physical therapist assistant.

(B) No person shall practice or in any way claim to the  
public to be able to practice physical therapy, including practice  
as a physical therapist assistant, unless the person holds a valid  
license under sections 4755.40 to 4755.56 of the Revised Code or  
except as provided in section 4755.56 of the Revised Code.

(C) No person shall use the words or letters, physical 50869  
therapist, physical therapy, physiotherapist, licensed physical 50870  
therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T., 50871  
M.S.P.T., P.T.A., physical therapy assistant, physical therapist 50872  
assistant, physical therapy technician, licensed physical 50873  
therapist assistant, L.P.T.A., R.P.T.A., or any other letters, 50874  
words, abbreviations, or insignia, indicating or implying that the 50875  
person is a physical therapist or physical therapist assistant 50876  
without a valid license under sections 4755.40 to 4755.56 of the 50877  
Revised Code. 50878

(D) No person who practices physical therapy or assists in 50879  
the provision of physical therapy treatments under the supervision 50880  
of a physical therapist shall fail to display the person's current 50881  
license granted under sections 4755.40 to 4755.56 of the Revised 50882  
Code in a conspicuous location in the place where the person 50883  
spends the major part of the person's time so engaged. 50884

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 50885  
Code shall affect or interfere with the performance of the duties 50886  
of any physical therapist or physical therapist assistant in 50887  
active service in the army, navy, coast guard, marine corps, air 50888  
force, public health service, or marine hospital service of the 50889  
United States, while so serving. 50890

(F) No person shall practice physical therapy other than on 50891  
the prescription of, or the referral of a patient by, a person who 50892  
is licensed in this or another state to practice medicine and 50893  
surgery, chiropractic, dentistry, osteopathic medicine and 50894  
surgery, podiatric medicine and surgery, or to practice nursing as 50895  
a certified registered nurse anesthetist, clinical nurse 50896  
specialist, certified nurse-midwife, or certified nurse 50897  
practitioner, within the scope of such practices, and whose 50898  
license is in good standing, unless either of the following 50899  
conditions is met: 50900

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States department of education and by the Ohio occupational therapy, physical therapy, and athletic trainers board.

(2) On or before December 31, ~~2003~~ 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(G) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

**Sec. 4766.09.** (A) This chapter does not apply to any of the following:

~~(A)~~(1) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

~~(B)~~(2) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

~~(C)~~(3) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

~~(D)~~(4) An ambulance, ambulette, rotorcraft air ambulance,

fixed wing air ambulance, or nontransport vehicle owned or leased	50931
and operated by the federal government;	50932
<del>(E)</del> (5) A publicly owned and operated fire department vehicle;	50933
<del>(F)</del> (6) Emergency vehicles owned by a corporation and	50934
operating only on the corporation's premises, for the sole use by	50935
that corporation;	50936
<del>(G)</del> (7) An ambulance, nontransport vehicle, or other emergency	50937
medical service organization vehicle owned and operated by a	50938
municipal corporation;	50939
<del>(H)</del> (8) A motor vehicle titled in the name of a volunteer	50940
rescue service organization, as defined in section 4503.172 of the	50941
Revised Code;	50942
<del>(I)</del> (9) A public emergency medical service organization;	50943
<del>(J)</del> (10) A fire department, rescue squad, or life squad	50944
comprised of volunteers who provide services without expectation	50945
of remuneration and do not receive payment for services other than	50946
reimbursement for expenses;	50947
<del>(K)</del> (11) A private, nonprofit emergency medical service	50948
organization when fifty per cent or more of its personnel are	50949
volunteers, as defined in section 4765.01 of the Revised Code;	50950
<del>(L)</del> (12) Emergency medical service personnel who are regulated	50951
by the state board of emergency medical services under Chapter	50952
4765. of the Revised Code;	50953
<del>(M)</del> (13) A public nonemergency medical service organization.	50954
<u>(B) Except for the requirements specified in section 4766.14</u>	50955
<u>of the Revised Code, this chapter does not apply to an ambulette</u>	50956
<u>service provider operating under standards adopted by rule by the</u>	50957
<u>department of aging, but only during the period of time on any day</u>	50958
<u>that the provider is solely serving the department or the</u>	50959
<u>department's designee. This chapter applies to an ambulette</u>	50960



service provider at any time that the ambulette service provider 50961  
is not solely serving the department or the department's designee. 50962

Sec. 4766.14. (A) An ambulette service provider described in 50963  
division (B) of section 4766.09 of the Revised Code shall do all 50964  
of the following: 50965

(1) Make available to all its ambulette drivers while 50966  
operating ambulette vehicles a means of two-way communication 50967  
using either ambulette vehicle radios or cellular telephones; 50968

(2) Equip every ambulette vehicle with one isolation and 50969  
biohazard disposal kit that is permanently installed or secured in 50970  
the vehicle's cabin; 50971

(3) Before hiring an applicant for employment as an ambulette 50972  
driver, obtain all of the following: 50973

(a) A valid copy of a signed statement from a licensed 50974  
physician acting within the scope of the physician's practice 50975  
declaring that the applicant does not have a medical condition or 50976  
physical condition, including vision impairment that cannot be 50977  
corrected, that could interfere with safe driving, passenger 50978  
assistance, and emergency treatment activity or could jeopardize 50979  
the health and welfare of a client or the general public; 50980

(b) All of the certificates and results required under 50981  
divisions (A)(2), (3), and (4) of section 4766.15 of the Revised 50982  
Code. 50983

(B) No ambulette service provider described in division (B) 50984  
of section 4766.09 of the Revised Code shall employ an applicant 50985  
as an ambulette driver if the applicant has six or more points on 50986  
the applicant's driving record pursuant to section 4510.036 of the 50987  
Revised Code. 50988

(C) The department of aging shall administer and enforce this 50989  
section. 50990

Sec. 4905.10. (A) For the sole purpose of maintaining and 50991  
administering the public utilities commission and exercising its 50992  
supervision and jurisdiction over the railroads and public 50993  
utilities of this state, an amount equivalent to the appropriation 50994  
from the public utilities fund created under division (B) of this 50995  
section to the public utilities commission for railroad and public 50996  
utilities regulation in each fiscal year shall be apportioned 50997  
among and assessed against each railroad and public utility within 50998  
this state by the commission by first computing an assessment as 50999  
though it were to be made in proportion to the intrastate gross 51000  
earnings or receipts, excluding earnings or receipts from sales to 51001  
other public utilities for resale, of the railroad or public 51002  
utility for the calendar year next preceding that in which the 51003  
assessment is made. The commission may include in that first 51004  
computation any amount of a railroad's or public utility's 51005  
intrastate gross earnings or receipts that were underreported in a 51006  
prior year. In addition to whatever penalties apply under the 51007  
Revised Code to such underreporting, the commission shall assess 51008  
the railroad or public utility interest at the rate stated in 51009  
division (A) of section 1343.01 of the Revised Code. The 51010  
commission shall deposit any interest so collected into the public 51011  
utilities fund. The commission may exclude from that first 51012  
computation any such amounts that were overreported in a prior 51013  
year. 51014

The final computation of the assessment shall consist of 51015  
imposing upon each railroad and public utility whose assessment 51016  
under the first computation would have been ~~fifty~~ one hundred 51017  
dollars or less an assessment of ~~fifty~~ one hundred dollars and 51018  
recomputing the assessments of the remaining railroads and public 51019  
utilities by apportioning an amount equal to the appropriation to 51020  
the public utilities commission for administration of the 51021  
utilities division in each fiscal year less the total amount to be 51022

recovered from those paying the minimum assessment, in proportion 51023  
to the intrastate gross earnings or receipts of the remaining 51024  
railroads and public utilities for the calendar year next 51025  
preceding that in which the assessments are made. 51026

In the case of an assessment based on intrastate gross 51027  
receipts under this section against a public utility that is an 51028  
electric utility as defined in section 4928.01 of the Revised 51029  
Code, or an electric services company, electric cooperative, or 51030  
governmental aggregator subject to certification under section 51031  
4928.08 of the Revised Code, such receipts shall be those 51032  
specified in the utility's, company's, cooperative's, or 51033  
aggregator's most recent report of intrastate gross receipts and 51034  
sales of kilowatt hours of electricity, filed with the commission 51035  
pursuant to division (F) of section 4928.06 of the Revised Code, 51036  
and verified by the commission. 51037

In the case of an assessment based on intrastate gross 51038  
receipts under this section against a retail natural gas supplier 51039  
or governmental aggregator subject to certification under section 51040  
4929.20 of the Revised Code, such receipts shall be those 51041  
specified in the supplier's or aggregator's most recent report of 51042  
intrastate gross receipts and sales of hundred cubic feet of 51043  
natural gas, filed with the commission pursuant to division (B) of 51044  
section 4929.23 of the Revised Code, and verified by the 51045  
commission. However, no such retail natural gas supplier or such 51046  
governmental aggregator serving or proposing to serve customers of 51047  
a particular natural gas company, as defined in section 4929.01 of 51048  
the Revised Code, shall be assessed under this section until after 51049  
the commission, pursuant to section 4905.26 or 4909.18 of the 51050  
Revised Code, has removed from the base rates of the natural gas 51051  
company the amount of assessment under this section that is 51052  
attributable to the value of commodity sales service, as defined 51053  
in section 4929.01 of the Revised Code, in the base rates paid by 51054

those customers of the company that do not purchase that service 51055  
from the natural gas company. 51056

(B) ~~On~~ Through calendar year 2005, on or before the first day 51057  
of October in each year, the commission shall notify each such 51058  
railroad and public utility of the sum assessed against it, 51059  
whereupon payment shall be made to the commission, which shall 51060  
deposit it into the state treasury to the credit of the public 51061  
utilities fund, which is hereby created. Beginning in calendar 51062  
year 2006, on or before the fifteenth day of May in each year, the 51063  
commission shall notify each railroad and public utility that had 51064  
a sum assessed against it for the current fiscal year of more than 51065  
one thousand dollars that fifty per cent of that amount shall be 51066  
paid to the commission by the twentieth day of June of that year 51067  
as an initial payment of the assessment against the company for 51068  
the next fiscal year. On or before the first day of October in 51069  
each year, the commission shall make a final determination of the 51070  
sum of the assessment against each railroad and public utility and 51071  
shall notify each railroad and public utility of the sum assessed 51072  
against it. The commission shall deduct from the assessment for 51073  
each railroad or public utility any initial payment received. 51074  
Payment of the assessment shall be made to the commission by the 51075  
first day of November of that year. The commission shall deposit 51076  
the payments received into the state treasury to the credit of the 51077  
public utilities fund. Any such amounts paid into the fund but not 51078  
expended by the commission shall be credited ratably, after first 51079  
deducting any deficits accumulated from prior years, by the 51080  
commission to railroads and public utilities that pay more than 51081  
the minimum assessment, according to the respective portions of 51082  
such sum assessable against them for the ensuing ~~calendar~~ fiscal 51083  
year. The assessments for such ~~calendar~~ fiscal year shall be 51084  
reduced correspondingly. 51085

(C) Within five days after the beginning of each fiscal year 51086

through fiscal year 2006, the director of budget and management 51087  
shall transfer from the general revenue fund to the public 51088  
utilities fund an amount sufficient for maintaining and 51089  
administering the public utilities commission and exercising its 51090  
supervision and jurisdiction over the railroads and public 51091  
utilities of the state during the first four months of the fiscal 51092  
year. The director shall transfer the same amount back to the 51093  
general revenue fund from the public utilities fund at such time 51094  
as the director determines that the balance of the public 51095  
utilities fund is sufficient to support the appropriations from 51096  
the fund for the fiscal year. The director may transfer less than 51097  
that amount if the director determines that the revenues of the 51098  
public utilities fund during the fiscal year will be insufficient 51099  
to support the appropriations from the fund for the fiscal year, 51100  
in which case the amount not paid back to the general revenue fund 51101  
shall be payable to the general revenue fund in future fiscal 51102  
years. 51103

(D) For the purpose of this section only, "public utility" 51104  
includes: 51105

(1) In addition to an electric utility as defined in section 51106  
4928.01 of the Revised Code, an electric services company, an 51107  
electric cooperative, or a governmental aggregator subject to 51108  
certification under section 4928.08 of the Revised Code, to the 51109  
extent of the company's, cooperative's, or aggregator's engagement 51110  
in the business of supplying or arranging for the supply in this 51111  
state of any retail electric service for which it must be so 51112  
certified; 51113

(2) In addition to a natural gas company as defined in 51114  
section 4929.01 of the Revised Code, a retail natural gas supplier 51115  
or governmental aggregator subject to certification under section 51116  
4929.20 of the Revised Code, to the extent of the supplier's or 51117  
aggregator's engagement in the business of supplying or arranging 51118

for the supply in this state of any competitive retail natural gas 51119  
service for which it must be certified. 51120

(E) Each public utilities commissioner shall receive a salary 51121  
fixed at the level set by pay range 49 under schedule E-2 of 51122  
section 124.152 of the Revised Code. 51123

**Sec. 4905.54.** Every public utility or railroad and every 51124  
officer of a public utility or railroad shall comply with every 51125  
order, direction, and requirement of the public utilities 51126  
commission made under authority of this chapter and Chapters 51127  
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 51128  
so long as they remain in force. Except as otherwise specifically 51129  
provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 51130  
4923.99 of the Revised Code, the public utilities commission may 51131  
assess a forfeiture of not more than ten thousand dollars for each 51132  
violation or failure against a public utility or railroad that 51133  
violates a provision of those chapters or that after due notice 51134  
fails to comply with an order, direction, or requirement of the 51135  
commission that was officially promulgated ~~shall forfeit to the~~ 51136  
~~state not more than one thousand dollars for each such violation~~ 51137  
~~or failure.~~ Each day's continuance of the violation or failure is 51138  
a separate offense. All forfeitures collected under this section 51139  
shall be credited to the general revenue fund. 51140

**Sec. 4905.95.** (A) Except as otherwise provided in division 51141  
(C) of this section: 51142

(1) The public utilities commission, regarding any proceeding 51143  
under this section, shall provide reasonable notice and the 51144  
opportunity for a hearing in accordance with rules adopted under 51145  
section 4901.13 of the Revised Code. 51146

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 51147  
4903.20 to 4903.23 of the Revised Code apply to all proceedings 51148

and orders of the commission under this section and to all operators subject to those proceedings and orders. 51149  
51150

(B) If, pursuant to a proceeding it specially initiates or to any other proceeding and after the hearing provided for under division (A) of this section, the commission finds that: 51151  
51152  
51153

(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order: 51154  
51155  
51156  
51157

(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety; 51158  
51159

(b) May assess upon the operator forfeitures of not more than ~~ten~~ one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed five hundred thousand dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following: 51160  
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51162  
51163  
51164  
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51166

(i) The gravity of the violation or noncompliance; 51167

(ii) The operator's history of prior violations or noncompliances; 51168  
51169

(iii) The operator's good faith efforts to comply and undertake corrective action; 51170  
51171

(iv) The operator's ability to pay the forfeiture; 51172

(v) The effect of the forfeiture on the operator's ability to continue as an operator; 51173  
51174

(vi) Such other matters as justice may require. 51175

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to 51176  
51177

the credit of the general revenue fund. 51178

(c) May direct the attorney general to seek the remedies 51179  
provided in section 4905.96 of the Revised Code. 51180

(2) An intrastate pipe-line transportation facility is 51181  
hazardous to life or property, the commission by order: 51182

(a) Shall require the operator of the facility to take 51183  
corrective action to remove the hazard. Such corrective action may 51184  
include suspended or restricted use of the facility, physical 51185  
inspection, testing, repair, replacement, or other action. 51186

(b) May direct the attorney general to seek the remedies 51187  
provided in section 4905.96 of the Revised Code. 51188

(C) If, pursuant to a proceeding it specially initiates or to 51189  
any other proceeding, the commission finds that an emergency 51190  
exists due to a condition on an intrastate pipe-line 51191  
transportation facility posing a clear and immediate danger to 51192  
life or health or threatening a significant loss of property and 51193  
requiring immediate corrective action to protect the public 51194  
safety, the commission may issue, without notice or prior hearing, 51195  
an order reciting its finding and may direct the attorney general 51196  
to seek the remedies provided in section 4905.96 of the Revised 51197  
Code. The order shall remain in effect for not more than forty 51198  
days after the date of its issuance. The order shall provide for a 51199  
hearing as soon as possible, but not later than thirty days after 51200  
the date of its issuance. After the hearing the commission shall 51201  
continue, revoke, or modify the order and may make findings under 51202  
and seek appropriate remedies as provided in division (B) of this 51203  
section. 51204

**Sec. 4911.18.** (A) For the sole purpose of maintaining and 51205  
administering the office of the consumers' counsel and exercising 51206  
the powers of the consumers' counsel under this chapter, an amount 51207



equal to the appropriation to the office of the consumers' counsel 51208  
in each fiscal year shall be apportioned among and assessed 51209  
against each public utility within this state, as defined in 51210  
section 4911.01 of the Revised Code, by first computing an 51211  
assessment as though it were to be made in proportion to the 51212  
intrastate gross earnings or receipts of the public utility for 51213  
the calendar year next preceding that in which the assessment is 51214  
made, excluding earnings or receipts from sales to other public 51215  
utilities for resale. The office may include in that first 51216  
computation any amount of a public utility's intrastate gross 51217  
earnings or receipts underreported in a prior year. In addition to 51218  
whatever penalties apply under the Revised Code to such 51219  
underreporting, the office shall assess the public utility 51220  
interest at the rate stated in division (A) of section 1343.01 of 51221  
the Revised Code. The office shall deposit any interest so 51222  
collected into the consumers' counsel operating fund. The office 51223  
may exclude from that first computation any such amounts that were 51224  
over-reported in a prior year. 51225

The final computation of the assessment shall consist of 51226  
imposing upon each public utility whose assessment under the first 51227  
computation would have been ~~fifty one hundred~~ dollars or less an 51228  
assessment of ~~fifty one hundred~~ dollars and recomputing the 51229  
assessment of the remaining companies by apportioning an amount 51230  
equal to the appropriation to the office of consumers' counsel in 51231  
each fiscal year less the total amount to be recovered from those 51232  
paying the minimum assessment, in proportion to the intrastate 51233  
gross earnings or receipts of the remaining companies for the 51234  
calendar year next preceding that in which the assessments are 51235  
made, excluding earnings or receipts from sales to other public 51236  
utilities for resale. 51237

In the case of an assessment based on intrastate gross 51238  
receipts under this section against a public utility that is an 51239

electric utility as defined in section 4928.01 of the Revised  
Code, or an electric services company, electric cooperative, or  
governmental aggregator subject to certification under section  
4928.08 of the Revised Code, such receipts shall be those  
specified in the utility's, company's, cooperative's, or  
aggregator's most recent report of intrastate gross receipts and  
sales of kilowatt hours of electricity, filed with the public  
utilities commission pursuant to division (F) of section 4928.06  
of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross  
receipts under this section against a retail natural gas supplier  
or governmental aggregator subject to certification under section  
4929.20 of the Revised Code, such receipts shall be those  
specified in the supplier's or aggregator's most recent report of  
intrastate gross receipts and sales of hundred cubic feet of  
natural gas, filed with the commission pursuant to division (B) of  
section 4929.23 of the Revised Code, and verified by the  
commission. However, no such retail natural gas supplier or such  
governmental aggregator serving or proposing to serve customers of  
a particular natural gas company, as defined in section 4929.01 of  
the Revised Code, shall be assessed under this section until after  
the commission, pursuant to section 4905.26 or 4909.18 of the  
Revised Code, has removed from the base rates of the natural gas  
company the amount of assessment under this section that is  
attributable to the value of commodity sales service, as defined  
in section 4929.01 of the Revised Code, in the base rates paid by  
those customers of the company that do not purchase that service  
from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day  
of October in each year, the office of consumers' counsel shall  
notify each public utility of the sum assessed against it,  
whereupon payment shall be made to the counsel, who shall deposit

it into the state treasury to the credit of the consumers' counsel 51272  
operating fund, which is hereby created. Beginning in calendar 51273  
year 2006, on or before the fifteenth day of May in each year, the 51274  
consumers' counsel shall notify each public utility that had a sum 51275  
assessed against it for the current fiscal year of more than one 51276  
thousand dollars that fifty per cent of that amount shall be paid 51277  
to the consumers' counsel by the twentieth day of June of that 51278  
year as an initial payment of the assessment against the company 51279  
for the next fiscal year. On or before the first day of October in 51280  
each year, the consumers' counsel shall make a final determination 51281  
of the sum of the assessment against each public utility and shall 51282  
notify each public utility of the sum assessed against it. The 51283  
consumers' counsel shall deduct from the assessment for each 51284  
public utility any initial payment received. Payment of the 51285  
assessment shall be made to the consumers' counsel by the first 51286  
day of November of that year. The consumers' counsel shall deposit 51287  
the payments received into the state treasury to the credit of the 51288  
consumers' counsel operating fund. Any such amounts paid into the 51289  
fund but not expended by the office shall be credited ratably by 51290  
the office to the public utilities that pay more than the minimum 51291  
assessment, according to the respective portions of such sum 51292  
assessable against them for the ensuing ~~calendar~~ fiscal year, 51293  
after first deducting any deficits accumulated from prior years. 51294  
The assessments for such ~~calendar~~ fiscal year shall be reduced 51295  
correspondingly. 51296

(C) Within five days after the beginning of each fiscal year 51297  
through fiscal year 2006, the director of budget and management 51298  
shall transfer from the general revenue fund to the consumers' 51299  
counsel operating fund an amount sufficient for maintaining and 51300  
administering the office of the consumers' counsel and exercising 51301  
the powers of the consumers' counsel under this chapter during the 51302  
first four months of the fiscal year. Not later than the 51303  
thirty-first day of December of the fiscal year, the same amount 51304

shall be transferred back to the general revenue fund from the 51305  
consumers' counsel operating fund. 51306

(D) As used in this section, "public utility" includes: 51307

(1) In addition to an electric utility as defined in section 51308  
4928.01 of the Revised Code, an electric services company, an 51309  
electric cooperative, or a governmental aggregator subject to 51310  
certification under section 4928.08 of the Revised Code, to the 51311  
extent of the company's, cooperative's, or aggregator's engagement 51312  
in the business of supplying or arranging for the supply in this 51313  
state of any retail electric service for which it must be so 51314  
certified; 51315

(2) In addition to a natural gas company as defined in 51316  
section 4929.01 of the Revised Code, a retail natural gas supplier 51317  
or governmental aggregator subject to certification under section 51318  
4929.20 of the Revised Code, to the extent of the supplier's or 51319  
aggregator's engagement in the business of supplying or arranging 51320  
for the supply in this state of any competitive retail natural gas 51321  
service for which it must be certified. 51322

Sec. 4912.01. (A) The public utilities commission and 51323  
consumers' counsel jointly shall operate a single, efficient, 51324  
statewide, toll-free call service to enable and respond to 51325  
incoming calls from the general public seeking information and 51326  
assistance regarding utility services. The service shall be 51327  
automated to provide the routing of all residential calls 51328  
concerning retail electric, natural gas, telephone, or water 51329  
public utility service to the office of the consumers' counsel and 51330  
the routing of all other calls to the public utilities commission. 51331  
The costs of establishing and operating the toll-free call service 51332  
shall be borne equally by the two agencies, payable, respectively, 51333  
from the public utilities fund under section 4905.10 of the 51334  
Revised Code and the consumers' counsel operating fund under 51335

section 4911.18 of the Revised Code. 51336

(B) Except as authorized in division (A) of this section, 51337  
neither agency shall operate or cause the operation of any utility 51338  
consumer call center, any costs of which are payable from revenue 51339  
available to the agency. 51340

**Sec. 4973.171.** (A) As used in this section, "felony" has the 51341  
same meaning as in section 109.511 of the Revised Code. 51342

(B)(1) The ~~governor~~ secretary of state shall not appoint or 51343  
commission a person as a police officer for a railroad company 51344  
under division (B) of section 4973.17 of the Revised Code and 51345  
shall not appoint or commission a person as a police officer for a 51346  
hospital under division (D) of section 4973.17 of the Revised Code 51347  
on a permanent basis, on a temporary basis, for a probationary 51348  
term, or on other than a permanent basis if the person previously 51349  
has been convicted of or has pleaded guilty to a felony. 51350

(2)(a) The ~~governor~~ secretary of state shall revoke the 51351  
appointment or commission of a person appointed or commissioned as 51352  
a police officer for a railroad company or as a police officer for 51353  
a hospital under division (B) or (D) of section 4973.17 of the 51354  
Revised Code if that person does either of the following: 51355

(i) Pleads guilty to a felony; 51356

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 51357  
plea agreement as provided in division (D) of section 2929.43 of 51358  
the Revised Code in which the person agrees to surrender the 51359  
certificate awarded to that person under section 109.77 of the 51360  
Revised Code. 51361

(b) The ~~governor~~ secretary of state shall suspend the 51362  
appointment or commission of a person appointed or commissioned as 51363  
a police officer for a railroad company or as a police officer for 51364

a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5101.07. There is hereby created in the state treasury the support services federal operating fund. The fund shall consist of federal funds the department of job and family services receives and that the director of job and family services determines are appropriate for deposit into the fund. Money in the fund shall be used to pay the federal share of both of the

<u>following:</u>	51396
<u>(A) The department's costs for computer projects;</u>	51397
<u>(B) The operating costs of the parts of the department that</u>	51398
<u>provide general support services for the department's work units</u>	51399
<u>established under section 5101.06 of the Revised Code.</u>	51400
<u>Sec. 5101.071. There is hereby created in the state treasury</u>	51401
<u>the support services state operating fund. The fund shall consist</u>	51402
<u>of payments made to the fund from other appropriation items by</u>	51403
<u>intrastate transfer voucher. Money in the fund shall be used to</u>	51404
<u>pay for both of the following:</u>	51405
<u>(A) The department of job and family services' costs for</u>	51406
<u>computer projects;</u>	51407
<u>(B) The operating costs of the parts of the department that</u>	51408
<u>provide general support services for the department's work units</u>	51409
<u>established under section 5101.06 of the Revised Code.</u>	51410
<b>Sec. 5101.16.</b> (A) As used in this section and sections	51411
5101.161 and 5101.162 of the Revised Code:	51412
(1) "Disability financial assistance" means the financial	51413
assistance program established under Chapter 5115. of the Revised	51414
Code.	51415
(2) "Disability medical assistance" means the medical	51416
assistance program established under Chapter 5115. of the Revised	51417
Code.	51418
(3) "Food stamps" means the program administered by the	51419
department of job and family services pursuant to section 5101.54	51420
of the Revised Code.	51421
(4) "Medicaid" means the medical assistance program	51422
established by Chapter 5111. of the Revised Code, excluding	51423

transportation services provided under that chapter.	51424
(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.	51425 51426
(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.	51427 51428
(7) "Public assistance expenditures" means expenditures for all of the following:	51429 51430
(a) Ohio works first;	51431
(b) County administration of Ohio works first;	51432
(c) Prevention, retention, and contingency;	51433
(d) County administration of prevention, retention, and contingency;	51434 51435
(e) Disability financial assistance;	51436
(f) Disability medical assistance;	51437
(g) County administration of disability financial assistance;	51438
(h) County administration of disability medical assistance;	51439
(i) County administration of food stamps;	51440
(j) County administration of medicaid.	51441
(8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.	51442 51443
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	51444 51445 51446 51447 51448 51449
(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and	51450 51451



disability medical assistance and county administration of those 51452  
programs during the state fiscal year ending in the previous 51453  
calendar year that the department of job and family services 51454  
determines are allowable. 51455

(2) The amount that is ten per cent, or other percentage 51456  
determined under division (D) of this section, of the county's 51457  
total expenditures for county administration of food stamps and 51458  
medicaid during the state fiscal year ending in the previous 51459  
calendar year that the department determines are allowable, less 51460  
the amount of federal reimbursement credited to the county under 51461  
division (E) of this section for the state fiscal year ending in 51462  
the previous calendar year; 51463

(3) A percentage of the actual amount of the county share of 51464  
program and administrative expenditures during federal fiscal year 51465  
1994 for assistance and services, other than child care, provided 51466  
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 51467  
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 51468  
enactment of the "Personal Responsibility and Work Opportunity 51469  
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 51470  
and family services shall determine the actual amount of the 51471  
county share from expenditure reports submitted to the United 51472  
States department of health and human services. The percentage 51473  
shall be the percentage established in rules adopted under 51474  
division (F) of this section. 51475

(C)(1) If a county's share of public assistance expenditures 51476  
determined under division (B) of this section for a state fiscal 51477  
year exceeds one hundred ten per cent of the county's share for 51478  
those expenditures for the immediately preceding state fiscal 51479  
year, the department of job and family services shall reduce the 51480  
county's share for expenditures under divisions (B)(1) and (2) of 51481  
this section so that the total of the county's share for 51482  
expenditures under division (B) of this section equals one hundred 51483

ten per cent of the county's share of those expenditures for the 51484  
immediately preceding state fiscal year. 51485

(2) A county's share of public assistance expenditures 51486  
determined under division (B) of this section may be increased 51487  
pursuant to section 5101.163 of the Revised Code and a sanction 51488  
under section 5101.24 of the Revised Code. An increase made 51489  
pursuant to section 5101.163 of the Revised Code may cause the 51490  
county's share to exceed the limit established by division (C)(1) 51491  
of this section. 51492

(D)(1) If the per capita tax duplicate of a county is less 51493  
than the per capita tax duplicate of the state as a whole and 51494  
division (D)(2) of this section does not apply to the county, the 51495  
percentage to be used for the purpose of division (B)(2) of this 51496  
section is the product of ten multiplied by a fraction of which 51497  
the numerator is the per capita tax duplicate of the county and 51498  
the denominator is the per capita tax duplicate of the state as a 51499  
whole. The department of job and family services shall compute the 51500  
per capita tax duplicate for the state and for each county by 51501  
dividing the tax duplicate for the most recent available year by 51502  
the current estimate of population prepared by the department of 51503  
development. 51504

(2) If the percentage of families in a county with an annual 51505  
income of less than three thousand dollars is greater than the 51506  
percentage of such families in the state and division (D)(1) of 51507  
this section does not apply to the county, the percentage to be 51508  
used for the purpose of division (B)(2) of this section is the 51509  
product of ten multiplied by a fraction of which the numerator is 51510  
the percentage of families in the state with an annual income of 51511  
less than three thousand dollars a year and the denominator is the 51512  
percentage of such families in the county. The department of job 51513  
and family services shall compute the percentage of families with 51514  
an annual income of less than three thousand dollars for the state 51515

and for each county by multiplying the most recent estimate of  
such families published by the department of development, by a  
fraction, the numerator of which is the estimate of average annual  
personal income published by the bureau of economic analysis of  
the United States department of commerce for the year on which the  
census estimate is based and the denominator of which is the most  
recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than  
the per capita tax duplicate of the state as a whole and the  
percentage of families in the county with an annual income of less  
than three thousand dollars is greater than the percentage of such  
families in the state, the percentage to be used for the purpose  
of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division  
(D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a)  
of this section by the fraction determined under division (D)(2)  
of this section.

(4) The department of job and family services shall  
determine, for each county, the percentage to be used for the  
purpose of division (B)(2) of this section not later than the  
first day of July of the year preceding the state fiscal year for  
which the percentage is used.

(E) The department of job and family services shall credit to  
a county the amount of federal reimbursement the department  
receives from the United States departments of agriculture and  
health and human services for the county's expenditures for  
administration of food stamps and medicaid that the department  
determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt  
rules in accordance with section 111.15 of the Revised Code to

establish all of the following: 51547

(a) The method the department is to use to change a county's 51548  
share of public assistance expenditures determined under division 51549  
(B) of this section as provided in division (C) of this section; 51550

(b) The allocation methodology and formula the department 51551  
will use to determine the amount of funds to credit to a county 51552  
under this section; 51553

(c) The method the department will use to change the payment 51554  
of the county share of public assistance expenditures from a 51555  
calendar-year basis to a state fiscal year basis; 51556

(d) The percentage to be used for the purpose of division 51557  
(B)(3) of this section, which shall, except as provided in section 51558  
5101.163 of the Revised Code, meet both of the following 51559  
requirements: 51560

(i) The percentage shall not be less than seventy-five per 51561  
cent nor more than eighty-two per cent; 51562

(ii) The percentage shall not exceed the percentage that the 51563  
state's qualified state expenditures is of the state's historic 51564  
state expenditures as those terms are defined in 42 U.S.C. 51565  
609(a)(7). 51566

(e) Other procedures and requirements necessary to implement 51567  
this section. 51568

(2) The director of job and family services may amend the 51569  
rule adopted under division (F)(1)(d) of this section to modify 51570  
the percentage on determination that the amount the general 51571  
assembly appropriates for Title IV-A programs makes the 51572  
modification necessary. The rule shall be adopted and amended as 51573  
if an internal management rule and in consultation with the 51574  
director of budget and management. 51575

Sec. 5101.163. As used in this section, "maintenance of effort" means qualified state expenditures as defined in 42 U.S.C. 609(a)(7)(B)(i). 51576  
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The department of job and family services may increase a county's share of public assistance expenditures determined under division (B) of section 5101.16 of the Revised Code if the United States secretary of health and human services requires an increase in the state's maintenance of effort because of one or more failures, resulting from the actions or inactions of one or more county family services agencies, to meet a requirement under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. The department may so increase a county's share of public assistance expenditures only to the amount the county's county family services agencies are responsible for the increase in the state's maintenance of effort as determined pursuant to rules the director of job and family services shall adopt under section 111.15 of the Revised Code. The department is not required to make the increase in accordance with section 5101.24 of the Revised Code. 51579  
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Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first, all of the following: 51595  
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(1) Prevention, retention, and contingency; 51598

(2) Medicaid; 51599

(3) Disability financial assistance; 51600

(4) Disability medical assistance provided before October 1, 2005, under former Chapter 5115. of the Revised Code; 51601  
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(5) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code. 51603  
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(B) As part of the procedure for the determination of 51605  
overpayment to a recipient of public assistance under Chapter 51606  
5107., 5108., 5111., or 5115. of the Revised Code, the director of 51607  
job and family services shall furnish quarterly the name and 51608  
social security number of each individual who receives public 51609  
assistance to the director of administrative services, the 51610  
administrator of the bureau of workers' compensation, and each of 51611  
the state's retirement boards. Within fourteen days after 51612  
receiving the name and social security number of an individual who 51613  
receives public assistance, the director of administrative 51614  
services, administrator, or board shall inform the auditor of 51615  
state as to whether such individual is receiving wages or 51616  
benefits, the amount of any wages or benefits being received, the 51617  
social security number, and the address of the individual. The 51618  
director of administrative services, administrator, boards, and 51619  
any agent or employee of those officials and boards shall comply 51620  
with the rules of the director of job and family services 51621  
restricting the disclosure of information regarding recipients of 51622  
public assistance. Any person who violates this provision shall 51623  
thereafter be disqualified from acting as an agent or employee or 51624  
in any other capacity under appointment or employment of any state 51625  
board, commission, or agency. 51626

(C) The auditor of state may enter into a reciprocal 51627  
agreement with the director of job and family services or 51628  
comparable officer of any other state for the exchange of names, 51629  
current or most recent addresses, or social security numbers of 51630  
persons receiving public assistance under Title IV-A or under 51631  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 51632  
U.S.C. 301, as amended. 51633

(D)(1) The auditor of state shall retain, for not less than 51634  
two years, at least one copy of all information received under 51635  
this section and sections 145.27, 742.41, 3307.20, 3309.22, 51636

4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

**Sec. 5101.21.** (A) As used in this section, "county signer"

means all of the following: 51668

(1) A board of county commissioners; 51669

(2) A county children services board appointed under section 51670  
5153.03 of the Revised Code if required by division (B) of this 51671  
section to enter into a fiscal agreement; 51672

(3) A county elected official that is a child support 51673  
enforcement agency if required by division (B) of this section to 51674  
enter into a fiscal agreement. 51675

(B) The director of job and family services may enter into 51676  
one or more written fiscal agreements with boards of county 51677  
commissioners under which financial assistance is awarded for 51678  
family services duties included in the agreements. Boards of 51679  
county commissioners shall select which family services duties to 51680  
include in a fiscal agreement. If a board of county commissioners 51681  
elects to include family services duties of a public children 51682  
services agency and a county children services board appointed 51683  
under section 5153.03 of the Revised Code serves as the county's 51684  
public children services agency, the board of county commissioners 51685  
and county children services board shall jointly enter into the 51686  
fiscal agreement with the director. If a board of county 51687  
commissioners elects to include family services duties of a child 51688  
support enforcement agency and the entity designated under former 51689  
section 2301.35 of the Revised Code prior to October 1, 1997, or 51690  
designated under section 307.981 of the Revised Code as the 51691  
county's child support enforcement agency is an elected official 51692  
of the county, the board of county commissioners and county 51693  
elected official shall jointly enter into the fiscal agreement 51694  
with the director. A fiscal agreement shall do all of the 51695  
following: 51696

(1) Specify the family services duties included in the 51697  
agreement and the private and government entities designated under 51698



section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties; 51699  
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(2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section; 51701  
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(3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement; 51706  
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(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly; 51712  
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(5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code; 51715  
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(6) Include the assurance of each county signer that the county signer will do all of the following: 51718  
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(a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor; 51720  
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(b) Ensure that the board and county family services agencies 51729  
utilize a financial management system and other accountability 51730  
mechanisms for the financial assistance awarded under the 51731  
agreement that meet requirements the department establishes; 51732

(c) Require the county family services agencies to do both of 51733  
the following: 51734

(i) Monitor all private and government entities that receive 51735  
a payment from financial assistance awarded under the agreement to 51736  
ensure that each entity uses the payment in accordance with 51737  
requirements for the family services duties included in the 51738  
agreement; 51739

(ii) Take action to recover payments that are not used in 51740  
accordance with the requirements for the family services duties 51741  
included in the agreement. 51742

(d) Require county family services agencies to promptly 51743  
reimburse the department the amount that represents the amount an 51744  
agency is responsible for, pursuant to action the department takes 51745  
under division (C) of section 5101.24 of the Revised Code, of 51746  
funds the department pays to any entity because of an adverse 51747  
audit finding, adverse quality control finding, final disallowance 51748  
of federal financial participation, or other sanction or penalty; 51749

(e) Require county family services agencies to take prompt 51750  
corrective action, including paying amounts resulting from an 51751  
adverse finding, sanction, or penalty, if the department, auditor 51752  
of state, federal agency, or other entity authorized by federal or 51753  
state law to determine compliance with requirements for a family 51754  
services duty included in the agreement determines compliance has 51755  
not been achieved; 51756

~~(f) If the department establishes a consolidated funding 51757  
allocation for two or more family services duties included in the 51758  
agreement, require the county family services agencies to use 51759~~

~~funds available in the consolidated funding allocation only for~~ 51760  
~~the purpose for which the funds are appropriated.~~ 51761

(7) Provide for the department taking action pursuant to 51762  
division (C) of section 5101.24 of the Revised Code if authorized 51763  
by division (B)(1), (2), (3), or (4) of that section; 51764

(8) Provide for timely audits required by federal and state 51765  
law and require prompt release of audit findings and prompt action 51766  
to correct problems identified in an audit; 51767

(9) Comply with all of the requirements for the family 51768  
services duties that are included in the agreement and have been 51769  
established by the department, federal or state law, or any of the 51770  
following that concern the family services duties included in the 51771  
fiscal agreement and are published under section 5101.212 of the 51772  
Revised Code: state plans for receipt of federal financial 51773  
participation, grant agreements between the department and a 51774  
federal agency, and executive orders issued by the governor; 51775

(10) Provide for dispute resolution procedures in accordance 51776  
with section 5101.24 of the Revised Code; 51777

(11) Establish the method of amending or terminating the 51778  
agreement and an expedited process for correcting terms or 51779  
conditions of the agreement that the director and each county 51780  
signer agree are erroneous; 51781

(12) Except as provided in rules adopted under division (D) 51782  
of this section, begin on the first day of July of an odd-numbered 51783  
year and end on the last day of June of the next odd-numbered 51784  
year. 51785

(C) The department shall make payments authorized by a fiscal 51786  
agreement on vouchers it prepares and may include any funds 51787  
appropriated or allocated to it for carrying out family services 51788  
duties included in the agreement, including funds for personal 51789

services and maintenance. 51790

(D)(1) The director shall adopt rules in accordance with 51791  
section 111.15 of the Revised Code governing fiscal agreements. 51792  
The director shall adopt the rules as if they were internal 51793  
management rules. Before adopting the rules, the director shall 51794  
give the public an opportunity to review and comment on the 51795  
proposed rules. The rules shall establish methodologies to be used 51796  
to determine the amount of financial assistance to be awarded 51797  
under the agreements. The rules also shall establish terms and 51798  
conditions under which an agreement may be entered into after the 51799  
first day of July of an odd-numbered year. The rules may do any or 51800  
all of the following: 51801

~~(a) Govern the establishment of consolidated funding 51802  
allocations and specify the time period for which a consolidated 51803  
funding allocation is to be provided if the effective date of the 51804  
agreement is after the first day of July of an odd numbered year, 51805  
which may include a time period before the effective date of the 51806  
agreement;~~ 51807

~~(b)~~ Govern the establishment of ~~other~~ allocations; 51808

~~(c)~~(b) Specify allowable uses of financial assistance awarded 51809  
under the agreements; 51810

~~(d)~~(c) Establish reporting, cash management, audit, and other 51811  
requirements the director determines are necessary to provide 51812  
accountability for the use of financial assistance awarded under 51813  
the agreements and determine compliance with requirements 51814  
established by the department, a federal or state law, or any of 51815  
the following that concern the family services duties included in 51816  
the agreements and are published under section 5101.212 of the 51817  
Revised Code: state plans for receipt of federal financial 51818  
participation, grant agreements between the department and a 51819  
federal entity, and executive orders issued by the governor. 51820

(2) A requirement of a fiscal agreement established by a rule 51821  
adopted under this division is applicable to a fiscal agreement 51822  
without having to be restated in the fiscal agreement. 51823

**Sec. 5101.241.** (A) As used in this section: 51824

(1) "Local area" and "chief elected official" have the same 51825  
meaning as in section 5101.20 of the Revised Code. 51826

(2) "Responsible entity" means the chief elected officials of 51827  
a local area. 51828

(B) The department of job and family services may take action 51829  
under division (C) of this section against the responsible entity, 51830  
regardless of who performs the workforce development activity, if 51831  
the department determines any of the following are the case: 51832

(1) A requirement of a grant agreement entered into under 51833  
section 5101.20 of the Revised Code that includes the workforce 51834  
development activity, including a requirement for grant agreements 51835  
established by rules adopted under that section, is not complied 51836  
with; 51837

(2) A performance standard for the workforce development 51838  
activity established by the federal government or the department 51839  
is not met; 51840

(3) A requirement for the workforce development activity 51841  
established by the department or any of the following is not 51842  
complied with: a federal or state law, state plan for receipt of 51843  
federal financial participation, grant agreement between the 51844  
department and a federal agency, or executive order; 51845

(4) The responsible entity is solely or partially 51846  
responsible, as determined by the director of job and family 51847  
services, for an adverse audit finding, adverse quality control 51848  
finding, final disallowance of federal financial participation, or 51849  
other sanction or penalty regarding the workforce development 51850

activity. 51851

(C) The department may take one or more of the following 51852  
actions against the responsible entity when authorized by division 51853  
(B)(1), (2), (3), or (4) of this section: 51854

(1) Require the responsible entity to submit to and comply 51855  
with a corrective action plan, established or approved by the 51856  
department, pursuant to a time schedule specified by the 51857  
department; 51858

(2) Require the responsible entity to do one of the 51859  
following: 51860

(a) Share with the department a final disallowance of federal 51861  
financial participation or other sanction or penalty; 51862

(b) Reimburse the department the amount the department pays 51863  
to the federal government or another entity that represents the 51864  
amount the responsible entity is responsible for of an adverse 51865  
audit finding, adverse quality control finding, final disallowance 51866  
of federal financial participation, or other sanction or penalty 51867  
issued by the federal government, auditor of state, or other 51868  
entity; 51869

(c) Pay the federal government or another entity the amount 51870  
that represents the amount the responsible entity is responsible 51871  
for of an adverse audit finding, adverse quality control finding, 51872  
final disallowance of federal financial participation, or other 51873  
sanction or penalty issued by the federal government, auditor of 51874  
state, or other entity; 51875

(d) Pay the department the amount that represents the amount 51876  
the responsible entity is responsible for of an adverse audit 51877  
finding, adverse quality control finding, or other sanction or 51878  
penalty issued by the department. 51879

(3) Impose a financial or administrative sanction or adverse 51880

audit finding issued by the department against the responsible  
entity, which may be increased with each subsequent action taken  
against the responsible entity-i

(4) Perform or contract with a government or private entity  
for the entity to perform the workforce development activity until  
the department is satisfied that the responsible entity ensures  
that the activity will be performed to the department's  
satisfaction. If the department performs or contracts with an  
entity to perform the workforce development activity under  
division (C)(4) of this section, the department may withhold funds  
allocated to or reimbursements due to the responsible entity for  
the activity and use those funds to implement division (C)(4) of  
this section.

(5) Request the attorney general to bring mandamus  
proceedings to compel the responsible entity to take or cease the  
actions listed in division (B) of this section. The attorney  
general shall bring any mandamus proceedings in the Franklin  
county court of appeals at the department's request.

(6) If the department takes action under this division  
because of division (B)(3) of this section, withhold funds  
allocated or reimbursement due to the responsible entity until the  
department determines that the responsible entity is in compliance  
with the requirement. The department shall release the funds when  
the department determines that compliance has been achieved.

(7) Issue a notice of intent to revoke approval of all or  
part of the local plan effected that conflicts with state or  
federal law and effectuate the revocation.

(D) The department shall notify the responsible entity and  
the appropriate county auditor when the department proposes to  
take action under division (C) of this section. The notice shall  
be in writing and specify the action the department proposes to

take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

~~(3) In the case of a proposed action under division (C)(1) of this section, the~~ The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. ~~If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days~~



~~following the day it receives the request to allow a~~ 51942  
~~representative of the department and a representative of the~~ 51943  
~~responsible entity an informal opportunity to resolve any dispute~~ 51944  
~~during that fifteen day period. The responsible entity and the~~ 51945  
~~department shall attempt to resolve informally any dispute and may~~ 51946  
~~develop a written resolution to the dispute at any time prior to~~ 51947  
~~submitting the written report described in division (D)(7) of this~~ 51948  
~~section to the director.~~ 51949

~~(4) In the case of a proposed action under division (C)(2),~~ 51950  
~~(3), or (4) of this section, the responsible entity shall have~~ 51951  
~~thirty calendar days after the department mails the notice to the~~ 51952  
~~responsible entity to send a written request to the department for~~ 51953  
~~an administrative review. If it receives such a request within the~~ 51954  
~~required time, the department shall postpone taking action under~~ 51955  
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 51956  
~~days following the day it receives the request to allow a~~ 51957  
~~representative of the department and a representative of the~~ 51958  
~~responsible entity an informal opportunity to resolve any dispute~~ 51959  
~~during that thirty day period.~~ 51960

~~(5) In the case of a proposed action under division (C)(2) of~~ 51961  
~~this section, the responsible entity may not include in its~~ 51962  
~~request disputes over a finding, final disallowance of federal~~ 51963  
~~financial participation, or other sanction or penalty issued by~~ 51964  
~~the federal government, auditor of state, or other entity other~~ 51965  
~~than the department.~~ 51966

~~(6)(5) If the responsible entity fails to request an~~ 51967  
~~administrative review within the required time, the responsible~~ 51968  
~~entity loses the right to request an administrative review of the~~ 51969  
~~proposed actions specified in the notice and the notice becomes~~ 51970  
~~final and binding on the responsible entity.~~ 51971

~~(7) If the informal opportunity provided in division (D)(3)~~ 51972  
~~or (4) of this section does not result in a written resolution to~~ 51973

~~the dispute, the~~ (6) The director of job and family services shall 51974  
appoint an administrative review panel to conduct the 51975  
administrative review. The review panel shall consist of 51976  
department employees who are not involved in the department's 51977  
proposal to take action against the responsible entity. The review 51978  
panel shall review the responsible entity's request. The review 51979  
panel may require that the department or responsible entity submit 51980  
additional information and schedule and conduct an informal 51981  
hearing to obtain testimony or additional evidence. A review of a 51982  
proposal to take action under division (C)(2) of this section 51983  
shall be limited solely to the issue of the amount the responsible 51984  
entity shall share with the department, reimburse the department, 51985  
or pay to the federal government, department, or other entity 51986  
under division (C)(2) of this section. The review panel is not 51987  
required to make a stenographic record of its hearing or other 51988  
proceedings. 51989

~~(8)(7)~~ After finishing an administrative review, an 51990  
administrative review panel appointed under division (D)~~(7)~~(6) of 51991  
this section shall submit a written report to the director setting 51992  
forth its findings of fact, conclusions of law, and 51993  
recommendations for action. The director may approve, modify, or 51994  
disapprove the recommendations. ~~If the director modifies or~~ 51995  
~~disapproves the recommendations, the director shall state the~~ 51996  
~~reasons for the modification or disapproval and the actions to be~~ 51997  
~~taken against the responsible entity.~~ 51998

~~(9)(8)~~ The director's approval, modification, or disapproval 51999  
under division (D)~~(8)~~(7) of this section shall be final and 52000  
binding on the responsible entity and shall not be subject to 52001  
further ~~departmental~~ review. 52002

(E) The responsible entity is not entitled to an 52003  
administrative review under division (D) of this section for any 52004  
of the following: 52005

(1) An action taken under division (C)(5) or (6) of this section;	52006 52007
(2) An action taken under section 5101.242 of the Revised Code;	52008 52009
(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;	52010 52011 52012 52013 52014 52015
(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;	52016 52017 52018
(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.	52019 52020 52021
(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.	52022 52023 52024 52025 52026
(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.	52027 52028 52029
<u>(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:</u>	52030 52031 52032 52033
<u>(1) Fraud or abuse;</u>	52034
<u>(2) Failure to carry out the requirements of the federal</u>	52035

"Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as 52036  
amended, including failure to meet performance standards 52037  
established by the federal government for two consecutive years. 52038

If the governor finds that access to basic "Workforce 52039  
Investment Act" services is not being provided in a local area, 52040  
the governor may declare an emergency and, in consultation with 52041  
the chief elected officials of the local area affected, arrange 52042  
for provision of these services through an alternative entity 52043  
during the time period in which resolution of the problem 52044  
preventing service delivery in the local area is pending. An 52045  
action taken by the governor pursuant to this section is not 52046  
subject to appeal under this section. 52047

**Sec. 5101.244.** If a county family services agency submits an 52048  
expenditure report to the department of job and family services, 52049  
the department makes a payment to the agency based on the report, 52050  
and the department subsequently determines that the payment 52051  
exceeds the allowable amount for the expenditure, the department 52052  
may adjust, offset, withhold, or reduce an allocation, cash draw, 52053  
advance, reimbursement, or other financial assistance to the 52054  
agency as necessary to recover the amount of the excess payment 52055  
made to the agency. The department is not required to make the 52056  
adjustment, offset, withholding, or reduction in accordance with 52057  
section 5101.24 of the Revised Code. 52058

The director of job and family services may adopt rules under 52059  
section 111.15 of the Revised Code as necessary to implement this 52060  
section. The director shall adopt the rules as if they were 52061  
internal management rules. 52062

**Sec. 5101.26.** As used in this section and in sections 5101.27 52063  
to 5101.30 of the Revised Code: 52064

(A) "County agency" means a county department of job and 52065

family services or a public children services agency. 52066

(B) "Fugitive felon" means an individual who is fleeing to 52067  
avoid prosecution, or custody or confinement after conviction, 52068  
under the laws of the place from which the individual is fleeing, 52069  
for a crime or an attempt to commit a crime that is a felony under 52070  
the laws of the place from which the individual is fleeing or, in 52071  
the case of New Jersey, a high misdemeanor, regardless of whether 52072  
the individual has departed from the individual's usual place of 52073  
residence. 52074

(C) "Information" means records as defined in section 149.011 52075  
of the Revised Code, any other documents in any format, and data 52076  
derived from records and documents that are generated, acquired, 52077  
or maintained by the department of job and family services, a 52078  
county agency, or an entity performing duties on behalf of the 52079  
department or a county agency. 52080

(D) "Law enforcement agency" means the state highway patrol, 52081  
an agency that employs peace officers as defined in section 109.71 52082  
of the Revised Code, the adult parole authority, a county 52083  
department of probation, a prosecuting attorney, the attorney 52084  
general, similar agencies of other states, federal law enforcement 52085  
agencies, and postal inspectors. "Law enforcement agency" includes 52086  
the peace officers and other law enforcement officers employed by 52087  
the agency. 52088

(E) "Medical assistance provided under a public assistance 52089  
program" means medical assistance provided under the programs 52090  
established under sections 5101.49, 5101.50 to 5101.503, and 52091  
5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any 52092  
other provision of the Revised Code. 52093

(F) "Public assistance" means financial assistance, medical 52094  
assistance, or social services provided under a program 52095  
administered by the department of job and family services or a 52096

county agency pursuant to Chapter 329., 5101., 5104., 5107., 52097  
5108., 5111., or 5115. of the Revised Code or an executive order 52098  
issued under section 107.17 of the Revised Code. 52099

(G) "Public assistance recipient" means an applicant for or 52100  
recipient or former recipient of public assistance. 52101

**Sec. 5101.31.** Any record, data, pricing information, or other 52102  
information regarding a drug rebate agreement or a supplemental 52103  
drug rebate agreement for the medicaid program established under 52104  
Chapter 5111. of the Revised Code ~~or the disability medical~~ 52105  
~~assistance program established under section 5115.10 of the~~ 52106  
~~Revised Code~~ that the department of job and family services 52107  
receives from a pharmaceutical manufacturer or creates pursuant to 52108  
negotiation of the agreement is not a public record under section 52109  
149.43 of the Revised Code and shall be treated by the department 52110  
as confidential information. 52111

**Sec. 5101.35.** (A) As used in this section: 52112

(1) "Agency" means the following entities that administer a 52113  
family services program: 52114

(a) The department of job and family services; 52115

(b) A county department of job and family services; 52116

(c) A public children services agency; 52117

(d) A private or government entity administering, in whole or 52118  
in part, a family services program for or on behalf of the 52119  
department of job and family services or a county department of 52120  
job and family services or public children services agency. 52121

(2) "Appellant" means an applicant, participant, former 52122  
participant, recipient, or former recipient of a family services 52123  
program who is entitled by federal or state law to a hearing 52124  
regarding a decision or order of the agency that administers the 52125

program. 52126

(3) "Family services program" means assistance provided under 52127  
a Title IV-A program as defined in section 5101.80 of the Revised 52128  
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 52129  
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 52130  
Revised Code, other than assistance provided under section 5101.46 52131  
of the Revised Code by the department of mental health, the 52132  
department of mental retardation and developmental disabilities, a 52133  
board of alcohol, drug addiction, and mental health services, or a 52134  
county board of mental retardation and developmental disabilities. 52135

(B) Except as provided by division (G) of this section, an 52136  
appellant who appeals under federal or state law a decision or 52137  
order of an agency administering a family services program shall, 52138  
at the appellant's request, be granted a state hearing by the 52139  
department of job and family services. This state hearing shall be 52140  
conducted in accordance with rules adopted under this section. The 52141  
state hearing shall be tape-recorded, but neither the recording 52142  
nor a transcript of the recording shall be part of the official 52143  
record of the proceeding. A state hearing decision is binding upon 52144  
the agency and department, unless it is reversed or modified on 52145  
appeal to the director of job and family services or a court of 52146  
common pleas. 52147

(C) Except as provided by division (G) of this section, an 52148  
appellant who disagrees with a state hearing decision may make an 52149  
administrative appeal to the director of job and family services 52150  
in accordance with rules adopted under this section. This 52151  
administrative appeal does not require a hearing, but the director 52152  
or the director's designee shall review the state hearing decision 52153  
and previous administrative action and may affirm, modify, remand, 52154  
or reverse the state hearing decision. Any person designated to 52155  
make an administrative appeal decision on behalf of the director 52156  
shall have been admitted to the practice of law in this state. An 52157

administrative appeal decision is the final decision of the 52158  
department and is binding upon the department and agency, unless 52159  
it is reversed or modified on appeal to the court of common pleas. 52160

(D) An agency shall comply with a decision issued pursuant to 52161  
division (B) or (C) of this section within the time limits 52162  
established by rules adopted under this section. If a county 52163  
department of job and family services or a public children 52164  
services agency fails to comply within these time limits, the 52165  
department may take action pursuant to section 5101.24 of the 52166  
Revised Code. If another agency fails to comply within the time 52167  
limits, the department may force compliance by withholding funds 52168  
due the agency or imposing another sanction established by rules 52169  
adopted under this section. 52170

(E) An appellant who disagrees with an administrative appeal 52171  
decision of the director of job and family services or the 52172  
director's designee issued under division (C) of this section may 52173  
appeal from the decision to the court of common pleas pursuant to 52174  
section 119.12 of the Revised Code. The appeal shall be governed 52175  
by section 119.12 of the Revised Code except that: 52176

(1) The person may appeal to the court of common pleas of the 52177  
county in which the person resides, or to the court of common 52178  
pleas of Franklin county if the person does not reside in this 52179  
state. 52180

(2) The person may apply to the court for designation as an 52181  
indigent and, if the court grants this application, the appellant 52182  
shall not be required to furnish the costs of the appeal. 52183

(3) The appellant shall mail the notice of appeal to the 52184  
department of job and family services and file notice of appeal 52185  
with the court within thirty days after the department mails the 52186  
administrative appeal decision to the appellant. For good cause 52187  
shown, the court may extend the time for mailing and filing notice 52188



of appeal, but such time shall not exceed six months from the date 52189  
the department mails the administrative appeal decision. Filing 52190  
notice of appeal with the court shall be the only act necessary to 52191  
vest jurisdiction in the court. 52192

(4) The department shall be required to file a transcript of 52193  
the testimony of the state hearing with the court only if the 52194  
court orders the department to file the transcript. The court 52195  
shall make such an order only if it finds that the department and 52196  
the appellant are unable to stipulate to the facts of the case and 52197  
that the transcript is essential to a determination of the appeal. 52198  
The department shall file the transcript not later than thirty 52199  
days after the day such an order is issued. 52200

(F) The department of job and family services shall adopt 52201  
rules in accordance with Chapter 119. of the Revised Code to 52202  
implement this section, including rules governing the following: 52203

(1) State hearings under division (B) of this section. The 52204  
rules shall include provisions regarding notice of eligibility 52205  
termination and the opportunity of an appellant appealing a 52206  
decision or order of a county department of job and family 52207  
services to request a county conference with the county department 52208  
before the state hearing is held. 52209

(2) Administrative appeals under division (C) of this 52210  
section; 52211

(3) Time limits for complying with a decision issued under 52212  
division (B) or (C) of this section; 52213

(4) Sanctions that may be applied against an agency under 52214  
division (D) of this section. 52215

(G) The department of job and family services may adopt rules 52216  
in accordance with Chapter 119. of the Revised Code establishing 52217  
an appeals process for an appellant who appeals a decision or 52218

order regarding a Title IV-A program identified under division 52219  
(A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of section 5101.80 of the 52220  
Revised Code that is different from the appeals process 52221  
established by this section. The different appeals process may 52222  
include having a state agency that administers the Title IV-A 52223  
program pursuant to an interagency agreement entered into under 52224  
section 5101.801 of the Revised Code administer the appeals 52225  
process. 52226

(H) The requirements of Chapter 119. of the Revised Code 52227  
apply to a state hearing or administrative appeal under this 52228  
section only to the extent, if any, specifically provided by rules 52229  
adopted under this section. 52230

**Sec. 5101.36.** Any application for public assistance gives a 52231  
right of subrogation to the department of job and family services 52232  
for any workers' compensation benefits payable to a person who is 52233  
subject to a support order, as defined in section 3119.01 of the 52234  
Revised Code, on behalf of the applicant, to the extent of any 52235  
public assistance payments made on the applicant's behalf. If the 52236  
director of job and family services, in consultation with a child 52237  
support enforcement agency and the administrator of the bureau of 52238  
workers' compensation, determines that a person responsible for 52239  
support payments to a recipient of public assistance is receiving 52240  
workers' compensation, the director shall notify the administrator 52241  
of the amount of the benefit to be paid to the department of job 52242  
and family services. 52243

For purposes of this section, "public assistance" means 52244  
medical assistance provided through the medical assistance program 52245  
established under section 5111.01 of the Revised Code; Ohio works 52246  
first provided under Chapter 5107. of the Revised Code; 52247  
prevention, retention, and contingency benefits and services 52248  
provided under Chapter 5108. of the Revised Code; disability 52249

financial assistance provided under Chapter 5115. of the Revised 52250  
Code; or disability medical assistance provided under former 52251  
Chapter 5115. of the Revised Code. 52252

**Sec. 5101.46.** (A) As used in this section: 52253

(1) "Title XX" means Title XX of the "Social Security Act," 52254  
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 52255

(2) "Respective local agency" means, with respect to the 52256  
department of job and family services, a county department of job 52257  
and family services; with respect to the department of mental 52258  
health, a board of alcohol, drug addiction, and mental health 52259  
services; and with respect to the department of mental retardation 52260  
and developmental disabilities, a county board of mental 52261  
retardation and developmental disabilities. 52262

(3) "Federal poverty guidelines" means the poverty guidelines 52263  
as revised annually by the United States department of health and 52264  
human services in accordance with section 673(2) of the "Omnibus 52265  
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 52266  
9902, as amended, for a family size equal to the size of the 52267  
family of the person whose income is being determined. 52268

(B) The departments of job and family services, mental 52269  
health, and mental retardation and developmental disabilities, 52270  
with their respective local agencies, shall administer the 52271  
provision of social services funded through grants made under 52272  
Title XX. The social services furnished with Title XX funds shall 52273  
be directed at the following goals: 52274

(1) Achieving or maintaining economic self-support to 52275  
prevent, reduce, or eliminate dependency; 52276

(2) Achieving or maintaining self-sufficiency, including 52277  
reduction or prevention of dependency; 52278

(3) Preventing or remedying neglect, abuse, or exploitation 52279

of children and adults unable to protect their own interests, or  
preserving, rehabilitating, or reuniting families; 52280  
52281

(4) Preventing or reducing inappropriate institutional care 52282  
by providing for community-based care, home-based care, or other 52283  
forms of less intensive care; 52284

(5) Securing referral or admission for institutional care 52285  
when other forms of care are not appropriate, or providing 52286  
services to individuals in institutions. 52287

(C)(1) All federal funds received under Title XX shall be 52288  
appropriated as follows: 52289

(a) Seventy-two and one-half per cent to the department of 52290  
job and family services; 52291

(b) Twelve and ninety-three one-hundredths per cent to the 52292  
department of mental health; 52293

(c) Fourteen and fifty-seven one-hundredths per cent to the 52294  
department of mental retardation and developmental disabilities. 52295

(2) Each state department shall, subject to the approval of 52296  
the controlling board, develop formulas for the distribution of 52297  
their Title XX appropriations to their respective local agencies. 52298  
The formulas shall take into account the total population of the 52299  
area that is served by the agency, the percentage of the 52300  
population in the area that falls below the federal poverty 52301  
guidelines, and the agency's history of and ability to utilize 52302  
Title XX funds. 52303

(3) Each of the state departments shall expend no more than 52304  
three per cent of its Title XX appropriation for state 52305  
administrative costs. Each of the department's respective local 52306  
agencies shall expend no more than fourteen per cent of its Title 52307  
XX appropriation for local administrative costs. 52308

(4) The department of job and family services shall expend no 52309

more than two per cent of its Title XX appropriation for the 52310  
training of the following: 52311

(a) Employees of county departments of job and family 52312  
services; 52313

(b) Providers of services under contract with the state 52314  
departments' respective local agencies; 52315

(c) Employees of a public children services agency directly 52316  
engaged in providing Title XX services. 52317

(D) The department of job and family services shall prepare a 52318  
biennial comprehensive Title XX social services plan on the 52319  
intended use of Title XX funds. The department shall develop a 52320  
method for obtaining public comment during the development of the 52321  
plan and following its completion. 52322

For each state fiscal year, the department of job and family 52323  
services shall prepare a report on the actual use of Title XX 52324  
funds. The department shall make the annual report available for 52325  
public inspection. 52326

The departments of mental health and mental retardation and 52327  
developmental disabilities shall prepare and submit to the 52328  
department of job and family services the portions of each 52329  
biennial plan and annual report that apply to services for mental 52330  
health and mental retardation and developmental disabilities. Each 52331  
respective local agency of the three state departments shall 52332  
submit information as necessary for the preparation of biennial 52333  
plans and annual reports. 52334

(E) Each county department shall adopt a county profile for 52335  
the administration and provision of Title XX social services in 52336  
the county. In developing its county profile, the county 52337  
department shall take into consideration the comments and 52338  
recommendations received from the public by the county family 52339

services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

~~(F) Not less often than every two years, the departments of job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.~~

~~(G) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. The If an audit is required, the social services provider shall reimburse the state department or local agency for the cost it incurred in conducting the audit or having the audit conducted.~~

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local

~~agency the amount of the adverse findings. The amount shall not be~~ 52371  
~~reimbursed with Title XX funds received under this section. The~~ 52372  
three state departments and their respective local agencies may 52373  
terminate or refuse to enter into a Title XX contract with a 52374  
~~provider of social services~~ provider if there are adverse findings 52375  
in an audit that are the responsibility of the provider. ~~The~~ 52376  
~~amount of any adverse findings shall not be reimbursed with Title~~ 52377  
~~XX funds. The cost of conducting an audit shall be reimbursed~~ 52378  
~~under a subsequent or amended Title XX contract with the provider.~~ 52379

~~(H) If federal funds received by the department of job and~~ 52380  
~~family services for use under Chapters 5107. and 5108. of the~~ 52381  
~~Revised Code are transferred by the controlling board for use in~~ 52382  
~~providing social services under this section, the distribution and~~ 52383  
~~use of the funds are not subject to the provisions of division (C)~~ 52384  
~~of this section. The department may do one or both of the~~ 52385  
~~following with the funds:~~ 52386

~~(1) Distribute the funds to the county departments of job and~~ 52387  
~~family services:~~ 52388

~~(2) Use the funds for services that benefit individuals~~ 52389  
~~eligible for services consistent with the principles of Title IV A~~ 52390  
~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 52391  
~~301, as amended.~~ 52392

~~(I) Except for the authority to adopt rules under division~~ 52393  
~~(J) of this section as necessary to carry out this division, this~~ 52394  
~~section does not apply to any distribution by the department of~~ 52395  
~~job and family services of funds for reimbursement of allowable~~ 52396  
~~Title XX expenditures when the funds for the reimbursement are~~ 52397  
~~received from a federal funding source other than Title XX.~~ 52398

~~(J)(G)~~ (G) The department of job and family services may adopt 52399  
rules ~~necessary~~ to implement and carry out the purposes of this 52400  
section. Rules ~~adopted under this division shall be adopted in~~ 52401

~~accordance with Chapter 119. of the Revised Code, unless they are~~ 52402  
~~internal management rules governing fiscal and administrative~~ 52403  
~~matters. Internal governing financial and operational matters of~~ 52404  
~~the department or matters between the department and county~~ 52405  
~~departments of job and family services shall be adopted as~~ 52406  
~~internal management rules may be adopted in accordance with~~ 52407  
section 111.15 of the Revised Code. Rules governing eligibility 52408  
for services, program participation, and other matters pertaining 52409  
to applicants and participants shall be adopted in accordance with 52410  
Chapter 119. of the Revised Code. 52411

Sec. 5101.461. (A) As used in this section: 52412

(1) "Title IV-A" means Title IV-A of the "Social Security 52413  
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 52414

(2) "Title XX" has the same meaning as in section 5101.46 of 52415  
the Revised Code. 52416

(B) To the extent authorized by federal law, the department 52417  
of job and family services may use funds received through the 52418  
Title IV-A temporary assistance for needy families block grant for 52419  
purposes of providing Title XX social services. The amount used 52420  
under this section shall not exceed the maximum amount permitted 52421  
by federal law. The funds and provision of Title XX social 52422  
services with the funds are not subject to section 5101.46 of the 52423  
Revised Code. 52424

(C) The department and any county department of job and 52425  
family services may require an entity under contract to provide 52426  
Title XX social services with funds used under this section to 52427  
submit to an audit on the basis of alleged misuse or improper 52428  
accounting of funds. If an audit is required, the social services 52429  
provider shall reimburse the state department or county department 52430  
for the cost it incurred in conducting the audit or having the 52431  
audit conducted. 52432



If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

**Sec. 5101.47.** (A) The Except as provided in division (B) of this section, the director of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I and II provided for under sections 5101.50 and 5101.51 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104.

of the Revised Code; 52463

(4) The food stamp program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code; 52464  
52465  
52466

(5) Other programs the director determines are supportive of children, adults, or families with at least one employed member; 52467  
52468

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities. 52469  
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(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 52474  
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(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply: 52479  
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52481  
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(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for the program. 52484  
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(2) The director is subject to federal statutes and regulations and state law statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program. 52488  
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52490  
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~~(C)~~(D) The director may adopt rules as necessary to implement this section. 52493  
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**Sec. 5101.80.** (A) As used in this section and in section 5101.801 of the Revised Code: 52495  
52496

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code. 52497  
52498

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code. 52499  
52500

(3) "Title IV-A administrative agency" means both of the following: 52501  
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(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services; 52503  
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52505

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code. 52506  
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(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended: 52510  
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(a) The Ohio works first program established under Chapter 5107. of the Revised Code; 52515  
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(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code; 52517  
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(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant 52519  
52520  
52521

to section 5101.801 of the Revised Code; 52522

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code; 52523  
52524

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code; 52525  
52526

(f) A component of a Title IV-A program identified under 52527  
divisions (A)~~(3)~~(4)(a) to ~~(e)~~(e) of this section that the Title 52528  
IV-A state plan prepared under division (C)(1) of this section 52529  
identifies as a component. 52530

(B) The department of job and family services shall act as 52531  
the single state agency to administer and supervise the 52532  
administration of Title IV-A programs. The Title IV-A state plan 52533  
and amendments to the plan prepared under division (C) of this 52534  
section are binding on ~~county family services agencies and state~~ 52535  
~~agencies that administer a Title IV-A program~~ administrative 52536  
agencies. No ~~county family services agency or state agency~~ 52537  
~~administering a Title IV-A program~~ administrative agency may 52538  
establish, by rule or otherwise, a policy governing ~~the a~~ a Title 52539  
IV-A program that is inconsistent with a Title IV-A program policy 52540  
established, in rule or otherwise, by the director of job and 52541  
family services. 52542

(C) The department of job and family services shall do all of 52543  
the following: 52544

(1) Prepare and submit to the United States secretary of 52545  
health and human services a Title IV-A state plan for Title IV-A 52546  
programs; 52547

(2) Prepare and submit to the United States secretary of 52548  
health and human services amendments to the Title IV-A state plan 52549  
that the department determines necessary, including amendments 52550  
necessary to implement Title IV-A programs identified in ~~division~~ 52551

divisions (A)~~(3)~~(4)(c) and ~~(d)~~ to (f) of this section; 52552

(3) Prescribe forms for applications, certificates, reports, 52553  
records, and accounts of ~~county family services agencies and state~~ 52554  
~~agencies administering a~~ Title IV-A program administrative 52555  
agencies, and other matters related to Title IV-A programs; 52556

(4) Make such reports, in such form and containing such 52557  
information as the department may find necessary to assure the 52558  
correctness and verification of such reports, regarding Title IV-A 52559  
programs; 52560

(5) Require reports and information from each ~~county family~~ 52561  
~~services agency and state agency administering a~~ Title IV-A 52562  
~~program administrative agency~~ as may be necessary or advisable 52563  
regarding the a Title IV-A program; 52564

(6) Afford a fair hearing in accordance with section 5101.35 52565  
of the Revised Code to any applicant for, or participant or former 52566  
participant of, a Title IV-A program aggrieved by a decision 52567  
regarding the program; 52568

(7) Administer and expend, pursuant to Chapters 5104., 5107., 52569  
and 5108. of the Revised Code and ~~section~~ sections 5101.801, 52570  
5101.802, and 5101.803 of the Revised Code, any sums appropriated 52571  
by the general assembly for the purpose of those chapters and 52572  
~~section~~ sections and all sums paid to the state by the secretary 52573  
of the treasury of the United States as authorized by Title IV-A 52574  
of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 52575  
601, as amended; 52576

(8) Conduct investigations and audits as are necessary 52577  
regarding Title IV-A programs; 52578

(9) Enter into reciprocal agreements with other states 52579  
relative to the provision of Ohio works first and prevention, 52580  
retention, and contingency to residents and nonresidents; 52581

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

~~(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered~~

~~the workforce during the most recent previous quarter for which  
the information is known and includes information regarding the  
earnings of those former participants. The report shall include a  
county by county breakdown and shall not contain the names or  
social security numbers of former participants.~~

~~(13) To the extent authorized by section 5101.801 of the  
Revised Code, enter into interagency agreements with state  
agencies for the administration of Title IV A programs identified  
under division (A)(3)(c) and (d) of this section.~~

(D) The department shall provide copies of the reports it  
receives under division (C)(10) of this section and prepares under  
~~divisions~~ division (C)(11) and ~~(12)~~ of this section to the  
governor, the president and minority leader of the senate, and the  
speaker and minority leader of the house of representatives. The  
department shall provide copies of the reports to any private or  
government entity on request.

(E) An authorized representative of the department or a  
county family services agency or state agency administering a  
Title IV-A program shall have access to all records and  
information bearing thereon for the purposes of investigations  
conducted pursuant to this section. An authorized representative  
of a government entity or private, not-for-profit entity  
administering a project funded in whole or in part with funds  
provided under the Title IV-A demonstration program shall have  
access to all records and information bearing on the project for  
the purpose of investigations conducted pursuant to this section.

**Sec. 5101.801.** (A) Except as otherwise provided by the law  
enacted by the general assembly or executive order issued by the  
governor establishing the Title IV-A program, a Title IV-A program  
identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of  
section 5101.80 of the Revised Code shall provide benefits and

services that are not "assistance" as defined in 45 C.F.R. 52643  
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 52644  
excludes from the definition of assistance. 52645

(B)(1) Except as otherwise provided by the law enacted by the 52646  
general assembly or executive order issued by the governor 52647  
establishing the Title IV-A program, the department of job and 52648  
family services shall do either of the following regarding a Title 52649  
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), 52650  
or (f) of section 5101.80 of the Revised Code: 52651

~~(1)~~(a) Administer the program or supervise a county family 52652  
services agency's administration of the program; 52653

~~(2)~~(b) Enter into an interagency agreement with a state 52654  
agency for the state agency to administer the program under the 52655  
department's supervision. 52656

(2) The department may enter into an agreement with a 52657  
government entity and, to the extent permitted by federal law, a 52658  
private, not-for-profit entity for the entity to receive funding 52659  
for a project under the Title IV-A demonstration program. 52660

(C) ~~If the department administers or supervises the 52661  
administration of a Title IV A program identified under division 52662  
(A)(3)(c) or (d) of section 5101.80 of the Revised Code pursuant 52663  
to division (B)(1) of this section, the The department may adopt 52664  
rules governing ~~the program~~ Title IV-A programs identified under 52665  
divisions (A)(4)(c), (d), (e), and (f) of section 5101.80 of the 52666  
Revised Code. Rules governing financial and operational matters of 52667  
the department or between the department and ~~the~~ county family 52668  
services ~~agency~~ agencies shall be adopted as internal management 52669  
rules adopted in accordance with section 111.15 of the Revised 52670  
Code. All other rules shall be adopted in accordance with Chapter 52671  
119. of the Revised Code. 52672~~

(D) If the department enters into an ~~interagency~~ agreement 52673



regarding a Title IV-A program identified under division 52674  
(A)~~(3)~~(4)(c) ~~or (d)~~, (e), or (f) of section 5101.80 of the Revised 52675  
Code pursuant to division (B)~~(1)~~(b) or (2) of this section, the 52676  
agreement shall include at least all of the following: 52677

(1) A requirement that the state agency or entity comply with 52678  
the requirements for the program or project, including all of the 52679  
following requirements established by federal statutes and 52680  
regulations, state statutes and rules, the United States office of 52681  
management and budget, and the Title IV-A state plan prepared 52682  
under section 5101.80 of the Revised Code: 52683

(a) Eligibility; 52684

(b) Reports; 52685

(c) Benefits and services; 52686

(d) Use of funds; 52687

(e) Appeals for applicants for, and recipients and former 52688  
recipients of, the benefits and services; 52689

(f) Audits. 52690

(2) A complete description of all of the following: 52691

(a) The benefits and services that the program or project is 52692  
to provide; 52693

(b) The methods of program or project administration; 52694

(c) The appeals process under section 5101.35 of the Revised 52695  
Code for applicants for, and recipients and former recipients of, 52696  
the ~~program's~~ program or project's benefits and services; 52697

(d) Other ~~program and administrative~~ requirements that the 52698  
department requires be included. 52699

(3) Procedures for the department to approve a policy, 52700  
established by rule or otherwise, that the state agency or entity 52701  
establishes for the program or project before the policy is 52702

established; 52703

(4) Provisions regarding how the department is to reimburse 52704  
the state agency or entity for allowable expenditures under the 52705  
program or project that the department approves, including all of 52706  
the following: 52707

(a) Limitations on administrative costs; 52708

(b) The department, at its discretion, ~~withholding doing~~ 52709  
either of the following: 52710

(i) ~~Withholding~~ no more than five per cent of the funds that 52711  
the department would otherwise provide to the state agency or 52712  
entity for the program or charging project; 52713

(ii) ~~Charging~~ the state agency or entity for the costs to the 52714  
department of performing, or contracting for the performance of, 52715  
audits and other administrative functions associated with the 52716  
program or project. 52717

(5) If the state agency or entity arranges by contract, 52718  
grant, or other agreement for another entity to perform a function 52719  
the state agency or entity would otherwise perform regarding the 52720  
program or project, the state ~~agency's~~ agency or entity's 52721  
responsibilities for both of the following: 52722

(a) Ensuring that the other entity complies with the 52723  
~~interagency~~ agreement between the state agency or entity and 52724  
department and federal statutes and regulations and state statutes 52725  
and rules governing the use of funds for the program or project; 52726

(b) Auditing the other entity in accordance with requirements 52727  
established by the United States office of management and budget. 52728

(6) The state ~~agency's~~ agency or entity's responsibilities 52729  
regarding the prompt payment, including any interest assessed, of 52730  
any adverse audit finding, final disallowance of federal funds, or 52731  
other sanction or penalty imposed by the federal government, 52732

auditor of state, department, a court, or other entity regarding 52733  
funds for the program or project; 52734

(7) Provisions for the department to terminate the 52735  
~~interagency~~ agreement or withhold reimbursement from the state 52736  
agency or entity if either of the following occur: 52737

(a) The federal government disapproves the program or project 52738  
or reduces federal funds for the program or project; 52739

(b) The state agency or entity fails to comply with the terms 52740  
of the ~~interagency~~ agreement. 52741

(8) Provisions for both of the following: 52742

(a) The department and state agency or entity determining the 52743  
performance outcomes expected for the program or project; 52744

(b) An evaluation of the program or project to determine its 52745  
success in achieving the performance outcomes determined under 52746  
division (D)(8)(a) of this section. 52747

(E) To the extent consistent with the law enacted by the 52748  
general assembly or executive order issued by the governor 52749  
establishing the Title IV-A program and subject to the approval of 52750  
the director of budget and management, the director of job and 52751  
family services may terminate a Title IV-A program identified 52752  
under division (A)~~(3)~~(4)(c) or, (d), (e), or (f) of section 52753  
5101.80 of the Revised Code or reduce funding for the program if 52754  
the director of job and family services determines that federal or 52755  
state funds are insufficient to fund the program. If the director 52756  
of budget and management approves the termination or reduction in 52757  
funding for such a program, the director of job and family 52758  
services shall issue instructions for the termination or funding 52759  
reduction. If a ~~county family services agency or state~~ Title IV-A 52760  
administrative agency is administering the program, the ~~county~~ 52761  
~~family services agency or state~~ agency is bound by the termination 52762  
or funding reduction and shall comply with the director's 52763

instructions. 52764

(F) The director of job and family services may adopt 52765  
internal management rules in accordance with section 111.15 of the 52766  
Revised Code as necessary to implement this section. The rules are 52767  
binding on each ~~county family services agency and state agency~~ 52768  
~~administering, pursuant to this section, a Title IV-A program~~ 52769  
~~identified in division (A)(3)(c) or (d) of section 5101.80 of the~~ 52770  
~~Revised Code~~ administrative agency. 52771

**Sec. 5101.802.** (A) As used in this section: 52772

(1) "Custodian," "guardian," and "minor child" have the same 52773  
meanings as in section 5107.02 of the Revised Code. 52774

(2) "Federal poverty guidelines" has the same meaning as in 52775  
section 5101.46 of the Revised Code. 52776

(3) "Kinship caregiver" has the same meaning as in section 52777  
5101.85 of the Revised Code. 52778

(B) Subject to division (E) of section 5101.801 of the 52779  
Revised Code, there is hereby created the kinship permanency 52780  
incentive program to promote permanency for a minor child in the 52781  
legal and physical custody of a kinship caregiver. The program 52782  
shall provide an initial one-time incentive payment to the kinship 52783  
caregiver to defray the costs of initial placement of the minor 52784  
child in the kinship caregiver's home. The program may provide 52785  
additional permanency incentive payments for the minor child at 52786  
six month intervals for a total period not to exceed thirty-six 52787  
months. 52788

(C) A kinship caregiver may participate in the program if all 52789  
of the following requirements are met: 52790

(1) The kinship caregiver applies to a public children 52791  
services agency in accordance with the application process 52792  
established in rules authorized by division (E) of this section; 52793

(2) The minor child the kinship caregiver is caring for is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code; 52794  
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(3) A juvenile court has adjudicated the minor child to be an abused, neglected, dependent, or unruly child and determined that it is in the child's best interest to be in the legal custody of the kinship caregiver or the probate court has determined that it is in the child's best interest to be in the guardianship of the kinship caregiver; 52797  
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(4) The kinship caregiver is either the minor child's custodian or guardian; 52803  
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(5) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section; 52805  
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(6) The gross income of the kinship caregiver's family, including the minor child, does not exceed two hundred per cent of the federal poverty guidelines. 52808  
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(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section. 52811  
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(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following: 52817  
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(1) The application process for the program; 52821

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver 52822  
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<u>to be eligible for the program;</u>	52824
<u>(3) The initial and ongoing eligibility determination process</u>	52825
<u>for the program;</u>	52826
<u>(4) The amount of the incentive payments provided under the</u>	52827
<u>program;</u>	52828
<u>(5) The method by which the incentive payments are provided</u>	52829
<u>to a kinship caregiver, which shall not require a public children</u>	52830
<u>services agency to seek reimbursement from the department of job</u>	52831
<u>and family services;</u>	52832
<u>(6) Anything else the director considers necessary to</u>	52833
<u>implement the program.</u>	52834
<u>(F) The director shall begin implementation of the kinship</u>	52835
<u>permanency incentive program no later than January 1, 2006.</u>	52836
<b><u>Sec. 5101.803.</u></b> (A) <u>Subject to division (E) of section</u>	52837
<u>5101.801 of the Revised Code, there is hereby created the Title</u>	52838
<u>IV-A demonstration program to provide funding for innovative and</u>	52839
<u>promising prevention and intervention projects that meet one or</u>	52840
<u>more of the four purposes of the temporary assistance for needy</u>	52841
<u>families block grant as specified in 42 U.S.C. 601 and are for</u>	52842
<u>individuals with specific and multiple barriers to achieving or</u>	52843
<u>maintaining self-sufficiency and personal responsibility. The</u>	52844
<u>department of job and family services may provide funding for such</u>	52845
<u>projects to government entities and, to the extent permitted by</u>	52846
<u>federal law, private, not-for-profit entities with which the</u>	52847
<u>department enters into agreements under division (B)(2) of section</u>	52848
<u>5101.801 of the Revised Code.</u>	52849
<u>In accordance with criteria the department develops, the</u>	52850
<u>department may solicit proposals for entities seeking to enter</u>	52851
<u>into an agreement with the department under division (B)(2) of</u>	52852
<u>section 5101.801 of the Revised Code. The department may enter</u>	52853

into such agreements with entities that do both of the following: 52854

(1) Meet the proposals' criteria; 52855

(2) If the entity's proposed project does not potentially 52856  
affect persons in each county of the state, provides the 52857  
department evidence that the entity has notified, in writing, the 52858  
county department of job and family services of each county where 52859  
persons may be affected by the implementation of the project. 52860

(B) In developing the criteria, soliciting the proposals, and 52861  
entering in the agreements, the department shall comply with all 52862  
applicable federal and state laws, the Title IV-A state plan 52863  
submitted to the United States secretary of health and human 52864  
services under section 5101.80 of the Revised Code, amendments to 52865  
the Title IV-A state plan submitted to the United States secretary 52866  
under that section, and federal waivers the United States 52867  
secretary grants. 52868

(C) The department shall begin implementation of the Title 52869  
IV-A demonstration program no later than January 1, 2006. 52870

**Sec. 5101.821.** Except as otherwise approved by the director 52871  
of budget and management, the department of job and family 52872  
services shall deposit federal funds received under Title IV-A of 52873  
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 52874  
into the temporary assistance for needy families (TANF) federal 52875  
fund, which is hereby created in the state treasury. The 52876  
department shall use money in the fund for the Ohio works first 52877  
program established under Chapter 5107. of the Revised Code; the 52878  
prevention, retention, and contingency program established under 52879  
Chapter 5108. of the Revised Code; social services provided 52880  
pursuant to section 5101.461 of the Revised Code; and any other 52881  
purposes consistent with Title IV-A, federal regulations, federal 52882  
waivers granted by the United States secretary of health and human 52883

services, state law, the Title IV-A state plan and amendments 52884  
submitted to the United States secretary of health and human 52885  
services under section 5101.80 of the Revised Code, and rules 52886  
adopted by the department under section 5107.05 of the Revised 52887  
Code. 52888

Sec. 5101.93. The department of job and family services shall 52889  
apply to the United States secretary of health and human services 52890  
for a waiver of federal medicaid requirements if necessary to 52891  
fulfill the requirements of section 1751.89 of the Revised Code. 52892

Sec. 5101.94. (A) The director of job and family services 52893  
shall determine whether a waiver of federal medicaid requirements 52894  
is necessary to fulfill the requirements of section 3901.3814 of 52895  
the Revised Code. If the director determines a waiver is 52896  
necessary, the department of job and family services shall apply 52897  
to the United States secretary of health and human services for 52898  
the waiver. 52899

(B)(1) If the director determines that section 3901.3814 of 52900  
the Revised Code can be implemented without a waiver or a waiver 52901  
is granted, the department shall notify the department of 52902  
insurance that the section can be implemented. Implementation of 52903  
the section shall be effective sixty days after the notice is 52904  
sent. 52905

(2) At the time the notice is given under division (B)(1) of 52906  
this section, the department shall also give notice to each health 52907  
insuring corporation that provides coverage to medicaid 52908  
recipients. The notice shall inform the corporation that sections 52909  
3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to 52910  
claims for services rendered to recipients on the date determined 52911  
under division (B)(1) of this section. That date shall be 52912  
specified in the notice. 52913



Sec. 5104.01. As used in this chapter:	52914
(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.	52915 52916 52917
(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.	52918 52919
(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.	52920 52921 52922
(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.	52923 52924 52925 52926
(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.	52927 52928 52929 52930 52931 52932 52933 52934
(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.	52935 52936 52937 52938 52939 52940
(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the	52941 52942 52943

Revised Code. 52944

(H) "Child" includes an infant, toddler, preschool child, or school child. 52945  
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(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended. 52947  
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(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home. 52951  
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(K) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home. 52965  
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(L) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which 52971  
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child care or publicly funded child care is provided for seven to  
twelve children at one time. In counting children for the purposes  
of this division, any children under six years of age who are  
related to a licensee, administrator, or employee and who are on  
the premises of the center shall be counted. "Child day-care  
center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined  
in section 3727.01 of the Revised Code, in which the needs of  
children are administered to, if all the children whose needs are  
being administered to are monitored under the on-site supervision  
of a physician licensed under Chapter 4731. of the Revised Code or  
a registered nurse licensed under Chapter 4723. of the Revised  
Code, and the services are provided only for children who, in the  
opinion of the child's parent, guardian, or custodian, are  
exhibiting symptoms of a communicable disease or other illness or  
are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded  
child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child  
receiving child care is on the premises and readily accessible at  
all times;

(c) The child care is not provided for more than thirty days  
a year;

(d) The child care is provided only for preschool and school  
children.

(M) "Child care resource and referral service organization"  
means a community-based nonprofit organization that provides child  
care resource and referral services but not child care.

(N) "Child care resource and referral services" means all of the following services:	53005 53006
(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	53007 53008 53009
(2) Provision of individualized consumer education to families seeking child care;	53010 53011
(3) Provision of timely referrals of available child care providers to families seeking child care;	53012 53013
(4) Recruitment of child care providers;	53014
(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;	53015 53016 53017 53018
(6) Collection and analysis of data on the supply of and demand for child care in the community;	53019 53020
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	53021 53022 53023
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	53024 53025 53026
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	53027 53028
(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;	53029 53030 53031 53032
(11) Cooperation with the county department of job and family	53033

services in encouraging the establishment of parent cooperative  
child care centers and parent cooperative type A family day-care  
homes. 53034  
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(O) "Child-care staff member" means an employee of a child  
day-care center or type A family day-care home who is primarily  
responsible for the care and supervision of children. The  
administrator may be a part-time child-care staff member when not  
involved in other duties. 53037  
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(P) "Drop-in child day-care center," "drop-in center,"  
"drop-in type A family day-care home," and "drop-in type A home"  
mean a center or type A home that provides child care or publicly  
funded child care for children on a temporary, irregular basis. 53042  
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(Q) "Employee" means a person who either: 53046

(1) Receives compensation for duties performed in a child  
day-care center or type A family day-care home; 53047  
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(2) Is assigned specific working hours or duties in a child  
day-care center or type A family day-care home. 53049  
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(R) "Employer" means a person, firm, institution,  
organization, or agency that operates a child day-care center or  
type A family day-care home subject to licensure under this  
chapter. 53051  
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(S) "Federal poverty line" means the official poverty  
guideline as revised annually in accordance with section 673(2) of  
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42  
U.S.C. 9902, as amended, for a family size equal to the size of  
the family of the person whose income is being determined. 53055  
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(T) "Head start program" means a comprehensive child  
development program that receives funds distributed under the  
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as  
amended, ~~or under sections 3301.31 to 3301.37 of the Revised Code~~ 53060  
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and is licensed as a child day-care center. 53064

(U) "Income" means gross income, as defined in section 53065  
5107.10 of the Revised Code, less any amounts required by federal 53066  
statutes or regulations to be disregarded. 53067

(V) "Indicator checklist" means an inspection tool, used in 53068  
conjunction with an instrument-based program monitoring 53069  
information system, that contains selected licensing requirements 53070  
that are statistically reliable indicators or predictors of a 53071  
child day-care center or type A family day-care home's compliance 53072  
with licensing requirements. 53073

(W) "Infant" means a child who is less than eighteen months 53074  
of age. 53075

(X) "In-home aide" means a person certified by a county 53076  
director of job and family services pursuant to section 5104.12 of 53077  
the Revised Code to provide publicly funded child care to a child 53078  
in a child's own home pursuant to this chapter and any rules 53079  
adopted under it. 53080

(Y) "Instrument-based program monitoring information system" 53081  
means a method to assess compliance with licensing requirements 53082  
for child day-care centers and type A family day-care homes in 53083  
which each licensing requirement is assigned a weight indicative 53084  
of the relative importance of the requirement to the health, 53085  
growth, and safety of the children that is used to develop an 53086  
indicator checklist. 53087

(Z) "License capacity" means the maximum number in each age 53088  
category of children who may be cared for in a child day-care 53089  
center or type A family day-care home at one time as determined by 53090  
the director of job and family services considering building 53091  
occupancy limits established by the department of commerce, number 53092  
of available child-care staff members, amount of available indoor 53093  
floor space and outdoor play space, and amount of available play 53094

equipment, materials, and supplies. 53095

(AA) "Licensed preschool program" or "licensed school child 53096  
program" means a preschool program or school child program, as 53097  
defined in section 3301.52 of the Revised Code, that is licensed 53098  
by the department of education pursuant to sections 3301.52 to 53099  
3301.59 of the Revised Code. 53100

(BB) "Licensee" means the owner of a child day-care center or 53101  
type A family day-care home that is licensed pursuant to this 53102  
chapter and who is responsible for ensuring its compliance with 53103  
this chapter and rules adopted pursuant to this chapter. 53104

(CC) "Operate a child day camp" means to operate, establish, 53105  
manage, conduct, or maintain a child day camp. 53106

(DD) "Owner" includes a person, as defined in section 1.59 of 53107  
the Revised Code, or government entity. 53108

(EE) "Parent cooperative child day-care center," "parent 53109  
cooperative center," "parent cooperative type A family day-care 53110  
home," and "parent cooperative type A home" mean a corporation or 53111  
association organized for providing educational services to the 53112  
children of members of the corporation or association, without 53113  
gain to the corporation or association as an entity, in which the 53114  
services of the corporation or association are provided only to 53115  
children of the members of the corporation or association, 53116  
ownership and control of the corporation or association rests 53117  
solely with the members of the corporation or association, and at 53118  
least one parent-member of the corporation or association is on 53119  
the premises of the center or type A home during its hours of 53120  
operation. 53121

(FF) "Part-time child day-care center," "part-time center," 53122  
"part-time type A family day-care home," and "part-time type A 53123  
home" mean a center or type A home that provides child care or 53124  
publicly funded child care for no more than four hours a day for 53125

any child. 53126

(GG) "Place of worship" means a building where activities of 53127  
an organized religious group are conducted and includes the 53128  
grounds and any other buildings on the grounds used for such 53129  
activities. 53130

(HH) "Preschool child" means a child who is three years old 53131  
or older but is not a school child. 53132

(II) "Protective child care" means publicly funded child care 53133  
for the direct care and protection of a child to whom either of 53134  
the following applies: 53135

(1) A case plan prepared and maintained for the child 53136  
pursuant to section 2151.412 of the Revised Code indicates a need 53137  
for protective care and the child resides with a parent, 53138  
stepparent, guardian, or another person who stands in loco 53139  
parentis as defined in rules adopted under section 5104.38 of the 53140  
Revised Code; 53141

(2) The child and the child's caretaker either temporarily 53142  
reside in a facility providing emergency shelter for homeless 53143  
families or are determined by the county department of job and 53144  
family services to be homeless, and are otherwise ineligible for 53145  
publicly funded child care. 53146

(JJ) "Publicly funded child care" means administering to the 53147  
needs of infants, toddlers, preschool children, and school 53148  
children under age thirteen during any part of the 53149  
twenty-four-hour day by persons other than their caretaker parents 53150  
for remuneration wholly or in part with federal or state funds, 53151  
including funds available under the child care block grant act, 53152  
Title IV-A, and Title XX, distributed by the department of job and 53153  
family services. 53154

(KK) "Religious activities" means any of the following: 53155



worship or other religious services; religious instruction; Sunday 53156  
school classes or other religious classes conducted during or 53157  
prior to worship or other religious services; youth or adult 53158  
fellowship activities; choir or other musical group practices or 53159  
programs; meals; festivals; or meetings conducted by an organized 53160  
religious group. 53161

(LL) "School child" means a child who is enrolled in or is 53162  
eligible to be enrolled in a grade of kindergarten or above but is 53163  
less than fifteen years old. 53164

(MM) "School child day-care center," "school child center," 53165  
"school child type A family day-care home," and "school child type 53166  
A family home" mean a center or type A home that provides child 53167  
care for school children only and that does either or both of the 53168  
following: 53169

(1) Operates only during that part of the day that 53170  
immediately precedes or follows the public school day of the 53171  
school district in which the center or type A home is located; 53172

(2) Operates only when the public schools in the school 53173  
district in which the center or type A home is located are not 53174  
open for instruction with pupils in attendance. 53175

(NN) "State median income" means the state median income 53176  
calculated by the department of development pursuant to division 53177  
(A)(1)(g) of section 5709.61 of the Revised Code. 53178

(OO) "Title IV-A" means Title IV-A of the "Social Security 53179  
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 53180

(PP) "Title XX" means Title XX of the "Social Security Act," 53181  
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 53182

(QQ) "Toddler" means a child who is at least eighteen months 53183  
of age but less than three years of age. 53184

(RR) "Type A family day-care home" and "type A home" mean a 53185

permanent residence of the administrator in which child care or 53186  
publicly funded child care is provided for seven to twelve 53187  
children at one time or a permanent residence of the administrator 53188  
in which child care is provided for four to twelve children at one 53189  
time if four or more children at one time are under two years of 53190  
age. In counting children for the purposes of this division, any 53191  
children under six years of age who are related to a licensee, 53192  
administrator, or employee and who are on the premises of the type 53193  
A home shall be counted. "Type A family day-care home" does not 53194  
include a residence in which the needs of children are 53195  
administered to, if all of the children whose needs are being 53196  
administered to are siblings of the same immediate family and the 53197  
residence is the home of the siblings. "Type A family day-care 53198  
home" and "type A home" do not include any child day camp. 53199

(SS) "Type B family day-care home" and "type B home" mean a 53200  
permanent residence of the provider in which child care is 53201  
provided for one to six children at one time and in which no more 53202  
than three children are under two years of age at one time. In 53203  
counting children for the purposes of this division, any children 53204  
under six years of age who are related to the provider and who are 53205  
on the premises of the type B home shall be counted. "Type B 53206  
family day-care home" does not include a residence in which the 53207  
needs of children are administered to, if all of the children 53208  
whose needs are being administered to are siblings of the same 53209  
immediate family and the residence is the home of the siblings. 53210  
"Type B family day-care home" and "type B home" do not include any 53211  
child day camp. 53212

**Sec. 5104.02.** (A) The director of job and family services is 53213  
responsible for the licensing of child day-care centers and type A 53214  
family day-care homes, ~~and~~. Each entity operating a head start 53215  
program shall meet the criteria for, and be licensed as, a child 53216

day-care center. The director is responsible for the enforcement 53217  
of this chapter and of rules promulgated pursuant to this chapter. 53218  
~~No~~ 53219

No person, firm, organization, institution, or agency shall 53220  
operate, establish, manage, conduct, or maintain a child day-care 53221  
center or type A family day-care home without a license issued 53222  
under section 5104.03 of the Revised Code. The current license 53223  
shall be posted in a conspicuous place in the center or type A 53224  
home that is accessible to parents, custodians, or guardians and 53225  
employees of the center or type A home at all times when the 53226  
center or type A home is in operation. 53227

(B) A person, firm, institution, organization, or agency 53228  
operating any of the following programs is exempt from the 53229  
requirements of this chapter: 53230

(1) A program of child care that operates for two or less 53231  
consecutive weeks; 53232

(2) Child care in places of worship during religious 53233  
activities during which children are cared for while at least one 53234  
parent, guardian, or custodian of each child is participating in 53235  
such activities and is readily available; 53236

(3) Religious activities which do not provide child care; 53237

(4) Supervised training, instruction, or activities of 53238  
children in specific areas, including, but not limited to: art; 53239  
drama; dance; music; gymnastics, swimming, or another athletic 53240  
skill or sport; computers; or an educational subject conducted on 53241  
an organized or periodic basis no more than one day a week and for 53242  
no more than six hours duration; 53243

(5) Programs in which the director determines that at least 53244  
one parent, custodian, or guardian of each child is on the 53245  
premises of the facility offering child care and is readily 53246  
accessible at all times, except that child care provided on the 53247

premises at which a parent, custodian, or guardian is employed 53248  
more than two and one-half hours a day shall be licensed in 53249  
accordance with division (A) of this section; 53250

(6)(a) Programs that provide child care funded and regulated 53251  
or operated and regulated by state departments other than the 53252  
department of job and family services or the state board of 53253  
education when the director of job and family services has 53254  
determined that the rules governing the program are equivalent to 53255  
or exceed the rules promulgated pursuant to this chapter. 53256

Notwithstanding any exemption from regulation under this 53257  
chapter, each state department shall submit to the director of job 53258  
and family services a copy of the rules that govern programs that 53259  
provide child care and are regulated or operated and regulated by 53260  
the department. Annually, each state department shall submit to 53261  
the director a report for each such program it regulates or 53262  
operates and regulates that includes the following information: 53263

(i) The site location of the program; 53264

(ii) The maximum number of infants, toddlers, preschool 53265  
children, or school children served by the program at one time; 53266

(iii) The number of adults providing child care for the 53267  
number of infants, toddlers, preschool children, or school 53268  
children; 53269

(iv) Any changes in the rules made subsequent to the time 53270  
when the rules were initially submitted to the director. 53271

The director shall maintain a record of the child care 53272  
information submitted by other state departments and shall provide 53273  
this information upon request to the general assembly or the 53274  
public. 53275

(b) Child care programs conducted by boards of education or 53276  
by chartered nonpublic schools that are conducted in school 53277

buildings and that provide child care to school children only 53278  
shall be exempt from meeting or exceeding rules promulgated 53279  
pursuant to this chapter. 53280

(7) Any preschool program or school child program, except a 53281  
head start program, that is subject to licensure by the department 53282  
of education under sections 3301.52 to 3301.59 of the Revised 53283  
Code. 53284

(8) Any program providing child care that meets all of the 53285  
following requirements and, on October 20, 1987, was being 53286  
operated by a nonpublic school that holds a charter issued by the 53287  
state board of education for kindergarten only: 53288

(a) The nonpublic school has given the notice to the state 53289  
board and the director of job and family services required by 53290  
Section 4 of Substitute House Bill No. 253 of the 117th general 53291  
assembly; 53292

(b) The nonpublic school continues to be chartered by the 53293  
state board for kindergarten, or receives and continues to hold a 53294  
charter from the state board for kindergarten through grade five; 53295

(c) The program is conducted in a school building; 53296

(d) The program is operated in accordance with rules 53297  
promulgated by the state board under sections 3301.52 to 3301.57 53298  
of the Revised Code. 53299

(9) A youth development program operated outside of school 53300  
hours by a community-based center to which all of the following 53301  
apply: 53302

(a) The children enrolled in the program are under nineteen 53303  
years of age and enrolled in or eligible to be enrolled in a grade 53304  
of kindergarten or above. 53305

(b) The program provides informal child care and at least two 53306  
of the following supervised activities: educational, recreational, 53307

culturally enriching, social, and personal development activities. 53308

(c) The state board of education has approved the program's 53309  
participation in the child and adult care food program as an 53310  
outside-school-hours care center pursuant to standards established 53311  
under section 3313.813 of the Revised Code. 53312

(d) The community-based center operating the program is 53313  
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 53314  
and (c)(3). 53315

**Sec. 5104.30.** (A) The department of job and family services 53316  
is hereby designated as the state agency responsible for 53317  
administration and coordination of federal and state funding for 53318  
publicly funded child care in this state. Publicly funded child 53319  
care shall be provided to the following: 53320

(1) Recipients of transitional child care as provided under 53321  
section 5104.34 of the Revised Code; 53322

(2) Participants in the Ohio works first program established 53323  
under Chapter 5107. of the Revised Code; 53324

(3) Individuals who would be participating in the Ohio works 53325  
first program if not for a sanction under section 5107.16 of the 53326  
Revised Code and who continue to participate in a work activity, 53327  
developmental activity, or alternative work activity pursuant to 53328  
an assignment under section 5107.42 of the Revised Code; 53329

(4) A family receiving publicly funded child care on October 53330  
1, 1997, until the family's income reaches one hundred fifty per 53331  
cent of the federal poverty line; 53332

(5) Subject to available funds, other individuals determined 53333  
eligible in accordance with rules adopted under section 5104.38 of 53334  
the Revised Code. 53335

The department shall apply to the United States department of 53336

health and human services for authority to operate a coordinated 53337  
program for publicly funded child care, if the director of job and 53338  
family services determines that the application is necessary. For 53339  
purposes of this section, the department of job and family 53340  
services may enter into agreements with other state agencies that 53341  
are involved in regulation or funding of child care. The 53342  
department shall consider the special needs of migrant workers 53343  
when it administers and coordinates publicly funded child care and 53344  
shall develop appropriate procedures for accommodating the needs 53345  
of migrant workers for publicly funded child care. 53346

(B) The department of job and family services shall 53347  
distribute state and federal funds for publicly funded child care, 53348  
including appropriations of state funds for publicly funded child 53349  
care and appropriations of federal funds available under the child 53350  
care block grant act, Title IV-A, and Title XX. The department may 53351  
use any state funds appropriated for publicly funded child care as 53352  
the state share required to match any federal funds appropriated 53353  
for publicly funded child care. 53354

(C) In the use of federal funds available under the child 53355  
care block grant act, all of the following apply: 53356

(1) The department may use the federal funds to hire staff to 53357  
prepare any rules required under this chapter and to administer 53358  
and coordinate federal and state funding for publicly funded child 53359  
care. 53360

(2) Not more than five per cent of the aggregate amount of 53361  
the federal funds received for a fiscal year may be expended for 53362  
administrative costs. 53363

(3) The department shall allocate and use at least four per 53364  
cent of the federal funds for the following: 53365

(a) Activities designed to provide comprehensive consumer 53366  
education to parents and the public; 53367

(b) Activities that increase parental choice; 53368

(c) Activities, including child care resource and referral 53369  
services, designed to improve the quality, and increase the 53370  
supply, of child care. 53371

(4) The department shall ensure that the federal funds will 53372  
be used only to supplement, and will not be used to supplant, 53373  
federal, state, and local funds available on the effective date of 53374  
the child care block grant act for publicly funded child care and 53375  
related programs. A county department of job and family services 53376  
may purchase child care from funds obtained through any other 53377  
means. 53378

(D) The department shall encourage the development of 53379  
suitable child care throughout the state, especially in areas with 53380  
high concentrations of recipients of public assistance and 53381  
families with low incomes. The department shall encourage the 53382  
development of suitable child care designed to accommodate the 53383  
special needs of migrant workers. On request, the department, 53384  
through its employees or contracts with state or community child 53385  
care resource and referral service organizations, shall provide 53386  
consultation to groups and individuals interested in developing 53387  
child care. The department of job and family services may enter 53388  
into interagency agreements with the department of education, the 53389  
board of regents, the department of development, and other state 53390  
agencies and entities whenever the cooperative efforts of the 53391  
other state agencies and entities are necessary for the department 53392  
of job and family services to fulfill its duties and 53393  
responsibilities under this chapter. 53394

The department shall develop and maintain a registry of 53395  
persons providing child care. The director shall adopt rules 53396  
pursuant to Chapter 119. of the Revised Code establishing 53397  
procedures and requirements for the registry's administration. 53398



(E)(1) The director shall adopt rules in accordance with 53399  
Chapter 119. of the Revised Code establishing both of the 53400  
following: 53401

(a) Reimbursement ceilings for providers of publicly funded 53402  
child care shall be amounts that are not less than sixty-five per 53403  
cent of the market's usual and customary cost to the public based 53404  
on the most recently conducted market rate survey required by 45 53405  
C.F.R. 98.16; 53406

(b) A procedure for reimbursing and paying providers of 53407  
publicly funded child care. 53408

(2) In establishing reimbursement ceilings under division 53409  
(E)(1)(a) of this section, the director shall do all of the 53410  
following: 53411

(a) Use the information obtained under division (B)(3) of 53412  
section 5104.04 of the Revised Code; 53413

(b) Establish an enhanced reimbursement ceiling for providers 53414  
who provide child care for caretaker parents who work 53415  
nontraditional hours; 53416

(c) For a type B family day-care home provider that has 53417  
received limited certification pursuant to rules adopted under 53418  
division (G)(1) of section 5104.011 of the Revised Code, establish 53419  
a reimbursement ceiling that is the following: 53420

(i) If the provider is a person described in division 53421  
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 53422  
per cent of the reimbursement ceiling that applies to a type B 53423  
family day-care home certified by the same county department of 53424  
job and family services pursuant to section 5104.11 of the Revised 53425  
Code; 53426

(ii) If the provider is a person described in division 53427  
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 53428

of the reimbursement ceiling that applies to a type B family 53429  
day-care home certified by the same county department pursuant to 53430  
section 5104.11 of the Revised Code. 53431

(3) In establishing reimbursement ceilings under division 53432  
(E)(1)(a) of this section, the director may establish different 53433  
reimbursement ceilings based on any of the following: 53434

(a) Geographic location of the provider; 53435

(b) Type of care provided; 53436

(c) Age of the child served; 53437

(d) Special needs of the child served; 53438

(e) Whether the expanded hours of service are provided; 53439

(f) Whether weekend service is provided; 53440

(g) Whether the provider has exceeded the minimum 53441  
requirements of state statutes and rules governing child care; 53442

(h) Any other factors the director considers appropriate. 53443

**Sec. 5104.32.** (A) Except as provided in division (C) of this 53444  
section, all purchases of publicly funded child care shall be made 53445  
under a contract entered into by a licensed child day-care center, 53446  
licensed type A family day-care home, certified type B family 53447  
day-care home, certified in-home aide, approved child day camp, 53448  
licensed preschool program, licensed school child program, or 53449  
border state child care provider and the county department of job 53450  
and family services. A county department of job and family 53451  
services may enter into a contract with a provider for publicly 53452  
funded child care for a specified period of time or upon a 53453  
continuous basis for an unspecified period of time. All contracts 53454  
for publicly funded child care shall be contingent upon the 53455  
availability of state and federal funds. The department of job and 53456  
family services shall prescribe a standard form to be used for all 53457

contracts for the purchase of publicly funded child care, 53458  
regardless of the source of public funds used to purchase the 53459  
child care. To the extent permitted by federal law and 53460  
notwithstanding any other provision of the Revised Code that 53461  
regulates state or county contracts or contracts involving the 53462  
expenditure of state, county, or federal funds, all contracts for 53463  
publicly funded child care shall be entered into in accordance 53464  
with the provisions of this chapter and are exempt from any other 53465  
provision of the Revised Code that regulates state or county 53466  
contracts or contracts involving the expenditure of state, county, 53467  
or federal funds. 53468

(B) Each contract for publicly funded childcare shall 53469  
specify at least the following: 53470

(1) That the provider of publicly funded child care agrees to 53471  
be paid for rendering services at the lowest of the rate 53472  
customarily charged by the provider for children enrolled for 53473  
child care, the reimbursement ceiling or rate of payment 53474  
established pursuant to section 5104.30 of the Revised Code, or a 53475  
rate the county department negotiates with the provider; 53476

(2) That, if a provider provides child care to an individual 53477  
potentially eligible for publicly funded child care who is 53478  
subsequently determined to be eligible, the county department 53479  
agrees to pay for all child care provided between the date the 53480  
county department receives the individual's completed application 53481  
and the date the individual's eligibility is determined; 53482

(3) Whether the county department of job and family services, 53483  
the provider, or a child care resource and referral service 53484  
organization will make eligibility determinations, whether the 53485  
provider or a child care resource and referral service 53486  
organization will be required to collect information to be used by 53487  
the county department to make eligibility determinations, and the 53488  
time period within which the provider or child care resource and 53489

referral service organization is required to complete required 53490  
eligibility determinations or to transmit to the county department 53491  
any information collected for the purpose of making eligibility 53492  
determinations; 53493

(4) That the provider, other than a border state child care 53494  
provider ~~or except as provided in division (B) of section 3301.37~~ 53495  
~~of the Revised Code~~, shall continue to be licensed, approved, or 53496  
certified pursuant to this chapter and shall comply with all 53497  
standards and other requirements in this chapter and in rules 53498  
adopted pursuant to this chapter for maintaining the provider's 53499  
license, approval, or certification; 53500

(5) That, in the case of a border state child care provider, 53501  
the provider shall continue to be licensed, certified, or 53502  
otherwise approved by the state in which the provider is located 53503  
and shall comply with all standards and other requirements 53504  
established by that state for maintaining the provider's license, 53505  
certificate, or other approval; 53506

(6) Whether the provider will be paid by the county 53507  
department of job and family services or the state department of 53508  
job and family services; 53509

(7) That the contract is subject to the availability of state 53510  
and federal funds. 53511

(C) Unless specifically prohibited by federal law, the county 53512  
department of job and family services shall give individuals 53513  
eligible for publicly funded child care the option of obtaining 53514  
certificates for payment that the individual may use to purchase 53515  
services from any provider qualified to provide publicly funded 53516  
child care under section 5104.31 of the Revised Code. Providers of 53517  
publicly funded child care may present these certificates for 53518  
payment for reimbursement in accordance with rules that the 53519  
director of job and family services shall adopt. Only providers 53520

may receive reimbursement for certificates for payment. The value 53521  
of the certificate for payment shall be based on the lowest of the 53522  
rate customarily charged by the provider, the reimbursement 53523  
ceiling or rate of payment established pursuant to section 5104.30 53524  
of the Revised Code, or a rate the county department negotiates 53525  
with the provider. The county department may provide the 53526  
certificates for payment to the individuals or may contract with 53527  
child care providers or child care resource and referral service 53528  
organizations that make determinations of eligibility for publicly 53529  
funded child care pursuant to contracts entered into under section 53530  
5104.34 of the Revised Code for the providers or resource and 53531  
referral service organizations to provide the certificates for 53532  
payment to individuals whom they determine are eligible for 53533  
publicly funded child care. 53534

For each six-month period a provider of publicly funded child 53535  
care provides publicly funded child day-care to the child of an 53536  
individual given certificates for payment, the individual shall 53537  
provide the provider certificates for days the provider would have 53538  
provided publicly funded child care to the child had the child 53539  
been present. County departments shall specify the maximum number 53540  
of days providers will be provided certificates of payment for 53541  
days the provider would have provided publicly funded child care 53542  
had the child been present. The maximum number of days shall not 53543  
exceed ten days in a six-month period during which publicly funded 53544  
child care is provided to the child regardless of the number of 53545  
providers that provide publicly funded child care to the child 53546  
during that period. 53547

**Sec. 5104.38.** In addition to any other rules adopted under 53548  
this chapter, the director of job and family services shall adopt 53549  
rules in accordance with Chapter 119. of the Revised Code 53550  
governing financial and administrative requirements for publicly 53551

funded child care and establishing all of the following: 53552

(A) Procedures and criteria to be used in making 53553  
determinations of eligibility for publicly funded child care that 53554  
give priority to children of families with lower incomes and 53555  
procedures and criteria for eligibility for publicly funded 53556  
protective child care. The rules shall specify the maximum amount 53557  
of income a family may have for initial and continued eligibility. 53558  
The maximum amount shall not exceed two hundred per cent of the 53559  
federal poverty line. 53560

(B) Procedures under which a county department of job and 53561  
family services may, if the department, under division (A) of this 53562  
section, specifies a maximum amount of income a family may have 53563  
for eligibility for publicly funded child care that is less than 53564  
the maximum amount specified in that division, specify a maximum 53565  
amount of income a family residing in the county the county 53566  
department serves may have for initial and continued eligibility 53567  
for publicly funded child care that is higher than the amount 53568  
specified by the department but does not exceed the maximum amount 53569  
specified in division (A) of this section; 53570

(C) A schedule of fees requiring all eligible caretaker 53571  
parents to pay a fee for publicly funded child care according to 53572  
income and family size, which shall be uniform for all types of 53573  
publicly funded child care, except as authorized by rule, and, to 53574  
the extent permitted by federal law, shall permit the use of state 53575  
and federal funds to pay the customary deposits and other advance 53576  
payments that a provider charges all children who receive child 53577  
care from that provider. The schedule of fees ~~may not provide for~~ 53578  
~~a caretaker parent to pay a fee that exceeds ten per cent of the~~ 53579  
~~parent's family income~~ shall be calculated as permitted by federal 53580  
law. 53581

(D) A formula based upon a percentage of the county's total 53582  
expenditures for publicly funded child care for determining the 53583

maximum amount of state and federal funds appropriated for	53584
publicly funded child care that a county department may use for	53585
administrative purposes;	53586
(E) Procedures to be followed by the department and county	53587
departments in recruiting individuals and groups to become	53588
providers of child care;	53589
(F) Procedures to be followed in establishing state or local	53590
programs designed to assist individuals who are eligible for	53591
publicly funded child care in identifying the resources available	53592
to them and to refer the individuals to appropriate sources to	53593
obtain child care;	53594
(G) Procedures to deal with fraud and abuse committed by	53595
either recipients or providers of publicly funded child care;	53596
(H) Procedures for establishing a child care grant or loan	53597
program in accordance with the child care block grant act;	53598
(I) Standards and procedures for applicants to apply for	53599
grants and loans, and for the department to make grants and loans;	53600
(J) A definition of "person who stands in loco parentis" for	53601
the purposes of division (II)(1) of section 5104.01 of the Revised	53602
Code;	53603
(K) Procedures for a county department of job and family	53604
services to follow in making eligibility determinations and	53605
redeterminations for publicly funded child care available through	53606
telephone, computer, and other means at locations other than the	53607
county department;	53608
(L) Any other rules necessary to carry out sections 5104.30	53609
to 5104.39 of the Revised Code.	53610
<b>Sec. 5107.05.</b> The director of job and family services shall	53611
adopt rules to implement this chapter. The rules shall be	53612

consistent with Title IV-A, Title IV-D, federal regulations, state 53613  
law, the Title IV-A state plan submitted to the United States 53614  
secretary of health and human services under section 5101.80 of 53615  
the Revised Code, amendments to the plan, and waivers granted by 53616  
the United States secretary. Rules governing eligibility, program 53617  
participation, and other applicant and participant requirements 53618  
shall be adopted in accordance with Chapter 119. of the Revised 53619  
Code. Rules governing financial and other administrative 53620  
requirements applicable to the department of job and family 53621  
services and county departments of job and family services shall 53622  
be adopted in accordance with section 111.15 of the Revised Code. 53623

(A) The rules shall specify, establish, or govern all of the 53624  
following: 53625

(1) A payment standard for Ohio works first based on federal 53626  
and state appropriations; 53627

(2) The method of determining the amount of cash assistance 53628  
an assistance group receives under Ohio works first; 53629

(3) Requirements for initial and continued eligibility for 53630  
Ohio works first, including requirements regarding income, 53631  
citizenship, age, residence, and assistance group composition. The 53632  
rules regarding income shall specify what is countable income, 53633  
gross earned income, and gross unearned income for the purpose of 53634  
section 5107.10 of the Revised Code. 53635

(4) For the purpose of section 5107.12 of the Revised Code, 53636  
application and verification procedures, including the minimum 53637  
information an application must contain; 53638

(5) The extent to which a participant of Ohio works first 53639  
must notify, pursuant to section 5107.12 of the Revised Code, a 53640  
county department of job and family services of additional income 53641  
not previously reported to the county department; 53642

(6) The department of job and family services providing 53643



written notice of a sanction under section 5107.161 of the Revised Code; 53644  
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(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code; 53646  
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(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29). 53649  
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(9) The administration of requirements governing the LEAP program provided for under section 5107.30 of the Revised Code, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program; 53654  
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(10) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award; 53659  
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(11) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code. Circumstances shall include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation. 53663  
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~~(11)~~(12) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code. 53671  
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(B) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

**Sec. 5107.10.** (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

~~(3)~~(4) "Initial eligibility threshold" means the higher of the following:

(a) Fifty per cent of the federal poverty guidelines;

(b) The gross income maximum for initial eligibility for Ohio works first as that maximum was set by division (D)(1)(a) of this section on the day before the effective date of this amendment.

(5) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for

Ohio works first established by this chapter and sections 5101.58, 53734  
5101.59, and 5101.83 of the Revised Code. 53735

(5) The assistance group must meet requirements for Ohio 53736  
works first established by rules adopted under section 5107.05 of 53737  
the Revised Code. 53738

(D)(1) Except as provided in division (D)~~(3)~~(4) of this 53739  
section, to determine whether an assistance group is initially 53740  
eligible to participate in Ohio works first, a county department 53741  
of job and family services shall do the following: 53742

(a) Determine whether the assistance group's gross income 53743  
exceeds the ~~following amount:~~ 53744

<del>Size of Assistance Group</del>	<del>Gross Income</del>	53745
<del>1</del>	<del>\$423</del>	53746
<del>2</del>	<del>\$537</del>	53747
<del>3</del>	<del>\$630</del>	53748
<del>4</del>	<del>\$750</del>	53749
<del>5</del>	<del>\$858</del>	53750
<del>6</del>	<del>\$942</del>	53751
<del>7</del>	<del>\$1,038</del>	53752
<del>8</del>	<del>\$1,139</del>	53753
<del>9</del>	<del>\$1,241</del>	53754
<del>10</del>	<del>\$1,343</del>	53755
<del>11</del>	<del>\$1,440</del>	53756
<del>12</del>	<del>\$1,542</del>	53757
<del>13</del>	<del>\$1,643</del>	53758
<del>14</del>	<del>\$1,742</del>	53759
<del>15</del>	<del>\$1,844</del>	53760

~~For each person in the assistance group that brings the 53761  
assistance group to more than fifteen persons, add one hundred two 53762  
dollars to the amount of gross income for an assistance group of 53763  
fifteen specified in division (D)(1)(a) of this section. 53764~~

~~In~~ initial eligibility threshold. In making this 53765  
determination, the county department shall disregard amounts that 53766  
federal statutes or regulations and sections 5101.17 and 5117.10 53767  
of the Revised Code require be disregarded. The assistance group 53768  
is ineligible to participate in Ohio works first if the assistance 53769  
group's gross income, less the amounts disregarded, exceeds the 53770  
~~amount specified in division (D)(1)(a) of this section~~ initial 53771  
eligibility threshold. 53772

(b) If the assistance group's gross income, less the amounts 53773  
disregarded pursuant to division (D)(1)(a) of this section, does 53774  
not exceed the ~~amount specified in that division~~ initial 53775  
eligibility threshold, determine whether the assistance group's 53776  
countable income is less than the payment standard. The assistance 53777  
group is ineligible to participate in Ohio works first if the 53778  
assistance group's countable income equals or exceeds the payment 53779  
standard. 53780

(2) For the purpose of determining whether an assistance 53781  
group meets the income requirement established by division 53782  
(D)(1)(a) of this section, the annual revision that the United 53783  
States department of health and human services makes to the 53784  
federal poverty guidelines shall go into effect on the first day 53785  
of July of the year for which the revision is made. 53786

(3) To determine whether an assistance group participating in 53787  
Ohio works first continues to be eligible to participate, a county 53788  
department of job and family services shall determine whether the 53789  
assistance group's countable income continues to be less than the 53790  
payment standard. In making this determination, the county 53791  
department shall disregard the first two hundred fifty dollars and 53792  
fifty per cent of the remainder of the assistance group's gross 53793  
earned income. No amounts shall be disregarded from the assistance 53794  
group's gross unearned income. The assistance group ceases to be 53795  
eligible to participate in Ohio works first if its countable 53796

income, less the amounts disregarded, equals or exceeds the 53797  
payment standard. 53798

~~(3)~~(4) If an assistance group reapplies to participate in 53799  
Ohio works first not more than four months after ceasing to 53800  
participate, a county department of job and family services shall 53801  
use the income requirement established by division (D)~~(2)~~(3) of 53802  
this section to determine eligibility for resumed participation 53803  
rather than the income requirement established by division (D)(1) 53804  
of this section. 53805

(E)(1) An assistance group may continue to participate in 53806  
Ohio works first even though a public children services agency 53807  
removes the assistance group's minor children from the assistance 53808  
group's home due to abuse, neglect, or dependency if the agency 53809  
does both of the following: 53810

(a) Notifies the county department of job and family services 53811  
at the time the agency removes the children that it believes the 53812  
children will be able to return to the assistance group within six 53813  
months; 53814

(b) Informs the county department at the end of each of the 53815  
first five months after the agency removes the children that the 53816  
parent, guardian, custodian, or specified relative of the children 53817  
is cooperating with the case plans prepared for the children under 53818  
section 2151.412 of the Revised Code and that the agency is making 53819  
reasonable efforts to return the children to the assistance group. 53820

(2) An assistance group may continue to participate in Ohio 53821  
works first pursuant to division (E)(1) of this section for not 53822  
more than six payment months. This division does not affect the 53823  
eligibility of an assistance group that includes a woman at least 53824  
six months pregnant. 53825

**Sec. 5107.26.** (A) As used in this section: 53826

(1) "Transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code. 53827  
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(2) "Transitional medicaid" means the medical assistance provided under section ~~5111.023~~ 5111.0115 of the Revised Code. 53830  
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(B) Except as provided in division (C) of this section, each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child care or transitional medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment. 53832  
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(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care or transitional medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause. 53843  
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53850

Just cause includes the following: 53851

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin; 53852  
53853

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule; 53854  
53855  
53856

(3) Employment that has become unsuitable due to any of the following:	53857 53858
(a) The wage is less than the federal minimum wage;	53859
(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;	53860 53861 53862 53863 53864 53865 53866
(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;	53867 53868
(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.	53869 53870 53871
(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;	53872 53873 53874
(5) A documented household emergency;	53875
(6) Lack of adequate child care for children of the member or recipient who are under six years of age.	53876 53877
<b>Sec. 5107.30.</b> (A) As used in this section:	53878
(1) <u>"Equivalent of a high school diploma" and "good cause" have the meanings established in rules adopted under section 5107.05 of the Revised Code.</u>	53879 53880 53881
(2) <u>"LEAP program"</u> means the learning, earning, and parenting program.	53882 53883
<del>(2) "Teen"</del> (3) <u>"Participating teen"</u> means <u>an individual to whom all of the following apply:</u>	53884 53885



~~(a) The individual is~~ a participant of Ohio works first ~~who;~~ 53886

~~(b) The individual~~ is under age eighteen or is age eighteen 53887  
and in school and is a natural or adoptive parent or is pregnant; 53888

~~(c) The individual is subject to the LEAP program's~~ 53889  
~~requirements.~~ 53890

~~(3)(4)~~ "School" means an educational program that is designed 53891  
to lead to the attainment of a high school diploma or the 53892  
equivalent of a high school diploma. 53893

(B) The director of job and family services may ~~adopt rules~~ 53894  
~~under section 5107.05 of the Revised Code, to the extent that such~~ 53895  
~~rules are consistent with federal law, to do all of the following:~~ 53896

~~(1) Define "good cause" and "the equivalent of a high school~~ 53897  
~~diploma" for the purposes of this section;~~ 53898

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 53899  
~~establish requirements governing the program in accordance with~~ 53900  
rules adopted under section 5107.05 of the Revised Code. The 53901  
purpose of the LEAP program is to encourage teens to complete 53902  
school. 53903

~~(3) Require every~~ Every participating teen ~~who is subject to~~ 53904  
~~LEAP program requirements to~~ shall attend school in accordance 53905  
with the requirements governing the LEAP program unless the 53906  
participating teen shows good cause for not attending school. The 53907  
department shall provide, in addition to the cash assistance 53908  
payment provided under Ohio works first, an incentive payment, in 53909  
an amount determined by the department, to every participating 53910  
teen ~~who is participating in the LEAP program and~~ attends school 53911  
in accordance with the requirements governing the LEAP program. In 53912  
addition to the incentive payment, the department may provide 53913  
other incentives to participating teens who attend school in 53914  
accordance with the LEAP program's requirements. The department 53915

shall reduce the cash assistance payment, in an amount determined 53916  
by the department, under Ohio works first to every participating 53917  
~~teen participating in the LEAP program~~ who fails or refuses, 53918  
without good cause, to meet the LEAP program's requirements 53919  
~~governing the program.~~ 53920

~~(4) Require every~~ Every participating teen ~~who is subject to~~ 53921  
~~LEAP program requirements to shall~~ enter into a written agreement 53922  
with the county department of job and family services that 53923  
~~provides~~ specifies all of the following: 53924

~~(a)(1)~~ The participating teen, to be eligible to receive the 53925  
incentive payment and other incentives, if any, under ~~division~~ 53926  
~~(B)(3)~~ of this section, must meet the requirements of the LEAP 53927  
program. 53928

~~(b)(2)~~ The ~~county department will provide the~~ incentive 53929  
payment ~~to the teen~~ and other incentives, if any, will be provided 53930  
if the participating teen meets the requirements of the LEAP 53931  
program. 53932

~~(c)(3)~~ The ~~county department will reduce the~~ participating 53933  
teen's cash assistance payment under Ohio works first will be 53934  
reduced if the participating teen fails or refuses without good 53935  
cause to attend school in accordance with the requirements 53936  
governing the LEAP program. 53937

(C) A minor head of household who is participating in the 53938  
LEAP program shall be considered to be participating in a work 53939  
activity for the purpose of sections 5107.40 to 5107.69 of the 53940  
Revised Code. However, the minor head of household is not subject 53941  
to the requirements or sanctions of those sections. 53942

(D) Subject to the availability of funds, county departments 53943  
of job and family services shall provide for ~~LEAP participants~~ 53944  
participating teens to receive support services the county 53945  
department determines to be necessary for LEAP participation. 53946

Support services may include publicly funded child care under 53947  
Chapter 5104. of the Revised Code, transportation, and other 53948  
services. 53949

Sec. 5107.301. For the purpose of encouraging individuals who 53950  
have successfully completed the requirements of the LEAP program 53951  
to enroll in post-secondary education, the director of job and 53952  
family services may provide an award to such individuals who 53953  
enroll in post-secondary education. If provided, the award shall 53954  
be provided in accordance with rules adopted under section 5107.05 53955  
of the Revised Code. 53956

**Sec. 5107.58.** In accordance with a federal waiver granted by 53957  
the United States secretary of health and human services pursuant 53958  
to a request made under former section 5101.09 of the Revised 53959  
Code, county departments of job and family services may establish 53960  
and administer as a work activity for minor heads of households 53961  
and adults participating in Ohio works first an education program 53962  
under which the participant is enrolled full-time in 53963  
post-secondary education leading to vocation at a state 53964  
institution of higher education, as defined in section 3345.031 of 53965  
the Revised Code; a private nonprofit college or university that 53966  
possesses a certificate of authorization issued by the Ohio board 53967  
of regents pursuant to Chapter 1713. of the Revised Code, or is 53968  
exempted by division (E) of section 1713.02 of the Revised Code 53969  
from the requirement of a certificate; a school that holds a 53970  
certificate of registration and program authorization issued by 53971  
the state board of career colleges and schools under Chapter 3332. 53972  
of the Revised Code; a private institution exempt from regulation 53973  
under Chapter 3332. of the Revised Code as prescribed in section 53974  
3333.046 of the Revised Code; or a school that has entered into a 53975  
contract with the county department of job and family services. 53976  
The participant shall make reasonable efforts, as determined by 53977

the county department, to obtain a loan, scholarship, grant, or 53978  
other assistance to pay for the tuition, including a federal Pell 53979  
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 53980  
under section 3333.12 of the Revised Code, and an Ohio college  
opportunity grant under section 3333.122 of the Revised Code. If 53981  
the participant has made reasonable efforts but is unable to 53982  
obtain sufficient assistance to pay the tuition the program may 53983  
pay the tuition. On or after October 1, 1998, the county 53984  
department may enter into a loan agreement with the participant to 53985  
pay the tuition. The total period for which tuition is paid and 53986  
loans made shall not exceed two years. If the participant, 53987  
pursuant to division (B)(3) of section 5107.43 of the Revised 53988  
Code, volunteers to participate in the education program for more 53989  
hours each week than the participant is assigned to the program, 53990  
the program may pay or the county department may loan the cost of 53991  
the tuition for the additional voluntary hours as well as the cost 53992  
of the tuition for the assigned number of hours. The participant 53993  
may receive, for not more than three years, support services, 53994  
including publicly funded child care under Chapter 5104. of the 53995  
Revised Code and transportation, that the participant needs to 53996  
participate in the program. To receive support services in the 53997  
third year, the participant must be, as determined by the 53998  
educational institution in which the participant is enrolled, in 53999  
good standing with the institution. 54000  
54001

A county department that provides loans under this section 54002  
shall establish procedures governing loan application for and 54003  
approval and administration of loans granted pursuant to this 54004  
section. 54005

**Sec. 5110.01.** As used in this chapter: 54006

(A) "Administrative fee" means the amount specified in rules 54007  
adopted under division (G) of section 5110.35 of the Revised Code. 54008

(B) "Children's health insurance program" means the 54009  
children's health insurance program part I and part II established 54010  
under sections 5101.50 to 5101.5110 of the Revised Code. 54011

~~(C) "Disability medical assistance program" means the program 54012  
established under section 5115.10 of the Revised Code. 54013~~

~~(D)~~ "Medicaid" means the medical assistance program 54014  
established under Chapter 5111. of the Revised Code. 54015

~~(E)~~(D) "National drug code number" means the number 54016  
registered for a drug pursuant to the listing system established 54017  
by the United States food and drug administration under the "Drug 54018  
Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 54019

~~(F)~~(E) "Ohio's best Rx program administrator" means the 54020  
entity, if any, the department of job and family services 54021  
contracts with pursuant to section 5110.10 of the Revised Code to 54022  
perform administrative functions of the Ohio's best Rx program and 54023  
to offer the mail order system through which Ohio's best Rx 54024  
program participants may obtain drugs by mail. 54025

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" 54026  
means an individual who signs an application for the Ohio's best 54027  
Rx program and submits it to the department of job and family 54028  
services, or the Ohio's best Rx program administrator, for a 54029  
determination of eligibility for the program. 54030

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" 54031  
means an individual determined eligible for the Ohio's best Rx 54032  
program and included under a valid Ohio's best Rx program 54033  
enrollment card. 54034

~~(I)~~(H) "Ohio's best Rx program price" means the price a 54035  
participating terminal distributor is to charge an Ohio's best Rx 54036  
program participant for a drug included in the Ohio's best Rx 54037  
program as determined under section 5110.14 of the Revised Code. 54038

"Ohio's best Rx program price" does not include either of the 54039  
following: 54040

(1) The amount of the professional fee, if any, the 54041  
participating terminal distributor adds to the Ohio's best Rx 54042  
program price pursuant to an agreement under section 5110.12 of 54043  
the Revised Code; 54044

(2) The amount of the administrative fee, if any, the 54045  
department of job and family services reports to the participating 54046  
terminal distributor under section 5110.29 of the Revised Code. 54047

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 54048  
participating in the Ohio's best Rx program pursuant to a rebate 54049  
agreement. 54050

~~(K)~~(J) "Participating terminal distributor" means a terminal 54051  
distributor of dangerous drugs participating in the Ohio's best Rx 54052  
program pursuant to an agreement entered into with the department 54053  
of job and family services under section 5110.12 of the Revised 54054  
Code. 54055

~~(L)~~(K) "Per unit price," with regard to a state health 54056  
benefit plan or state retirement system health benefit plan, means 54057  
the total amount paid to a terminal distributor of dangerous drugs 54058  
under a state health benefit plan or state retirement system 54059  
health benefit plan for one unit of a drug covered by the plan, 54060  
after the plan discounts or otherwise reduces the amount to be 54061  
paid to the terminal distributor. "Per unit price" includes both 54062  
of the following: 54063

(1) The amount that the state health benefit plan or state 54064  
retirement system health benefit plan, or other government entity 54065  
or person authorized to make the payment on behalf of the plan, 54066  
pays to the terminal distributor of dangerous drugs; 54067

(2) The amount that the beneficiary of the state health 54068  
benefit plan or state retirement system health benefit plan pays 54069

to the terminal distributor of dangerous drugs in the form of a 54070  
copayment, coinsurance, or other cost-sharing charge. 54071

~~(M)~~(L) "Per unit rebate," with regard to a state health 54072  
benefit plan or state retirement system health benefit plan, means 54073  
all rebates, discounts, formulary fees, administrative fees, and 54074  
other allowances a drug manufacturer pays to the plan, or other 54075  
government entity or person authorized to receive all or part of 54076  
such payments, for a drug during a calendar year, divided by the 54077  
total number of units of that drug dispensed under the plan during 54078  
the same calendar year. 54079

~~(N)~~(M) "Rebate administration percentage" means the 54080  
percentage specified in rules adopted under division (K) of 54081  
section 5110.35 of the Revised Code. 54082

~~(O)~~(N) "Rebate agreement" means an agreement under section 54083  
5110.21 of the Revised Code between the department of job and 54084  
family services and a drug manufacturer. 54085

~~(P)~~(O) "State health benefit plan" means a program of health 54086  
care benefits offered through the Ohio med preferred provider 54087  
organization, or a successor entity selected by the state, to 54088  
which either of the following apply: 54089

(1) It is provided by a collective bargaining agreement 54090  
authorized by division (A)(4) of section 4117.03 of the Revised 54091  
Code. 54092

(2) It is offered by the department of administrative 54093  
services to state employees in accordance with section 124.81 or 54094  
124.82 of the Revised Code. 54095

~~(Q)~~(P) "State retirement system" means all of the following: 54096  
the public employees retirement system, state teachers retirement 54097  
system, school employees retirement system, Ohio police and fire 54098  
pension fund, and state highway patrol retirement system. 54099

~~(R)~~(Q) "State retirement system health benefit plan" means a 54100  
plan of health care benefits offered by a state retirement system 54101  
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 54102  
Revised Code. 54103

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same 54104  
meaning as in section 4729.01 of the Revised Code. 54105

~~(T)~~(S) "Third-party payer" has the same meaning as in section 54106  
3901.38 of the Revised Code. 54107

~~(U)~~(T) "Trade secret" has the same meaning as in section 54108  
1333.61 of the Revised Code. 54109

~~(V)~~(U) "Usual and customary charge" means the amount a 54110  
participating terminal distributor or the Ohio's best Rx program 54111  
administrator charges for a drug included in the program to an 54112  
individual who does not receive a discounted price for the drug 54113  
pursuant to any drug discount program, including the Ohio's best 54114  
Rx program, a prescription drug discount card program established 54115  
under section 173.061 of the Revised Code, or a pharmacy 54116  
assistance program established by any person or government entity, 54117  
and for whom no third-party payer or program funded in whole or 54118  
part with state or federal funds is responsible for all or part of 54119  
the cost of the drug the distributor dispenses to the individual. 54120

**Sec. 5110.05.** (A) To be eligible for the Ohio's best Rx 54121  
program, an individual must meet all of the following requirements 54122  
at the time of application or reapplication for the program: 54123

(1) Be a resident of this state; 54124

(2) Have family income, as determined under rules adopted 54125  
pursuant to section 5110.35 of the Revised Code, that does not 54126  
exceed two hundred fifty per cent of the federal poverty 54127  
guidelines, as revised annually by the United States department of 54128  
health and human services in accordance with section 673(2) of the 54129



"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42	54130
U.S.C. 9902, as amended, or be sixty years of age or older;	54131
(3) Not have outpatient prescription drug coverage paid for	54132
in whole or in part by any of the following:	54133
(a) A third-party payer;	54134
(b) The medicaid program;	54135
(c) The children's health insurance program;	54136
(d) <del>The disability medical assistance program;</del>	54137
<del>(e)</del> Another health plan or pharmacy assistance program that	54138
uses state or federal funds to pay part or all of the cost of the	54139
individual's outpatient prescription drugs, other than a	54140
prescription drug discount card program established under section	54141
173.061 of the Revised Code.	54142
(4) Not have had outpatient prescription drug coverage	54143
specified in division (A)(3) of this section during any of the	54144
four months preceding the month in which the application or	54145
reapplication for the Ohio's best Rx program is made, unless any	54146
of the following applies:	54147
(a) The individual is sixty years of age or older.	54148
(b) The third-party payer that paid all or part of the	54149
coverage filed for bankruptcy under federal bankruptcy laws.	54150
(c) The individual is no longer eligible for coverage	54151
provided through a retirement plan subject to protection under the	54152
"Employee Retirement Income Security Act of 1974," 88 Stat. 832,	54153
29 U.S.C. 1001, as amended.	54154
(d) The individual is no longer eligible for the medicaid	54155
program, <u>or</u> children's health insurance program, <del>or disability</del>	54156
<del>medical assistance program.</del>	54157
(B) Application and annual reapplication for the Ohio's best	54158

Rx program shall be made in accordance with rules adopted under 54159  
section 5110.35 of the Revised Code on a form prescribed in those 54160  
rules. An individual may apply or reapply on behalf of the 54161  
individual and the individual's spouse and children. The guardian 54162  
or custodian of an individual may apply or reapply on behalf of 54163  
the individual. 54164

**Sec. 5110.352.** As used in this section, "medicaid dispensing 54165  
fee" means the dispensing fee established under section ~~5111.08~~ 54166  
5111.071 of the Revised Code for the medicaid program. 54167

In adopting a rule under division (F) of section 5110.35 of 54168  
the Revised Code increasing the maximum amount of the professional 54169  
fee participating terminal distributors may charge Ohio's best Rx 54170  
program participants under section 5110.12 of the Revised Code and 54171  
the Ohio's best Rx program administrator may charge under a 54172  
contract entered into under section 5110.10 of the Revised Code, 54173  
the department of job and family services shall review the amount 54174  
of the professional fee once a year or, at the department's 54175  
discretion, at more frequent intervals and shall not increase the 54176  
professional fee to an amount exceeding the medicaid dispensing 54177  
fee. 54178

A participating terminal distributor and the Ohio's best Rx 54179  
program administrator may charge a maximum three dollar 54180  
professional fee regardless of whether the medicaid dispensing fee 54181  
for that drug is less than that amount. The department, however, 54182  
may not adopt a rule increasing the maximum professional fee for 54183  
that drug until the medicaid dispensing fee for that drug exceeds 54184  
that amount. 54185

**Sec. 5110.39.** Not later than ~~April 1, 2005~~ the first day of 54186  
March of each year, the department of job and family services 54187  
shall do all of the following: 54188

(A) Create a list of the twenty-five drugs most often 54189  
dispensed to Ohio's best Rx program participants under the 54190  
program, using data from the most recent six-month period for 54191  
which the data is available; 54192

(B) Determine the average amount that participating terminal 54193  
distributors charge, on a date selected by the department, 54194  
participants for each drug included on the list created under 54195  
division (A) of this section; 54196

(C) Determine, for the date selected for division (B) of this 54197  
section, the average usual and customary charge of participating 54198  
terminal distributors for each drug included on the list created 54199  
under division (A) of this section; 54200

(D) By comparing the average charges determined under 54201  
divisions (B) and (C) of this section, determine the average 54202  
percentage savings in the amount participating terminal 54203  
distributors charge Ohio's best Rx program participants for each 54204  
drug included on the list created under division (A) of this 54205  
section. 54206

**Sec. 5111.011.** (A) As used in this section: 54207

(1) "Intermediate care facility for the mentally retarded" 54208  
has the same meaning as in section 5111.20 of the Revised Code. 54209

(2) "Nursing facility" means a facility defined as a nursing 54210  
facility under Sec. 1919 of the "Social Security Act," 49 Stat. 54211  
620 (1935), 42 U.S.C. 1396r, as amended has the same meaning as in 54212  
section 5111.20 of the Revised Code. 54213

~~(2)~~(3) "Institutionalized individual" means an individual who 54214  
is a patient in a nursing facility or who receives home and 54215  
community-based services under a federal waiver granted the 54216  
department of job and family services under 42 U.S.C. 54217  
1396a(10)(A)(ii)(VI). 54218

(B) Subject to this section, the director of job and family services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the ~~medical assistance~~ medicaid program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for ~~medical assistance~~ the medicaid program, the following shall apply with respect to real property used by an aged, blind or disabled applicant or recipient as a homestead or principal place of residence:

(1) The value of ~~real~~ the property of ~~aged, blind, or disabled persons used as a homestead by such persons~~ shall be the maximum allowed under Title XVI of the "Social Security Act.," 86 Stat. 1329 (1972), 42 U.S.C. 1381;

(2) Except as provided in division (C)(3) of this section, the department of job and family services may consider the property to not be the homestead or principal place of residence of the applicant or recipient if the applicant or recipient resides in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution for thirteen months or longer.

(3) Division (C)(2) of this section does not apply if any of the following individuals reside in the applicant's or recipient's real property used as a homestead or principal place of residence:

(a) The applicant's or recipient's spouse;

(b) A son or daughter of the applicant or recipient, if the son or daughter is under twenty-one years of age or blind or disabled in accordance with rules adopted by the director of job and family services;

(c) A son or daughter of the applicant or recipient, if the son or daughter is financially dependent on the applicant or

recipient for housing in accordance with rules adopted by the 54249  
director of job and family services; 54250

(d) A sibling of the applicant or recipient, if the sibling 54251  
has a verified equity and ownership interest in the real property 54252  
and has resided in the real property for at least one year 54253  
immediately before the date the applicant or recipient was 54254  
admitted to the nursing facility, intermediate care facility for 54255  
the mentally retarded, or other medical institution. 54256

(D) Except as provided in division (G) of this section, no 54257  
person is eligible for ~~medical assistance~~ the medicaid program if 54258  
on or prior to December 31, 1989, the person has transferred real 54259  
or personal property for the purpose of securing ~~medical~~ 54260  
~~assistance under section 5111.01 of the Revised Code~~ medicaid 54261  
eligibility and the transfer occurred during the two years 54262  
preceding the person's application. In order to secure compliance 54263  
with this division, the director of job and family services shall 54264  
require all applicants for ~~assistance~~ medicaid to submit true and 54265  
correct copies of any federal income or gift tax form or schedule 54266  
filed, singly or jointly, by the applicant during the preceding 54267  
five taxable years. Such copies, and the information disclosed 54268  
thereon, shall be used solely for the purpose of determining the 54269  
probability of whether the applicant has transferred assets in 54270  
violation of this division. The director shall provide for the 54271  
confidentiality and return of any copies of forms or schedules 54272  
submitted under this division. Where such copies reveal the 54273  
probability that an applicant has transferred assets in violation 54274  
of this division, a presumption arises that the applicant has 54275  
transferred assets in violation of this division, and the director 54276  
shall deny the application until the applicant submits a true and 54277  
accurate expenditure statement to the director that shows the 54278  
applicant did not violate this division. The director of job and 54279  
family services shall adopt rules to implement this provision. 54280

(E)(1) Except as provided in ~~division~~ divisions (E)(2) and 54281  
(G) of this section, an institutionalized individual who is 54282  
otherwise eligible for ~~medical assistance~~ medicaid shall be 54283  
ineligible for nursing facility services or services provided 54284  
under a home and community-based waiver for a period specified in 54285  
rules adopted under division ~~(E)(2)(3)~~ of this section if the 54286  
institutionalized individual or individual's spouse, on or after 54287  
January 1, 1990, transfers resources for less than fair market 54288  
value at any time during or after ~~a period of time, as specified~~ 54289  
~~in rules adopted under division (E)(2) of this section, the~~ 54290  
five-year period immediately prior to either of the following: 54291

(a) The date the individual becomes an institutionalized 54292  
individual if the individual is eligible for ~~medical assistance~~ 54293  
medicaid on that date; 54294

(b) The date the individual applies for ~~medical assistance~~ 54295  
medicaid while an institutionalized individual. 54296

(2) The director shall apply to the United States secretary 54297  
of health and human services for a waiver of federal law governing 54298  
the medicaid program as necessary for the implementation of the 54299  
five-year look-back period provided for by division (E)(1) of this 54300  
section. If a waiver is not approved, the look-back period shall 54301  
be the period of time specified in 42 U.S.C. 1396p(c). 54302

(3) The director shall adopt rules specifying, for the 54303  
purpose of division (E)(1) of this section, the ~~period of time~~ 54304  
~~preceding institutionalization or application for medical~~ 54305  
~~assistance during which transfers of assets for less than fair~~ 54306  
~~market value are prohibited and the length of the resulting period~~ 54307  
of ineligibility due to transfers of resources for less than fair 54308  
market value on or after the look-back date. The period of 54309  
ineligibility shall begin with the month in which the resources 54310  
were transferred. The rules shall be consistent with Title XIX of 54311

the "Social Security Act-," 79 Stat. 286 (1965), 42 U.S.C. 1396. 54312  
The department shall allow exceptions to the period of 54313  
ineligibility to the extent that exceptions are permitted by that 54314  
title. An exception based on undue hardship to the 54315  
institutionalized individual shall be allowed only so long as the 54316  
individual cooperates with the department or the county department 54317  
of job and family services in securing the return of transferred 54318  
resources. 54319

~~(3)~~(4) To secure compliance with this division, the 54320  
department may require applicants for and recipients of ~~medical~~ 54321  
~~assistance~~ medicaid, as a condition of eligibility, to provide 54322  
documentation of their income and resources up to five years prior 54323  
to the ~~time of application~~ date the individual becomes an 54324  
institutionalized individual if the individual is eligible for 54325  
medicaid on that date or the date the individual applies for 54326  
medicaid while an institutionalized individual. Documentation may 54327  
include, but is not limited to, tax returns, records from 54328  
financial institutions, and real property records. 54329

(F) The director shall, by rule adopted in accordance with 54330  
section 111.15 of the Revised Code, establish standards consistent 54331  
with federal law for allocating income and resources as income and 54332  
resources of the spouse, children, parents, or stepparents of a 54333  
recipient of or applicant for ~~medical assistance~~ medicaid. 54334  
Notwithstanding any provision of state law, including statutes, 54335  
administrative rules, common law, and court rules, regarding real 54336  
or personal property or domestic relations, the standards 54337  
established under this division shall be used to determine 54338  
eligibility for ~~medical assistance~~ medicaid. 54339

(G) The director may, by rule adopted in accordance with 54340  
section 111.15 of the Revised Code, exempt individuals who apply 54341  
for or receive ~~any medical assistance~~ medicaid that may be 54342  
provided pursuant to division (C) of section 5111.01 of the 54343

Revised Code from some or all of the requirements of this section. 54344

**Sec. 5111.019.** (A) The director of job and family services 54345  
shall submit to the United States secretary of health and human 54346  
services an amendment to the state medicaid plan to make an 54347  
individual who meets all of the following requirements eligible 54348  
for medicaid for the amount of time provided by division (B) of 54349  
this section: 54350

(1) The individual is the parent of a child under nineteen 54351  
years of age and resides with the child; 54352

(2) The individual's family income does not exceed ~~one~~ 54353  
~~hundred ninety~~ per cent of the federal poverty guidelines; 54354

(3) The individual is not otherwise eligible for medicaid; 54355

(4) The individual satisfies all relevant requirements 54356  
established by rules adopted under division (D) of section 5111.01 54357  
of the Revised Code. 54358

(B) An individual is eligible to receive medicaid under this 54359  
section for a period that does not exceed two years beginning on 54360  
the date on which eligibility is established. 54361

~~(C) If approved by the United States secretary of health and 54362  
human services and the director of job and family services, the 54363  
director shall implement the medicaid plan amendment submitted 54364  
under this section not sooner than July 1, 2000. If a federal 54365  
waiver is necessary for the United States secretary to approve the 54366  
amendment, the director of job and family services shall submit a 54367  
waiver request to the United States secretary not later than 54368  
ninety days after the effective date of this section. 54369~~

**Sec. 5111.0112.** ~~The~~ (A) Not later than July 1, 2006, the 54370  
director of job and family services shall ~~examine instituting~~ 54371  
institute a copayment program under medicaid. ~~As part of the~~ 54372



~~examination, the director shall determine which groups of medicaid 54373  
recipients may be subjected to a copayment requirement under The 54374  
copayment program shall establish a copayment requirement for only 54375  
dental services, vision services, and prescription drugs, other 54376  
than generic drugs, to the extent permitted by federal statutes 54377  
and regulations. If, on completion of the examination, the 54378  
director determines that it is feasible to institute such a 54379  
copayment program, the director may seek approval from the United 54380  
States secretary of health and human services to institute the 54381  
copayment program. If necessary, the director may seek approval by 54382  
applying for a waiver of federal statutes and regulations. If such 54383  
approval is obtained, the The director shall adopt rules in 54384  
accordance with Chapter 119. under section 5111.02 of the Revised 54385  
Code governing the copayment program. 54386~~

(B) The copayment program shall, to the extent permitted by 54387  
federal law, provide for all of the following with regard to any 54388  
providers participating in the medicaid program: 54389

(1) No provider shall refuse to provide a service to a 54390  
medicaid recipient who is unable to pay a required copayment for 54391  
the service. 54392

(2) Division (B)(1) of this section shall not be considered 54393  
to do either of the following with regard to a medicaid recipient 54394  
who is unable to pay a required copayment: 54395

(a) Relieve the medicaid recipient from the obligation to pay 54396  
a copayment; 54397

(b) Prohibit the provider from attempting to collect an 54398  
unpaid copayment. 54399

(3) No provider shall waive a medicaid recipient's obligation 54400  
to pay the provider a copayment. 54401

(4) No provider or drug manufacturer, including the 54402  
manufacturer's representative, employee, independent contractor, 54403

or agent, shall pay any copayment on behalf of a medicaid recipient. 54404  
54405

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the copayment program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services. 54406  
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Sec. 5111.0114. (A) As used in this section, "dangerous drug" and "manufacturer of dangerous drugs" have the same meaning as in section 4729.01 of the Revised Code. 54415  
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(B) The director of job and family services may enter into or administer an agreement or cooperative arrangement with other states to create or join a multiple-state prescription drug purchasing program for the purpose of negotiating with manufacturers of dangerous drugs to receive discounts or rebates for dangerous drugs dispensed under the medicaid program. 54418  
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Sec. ~~5111.023~~ 5111.0115. (A) The department of job and family services may provide medical assistance under ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in addition to such assistance provided under section 5111.01 of the Revised Code~~ the medicaid program, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under Chapter 5107. of the Revised Code who meets all of the following requirements: 54424  
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(1) Is ineligible to participate in Ohio works first solely 54433

as a result of increased income due to employment; 54434

(2) Is not covered by, and does not have access to, medical 54435  
insurance coverage through the employer with benefits comparable 54436  
to those provided under this section, as determined in accordance 54437  
with rules adopted by the director of job and family services 54438  
under division (B) of this section; 54439

(3) Meets any other requirement established by rule adopted 54440  
under division (B) of this section. 54441

(B) The director of job and family services shall adopt such 54442  
rules under Chapter 119. of the Revised Code as are necessary to 54443  
implement and administer the medical assistance program under this 54444  
section. 54445

(C) A person seeking to participate in a program of medical 54446  
assistance under this section shall apply to the county department 54447  
of job and family services in the county in which the applicant 54448  
resides. The application shall be made on a form prescribed by the 54449  
department of job and family services and furnished by the county 54450  
department. 54451

(D) If the county department of job and family services 54452  
determines that a person is eligible to receive medical assistance 54453  
under this section, the department shall provide assistance, to 54454  
the same extent and in the same manner as medical assistance is 54455  
provided to a person eligible for medical assistance pursuant to 54456  
division (A)(1)(a) of section 5111.01 of the Revised Code, for no 54457  
longer than twelve months, beginning the month after the date the 54458  
participant's eligibility for Ohio works first is terminated. 54459

Sec. 5111.02. The director of job and family services shall 54460  
adopt, and may amend or rescind, rules under Chapter 119. of the 54461  
Revised Code establishing the amount, duration, and scope of 54462  
medicaid services. The rules shall be consistent with federal and 54463

state law. The rules may be different for different medicaid 54464  
services. The rules shall establish all of the following: 54465

(A) The conditions under which the medicaid program shall 54466  
cover and reimburse medicaid services; 54467

(B) The method of reimbursement applicable to each medicaid 54468  
service; 54469

(C) The amount of reimbursement or, in lieu of amounts, 54470  
methods by which amounts are to be determined for each medicaid 54471  
service; 54472

(D) Procedures for enforcing the rules adopted under this 54473  
section that provide due process protections, including procedures 54474  
for corrective action plans for, and imposing financial and 54475  
administrative sanctions on, persons and government entities that 54476  
violate the rules. 54477

**Sec. ~~5111.02~~ 5111.021.** ~~(A)~~ Under the ~~medical assistance~~ 54478  
~~medicaid~~ program: 54479

~~(1)~~(A) Except as otherwise permitted by federal statute or 54480  
regulation and at the department's discretion, reimbursement by 54481  
the department of job and family services to a medical provider 54482  
for any medical service rendered under the program shall not 54483  
exceed the authorized reimbursement level for the same service 54484  
under the medicare program established under Title XVIII of the 54485  
"Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 54486  
U.S.C.A. ~~301~~ 1395, as amended. 54487

~~(2)~~(B) Reimbursement for freestanding medical laboratory 54488  
charges shall not exceed the customary and usual fee for 54489  
laboratory profiles. 54490

~~(3)~~(C) The department may deduct from payments for services 54491  
rendered by a medicaid provider under the ~~medical assistance~~ 54492

medicaid program any amounts the provider owes the state as the 54493  
result of incorrect ~~medical assistance~~ medicaid payments the 54494  
department has made to the provider. 54495

~~(4)~~(D) The department may conduct final fiscal audits in 54496  
accordance with the applicable requirements set forth in federal 54497  
laws and regulations and determine any amounts the provider may 54498  
owe the state. When conducting final fiscal audits, the department 54499  
shall consider generally accepted auditing standards, which 54500  
include the use of statistical sampling. 54501

~~(5)~~(E) The number of days of inpatient hospital care for 54502  
which reimbursement is made on behalf of a medicaid recipient ~~of~~ 54503  
~~medical assistance~~ to a hospital that is not paid under a 54504  
diagnostic-related-group prospective payment system shall not 54505  
exceed thirty days during a period beginning on the day of the 54506  
recipient's admission to the hospital and ending sixty days after 54507  
the termination of that hospital stay, except that the department 54508  
may make exceptions to this limitation. The limitation does not 54509  
apply to children participating in the program for medically 54510  
handicapped children established under section 3701.023 of the 54511  
Revised Code. 54512

~~(B) The director of job and family services may adopt, amend,~~ 54513  
~~or rescind rules under Chapter 119. of the Revised Code~~ 54514  
~~establishing the amount, duration, and scope of medical services~~ 54515  
~~to be included in the medical assistance program. Such rules shall~~ 54516  
~~establish the conditions under which services are covered and~~ 54517  
~~reimbursed, the method of reimbursement applicable to each covered~~ 54518  
~~service, and the amount of reimbursement or, in lieu of such~~ 54519  
~~amounts, methods by which such amounts are to be determined for~~ 54520  
~~each covered service. Any rules that pertain to nursing facilities~~ 54521  
~~or intermediate care facilities for the mentally retarded shall be~~ 54522  
~~consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 54523

~~(C)~~(F) The division of any reimbursement between a 54524

collaborating physician or podiatrist and a clinical nurse 54525  
specialist, certified nurse-midwife, or certified nurse 54526  
practitioner for services performed by the nurse shall be 54527  
determined and agreed on by the nurse and collaborating physician 54528  
or podiatrist. In no case shall reimbursement exceed the payment 54529  
that the physician or podiatrist would have received had the 54530  
physician or podiatrist provided the entire service. 54531

**Sec. ~~5111.021~~ 5111.022.** Under the ~~medical assistance~~ medicaid 54532  
program, any amount determined to be owed the state by a final 54533  
fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section 54534  
~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an 54535  
adjudication order pursuant to Chapter 119. of the Revised Code 54536  
that contains a finding that there is a preponderance of the 54537  
evidence that the provider will liquidate assets or file 54538  
bankruptcy in order to prevent payment of the amount determined to 54539  
be owed the state, becomes a lien upon the real and personal 54540  
property of the provider. Upon failure of the provider to pay the 54541  
amount to the state, the director of job and family services shall 54542  
file notice of the lien, for which there shall be no charge, in 54543  
the office of the county recorder of the county in which it is 54544  
ascertained that the provider owns real or personal property. The 54545  
director shall notify the provider by mail of the lien, but 54546  
absence of proof that the notice was sent does not affect the 54547  
validity of the lien. The lien is not valid as against the claim 54548  
of any mortgagee, pledgee, purchaser, judgment creditor, or other 54549  
lienholder of record at the time the notice is filed. 54550

If the provider acquires real or personal property after 54551  
notice of the lien is filed, the lien shall not be valid as 54552  
against the claim of any mortgagee, pledgee, subsequent bona fide 54553  
purchaser for value, judgment creditor, or other lienholder of 54554  
record to such after-acquired property unless the notice of lien 54555  
is refiled after the property is acquired by the provider and 54556

before the competing lien attaches to the after-acquired property 54557  
or before the conveyance to the subsequent bona fide purchaser for 54558  
value. 54559

When the amount has been paid, the provider may record with 54560  
the recorder notice of the payment. For recording such notice of 54561  
payment, the recorder shall charge and receive from the provider a 54562  
base fee of one dollar for services and a housing trust fund fee 54563  
of one dollar pursuant to section 317.36 of the Revised Code. 54564

In the event of a distribution of a provider's assets 54565  
pursuant to an order of any court under the law of this state 54566  
including any receivership, assignment for benefit of creditors, 54567  
adjudicated insolvency, or similar proceedings, amounts then or 54568  
thereafter due the state under this chapter have the same priority 54569  
as provided by law for the payment of taxes due the state and 54570  
shall be paid out of the receivership trust fund or other such 54571  
trust fund in the same manner as provided for claims for unpaid 54572  
taxes due the state. 54573

If the attorney general finds after investigation that any 54574  
amount due the state under this chapter is uncollectable, in whole 54575  
or in part, the attorney general shall recommend to the director 54576  
the cancellation of all or part of the claim. The director may 54577  
thereupon effect the cancellation. 54578

**Sec. ~~5111.022~~ 5111.023.** (A) As used in this section: 54579

(1) "Community mental health facility" means a community 54580  
mental health facility that has a quality assurance program 54581  
accredited by the joint commission on accreditation of healthcare 54582  
organizations or is certified by the department of mental health 54583  
or department of job and family services. 54584

(2) "Mental health professional" means a person qualified to 54585  
work with mentally ill persons under the standards established by 54586

the director of mental health pursuant to section 5119.611 of the Revised Code. 54587  
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(B) The state medicaid plan shall include provision of the following mental health services when provided by community mental health facilities: 54589  
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(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed; 54592  
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(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional; 54598  
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(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional; 54601  
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(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services. 54604  
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(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities. 54607  
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(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section. 54611  
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(E) Not later than July 21, ~~2004~~ 2006, the department of job and family services shall request federal approval to provide 54615  
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assertive community treatment and intensive home-based mental 54617  
health services under medicaid pursuant to this section. 54618

(F) On receipt of federal approval sought under division (E) 54619  
of this section, the director of job and family services shall 54620  
adopt rules in accordance with Chapter 119. of the Revised Code 54621  
for assertive community treatment and intensive home-based mental 54622  
health services provided under medicaid pursuant to this section. 54623  
The director shall consult with the department of mental health in 54624  
adopting the rules. 54625

**Sec. 5111.025.** (A) In rules adopted under section 5111.02 of 54626  
the Revised Code, the director of job and family services shall 54627  
modify the manner or establish a new manner in which the following 54628  
are paid under medicaid: 54629

(1) Community mental health facilities for providing mental 54630  
health services included in the state medicaid plan pursuant to 54631  
section ~~5111.022~~ 5111.023 of the Revised Code; 54632

(2) Providers of alcohol and drug addiction services for 54633  
providing alcohol and drug addiction services included in the 54634  
medicaid program pursuant to rules adopted under section 5111.02 54635  
of the Revised Code. 54636

(B) The director's authority to modify the manner, or to 54637  
establish a new manner, for medicaid to pay for the services 54638  
specified in division (A) of this section is not limited by any 54639  
rules adopted under section 5111.02 or 5119.61 of the Revised Code 54640  
that are in effect on ~~the effective date of this section~~ June 26, 54641  
2003, and govern the way medicaid pays for those services. This is 54642  
the case regardless of what state agency adopted the rules. 54643

**Sec. 5111.027.** If the medicaid program provides prescription 54644  
drug services to medicaid recipients, the program shall not 54645  
provide reimbursement for prescription drugs for treatment of 54646

erectile dysfunction.

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Sec. 5111.028. (A) The director of job and family services  
may establish a step therapy system for the medicaid program under  
which a medicaid provider shall do, except as provided in division  
(B) of this section, all of the following:

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(1) When prescribing an initial medical treatment for a  
medicaid recipient, prescribe the least costly treatment that can  
be used to safely and effectively treat the medicaid recipient's  
symptoms or effect a cure for the medicaid recipient's medical  
condition;

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(2) If the initial medical treatment does not treat the  
symptoms or effect a cure, sequentially prescribe increasingly  
more costly treatments after providing the director with clinical  
substantiation that the previous treatment was unsafe or  
ineffective in treating the symptoms or effecting a cure.

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(B) A medicaid provider is not required to follow the step  
therapy system if the treatment a medicaid recipient needs is an  
antiretroviral agent.

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**Sec. 5111.042.** The departments of mental retardation and  
developmental disabilities and job and family services may  
approve, reduce, deny, or terminate a service included in the  
individualized service plan developed for a medicaid recipient  
with mental retardation or other developmental disability who is  
eligible for medicaid case management services. ~~The departments~~  
~~shall consider the recommendations a county board of mental~~  
~~retardation and developmental disabilities makes under division~~  
~~(B)(1) of section 5126.055 of the Revised Code.~~ If either  
department approves, reduces, denies, or terminates a service,  
that department shall timely notify the medicaid recipient that

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the recipient may request a hearing under section 5101.35 of the Revised Code. 54676  
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**Sec. 5111.06.** (A)(1) As used in this section and in sections 5111.061 and 5111.062 of the Revised Code: 54678  
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(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 54680  
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(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code. 54685  
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(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code. 54687  
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(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code. 54689  
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(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 54692  
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(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider; 54697  
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(2) Take any action based upon a final fiscal audit of a provider. 54700  
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(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code. 54702  
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(D) The department is not required to comply with division 54706  
(B)(1) of this section whenever any of the following occur: 54707

(1) The terms of a provider agreement require the provider to 54708  
have a license, permit, or certificate issued by an official, 54709  
board, commission, department, division, bureau, or other agency 54710  
of state government other than the department of job and family 54711  
services, and the license, permit, or certificate has been denied 54712  
or revoked. 54713

(2) The provider agreement is denied, terminated, or not 54714  
renewed pursuant to division (C) or (E) of section 5111.03 of the 54715  
Revised Code; 54716

(3) The provider agreement is denied, terminated, or not 54717  
renewed due to the provider's termination, suspension, or 54718  
exclusion from the medicare program established under Title XVIII 54719  
of the "Social Security Act," and the termination, suspension, or 54720  
exclusion is binding on the provider's participation in the 54721  
medicaid program; 54722

(4) The provider agreement is denied, terminated, or not 54723  
renewed due to the provider's pleading guilty to or being 54724  
convicted of a criminal activity materially related to either the 54725  
medicare or medicaid program; 54726

(5) The provider agreement is denied, terminated, or 54727  
suspended as a result of action by the United States department of 54728  
health and human services and that action is binding on the 54729  
provider's participation in the medicaid program; 54730

(6) The provider agreement is terminated or not renewed 54731  
because the provider has not billed or otherwise submitted a 54732  
medicaid claim to the department for two years or longer, and the 54733  
department has determined that the provider has moved from the 54734  
address on record with the department without leaving an active 54735  
forwarding address with the department. 54736

In the case of a provider described in division (D)(6) of this section, the department may terminate or not renew the provider agreement by sending a notice explaining the department's proposed action to the address on record with the department. The notice may be sent by regular mail. 54737  
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(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code. 54742  
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**Sec. 5111.061.** (A) The department of job and family services may recover, at any time, a medicaid payment or portion of a payment made to a provider to which the provider is not entitled. Among the overpayments that may be recovered under this section are the following: 54755  
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(1) Payment for a service, or a day of service, not rendered; 54760

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate; 54761  
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(3) Payment of a service, or day of service, that was paid by, or partially paid by, a third-party, as defined in section 5101.571 of the Revised Code, and the third-party's payment or partial payment was not offset against the amount paid by the 54763  
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<u>medicaid program to reduce or eliminate the amount that was paid</u>	54767
<u>by the medicaid program;</u>	54768
<u>(4) Payment when a medicaid recipient's responsibility for</u>	54769
<u>payment was understated and resulted in an overpayment to the</u>	54770
<u>provider.</u>	54771
<u>(B) The department is authorized to recover overpayments</u>	54772
<u>under this section prior to or after any of the following:</u>	54773
<u>(1) Adjudication of a final fiscal audit that section 5111.06</u>	54774
<u>of the Revised Code requires to be conducted in accordance with</u>	54775
<u>Chapter 119. of the Revised Code;</u>	54776
<u>(2) Adjudication of a finding under any other provision of</u>	54777
<u>this chapter or the rules adopted under it;</u>	54778
<u>(3) Expiration of the time to issue a final fiscal audit that</u>	54779
<u>section 5111.06 of the Revised Code requires to be conducted in</u>	54780
<u>accordance with Chapter 119. of the Revised Code;</u>	54781
<u>(4) Expiration of the time to issue a finding under any other</u>	54782
<u>provision of this chapter or the rules adopted under it.</u>	54783
<u>(C)(1) Subject to division (C)(2) of this section, the</u>	54784
<u>recovery of an overpayment under this section does not preclude</u>	54785
<u>the department from subsequently doing the following:</u>	54786
<u>(a) Issuing a final fiscal audit in accordance with Chapter</u>	54787
<u>119. of the Revised Code, as required under section 5111.06 of the</u>	54788
<u>Revised Code;</u>	54789
<u>(b) Issuing a finding under any other provision of this</u>	54790
<u>chapter or the rules adopted under it.</u>	54791
<u>(2) A final fiscal audit or finding issued subsequent to the</u>	54792
<u>recovery of an overpayment under this section shall be reduced by</u>	54793
<u>the amount of the prior recovery, as appropriate.</u>	54794
<u>(D) Nothing in this section limits the department's authority</u>	54795

to recover overpayments pursuant to any other provision of the 54796  
Revised Code. 54797

Sec. 5111.062. In any action taken by the department of job 54798  
and family services under section 5111.06 or 5111.061 of the 54799  
Revised Code or any other provision of this chapter that requires 54800  
the department to give notice of an opportunity for a hearing in 54801  
accordance with Chapter 119. of the Revised Code, if the 54802  
department gives notice of the opportunity for a hearing but the 54803  
provider or other entity subject to the notice does not request a 54804  
hearing or timely request a hearing in accordance with section 54805  
119.07 of the Revised Code, the department is not required to hold 54806  
a hearing. The director of job and family service may proceed by 54807  
issuing a final adjudication order in accordance with Chapter 119. 54808  
of the Revised Code. 54809

Sec. 5111.082. The director of job and family services, in 54810  
rules adopted under section 5111.02 of the Revised Code, may 54811  
establish and implement a supplemental drug rebate program under 54812  
which drug manufacturers may be required to provide the department 54813  
of job and family services a supplemental rebate as a condition of 54814  
having the drug manufacturers' drug products covered by the 54815  
medicaid program without prior approval. The department may 54816  
receive a supplemental rebate negotiated under the program for a 54817  
drug dispensed to a medicaid recipient pursuant to a prescription 54818  
or a drug purchased by a medicaid provider for administration to a 54819  
medicaid recipient in the provider's primary place of business. If 54820  
necessary, the director may apply to the United States secretary 54821  
of health and human services for a waiver of federal statutes and 54822  
regulations to establish the supplemental drug rebate program. 54823

If the director establishes a supplemental drug rebate 54824  
program, the director shall consult with drug manufacturers 54825

regarding the establishment and implementation of the program. 54826

~~If the director establishes a supplemental drug rebate 54827  
program, the director shall exempt from the program all of a drug 54828  
manufacturer's drug products that have been approved by the United 54829  
States food and drug administration for the treatment of either of 54830  
the following: 54831~~

~~(A) Mental illness, as defined in section 5122.01 of the 54832  
Revised Code, including schizophrenia, major depressive disorder, 54833  
and bipolar disorder; 54834~~

~~(B) HIV or AIDS, both as defined in section 3701.24 of the 54835  
Revised Code. 54836~~

**Sec. 5111.083.** (A) As used in this section: 54837

(1) "State maximum allowable cost" means the per unit amount 54838  
the department of job and family services reimburses a terminal 54839  
distributor of dangerous drugs for a prescription drug included in 54840  
the state maximum allowable cost program established under 54841  
division (B) of this section. "State maximum allowable cost" 54842  
excludes dispensing fees and copayments, coinsurance, or other 54843  
cost-sharing charges, if any. 54844

(2) "Terminal distributor of dangerous drugs" has the same 54845  
meaning as in section 4729.01 of the Revised Code. 54846

(B) The director of job and family services shall establish a 54847  
state maximum allowable cost program for purposes of managing 54848  
reimbursement to terminal distributors of dangerous drugs for 54849  
prescription drugs identified by the director pursuant to this 54850  
division. The director shall do all of the following with respect 54851  
to the program: 54852

(1) Identify and create a list of prescription drugs to be 54853  
included in the program. 54854



(2) Update the list of prescription drugs described in 54855  
division (B)(1) of this section on a weekly basis. 54856

(3) Review the state maximum allowable cost for each drug 54857  
included on the list described in division (B)(1) of this section 54858  
on a weekly basis. 54859

(C) The director may adopt rules in accordance with Chapter 54860  
119. of the Revised Code to implement this section. 54861

**Sec. 5111.084.** (A) As used in this section, "licensed health 54862  
professional authorized to prescribe drugs" has the same meaning 54863  
as in section 4729.01 of the Revised Code. 54864

(B) The director of job and family services may establish an 54865  
e-prescribing system for the medicaid program under which a 54866  
medicaid provider who is a licensed health professional authorized 54867  
to prescribe drugs shall use an electronic system to prescribe a 54868  
drug for a medicaid recipient when required to do so by division 54869  
(C) of this section. The e-prescribing system shall eliminate the 54870  
need for such medicaid providers to make prescriptions for 54871  
medicaid recipients by handwriting or telephone. The e-prescribing 54872  
system also shall provide such medicaid providers with an 54873  
up-to-date, clinically relevant drug information database and a 54874  
system of electronically monitoring medicaid recipients' medical 54875  
history, drug regimen compliance, and fraud and abuse. 54876

(C) If the director establishes an e-prescribing system under 54877  
division (B) of this section, the director shall do all of the 54878  
following: 54879

(1) Require that a medicaid provider who is a licensed health 54880  
professional authorized to prescribe drugs use the e-prescribing 54881  
system during a fiscal year if the medicaid provider was one of 54882  
the ten medicaid providers who, during the calendar year that 54883  
precedes that fiscal year, issued the most prescriptions for 54884

medicaid recipients receiving hospital services; 54885

(2) Before the beginning of each fiscal year, determine the 54886  
ten medicaid providers that issued the most prescriptions for 54887  
medicaid recipients receiving hospital services during the 54888  
calendar year that precedes the upcoming fiscal year and notify 54889  
those medicaid providers that they must use the e-prescribing 54890  
system for the upcoming fiscal year; 54891

(3) Seek the most federal financial participation available 54892  
for the development and implementation of the e-prescribing 54893  
system. 54894

**Sec. ~~5111.81~~ 5111.085.** There is hereby established the 54895  
pharmacy and therapeutics committee of the department of job and 54896  
family services. The committee shall consist of ~~eight~~ nine members 54897  
and shall be appointed by the director of job and family services. 54898  
The membership of the committee shall include: ~~two~~ three 54899  
pharmacists licensed under Chapter 4729. of the Revised Code; two 54900  
doctors of medicine and two doctors of osteopathy licensed under 54901  
Chapter 4731. of the Revised Code; a registered nurse licensed 54902  
under Chapter 4723. of the Revised Code; and a pharmacologist who 54903  
has a doctoral degree. The committee shall elect one of its 54904  
members as chairperson. 54905

**Sec. 5111.10.** The director of job and family services may 54906  
conduct reviews of the medicaid program. The reviews may include 54907  
physical inspections of records and sites where medicaid-funded 54908  
services are provided and interviews of providers and recipients 54909  
of the services. If the director determines pursuant to a review 54910  
that a person or government entity has violated a rule governing 54911  
the medicaid program, the director may establish a corrective 54912  
action plan for the violator and impose fiscal, administrative, or 54913  
both types of sanctions on the violator in accordance with rules 54914

governing the medicaid program. Such action to be taken against a 54915  
responsible entity, as defined in section 5101.24 of the Revised 54916  
Code, shall be taken in accordance with that section. 54917

**Sec. 5111.11.** (A) As used in this section, ~~"estate" means all~~ 54918  
and section 5111.111 of the Revised Code: 54919

(1) "Estate" includes both of the following: 54920

(a) All real and personal property and other assets to be 54921  
administered under Title XXI of the Revised Code and property that 54922  
would be administered under that title if not for section 2113.03 54923  
or 2113.031 of the Revised Code; 54924

(b) Any other real and personal property and other assets in 54925  
which an individual had any legal title or interest at the time of 54926  
death (to the extent of the interest), including assets conveyed 54927  
to a survivor, heir, or assign of the individual through joint 54928  
tenancy, tenancy in common, survivorship, life estate, living 54929  
trust, or other arrangement. 54930

(2) "Institution" means a nursing facility, intermediate care 54931  
facility for the mentally retarded, or a medical institution. 54932

(3) "Intermediate care facility for the mentally retarded" 54933  
and "nursing facility" have the same meanings as in section 54934  
5111.20 of the Revised Code. 54935

(4) "Permanently institutionalized individual" means an 54936  
individual to whom all of the following apply: 54937

(a) Is an inpatient in an institution; 54938

(b) Is required, as a condition of the medicaid program 54939  
paying for the individual's services in the institution, to spend 54940  
for costs of medical or nursing care all of the individual's 54941  
income except for an amount for personal needs specified by the 54942  
department of job and family services; 54943

(c) Cannot reasonably be expected to be discharged from the institution and return home as determined by the department of job and family services. 54944  
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(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death. 54947  
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~~(B) For the purpose of recovering the cost of services correctly paid under the medical assistance program to a recipient age fifty five or older, the~~ To the extent permitted by federal law, the department of job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of a program of that nature. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty one or blind or permanently and totally disabled. 54952  
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~~The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for another manner of compensation agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.~~ 54965  
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(C) under which the department shall, except as provided in 54976  
divisions (C) and (D) of this section, do both of the following: 54977

(1) For the costs of medicaid services the medicaid program 54978  
correctly paid or will pay on behalf of a permanently 54979  
institutionalized individual of any age, seek adjustment or 54980  
recovery from the individual's estate or on the sale of property 54981  
of the individual or spouse that is subject to a lien imposed 54982  
under section 5111.111 of the Revised Code; 54983

(2) For the costs of medicaid services the medicaid program 54984  
correctly paid or will pay on behalf of an individual fifty-five 54985  
years of age or older who is not a permanently institutionalized 54986  
individual, seek adjustment or recovery from the individual's 54987  
estate. 54988

(C)(1) No adjustment or recovery may be made under division 54989  
(B)(1) of this section from a permanently institutionalized 54990  
individual's estate or on the sale of property of a permanently 54991  
institutionalized individual that is subject to a lien imposed 54992  
under section 5111.111 of the Revised Code or under division 54993  
(B)(2) of this section from an individual's estate while either of 54994  
the following are alive: 54995

(a) The spouse of the permanently institutionalized 54996  
individual or individual; 54997

(b) The son or daughter of a permanently institutionalized 54998  
individual or individual if the son or daughter is under age 54999  
twenty-one or, under 42 U.S.C. 1382c, is considered blind or 55000  
disabled. 55001

(2) No adjustment or recovery may be made under division 55002  
(B)(1) of this section from a permanently institutionalized 55003  
individual's home that is subject to a lien imposed under section 55004  
5111.111 of the Revised Code while either of the following 55005  
lawfully reside in the home: 55006

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time; 55007  
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(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time. 55012  
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(D) The department ~~may~~ shall waive seeking an adjustment or recovery of ~~medical assistance correctly paid otherwise required~~ by this section if the director of job and family services determines that adjustment or recovery would work an undue hardship. ~~The~~ The department may limit the duration of the waiver to the period during which the undue hardship exists. 55019  
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The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~establishing regarding the estate recovery program, including rules that establish procedures and criteria~~ for waiver of adjustment or recovery due to an undue hardship, ~~which.~~ These rules shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended. 55025  
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~~(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.~~ 55032  
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(E) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" 55036  
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established for this section, a rebuttable presumption exists that 55038  
the individual cannot reasonably be expected to be discharged from 55039  
an institution and return home if either of the following is the 55040  
case: 55041

(1) The individual declares that he or she does not intend to 55042  
return home. 55043

(2) The individual has been an inpatient in an institution 55044  
for at least six months. 55045

~~Sec. 5111.111. As used in this section, "home and~~ 55046  
~~community based services" means services provided pursuant to a~~ 55047  
~~waiver under section 1915 of the "Social Security Act," 49 Stat.~~ 55048  
~~620 (1935), 42 U.S.C.A. 1396n, as amended.~~ 55049

The (A) Except as provided in division (B) of this section 55050  
and section 5111.12 of the Revised Code, no lien may be imposed 55051  
against the property of an individual before the individual's 55052  
death on account of medicaid services correctly paid or to be paid 55053  
on the individual's behalf. 55054

(B) Except as provided in division (C) of this section, the 55055  
department of job and family services may ~~plae~~ impose a lien 55056  
against the real property of a ~~medical assistance~~ medicaid 55057  
recipient ~~or~~ who is a permanently institutionalized individual and 55058  
against the real property of the recipient's spouse, other than a 55059  
~~recipient or spouse of a recipient of home and community based~~ 55060  
~~services, that the department may recover as part of the program~~ 55061  
~~instituted under section 5111.11 of the Revised Code~~ including any 55062  
real property that is jointly held by the recipient and spouse. 55063  
~~When medical assistance is paid on behalf of any person in~~ 55064  
~~circumstances under which federal law and regulations and this~~ 55065  
~~section permit the imposition of a lien, the~~ The lien may be 55066  
imposed on account of medicaid paid or to be paid on the 55067

recipient's behalf. 55068

(C) No lien may be imposed under division (B) of this section 55069  
against the home of a medicaid recipient if any of the following 55070  
lawfully resides in the home: 55071

(1) The recipient's spouse; 55072

(2) The recipient's son or daughter who is under twenty-one 55073  
years of age or, under 42 U.S.C. 1382c, considered to be blind or 55074  
disabled; 55075

(3) The recipient's sibling who has an equity interest in the 55076  
home and resided in the home for at least one year immediately 55077  
before the date of the recipient's admission to the institution. 55078

(D) The director of job and family services or a person 55079  
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 55080  
~~effect~~ effectuate a lien required to be imposed under this 55081  
section. The county department of job and family services shall 55082  
file for recording and indexing the certificate, or a certified 55083  
copy, in the real estate mortgage records in the office of the 55084  
county recorder in every county in which real property of the 55085  
recipient or spouse is situated. From the time of filing the 55086  
certificate in the office of the county recorder, the lien 55087  
attaches to all real property of the recipient or spouse described 55088  
~~therein in the certificate~~ for all amounts ~~of aid which are paid~~ 55089  
~~or which thereafter are paid,~~ for which adjustment or recovery may 55090  
be made under section 5111.11 of the Revised Code and, except as 55091  
provided in division (E) of this section, shall remain a lien 55092  
until satisfied. 55093

Upon filing the certificate in the office of the recorder, 55094  
all persons are charged with notice of the lien and the rights of 55095  
the department of job and family services thereunder. 55096

The county recorder shall keep a record of every certificate 55097  
filed showing its date, the time of filing, the name and residence 55098



of the recipient or spouse, and any release, waivers, or 55099  
satisfaction of the lien. 55100

The priority of the lien shall be established in accordance 55101  
with state and federal law. 55102

The department may waive the priority of its lien to provide 55103  
for the costs of the last illness as determined by the department, 55104  
administration, attorney fees, administrator fees, a sum for the 55105  
payment of the costs of burial, which shall be computed by 55106  
deducting from five hundred dollars whatever amount is available 55107  
for the same purpose from all other sources, and a similar sum for 55108  
the spouse of the decedent. 55109

(E) A lien imposed with respect to a medicaid recipient under 55110  
this section shall dissolve on the recipient's discharge from the 55111  
institution and return home. 55112

Sec. 5111.112. The department of job and family services may 55113  
enter into a contract with any person or government entity under 55114  
which the person or government entity administers the estate 55115  
recovery program instituted under section 5111.11 of the Revised 55116  
Code on behalf of the department or performs any of the functions 55117  
required to carry out the program. The contract may provide for 55118  
the person or government entity to be compensated from the 55119  
property recovered under the program or may provide for another 55120  
manner of compensation agreed to by the person or government 55121  
entity and the department. Regardless of whether it is 55122  
administered by the department or a person or government entity 55123  
under contract with the department, the program shall be 55124  
administered in accordance with applicable requirements of federal 55125  
law and regulations and state law and rules. 55126

Any action that may be taken by the department under section 55127  
5111.111 of the Revised Code may be taken by a person or 55128

government entity administering the program, or performing actions 55129  
specified in that section, pursuant to a contract with the 55130  
department. 55131

**Sec. ~~5111.112~~ 5111.113.** (A) As used in this section: 55132

(1) "Adult care facility" has the same meaning as in section 55133  
3722.01 of the Revised Code. 55134

(2) "Commissioner" means a person appointed by a probate 55135  
court under division (B) of section 2113.03 of the Revised Code to 55136  
act as a commissioner. 55137

(3) "Home" has the same meaning as in section 3721.10 of the 55138  
Revised Code. 55139

(4) "Personal needs allowance account" means an account or 55140  
petty cash fund that holds the money of a resident of an adult 55141  
care facility or home and that the facility or home manages for 55142  
the resident. 55143

(B) Except as provided in divisions (C) and (D) of this 55144  
section, the owner or operator of an adult care facility or home 55145  
shall transfer to the department of job and family services the 55146  
money in the personal needs allowance account of a resident of the 55147  
facility or home who was a recipient of the medical assistance 55148  
program no earlier than sixty days but not later than ninety days 55149  
after the resident dies. The adult care facility or home shall 55150  
transfer the money even though the owner or operator of the 55151  
facility or home has not been issued letters testamentary or 55152  
letters of administration concerning the resident's estate. 55153

(C) If funeral or burial expenses for a resident of an adult 55154  
care facility or home who has died have not been paid and the only 55155  
resource the resident had that could be used to pay for the 55156  
expenses is the money in the resident's personal needs allowance 55157  
account, or all other resources of the resident are inadequate to 55158

pay the full cost of the expenses, the money in the resident's  
personal needs allowance account shall be used to pay for the  
expenses rather than being transferred to the department of job  
and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an  
adult care facility or home dies, letters testamentary or letters  
of administration are issued, or an application for release from  
administration is filed under section 2113.03 of the Revised Code,  
concerning the resident's estate, the owner or operator of the  
facility or home shall transfer the money in the resident's  
personal needs allowance account to the administrator, executor,  
commissioner, or person who filed the application for release from  
administration.

(E) The transfer or use of money in a resident's personal  
needs allowance account in accordance with division (B), (C), or  
(D) of this section discharges and releases the adult care  
facility or home, and the owner or operator of the facility or  
home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of an adult  
care facility or home dies, letters testamentary or letters of  
administration are issued, or an application for release from  
administration under section 2113.03 of the Revised Code is filed,  
concerning the resident's estate, the department of job and family  
services shall transfer the funds to the administrator, executor,  
commissioner, or person who filed the application, unless the  
department is entitled to recover the money under the estate  
recovery program instituted under section 5111.11 of the Revised  
Code.

**Sec. ~~5111.113~~ 5111.114.** As used in this section, "nursing  
facility" and "intermediate care facility for the ~~mental~~ mentally  
retarded" have the same meanings as in section 5111.20 of the

Revised Code. 55190

In determining the amount of income that a recipient of 55191  
medical assistance must apply monthly toward payment of the cost 55192  
of care in a nursing facility or intermediate care facility for 55193  
the mentally retarded, the county department of job and family 55194  
services shall deduct from the recipient's monthly income a 55195  
monthly personal needs allowance in accordance with section 1902 55196  
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 55197  
1396a, as amended. 55198

For a resident of a nursing facility, the monthly personal 55199  
needs allowance shall be not less than forty dollars for an 55200  
individual resident and not less than eighty dollars for a married 55201  
couple if both spouses are residents of a nursing facility. 55202

For a resident of an intermediate care facility for the 55203  
mentally retarded, the monthly personal needs allowance shall be 55204  
forty dollars unless the resident has earned income, in which case 55205  
the monthly personal needs allowance shall be determined by the 55206  
state department of job and family services but shall not exceed 55207  
one hundred five dollars. 55208

**Sec. 5111.16.** (A) As part of the medicaid program, the 55209  
department of job and family services shall establish a care 55210  
management system. The department shall submit, if necessary, 55211  
applications to the United States department of health and human 55212  
services for waivers of federal medicaid requirements that would 55213  
otherwise be violated in the implementation of the system. 55214

(B)(1) The department shall implement the care management 55215  
system in some or all counties and shall designate the medicaid 55216  
recipients who are required or permitted to participate in the 55217  
system. 55218

(2) In the case of individuals who receive medicaid on the 55219

basis of being included in the category identified by the 55220  
department as covered families and children, the care management 55221  
system shall be implemented in all counties and all individuals 55222  
included in the category shall be designated for participation. 55223  
The department shall designate the participants not later than 55224  
January 1, 2006. Not later than December 31, 2006, the department 55225  
shall ensure that all participants are enrolled in health insuring 55226  
corporations under contract with the department pursuant to 55227  
section 5111.17 of the Revised Code. 55228

~~(B) Under the care management system~~ (C) Subject to division 55229  
(B)(2) of this section, the department may do both of the 55230  
following under the care management system: 55231

(1) Require or permit participants in the system to obtain 55232  
health care services from providers designated by the department; 55233

(2) ~~require~~ Require or permit participants in the system to 55234  
obtain health care services through managed care organizations 55235  
under contract with the department pursuant to section 5111.17 of 55236  
the Revised Code. 55237

~~(C)~~(D) The department shall prepare an annual report on the 55238  
care management system. The report shall address the department's 55239  
ability to implement the system, including the required 55240  
designation of participants included in the category identified by 55241  
the department as covered families and children, the conduct of 55242  
the pilot programs established under sections 5111.163 to 5111.165 55243  
of the Revised Code, and the use of any programs for enhanced care 55244  
management. 55245

The department shall submit each annual report to the general 55246  
assembly. The first report shall be submitted not later than 55247  
October 1, 2007. 55248

(E) The director of job and family services may adopt rules 55249  
in accordance with Chapter 119. of the Revised Code to implement 55250

this section. 55251

Sec. 5111.161. (A) There is hereby created the medicaid care management working group, consisting of the following members: 55252  
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(1) Three individuals representing medicaid health insuring corporations, as defined in section 5111.176 of the Revised Code, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor; 55254  
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(2) One individual representing programs that provide enhanced care management services, appointed by the governor; 55259  
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(3) Four individuals representing health care professional and trade associations, appointed as follows: 55261  
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(a) One representative of the American academy of pediatrics, appointed by the president of the senate; 55263  
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(b) One representative of the American academy of family physicians, appointed by the speaker of the house of representatives; 55265  
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(c) One representative of the Ohio state medical association, appointed by the president of the senate; 55268  
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(d) One representative of the Ohio hospital association, appointed by the speaker of the house of representatives. 55270  
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(4) One individual representing behavioral health professional and trade associations, appointed by the speaker of the house of representatives; 55272  
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(5) Two individuals representing consumer advocates, one appointed by the president of the senate and one appointed by the speaker of the house of representatives; 55275  
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(6) One individual representing county departments of job and family services, appointed by the president of the senate; 55278  
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(7) Three individuals representing the business community, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor; 55280  
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(8) The director of job and family services or the director's designee; 55284  
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(9) The director of health or the director's designee; 55286

(10) The director of aging or the director's designee. 55287

(B) The members of the working group shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments. 55288  
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(C) The working group shall develop guidelines to be followed by the department of job and family services when entering into contracts under section 5111.17 of the Revised Code with managed care organizations for purposes of the care management system established under section 5111.16 of the Revised Code. The working group shall consult regularly with the departments of insurance, aging, alcohol and drug addiction services, mental health, and mental retardation and developmental disabilities and the rehabilitation services commission. 55291  
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In developing the guidelines for managed care contracts, the working group shall do all of the following: 55300  
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(1) Examine the best practice standards used in managed care programs and other health care and related systems to maximize patient and provider satisfaction, maintain quality of care, and obtain cost-effectiveness; 55302  
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(2) Consider the most effective means of facilitating the expansion of the care management system and increasing consistency within the system; 55306  
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(3) Make recommendations for coordinating the regulatory 55309

<u>relationships involved in the medicaid care management system;</u>	55310
<u>(4) Make recommendations for improving the resolution of</u>	55311
<u>contracting issues among the providers involved in the care</u>	55312
<u>management system;</u>	55313
<u>(5) Make recommendations to the department of job and family</u>	55314
<u>services for creating the financial incentive program under</u>	55315
<u>division (B) of section 5111.17 of the Revised Code to improve and</u>	55316
<u>reward positive health outcomes through care management contracts.</u>	55317
<u>In making these recommendations, the working group shall include</u>	55318
<u>all of the following:</u>	55319
<u>(a) Standards and procedures by which care management</u>	55320
<u>contractors may receive financial incentives for positive health</u>	55321
<u>outcomes measured on an individual basis;</u>	55322
<u>(b) Specific measures of positive health outcomes,</u>	55323
<u>particularly among individuals with high-risk health conditions;</u>	55324
<u>(c) Criteria for determining what constitutes a completed</u>	55325
<u>health outcome;</u>	55326
<u>(d) Methods of funding the program without requiring an</u>	55327
<u>increase in appropriations.</u>	55328
<u>(D) The working group shall prepare an annual report on its</u>	55329
<u>activities and shall submit the report to the president of the</u>	55330
<u>senate, speaker of the house of representatives, and governor. The</u>	55331
<u>report shall include any findings and recommendations the working</u>	55332
<u>group considers relevant to its duties. The working group shall</u>	55333
<u>complete an initial report not later than December 31, 2005. Each</u>	55334
<u>year thereafter, the working group shall complete its annual</u>	55335
<u>report by the last day of December.</u>	55336
<b><u>Sec. 5111.162. (A) As used in this section:</u></b>	55337
<u>(1) "Medicaid managed care organization" means a managed care</u>	55338



organization that has entered into a contract with the department 55339  
of job and family services pursuant to section 5111.17 of the 55340  
Revised Code. 55341

(2) "Provider" has the same meaning as in section 5111.06 of 55342  
the Revised Code. 55343

(B) Except as provided in division (C) of this section, when 55344  
a participant in the care management system established under 55345  
section 5111.16 of the Revised Code is enrolled in a medicaid 55346  
managed care organization and the organization refers the 55347  
participant to a provider that is not under contract with the 55348  
organization, the provider shall provide the service for which the 55349  
referral was made and shall accept from the organization, as 55350  
payment in full, the amount derived from the reimbursement rate 55351  
used by the department to reimburse other providers of the same 55352  
type for providing the same service to a medicaid recipient who is 55353  
not enrolled in a medicaid managed care organization. 55354

(C) A provider that is a hospital is not subject to division 55355  
(B) of this section if all of the following are the case: 55356

(1) The hospital is located in a county in which participants 55357  
in the care management system are required before January 1, 2006, 55358  
to be enrolled in a medicaid managed care organization that is a 55359  
health insuring corporation; 55360

(2) The hospital has entered into a contract before January 55361  
1, 2006, with at least one health insuring corporation serving the 55362  
participants specified in division (C)(1) of this section; 55363

(3) The hospital remains under contract with at least one 55364  
health insuring corporation serving participants in the care 55365  
management system who are required to be enrolled in a health 55366  
insuring corporation. 55367

(D) The director of job and family services shall adopt rules 55368

specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a provider that is not under contract with the organization. The director may adopt any other rules necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 55369  
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Sec. 5111.163. (A) The department of job and family services shall develop a care management pilot program under which individuals designated by the department who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, are required to enroll in and obtain medicaid-covered health care services through the care management system established under section 5111.16 of the Revised Code. The department shall implement the pilot program not later than July 1, 2006. 55376  
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(B) Unless the department receives the necessary waivers of federal medicaid requirements, the department shall not designate individuals for participation in the pilot program if they are included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department may exclude from participation some or all individuals who are included in one or more of the following groups of medicaid recipients: 55385  
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(1) Individuals who are under twenty-one years of age; 55392

(2) Individuals who are institutionalized; 55393

(3) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements; 55394  
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(4) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of 55397  
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the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 55399  
amended; 55400

(5) Individuals to the extent that they are receiving 55401  
medicaid services through a medicaid waiver component, as defined 55402  
in section 5111.85 of the Revised Code. 55403

(C) When entering into contracts under section 5111.17 of the 55404  
Revised Code to implement the pilot program, the department shall 55405  
contract only with managed care organizations that are health 55406  
insuring corporations. 55407

(D) The department may cease operation of the pilot program 55408  
if the department determines any of the following: 55409

(1) That requiring the individuals designated for 55410  
participation in the pilot program is not a cost-effective means 55411  
of providing medicaid services to the individuals; 55412

(2) That the department has sufficient information to 55413  
evaluate the pilot program's effectiveness; 55414

(3) That any other reason exists to justify the pilot 55415  
program's termination. 55416

(E) The department shall conduct an evaluation of the pilot 55417  
program's effectiveness. 55418

(F) The department may adopt any rules it considers necessary 55419  
to implement this section. The rules shall be adopted in 55420  
accordance with Chapter 119. of the Revised Code. 55421

**Sec. 5111.164.** (A) The department of job and family services 55422  
shall develop a care management pilot program for long-term care 55423  
under which individuals designated by the department who receive 55424  
medicaid on the basis of being aged, blind, or disabled, as 55425  
specified in division (A)(2) of section 5111.01 of the Revised 55426  
Code, are required to enroll in and obtain medicaid-covered health 55427

care services through the care management system established under 55428  
section 5111.16 of the Revised Code. The department shall 55429  
implement the pilot program not later than July 1, 2006. 55430

(B) Unless the department receives the necessary waivers of 55431  
federal medicaid requirements, the department shall not designate 55432  
an individual for participation in the pilot program if the 55433  
individual is included in one or more of the medicaid recipient 55434  
groups specified in 42 C.F.R. 438.50(d). To be designated for 55435  
participation, an individual shall meet both of the following 55436  
conditions: 55437

(1) Be fifty-five years of age or older; 55438

(2) Require the level of care provided by a nursing facility, 55439  
as defined in section 5111.20 of the Revised Code. 55440

(C) When entering into contracts under section 5111.17 of the 55441  
Revised Code to implement the pilot program, the department may 55442  
include provisions that permit a managed care organization to pay 55443  
nursing facilities according to rates that differ from the rates 55444  
the department uses to reimburse nursing facilities for their 55445  
services. 55446

(D) The department may cease operation of the pilot program 55447  
if the department determines any of the following: 55448

(1) That requiring the individuals designated for 55449  
participation in the pilot program is not a cost-effective means 55450  
of providing medicaid services to the individuals; 55451

(2) That the department has sufficient information to 55452  
evaluate the pilot program's effectiveness; 55453

(3) That any other reason exists to justify the pilot 55454  
program's termination. 55455

(E) The department shall conduct an evaluation of the pilot 55456

program's effectiveness. 55457

(F) The department may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 55458  
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**Sec. 5111.165.** (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled. 55461  
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(B) Notwithstanding any conflicting provision of section 5111.163 of the Revised Code, the department of job and family services shall develop a pilot program for the care management of chronically ill children in accordance with this section. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2008, except that the department shall cease operation of the program before that date if either of the following is the case: 55466  
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(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services. 55477  
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(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars. 55480  
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(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The 55483  
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department may extend its operation of the program into the areas 55487  
surrounding the counties in which the program is operated. 55488

(D) The purpose of the pilot program shall be to determine 55489  
whether occurrences of acute illnesses and hospitalizations among 55490  
chronically ill children can be prevented or reduced by 55491  
establishing a medical home for the children where care is 55492  
administered proactively and in a manner that is accessible, 55493  
continuous, family-centered, coordinated, and compassionate. In 55494  
establishing a medical home for a chronically ill child, all of 55495  
the following apply: 55496

(1) A physician shall serve as the care coordinator for the 55497  
child. The care coordinator may be engaged in practice as a 55498  
pediatrician certified in pediatrics by a medical specialty board 55499  
of the American medical association or American osteopathic 55500  
association, a pediatric subspecialist, or a provider for the 55501  
program for medically handicapped children in the department of 55502  
health. If the physician is in a group practice, any member of the 55503  
group practice may serve as the child's care coordinator. The 55504  
duties of the care coordinator may be performed by a person acting 55505  
under the supervision of the care coordinator. 55506

(2) The child may receive care from any health care 55507  
practitioner appropriate to the child's needs, but the care 55508  
coordinator shall direct and oversee the child's overall care. 55509

(3) The care coordinator shall establish a relationship of 55510  
mutual responsibility with the child's parents or other persons 55511  
who are responsible for the child. Under this relationship, the 55512  
care coordinator shall commit to developing a long-term disease 55513  
prevention strategy and providing disease management and education 55514  
services, while the child's parents or other persons who are 55515  
responsible for the child shall commit to participating fully in 55516  
implementing the child's care management plan. 55517

(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care.

(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program.

**Sec. 5111.17.** (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code.

(B) The department shall develop and implement a financial incentive program to improve and reward positive health outcomes through the managed care organization contracts entered into under this section. The department shall base the program on the recommendations made by the medicaid care management working group created under section 5111.161 of the Revised Code.

(C) The director of job and family services may adopt rules 55549  
in accordance with Chapter 119. of the Revised Code to implement 55550  
this section. 55551

**Sec. 5111.172.** ~~When~~ (A) Subject to division (B) of this 55552  
section, when contracting under section 5111.17 of the Revised 55553  
Code with a managed care organization that is a health insuring 55554  
corporation, the department of job and family services may require 55555  
the health insuring corporation to provide coverage of 55556  
prescription drugs for medicaid recipients enrolled in the health 55557  
insuring corporation. In providing the required coverage, the 55558  
health insuring corporation may, subject to the department's 55559  
approval, use strategies for the management of drug utilization. 55560

(B) The department shall require a health insuring 55561  
corporation with which the department contracts under section 55562  
5111.17 of the Revised Code to provide coverage of prescription 55563  
drugs that protect against respiratory syncytial virus for 55564  
medicaid recipients enrolled in the health insuring corporation 55565  
who, as an infant born premature or other pediatric patient, are 55566  
at risk for respiratory syncytial virus. In covering the drugs for 55567  
these medicaid recipients, the health insuring corporation shall 55568  
do both of the following: 55569

(1) Cover the drugs in at least the same amount, duration, 55570  
and scope as the medicaid program's coverage of the drugs for 55571  
medicaid recipients who receive state medicaid plan services under 55572  
the fee-for-service system; 55573

(2) Establish access requirements for the drugs that are less 55574  
or no more restrictive than the access requirements for the drugs 55575  
under the fee-for-service system. 55576

**Sec. 5111.176.** (A) As used in this section: 55577

(1) "Medicaid health insuring corporation" means a health 55578



insuring corporation that holds a certificate of authority under 55579  
Chapter 1751. of the Revised Code and has entered into a contract 55580  
with the department of job and family services pursuant to section 55581  
5111.17 of the Revised Code. 55582

(2) "Managed care premium" means any premium payment, 55583  
capitation payment, or other payment a medicaid health insuring 55584  
corporation receives for providing, or arranging for the provision 55585  
of, health care services to its members or enrollees residing in 55586  
this state. 55587

(B) Except as provided in division (C) of this section, all 55588  
of the following apply: 55589

(1) Each medicaid health insuring corporation shall pay to 55590  
the department of job and family services a franchise permit fee 55591  
for each calendar quarter occurring between January 1, 2006, and 55592  
June 30, 2007. 55593

(2) The fee to be paid is an amount that is equal to a 55594  
percentage of the managed care premiums the medicaid health 55595  
insuring corporation received in the quarter to which the fee 55596  
applies, excluding the amount of any managed care premiums the 55597  
corporation returned or refunded to enrollees, members, or premium 55598  
payers during that quarter. 55599

(3) The percentage to be used in calculating the fee shall be 55600  
four and one-half per cent, unless the department adopts rules 55601  
under division (L) of this section decreasing the percentage below 55602  
four and one-half per cent or increasing the percentage to not 55603  
more than six per cent. 55604

(C) The department shall reduce the franchise permit fee 55605  
imposed under this section or terminate its collection of the fee 55606  
if the department determines either of the following: 55607

(1) That the reduction or termination is required to comply 55608

with federal statutes or regulations; 55609

(2) That the fee does not qualify as a state share of 55610  
medicaid expenditures eligible for federal financial 55611  
participation. 55612

(D) The franchise permit fee shall be paid on or before the 55613  
thirtieth day following the end of the calendar quarter to which 55614  
the fee applies. At the time the fee is submitted, the medicaid 55615  
health insuring corporation shall file with the department a 55616  
report on a form prescribed by the department. The corporation 55617  
shall provide on the form all information required by the 55618  
department and shall include with the form any necessary 55619  
supporting documentation. 55620

(E) The department may audit the records of any medicaid 55621  
health insuring corporation to determine whether the corporation 55622  
is in compliance with this section. The department may audit the 55623  
records that pertain to a particular calendar quarter at any time 55624  
during the five years following the date the franchise permit fee 55625  
payment for that quarter was due. 55626

(F)(1) A medicaid health insuring corporation that does not 55627  
pay the franchise permit fee in full by the date the payment is 55628  
due is subject to any or all of the following: 55629

(a) A monetary penalty in the amount of five hundred dollars 55630  
for each day any part of the fee remains unpaid, except that the 55631  
penalty shall not exceed an amount equal to five per cent of the 55632  
total fee that was due for the calendar quarter for which the 55633  
penalty is being imposed; 55634

(b) Withholdings from future managed care premiums pursuant 55635  
to division (G) of this section; 55636

(c) Termination of the corporation's medicaid provider 55637  
agreement pursuant to division (H) of this section. 55638

(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee. 55639  
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(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid. 55642  
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(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following: 55651  
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(1) Fails to pay its franchise permit fee or fails to pay the fee promptly; 55655  
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(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly; 55657  
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(3) Fails to cooperate with an audit conducted under division (E) of this section. 55659  
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(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case: 55661  
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(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section. 55665  
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(2) The department is proposing to terminate the 55668

corporation's medicaid provider agreement and the provisions of 55669  
section 5111.06 of the Revised Code requiring an adjudication in 55670  
accordance with Chapter 119. of the Revised Code are applicable. 55671

(J)(1) At the request of a medicaid corporation, the 55672  
department shall grant the corporation a reconsideration of any 55673  
issue that arises out of the provisions of this section and is not 55674  
subject to division (I) of this section. The department's decision 55675  
at the conclusion of the reconsideration is not subject to appeal 55676  
under Chapter 119. of the Revised Code or any other provision of 55677  
the Revised Code. 55678

(2) In conducting a reconsideration, the department shall do 55679  
at least the following: 55680

(a) Specify the time frames within which a corporation must 55681  
act in order to exercise its opportunity for a reconsideration; 55682

(b) Permit the corporation to present written arguments or 55683  
other materials that support the corporation's position. 55684

(K) There is hereby created in the state treasury the managed 55685  
care assessment fund. Money collected from the franchise permit 55686  
fees and penalties imposed under this section shall be credited to 55687  
the fund. The department shall use the money in the fund to pay 55688  
for medicaid services, the department's administrative costs, and 55689  
contracts with medicaid health insuring corporations. 55690

(L) The director of job and family services may adopt rules 55691  
to implement and administer this section. The rules shall be 55692  
adopted in accordance with Chapter 119. of the Revised Code. 55693

**Sec. 5111.19.** The director of job and family services shall 55694  
adopt rules governing the calculation and payment of graduate 55695  
medical education costs associated with services rendered to 55696  
medicaid recipients of the medical assistance program after June 55697  
30, 1994. The Subject to section 5111.191 of the Revised Code, the 55698

rules shall provide for reimbursement of graduate medical 55699  
education costs associated with services rendered to ~~medical~~ 55700  
~~assistance~~ medicaid recipients, including recipients enrolled in 55701  
~~health insuring corporations~~ a managed care organization under 55702  
contract with the department under section 5111.17 of the Revised 55703  
Code, that the department determines are allowable and reasonable. 55704

If the department requires a ~~health insuring corporation~~ 55705  
managed care organization to pay a provider for graduate medical 55706  
education costs associated with the delivery of services to 55707  
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 55708  
organization, the department shall include in its payment to the 55709  
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 55710  
organization to pay such costs. If the department does not include 55711  
in its payments to the ~~health insuring corporation~~ managed care 55712  
organization amounts for graduate medical education costs of 55713  
providers, all of the following apply: 55714

(A) The Except as provided in section 5111.191 of the Revised 55715  
Code, the department shall pay the provider for graduate medical 55716  
education costs associated with the delivery of services to 55717  
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 55718  
organization; 55719

(B) No provider shall seek reimbursement from the ~~corporation~~ 55720  
organization for such costs; 55721

(C) The ~~corporation~~ organization is not required to pay 55722  
providers for such costs. 55723

**Sec. 5111.191.** (A) Except as provided in division (B) of this 55724  
section, the department of job and family services may deny 55725  
payment to a hospital for direct graduate medical education costs 55726  
associated with the delivery of services to any medicaid recipient 55727  
if the hospital refuses without good cause to contract with a 55728  
managed care organization that serves participants in the care 55729

management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed care organization serves the area in which the hospital is located. 55730  
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(B) A hospital is not subject to division (A) of this section if all of the following are the case: 55734  
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(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation. 55736  
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(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section. 55740  
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(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation. 55743  
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(C) The director of job and family services shall specify in the rules adopted under section 5111.19 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a managed care organization. 55747  
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**Sec. 5111.20.** As used in sections 5111.20 to ~~5111.34~~ 5111.33 of the Revised Code: 55751  
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(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code. 55753  
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(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or 55757  
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capital costs. "Ancillary and support costs" includes, but is not 55759  
limited to, costs of activities, social services, pharmacy 55760  
consultants, medical and habilitation records, program supplies, 55761  
incontinence supplies, food, enterals, dietary supplies and 55762  
personnel, laundry, housekeeping, security, administration, 55763  
medical equipment, utilities, liability insurance, bookkeeping, 55764  
purchasing department, human resources, communications, travel, 55765  
dues, license fees, subscriptions, home office costs not otherwise 55766  
allocated, legal services, accounting services, minor equipment, 55767  
maintenance and repairs, help-wanted advertising, informational 55768  
advertising, start-up costs, organizational expenses, other 55769  
interest, property insurance, employee training and staff 55770  
development, employee benefits, payroll taxes, and workers' 55771  
compensation premiums or costs for self-insurance claims and 55772  
related costs as specified in rules adopted by the director of job 55773  
and family services under section 5111.02 of the Revised Code, for 55774  
personnel listed in this division. "Ancillary and support costs" 55775  
also means the cost of equipment, including vehicles, acquired by 55776  
operating lease executed before December 1, 1992, if the costs are 55777  
reported as administrative and general costs on the facility's 55778  
cost report for the cost reporting period ending December 31, 55779  
1992. 55780

(C) "Capital costs" means costs of ownership and, in the case 55781  
of an intermediate care facility for the mentally retarded, costs 55782  
of nonextensive renovation. 55783

(1) "Cost of ownership" means the actual expense incurred for 55784  
all of the following: 55785

(a) Depreciation and interest on any capital assets that cost 55786  
five hundred dollars or more per item, including the following: 55787

(i) Buildings; 55788

(ii) Building improvements that are not approved as 55789

nonextensive renovations under section <del>5111.25</del> or 5111.251 of the Revised Code;	55790 55791
(iii) <del>Equipment</del> <u>Except as provided in division (B) of this section, equipment;</u>	55792 55793
(iv) <del>Extensive</del> <u>In the case of an intermediate care facility for the mentally retarded, extensive</u> renovations;	55794 55795
(v) Transportation equipment.	55796
(b) Amortization and interest on land improvements and leasehold improvements;	55797 55798
(c) Amortization of financing costs;	55799
(d) Except as provided in division <del>(I)</del> <u>(K)</u> of this section, lease and rent of land, building, and equipment.	55800 55801
The costs of capital assets of less than five hundred dollars per item may be considered <u>capital</u> costs <del>of ownership</del> in accordance with a provider's practice.	55802 55803 55804
(2) "Costs of nonextensive renovation" means the actual expense incurred <u>by an intermediate care facility for the mentally retarded</u> for depreciation or amortization and interest on renovations that are not extensive renovations.	55805 55806 55807 55808
<del>(C)</del> <u>(D)</u> "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	55809 55810 55811
<del>(D)</del> <u>(E)</u> "Case-mix score" means the measure determined under section <del>5111.231</del> <u>5111.232</u> of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	55812 55813 55814 55815 55816
<del>(E)</del> <u>(F)</u> "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised	55817 55818



Code, means the date specific beds were originally licensed as 55819  
nursing home beds under that chapter, regardless of whether they 55820  
were subsequently licensed as residential facility beds under 55821  
section 5123.19 of the Revised Code. For a facility originally 55822  
licensed as a residential facility under section 5123.19 of the 55823  
Revised Code, "date of licensure" means the date specific beds 55824  
were originally licensed as residential facility beds under that 55825  
section. 55826

(1) If nursing home beds licensed under Chapter 3721. of the 55827  
Revised Code or residential facility beds licensed under section 55828  
5123.19 of the Revised Code were not required by law to be 55829  
licensed when they were originally used to provide nursing home or 55830  
residential facility services, "date of licensure" means the date 55831  
the beds first were used to provide nursing home or residential 55832  
facility services, regardless of the date the present provider 55833  
obtained licensure. 55834

(2) If a facility adds nursing home beds or residential 55835  
facility beds or extensively renovates all or part of the facility 55836  
after its original date of licensure, it will have a different 55837  
date of licensure for the additional beds or extensively renovated 55838  
portion of the facility, unless the beds are added in a space that 55839  
was constructed at the same time as the previously licensed beds 55840  
but was not licensed under Chapter 3721. or section 5123.19 of the 55841  
Revised Code at that time. 55842

~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost 55843  
report submitted under section 5111.26 of the Revised Code have 55844  
been subjected to a desk review under division (A) of section 55845  
5111.27 of the Revised Code and preliminarily determined to be 55846  
allowable costs. 55847

~~(G)~~(H) "Direct care costs" means all of the following: 55848

(1)(a) Costs for registered nurses, licensed practical 55849

nurses, and nurse aides employed by the facility;	55850
(b) Costs for direct care staff, administrative nursing staff, medical directors, <del>social services staff, activities staff, psychologists and psychology assistants, social workers and counselors,</del> habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;	55851 55852 55853 55854 55855 55856 55857 55858
(c) Costs of purchased nursing services;	55859
(d) Costs of quality assurance;	55860
(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions <del>(G)</del> (H)(1)(a), (b), and (d) of this section;	55861 55862 55863 55864 55865 55866
(f) Costs of consulting and management fees related to direct care;	55867 55868
(g) Allocated direct care home office costs.	55869
(2) <u>In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include medical supplies, emergency oxygen, habilitation supplies, and universal precautions supplies.</u>	55870 55871 55872 55873
(3) In addition to the costs specified in division <del>(G)</del> (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	55874 55875 55876
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, <del>and</del> <u>audiologists, social services</u>	55877 55878 55879

staff, activities staff, psychologists and psychology assistants, 55880  
and social workers and counselors; 55881

(b) Costs of training and staff development, employee 55882  
benefits, payroll taxes, and workers' compensation premiums or 55883  
costs for self-insurance claims and related costs as specified in 55884  
rules adopted ~~by the director of job and family services in~~ 55885  
~~accordance with Chapter 119. under section 5111.02~~ of the Revised 55886  
Code, for personnel listed in division ~~(G)(2)~~(H)(3)(a) of this 55887  
section. 55888

~~(3)~~(4) Costs of other direct-care resources that are 55889  
specified as direct care costs in rules adopted ~~by the director of~~ 55890  
~~job and family services in accordance with Chapter 119. under~~ 55891  
section 5111.02 of the Revised Code. 55892

~~(H)~~(I) "Fiscal year" means the fiscal year of this state, as 55893  
specified in section 9.34 of the Revised Code. 55894

~~(I)~~(J) "Franchise permit fee" means the fee imposed by 55895  
sections 3721.50 to 3721.58 of the Revised Code. 55896

(K) "Indirect care costs" means all reasonable costs incurred 55897  
by an intermediate care facility for the mentally retarded other 55898  
than direct care costs, other protected costs, or capital costs. 55899  
"Indirect care costs" includes but is not limited to costs of 55900  
habilitation supplies, pharmacy consultants, medical and 55901  
habilitation records, program supplies, incontinence supplies, 55902  
food, enterals, dietary supplies and personnel, laundry, 55903  
housekeeping, security, administration, liability insurance, 55904  
bookkeeping, purchasing department, human resources, 55905  
communications, travel, dues, license fees, subscriptions, home 55906  
office costs not otherwise allocated, legal services, accounting 55907  
services, minor equipment, maintenance and repairs, help-wanted 55908  
advertising, informational advertising, start-up costs, 55909  
organizational expenses, other interest, property insurance, 55910

employee training and staff development, employee benefits, 55911  
payroll taxes, and workers' compensation premiums or costs for 55912  
self-insurance claims and related costs as specified in rules 55913  
~~adopted by the director of job and family services in accordance~~ 55914  
~~with Chapter 119. under section 5111.02~~ of the Revised Code, for 55915  
personnel listed in this division. Notwithstanding division 55916  
~~(B)~~(C)(1) of this section, "indirect care costs" also means the 55917  
cost of equipment, including vehicles, acquired by operating lease 55918  
executed before December 1, 1992, if the costs are reported as 55919  
administrative and general costs on the facility's cost report for 55920  
the cost reporting period ending December 31, 1992. 55921

~~(J)~~(L) "Inpatient days" means all days during which a 55922  
resident, regardless of payment source, occupies a bed in a 55923  
nursing facility or intermediate care facility for the mentally 55924  
retarded that is included in the facility's certified capacity 55925  
under Title XIX ~~of the "Social Security Act," 49 Stat. 610 (1935),~~ 55926  
~~42 U.S.C.A. 301, as amended.~~ Therapeutic or hospital leave days 55927  
for which payment is made under section 5111.33 of the Revised 55928  
Code are considered inpatient days proportionate to the percentage 55929  
of the facility's per resident per day rate paid for those days. 55930

~~(K)~~(M) "Intermediate care facility for the mentally retarded" 55931  
means an intermediate care facility for the mentally retarded 55932  
certified as in compliance with applicable standards for the 55933  
~~medical assistance~~ medicaid program by the director of health in 55934  
accordance with Title XIX ~~of the "Social Security Act."~~ 55935

~~(L)~~(N) "Maintenance and repair expenses" means, except as 55936  
provided in division ~~(X)~~(BB)(2) of this section, expenditures that 55937  
are necessary and proper to maintain an asset in a normally 55938  
efficient working condition and that do not extend the useful life 55939  
of the asset two years or more. "Maintenance and repair expenses" 55940  
includes but is not limited to the cost of ordinary repairs such 55941  
as painting and wallpapering. 55942

~~(M)~~(O) "Medicaid days" means all days during which a resident who is a Medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is certified as a skilled nursing facility by the director in accordance with Title XVIII ~~of the "Social Security Act."~~

~~(N)~~(O) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code.

~~(O)~~(S)(1) "Owner" means any person or government entity that 55974  
has at least five per cent ownership or interest, either directly, 55975  
indirectly, or in any combination, in any of the following 55976  
regarding a nursing facility or intermediate care facility for the 55977  
mentally retarded: 55978

(a) The land on which the facility is located; 55979

(b) The structure in which the facility is located; 55980

(c) Any mortgage, contract for deed, or other obligation 55981  
secured in whole or in part by the land or structure on or in 55982  
which the facility is located; 55983

(d) Any lease or sublease of the land or structure on or in 55984  
which the facility is located. 55985

(2) "Owner" does not mean a holder of a debenture or bond 55986  
related to the nursing facility or intermediate care facility for 55987  
the mentally retarded and purchased at public issue or a regulated 55988  
lender that has made a loan related to the facility unless the 55989  
holder or lender operates the facility directly or through a 55990  
subsidiary. 55991

~~(P)~~(T) "Patient" includes "resident." 55992

~~(Q)~~(U) Except as provided in divisions ~~(Q)~~(U)(1) and (2) of 55993  
this section, "per diem" means a nursing facility's or 55994  
intermediate care facility for the mentally retarded's actual, 55995  
allowable costs in a given cost center in a cost reporting period, 55996  
divided by the facility's inpatient days for that cost reporting 55997  
period. 55998

(1) When calculating indirect care costs for the purpose of 55999  
establishing rates under section ~~5111.24~~ or 5111.241 of the 56000  
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 56001  
facility for the mentally retarded's actual, allowable indirect 56002  
care costs in a cost reporting period divided by the greater of 56003

the facility's inpatient days for that period or the number of 56004  
inpatient days the facility would have had during that period if 56005  
its occupancy rate had been eighty-five per cent. 56006

(2) When calculating capital costs for the purpose of 56007  
establishing rates under section ~~5111.25~~ or 5111.251 of the 56008  
Revised Code, "per diem" means a facility's actual, allowable 56009  
capital costs in a cost reporting period divided by the greater of 56010  
the facility's inpatient days for that period or the number of 56011  
inpatient days the facility would have had during that period if 56012  
its occupancy rate had been ninety-five per cent. 56013

~~(R)~~(V) "Provider" means ~~a person or government entity that~~ 56014  
~~operates a nursing facility or intermediate care facility for the~~ 56015  
~~mentally retarded under an operator with~~ a provider agreement. 56016

~~(S)~~(W) "Provider agreement" means a contract between the 56017  
department of job and family services and the operator of a 56018  
nursing facility or intermediate care facility for the mentally 56019  
retarded for the provision of nursing facility services or 56020  
intermediate care facility services for the mentally retarded 56021  
under the ~~medical assistance~~ medicaid program. 56022

~~(T)~~(X) "Purchased nursing services" means services that are 56023  
provided in a nursing facility by registered nurses, licensed 56024  
practical nurses, or nurse aides who are not employees of the 56025  
facility. 56026

~~(U)~~(Y) "Reasonable" means that a cost is an actual cost that 56027  
is appropriate and helpful to develop and maintain the operation 56028  
of patient care facilities and activities, including normal 56029  
standby costs, and that does not exceed what a prudent buyer pays 56030  
for a given item or services. Reasonable costs may vary from 56031  
provider to provider and from time to time for the same provider. 56032

~~(V)~~(Z) "Related party" means an individual or organization 56033  
that, to a significant extent, has common ownership with, is 56034

associated or affiliated with, has control of, or is controlled 56035  
by, the provider. 56036

(1) An individual who is a relative of an owner is a related 56037  
party. 56038

(2) Common ownership exists when an individual or individuals 56039  
possess significant ownership or equity in both the provider and 56040  
the other organization. Significant ownership or equity exists 56041  
when an individual or individuals possess five per cent ownership 56042  
or equity in both the provider and a supplier. Significant 56043  
ownership or equity is presumed to exist when an individual or 56044  
individuals possess ten per cent ownership or equity in both the 56045  
provider and another organization from which the provider 56046  
purchases or leases real property. 56047

(3) Control exists when an individual or organization has the 56048  
power, directly or indirectly, to significantly influence or 56049  
direct the actions or policies of an organization. 56050

(4) An individual or organization that supplies goods or 56051  
services to a provider shall not be considered a related party if 56052  
all of the following conditions are met: 56053

(a) The supplier is a separate bona fide organization. 56054

(b) A substantial part of the supplier's business activity of 56055  
the type carried on with the provider is transacted with others 56056  
than the provider and there is an open, competitive market for the 56057  
types of goods or services the supplier furnishes. 56058

(c) The types of goods or services are commonly obtained by 56059  
other nursing facilities or intermediate care facilities for the 56060  
mentally retarded from outside organizations and are not a basic 56061  
element of patient care ordinarily furnished directly to patients 56062  
by the facilities. 56063

(d) The charge to the provider is in line with the charge for 56064



the goods or services in the open market and no more than the  
charge made under comparable circumstances to others by the  
supplier.

~~(W)~~(AA) "Relative of owner" means an individual who is  
related to an owner of a nursing facility or intermediate care  
facility for the mentally retarded by one of the following  
relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) ~~Step parent~~ Stepparent, ~~step child~~ stepchild,  
~~step brother~~ stepbrother, or ~~step sister~~ stepsister;

(5) Father-in-law, mother-in-law, son-in-law,  
daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster  
sister.

~~(X)~~(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of ~~a nursing  
facility or an~~ intermediate care facility for the mentally  
retarded started before July 1, 1993, that meets the definition of  
a renovation or extensive renovation established in rules adopted  
by the director of job and family services in effect on December  
22, 1992.

(2) In the case of betterments, improvements, and  
restorations of ~~nursing facilities and~~ intermediate care  
facilities for the mentally retarded started on or after July 1,  
1993:

(a) "Renovation" means the betterment, improvement, or

restoration of a ~~nursing facility or~~ an intermediate care facility 56094  
for the mentally retarded beyond its current functional capacity 56095  
through a structural change that costs at least five hundred 56096  
dollars per bed. A renovation may include betterment, improvement, 56097  
restoration, or replacement of assets that are affixed to the 56098  
building and have a useful life of at least five years. A 56099  
renovation may include costs that otherwise would be considered 56100  
maintenance and repair expenses if they are an integral part of 56101  
the structural change that makes up the renovation project. 56102  
"Renovation" does not mean construction of additional space for 56103  
beds that will be added to a facility's licensed or certified 56104  
capacity. 56105

(b) "Extensive renovation" means a renovation that costs more 56106  
than sixty-five per cent and no more than eighty-five per cent of 56107  
the cost of constructing a new bed and that extends the useful 56108  
life of the assets for at least ten years. 56109

For the purposes of division ~~(X)~~(BB)(2) of this section, the 56110  
cost of constructing a new bed shall be considered to be forty 56111  
thousand dollars, adjusted for the estimated rate of inflation 56112  
from January 1, 1993, to the end of the calendar year during which 56113  
the renovation is completed, using the consumer price index for 56114  
shelter costs for all urban consumers for the north central 56115  
region, as published by the United States bureau of labor 56116  
statistics. 56117

The department of job and family services may treat a 56118  
renovation that costs more than eighty-five per cent of the cost 56119  
of constructing new beds as an extensive renovation if the 56120  
department determines that the renovation is more prudent than 56121  
construction of new beds. 56122

(CC) "Title XIX" means Title XIX of the "Social Security 56123  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 56124

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 56125  
56126

**Sec. 5111.204.** (A) As used in this section ~~and in section 5111.205 of the Revised Code~~, "representative" means a person acting on behalf of an applicant for or recipient of ~~medical assistance~~ medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient. 56127  
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(B) The department of job and family services may require ~~an~~ each applicant for or recipient of ~~medical assistance~~ medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. ~~To~~ The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code. 56133  
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To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules adopted by the director of job and family services under division ~~(A)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules adopted under division ~~(H)~~(F) of this section and information provided by the person being assessed or the person's representative. ~~The~~ 56141  
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The department of job and family services, or if the assessment is performed by ~~another~~ an agency ~~designated~~ under contract with the department pursuant to division (G) of this section 5101.754 of the Revised Code, the agency, shall, not later than the time the ~~assessment~~ level of care determination based on the assessment is required to be ~~performed~~ provided under division (C) of this section, give written notice of its conclusions and 56149  
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the basis for them to the person assessed and, if the department 56156  
of job and family services or ~~designated entity~~ agency under 56157  
contract with the department has been informed that the person has 56158  
a representative, to the representative. 56159

(C) The department of job and family services or ~~designated~~ 56160  
agency under contract with the department, whichever performs the 56161  
assessment, shall ~~perform a complete assessment, or, if~~ 56162  
~~circumstances provided by rules adopted under division (H) of this~~ 56163  
~~section exist, a partial assessment,~~ provide a level of care 56164  
determination based on the assessment as follows: 56165

(1) In the case of a person applying or intending to apply 56166  
for admission to a nursing facility while hospitalized, not later 56167  
than one of the following: 56168

(a) One working day after the person or the person's 56169  
representative submits ~~an~~ the application ~~for admission to the~~ 56170  
~~nursing facility~~ or notifies the department of the person's 56171  
intention to apply and submits all information required for 56172  
providing the level of care determination, as specified in rules 56173  
adopted under division (F)(2) of this section; 56174

(b) A later date requested by the person or the person's 56175  
representative. 56176

(2) In the case of ~~an emergency as determined in accordance~~ 56177  
~~with rules adopted under division (H) of this section, not later~~ 56178  
~~than one calendar day after the person or the person's~~ 56179  
~~representative submits the application or notifies the department~~ 56180  
~~of the person's intention to apply.~~ 56181

~~(3) In all other cases a person applying or intending to~~ 56182  
apply for admission to a nursing facility who is not hospitalized, 56183  
not later than one of the following: 56184

(a) Five calendar days after the person or the person's 56185  
representative submits the application or notifies the department 56186

of the person's intention to apply and submits all information 56187  
required for providing the level of care determination, as 56188  
specified in rules adopted under division (F)(2) of this section; 56189

(b) A later date requested by the person or the person's 56190  
representative. 56191

(3) In the case of a person who resides in a nursing 56192  
facility, not later than one of the following: 56193

(a) Five calendar days after the person or the person's 56194  
representative submits an application for medical assistance and 56195  
submits all information required for providing the level of care 56196  
determination, as specified in rules adopted under division (F)(2) 56197  
of this section; 56198

(b) A later date requested by the person or the person's 56199  
representative. 56200

(4) In the case of an emergency, as specified in rules 56201  
adopted under division (F)(4) of this section, within the number 56202  
of days specified in the rules. 56203

~~(D) If the department of job and family services or~~ 56204  
~~designated agency conducts a partial assessment under division (C)~~ 56205  
~~of this section, it shall complete the rest of the assessment not~~ 56206  
~~later than one hundred eighty days after the date the person is~~ 56207  
~~admitted to the nursing facility unless the department or~~ 56208  
~~designated agency determines the person should be exempt from the~~ 56209  
~~assessment.~~ 56210

~~(E) A person is not required to be assessed under this~~ 56211  
~~section if the circumstances specified by rule adopted under~~ 56212  
~~division (H) of this section exist or the department of job and~~ 56213  
~~family services or designated agency determines after a partial~~ 56214  
~~assessment that the person should be exempt from the assessment.~~ 56215

~~(F) A person assessed under this section or the person's~~ 56216

representative may ~~appeal~~ request a state hearing to dispute the 56217  
conclusions reached by the department of job and family services 56218  
or ~~designated~~ agency under contract with the department on the 56219  
basis of the assessment. The ~~appeal~~ request for a state hearing 56220  
shall be made in accordance with section 5101.35 of the Revised 56221  
Code. The department of job and family services or ~~designated~~ 56222  
agency, ~~whichever performs the assessment,~~ under contract with the 56223  
department shall provide to the person or the person's 56224  
representative and the nursing facility written notice of the 56225  
person's right to ~~appeal~~ request a state hearing. The notice shall 56226  
include an explanation of the procedure for ~~filing an appeal~~ 56227  
requesting a state hearing. If a state hearing is requested, the 56228  
state shall be represented in the hearing by the department of job 56229  
and family services or the agency under contract with the 56230  
department, whichever performed the assessment. 56231

~~(G)~~(E) A nursing facility that admits or retains a person 56232  
determined pursuant to an assessment required under ~~division (B)~~ 56233  
~~or (C)~~ of this section not to need the level of care provided by 56234  
the nursing facility shall not be reimbursed under the ~~medical~~ 56235  
~~assistance~~ medicaid program for the person's care. 56236

~~(H)~~(F) The director of job and family services shall adopt 56237  
rules in accordance with Chapter 119. of the Revised Code to 56238  
implement and administer this section. The rules shall include all 56239  
of the following: 56240

(1) Criteria and procedures to be used in determining whether 56241  
admission to a nursing facility or continued stay in a nursing 56242  
facility is appropriate for the person being assessed. ~~The~~ 56243  
~~criteria shall include consideration of whether the person is in~~ 56244  
~~need of any of the following:~~ 56245

~~(a) Nursing or rehabilitation services;~~ 56246

~~(b) Assistance with two or more of the activities of daily~~ 56247

living; 56248

~~(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment.;~~ 56249  
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(2) Information the person being assessed or the person's representative must provide to the department or ~~designated~~ agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment; 56251  
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~~(3) Circumstances under which the department of job and family services or designated agency may perform a partial assessment under division (C) of this section;~~ 56256  
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~~(4) Circumstances under which a person is not required to be assessed;~~ 56259  
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(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency. 56261  
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(G) Pursuant to section 5111.91 of the Revised Code, the department of job and family services may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments. 56265  
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**Sec. 5111.21.** ~~(A) Subject to sections 5111.01, 5111.011, 5111.012, 5111.02, and 5111.211 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.~~ 56271  
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In order to be eligible for ~~medical assistance~~ medicaid 56278  
payments, the operator of a nursing facility or intermediate care 56279  
facility for the mentally retarded shall do all of the following: 56280

(1) Enter into a provider agreement with the department as 56281  
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 56282  
Code; 56283

(2) Apply for and maintain a valid license to operate if so 56284  
required by law; 56285

(3) Comply with all applicable state and federal laws and 56286  
rules. 56287

(B) ~~A (1) Except as provided in division (B)(2) of this~~ 56288  
~~section, the operator of a nursing facility that elects to obtain~~ 56289  
~~and maintain eligibility for payments under the medicaid program~~ 56290  
~~shall qualify all of the facility's medicaid-certified beds in the~~ 56291  
~~medicare program established by Title XVIII of the "Social~~ 56292  
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director~~ 56293  
~~of job and family services may adopt rules in accordance with~~ 56294  
~~Chapter 119. under section 5111.02~~ of the Revised Code to 56295  
establish the time frame in which a nursing facility must comply 56296  
with this requirement. 56297

(2) The Ohio veteran's home agency is not required to qualify 56298  
all of the medicaid-certified beds in a nursing facility the 56299  
agency maintains and operates under section 5907.01 of the Revised 56300  
Code in the medicare program. 56301

**Sec. 5111.22.** A provider agreement between the department of 56302  
job and family services and the provider of a nursing facility or 56303  
intermediate care facility for the mentally retarded shall contain 56304  
the following provisions: 56305

(A) The department agrees to make payments to the ~~nursing~~ 56306  
~~facility or intermediate care facility for the mentally retarded~~ 56307



~~for patients eligible for services under the medical assistance~~ 56308  
~~program provider,~~ as provided in sections 5111.20 to ~~5111.32~~ 56309  
5111.33 of the Revised Code, for medicaid-covered services the 56310  
facility provides to a resident of the facility who is a medicaid 56311  
recipient. No payment shall be made for the day a medicaid 56312  
recipient is discharged from the facility. 56313

(B) The provider agrees to: 56314

(1) Maintain eligibility as provided in section 5111.21 of 56315  
the Revised Code; 56316

(2) Keep records relating to a cost reporting period for the 56317  
greater of seven years after the cost report is filed or, if the 56318  
department issues an audit report in accordance with division (B) 56319  
of section 5111.27 of the Revised Code, six years after all appeal 56320  
rights relating to the audit report are exhausted; 56321

(3) File reports as required by the department; 56322

(4) Open all records relating to the costs of its services 56323  
for inspection and audit by the department; 56324

(5) Open its premises for inspection by the department, the 56325  
department of health, and any other state or local authority 56326  
having authority to inspect; 56327

(6) Supply to the department such information as it requires 56328  
concerning the facility's services to ~~patients~~ residents who are 56329  
or are eligible to be medicaid recipients; 56330

(7) Comply with section 5111.31 of the Revised Code. 56331

The provider agreement may contain other provisions that are 56332  
consistent with law and considered necessary by the department. 56333

A provider agreement shall be effective for no longer than 56334  
twelve months, except that if federal statute or regulations 56335  
authorize a longer term, it may be effective for a longer term so 56336  
authorized. A provider agreement may be renewed only if the 56337

facility is certified by the department of health for 56338  
participation in the medicaid program. 56339

The department of job and family services, in accordance with 56340  
rules adopted ~~by the director pursuant to Chapter 119.~~ under 56341  
section 5111.02 of the Revised Code, may elect not to enter into, 56342  
not to renew, or to terminate a provider agreement when the 56343  
department determines that such an agreement would not be in the 56344  
best interests of ~~the~~ medicaid recipients or of the state. 56345

**Sec. 5111.221.** The department of job and family services 56346  
shall make its best efforts each year to calculate rates under 56347  
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 56348  
time to use them to make the payments due to ~~nursing facilities~~ 56349  
~~and intermediate care facilities for the mentally retarded~~ 56350  
providers by the fifteenth day of August. If the department is 56351  
unable to calculate the rates so that they can be paid by that 56352  
date, the department shall pay each ~~facility~~ provider the rate 56353  
calculated for ~~it~~ the provider's nursing facilities and 56354  
intermediate care facilities for the mentally retarded under those 56355  
sections at the end of the previous fiscal year. If the department 56356  
also is unable to calculate the rates to make the payments due by 56357  
the fifteenth day of September and the fifteenth day of October, 56358  
the department shall pay the previous fiscal year's rate to make 56359  
those payments. The department may increase by five per cent the 56360  
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 56361  
this section at the request of the ~~facility~~ provider. The 56362  
department shall use rates calculated for the current fiscal year 56363  
to make the payments due by the fifteenth day of November. 56364

If the rate paid to a provider for a facility pursuant to 56365  
this section is lower than the rate calculated for ~~it~~ the facility 56366  
for the current fiscal year, the department shall pay the ~~facility~~ 56367  
provider the difference between the two rates for the number of 56368

days for which the ~~faecility~~ provider was paid for the facility 56369  
pursuant to this section. If the rate paid ~~to~~ for a facility 56370  
pursuant to this section is higher than the rate calculated for it 56371  
for the current fiscal year, the ~~faecility~~ provider shall refund to 56372  
the department the difference between the two rates for the number 56373  
of days for which the ~~faecility~~ provider was paid for the facility 56374  
pursuant to this section. 56375

Sec. 5111.222. (A) Except as otherwise provided by sections 56376  
5111.20 to 5111.33 of the Revised Code and by division (B) of this 56377  
section, the payments that the department of job and family 56378  
services shall agree to make to the provider of a nursing facility 56379  
pursuant to a provider agreement shall equal the sum of all of the 56380  
following: 56381

(1) The rate for direct care costs determined for the nursing 56382  
facility under section 5111.231 of the Revised Code; 56383

(2) The rate for ancillary and support costs determined for 56384  
the nursing facility's ancillary and support cost peer group under 56385  
section 5111.24 of the Revised Code; 56386

(3) The rate for tax costs determined for the nursing 56387  
facility under section 5111.242 of the Revised Code; 56388

(4) The rate for franchise permit fees determined for the 56389  
nursing facility under section 5111.243 of the Revised Code; 56390

(5) The quality incentive payment paid to the nursing 56391  
facility's quality tier group under section 5111.244 of the 56392  
Revised Code; 56393

(6) The median rate for capital costs for the nursing 56394  
facilities in the nursing facility's capital costs peer group as 56395  
determined under section 5111.25 of the Revised Code. 56396

(B) The department shall adjust the payment otherwise 56397  
determined under division (A) of this section as directed by the 56398

general assembly through the enactment of law governing medicaid 56399  
payments to providers of nursing facilities, including any law 56400  
that does either of the following: 56401

(1) Establishes factors by which the payments are to be 56402  
adjusted; 56403

(2) Establishes a methodology for transitioning payments from 56404  
the rates determined for fiscal year 2007 under uncodified law the 56405  
general assembly enacts to rates determined for subsequent fiscal 56406  
years under sections 5111.20 to 5111.33 of the Revised Code. 56407

Sec. 5111.223. The operator of a nursing facility or 56408  
intermediate care facility for the mentally retarded may enter 56409  
into provider agreements for more than one nursing facility or 56410  
intermediate care facility for the mentally retarded. 56411

**Sec. 5111.23.** (A) The department of job and family services 56412  
shall pay a provider for each of the provider's eligible nursing 56413  
facility and intermediate care facility facilities for the 56414  
mentally retarded a per resident per day rate for direct care 56415  
costs established prospectively for each facility. The department 56416  
shall establish each facility's rate for direct care costs 56417  
quarterly. 56418

(B) Each facility's rate for direct care costs shall be based 56419  
on the facility's cost per case-mix unit, subject to the maximum 56420  
costs per case-mix unit established under division (B)(2) of this 56421  
section, from the calendar year preceding the fiscal year in which 56422  
the rate is paid. To determine the rate, the department shall do 56423  
all of the following: 56424

(1) Determine each facility's cost per case-mix unit for the 56425  
calendar year preceding the fiscal year in which the rate will be 56426  
paid by dividing the facility's desk-reviewed, actual, allowable, 56427  
per diem direct care costs for that year by its average case-mix 56428

score determined under section ~~5111.231~~ 5111.232 of the Revised Code for the same calendar year. 56429  
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~~(2)(a) Set the maximum cost per case-mix unit for each peer group of nursing facilities specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(1) of this section.~~ 56431  
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~~(b)~~ Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(2) of this section. 56439  
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~~(e)~~(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(3) of this section. 56448  
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~~(d)~~(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer group, the department shall exclude from its calculations the cost 56457  
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per case-mix unit of any facility in the group that participated 56460  
in the ~~medical assistance~~ medicaid program under the same operator 56461  
for less than twelve months during the calendar year preceding the 56462  
fiscal year in which the rate will be paid. 56463

(3) Estimate the rate of inflation for the eighteen-month 56464  
period beginning on the first day of July of the calendar year 56465  
preceding the fiscal year in which the rate will be paid and 56466  
ending on the thirty-first day of December of the fiscal year in 56467  
which the rate will be paid, using the employment cost index for 56468  
total compensation, health services component, published by the 56469  
United States bureau of labor statistics. If the estimated 56470  
inflation rate for the eighteen-month period is different from the 56471  
actual inflation rate for that period, as measured using the same 56472  
index, the difference shall be added to or subtracted from the 56473  
inflation rate estimated under division (B)(3) of this section for 56474  
the following fiscal year. 56475

(4) The department shall not recalculate a maximum cost per 56476  
case-mix unit under division (B)(2) of this section or a 56477  
percentage under division (D) of this section based on additional 56478  
information that it receives after the maximum costs per case-mix 56479  
unit or percentages are set. The department shall recalculate a 56480  
maximum cost per case-mix units or percentage only if it made an 56481  
error in computing the maximum cost per case-mix unit or 56482  
percentage based on information available at the time of the 56483  
original calculation. 56484

(C) Each facility's rate for direct care costs shall be 56485  
determined as follows for each calendar quarter within a fiscal 56486  
year: 56487

(1) Multiply the lesser of the following by the facility's 56488  
average case-mix score determined under section ~~5111.231~~ 5111.232 56489  
of the Revised Code for the calendar quarter that preceded the 56490  
immediately preceding calendar quarter: 56491

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

~~(D)(1) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all nursing facilities that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty five per cent of the medicaid inpatient days for nursing facilities for calendar year 1992.~~

~~(2)~~ The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

~~(3)~~(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that

would result in payment of all desk-reviewed, actual, allowable 56523  
direct care costs for eighty and one-half per cent of the medicaid 56524  
inpatient days for such facilities for calendar year 1992. 56525

(E) The director of job and family services shall adopt rules 56526  
~~in accordance with Chapter 119.~~ under section 5111.02 of the 56527  
Revised Code that specify peer groups of ~~nursing facilities,~~ 56528  
intermediate care facilities for the mentally retarded with more 56529  
than eight beds, and intermediate care facilities for the mentally 56530  
retarded with eight or fewer beds, based on findings of 56531  
significant per diem direct care cost differences due to geography 56532  
and facility bed-size. The rules also may specify peer groups 56533  
based on findings of significant per diem direct care cost 56534  
differences due to other factors which may include, ~~in the case of~~ 56535  
~~intermediate care facilities for the mentally retarded,~~ case-mix. 56536

(F) The department, in accordance with division ~~(C)~~(D) of 56537  
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 56538  
under division ~~(D)~~(E) of that section, may assign case-mix scores 56539  
or costs per case-mix unit if a facility provider fails to submit 56540  
assessment ~~information~~ data necessary to calculate ~~its~~ an 56541  
intermediate care facility for the mentally retarded's case-mix 56542  
score in accordance with that section. 56543

Sec. 5111.231. (A) As used in this section, "applicable 56544  
calendar year" means the following: 56545

(1) For the purpose of the department of job and family 56546  
services' initial determination under division (D) of this section 56547  
of each peer group's cost per case-mix unit, calendar year 2003; 56548

(2) For the purpose of the department's subsequent 56549  
determinations under division (D) of this section of each peer 56550  
group's cost per case-mix unit, the calendar year the department 56551  
selects. 56552



(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semi-annually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) At least once every ten years, the department shall determine a cost per case-mix unit for each peer group established

under division (C) of this section. A cost per case-mix unit 56584  
determined under this division for a peer group shall be used for 56585  
subsequent years until the department redetermines it. To 56586  
determine a peer group's cost per case-mix unit, the department 56587  
shall do all of the following: 56588

(a) Determine the cost per case-mix unit for each nursing 56589  
facility in the peer group for the applicable calendar year by 56590  
dividing each facility's desk-reviewed, actual, allowable, per 56591  
diem direct care costs for the applicable calendar year by the 56592  
facility's annual average case-mix score determined under section 56593  
5111.232 of the Revised Code for the applicable calendar year. 56594

(b) Subject to division (D)(2) of this section, identify 56595  
which nursing facility in the peer group is at the twenty-fifth 56596  
percentile of the cost per case-mix units determined under 56597  
division (D)(1)(a) of this section. 56598

(c) Calculate the amount that is seven per cent above the 56599  
cost per case-mix unit determined under division (D)(1)(a) of this 56600  
section for the nursing facility identified under division 56601  
(D)(1)(b) of this section. 56602

(d) Multiply the amount calculated under division (D)(1)(c) 56603  
of this section by the rate of inflation for the eighteen-month 56604  
period beginning on the first day of July of the applicable 56605  
calendar year and ending the last day of December of the calendar 56606  
year immediately following the applicable calendar year using the 56607  
employment cost index for total compensation, health services 56608  
component, published by the United States bureau of labor 56609  
statistics. 56610

(2) In making the identification under division (D)(1)(b) of 56611  
this section, the department shall exclude both of the following: 56612

(a) Nursing facilities that participated in the medicaid 56613  
program under the same provider for less than twelve months in the 56614

applicable calendar year; 56615

(b) Nursing facilities whose direct care costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem direct care cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 56616  
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(3) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination. 56621  
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**Sec. ~~5111.231~~ 5111.232.** (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using data for each resident, regardless of payment source, all of the following: 56629  
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(a) Data from a resident assessment instrument specified in rules adopted in accordance with Chapter 119, under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, and for the following residents: 56633  
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(i) When determining semi-annual case-mix scores, each resident who is a medicaid recipient; 56638  
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(ii) When determining annual average case-mix scores, each resident regardless of payment source. 56640  
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(b) Except as provided in rules authorized by division (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services- 56642  
56643  
56644

Except; 56645

(c) Except as modified in rules ~~adopted under~~ authorized by 56646  
division (A)~~(1)~~(2)(c) of this section, ~~the department also shall~~ 56647  
~~use~~ the grouper methodology used on June 30, 1999, by the United 56648  
States department of health and human services for prospective 56649  
payment of skilled nursing facilities under the medicare program 56650  
established by Title XVIII ~~of the "Social Security Act," 49 Stat.~~ 56651  
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ The 56652

(2) The director of job and family services may adopt rules 56653  
~~in accordance with Chapter 119.~~ under section 5111.02 of the 56654  
Revised Code that do any of the following: 56655

(a) Adjust the case-mix values specified in division 56656  
(A)(1)(b) of this section to reflect changes in relative wage 56657  
differentials that are specific to this state; 56658

(b) Express all of ~~the~~ those case-mix values in numeric terms 56659  
that are different from the terms specified by the United States 56660  
department of health and human services but that do not alter the 56661  
relationship of the case-mix values to one another; 56662

(c) Modify the grouper methodology specified in division 56663  
(A)(1)(c) of this section as follows: 56664

(i) Establish a different hierarchy for assigning residents 56665  
to case-mix categories under the methodology; 56666

(ii) Prohibit the use of the index maximizer element of the 56667  
methodology; 56668

(iii) Incorporate changes to the methodology the United 56669  
States department of health and human services makes after June 56670  
30, 1999; 56671

(iv) Make other changes the ~~nursing facility reimbursement~~ 56672  
~~study council established by section 5111.34 of the Revised Code~~ 56673  
~~approves~~ department determines are necessary. 56674

~~(2)(B)~~ The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

~~(B) Not later than fifteen days after the end of each (C)~~ Each calendar quarter, each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider shall ~~submit to the department~~ the compile complete assessment data, from the resident assessment instrument specified in rules ~~adopted under~~ authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division ~~(C)(D)~~ of this section, the department, every six months and after the end of each calendar year ~~and pursuant to procedures specified in rules adopted in accordance with Chapter 119.~~ of the Revised Code, shall calculate ~~an~~ a semiannual and annual average case-mix score for each nursing facility ~~and intermediate care facility for the mentally retarded~~ using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar

year, shall calculate an annual average case-mix score for each 56707  
intermediate care facility for the mentally retarded using the 56708  
facility's quarterly case-mix scores for that calendar year. The 56709  
department shall make the calculations pursuant to procedures 56710  
specified in rules adopted under section 5111.02 of the Revised 56711  
Code. 56712

~~(C)~~(D)(1) If a faeility provider does not timely submit 56713  
information for a calendar quarter necessary to calculate ~~its a~~ 56714  
facility's case-mix score, or submits incomplete or inaccurate 56715  
information for a calendar quarter, the department may assign the 56716  
facility a quarterly average case-mix score that is five per cent 56717  
less than the facility's quarterly average case-mix score for the 56718  
preceding calendar quarter. If the facility was subject to an 56719  
exception review under division (C) of section 5111.27 of the 56720  
Revised Code for the preceding calendar quarter, the department 56721  
may assign a quarterly average case-mix score that is five per 56722  
cent less than the score determined by the exception review. If 56723  
the facility was assigned a quarterly average case-mix score for 56724  
the preceding quarter, the department may assign a quarterly 56725  
average case-mix score that is five per cent less than that score 56726  
assigned for the preceding quarter. 56727

The department may use a quarterly average case-mix score 56728  
assigned under division ~~(C)~~(D)(1) of this section, instead of a 56729  
quarterly average case-mix score calculated based on the 56730  
~~facility's provider's~~ submitted information, to calculate the 56731  
facility's rate for direct care costs being established under 56732  
section 5111.23 or 5111.231 of the Revised Code for one or more 56733  
months, as specified in rules ~~adopted under~~ authorized by division 56734  
~~(D)~~(E) of this section, of the quarter for which the rate 56735  
established under section 5111.23 or 5111.231 of the Revised Code 56736  
will be paid. 56737

Before taking action under division ~~(C)~~(D)(1) of this 56738

section, the department shall permit the facility provider a 56739  
reasonable period of time, specified in rules ~~adopted under~~ 56740  
authorized by division ~~(D)~~(E) of this section, to correct the 56741  
information. In the case of an intermediate care facility for the 56742  
mentally retarded, the department shall not assign a quarterly 56743  
average case-mix score due to late submission of corrections to 56744  
assessment information unless the facility provider fails to 56745  
submit corrected information prior to the eighty-first day after 56746  
the end of the calendar quarter to which the information pertains. 56747  
In the case of a nursing facility, the department shall not assign 56748  
a quarterly average case-mix score due to late submission of 56749  
corrections to assessment information unless the facility provider 56750  
fails to submit corrected information prior to the earlier of the 56751  
eighty-first day after the end of the calendar quarter to which 56752  
the information pertains or the deadline for submission of such 56753  
corrections established by regulations adopted by the United 56754  
States department of health and human services under Titles XVIII 56755  
and XIX ~~of the Social Security Act.~~ 56756

(2) If a facility provider is paid a rate for a facility 56757  
calculated using a quarterly average case-mix score assigned under 56758  
division ~~(C)~~(D)(1) of this section for more than six months in a 56759  
calendar year, the department may assign the facility a cost per 56760  
case-mix unit that is five per cent less than the facility's 56761  
actual or assigned cost per case-mix unit for the preceding 56762  
calendar year. The department may use the assigned cost per 56763  
case-mix unit, instead of calculating the facility's actual cost 56764  
per case-mix unit in accordance with section 5111.23 or 5111.231 56765  
of the Revised Code, to establish the facility's rate for direct 56766  
care costs for the following fiscal year. 56767

(3) The department shall take action under division ~~(C)~~(D)(1) 56768  
or (2) of this section only in accordance with rules ~~adopted under~~ 56769  
authorized by division ~~(D)~~(E) of this section. The department 56770

shall not take an action that affects rates for prior payment 56771  
periods except in accordance with sections 5111.27 and 5111.28 of 56772  
the Revised Code. 56773

~~(D)(E)~~ The director ~~may~~ shall adopt rules ~~in accordance with~~ 56774  
~~Chapter 119.~~ under section 5111.02 of the Revised Code that do ~~any~~ 56775  
all of the following: 56776

(1) Specify whether providers of a nursing facility must 56777  
submit the assessment data to the department of job and family 56778  
services; 56779

(2) Specify the medium or media through which the completed 56780  
assessment ~~information~~ data shall be submitted; 56781

~~(2)(3)~~ Establish procedures under which the ~~department will~~ 56782  
~~review~~ assessment ~~information~~ data shall be reviewed for accuracy 56783  
and ~~notify the facility providers shall be notified~~ of any 56784  
~~information~~ data that requires correction; 56785

~~(3)(4)~~ Establish procedures for ~~facilities~~ providers to 56786  
correct assessment ~~information~~. ~~The procedures may prohibit an~~ 56787  
~~intermediate care facility for the mentally retarded from~~ 56788  
~~submitting corrected assessment information, for the purpose of~~ 56789  
~~calculating its annual average case mix score, more than two~~ 56790  
~~calendar quarters after the end of the quarter to which the~~ 56791  
~~information pertains or, if the information pertains to the~~ 56792  
~~quarter ending the thirty first day of December, after the~~ 56793  
~~thirty first day of the following March~~ data and specify a 56794  
reasonable period of time by which providers shall submit the 56795  
corrections. The procedures may limit the content of corrections 56796  
by providers of nursing facilities in the manner required by 56797  
regulations adopted by the United States department of health and 56798  
human services under Titles XVIII and XIX ~~of the Social Security~~ 56799  
~~Act and prohibit a nursing facility from submitting corrected~~ 56800  
~~assessment information, for the purpose of calculating its annual~~ 56801



~~average case mix score, more than the earlier of the following:~~ 56802

~~(a) Two calendar quarters after the end of the quarter to 56803  
which the information pertains or, if the information pertains to 56804  
the quarter ending the thirty first day of December, after the 56805  
thirty first day of the following March;~~ 56806

~~(b) The deadline for submission of such corrections 56807  
established by regulations adopted by the United States department 56808  
of health and human services under Titles XVIII and XIX of the 56809  
Social Security Act. 56810~~

~~(4)(5) Specify when and how the department will assign 56811  
case-mix scores or costs per case-mix unit under division ~~(C)~~(D) 56812  
of this section if information necessary to calculate the 56813  
facility's ~~average annual or quarterly~~ case-mix score is not 56814  
provided or corrected in accordance with the procedures 56815  
established by the rules. Notwithstanding any other provision of 56816  
sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rules 56817  
also may provide for ~~exclusion~~ the following: 56818~~

~~(a) Exclusion of case-mix scores assigned under division 56819  
~~(C)~~(D) of this section from calculation of ~~the facility's an~~ 56820  
intermediate care facility for the mentally retarded's annual 56821  
average case-mix score and the maximum cost per case-mix unit for 56822  
the facility's peer group; 56823~~

~~(b) Exclusion of case-mix scores assigned under division (D) 56824  
of this section from calculation of a nursing facility's 56825  
semiannual or annual average case-mix score and the cost per 56826  
case-mix unit for the facility's peer group. 56827~~

**Sec. 5111.235.** The department of job and family services 56828  
shall pay a provider for each of the provider's eligible ~~nursing~~ 56829  
~~facility and~~ intermediate care ~~facility~~ facilities for the 56830  
mentally retarded a per resident per day rate for other protected 56831

costs established prospectively each fiscal year for each 56832  
facility. The rate for each facility shall be the facility's 56833  
desk-reviewed, actual, allowable, per diem other protected costs 56834  
from the calendar year preceding the fiscal year in which the rate 56835  
will be paid, all adjusted, ~~except for franchise permit fees paid~~ 56836  
~~under section 3721.53 of the Revised Code,~~ for the estimated 56837  
inflation rate for the eighteen-month period beginning on the 56838  
first day of July of the calendar year preceding the fiscal year 56839  
in which the rate will be paid and ending on the thirty-first day 56840  
of December of that fiscal year. The department shall estimate 56841  
inflation using the consumer price index for all urban consumers 56842  
for nonprescription drugs and medical supplies, as published by 56843  
the United States bureau of labor statistics. If the estimated 56844  
inflation rate for the eighteen-month period is different from the 56845  
actual inflation rate for that period, the difference shall be 56846  
added to or subtracted from the inflation rate estimated for the 56847  
following year. 56848

Sec. 5111.24. (A) As used in this section, "applicable 56849  
calendar year" means the following: 56850

(1) For the purpose of the department of job and family 56851  
services' initial determination under division (D) of this section 56852  
of each peer group's rate for ancillary and support costs, 56853  
calendar year 2003; 56854

(2) For the purpose of the department's subsequent 56855  
determinations under division (D) of this section of each peer 56856  
group's rate for ancillary and support costs, the calendar year 56857  
the department selects. 56858

(B) The department of job and family services shall pay a 56859  
provider for each of the provider's eligible nursing facilities a 56860  
per resident per day rate for ancillary and support costs 56861  
determined for the nursing facility's peer group under division 56862

(D) of this section. 56863

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups. 56864  
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Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two. 56867  
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Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four. 56874  
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Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility 56885  
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located in any of those counties that has fewer than one hundred 56894  
beds shall be placed in peer group five. Each nursing facility 56895  
located in any of those counties that has one hundred or more beds 56896  
shall be placed in peer group six. 56897

(D)(1) At least once every ten years, the department shall 56898  
determine the rate for ancillary and support costs for each peer 56899  
group established under division (C) of this section. The rate for 56900  
ancillary and support costs determined under this division for a 56901  
peer group shall be used for subsequent years until the department 56902  
redetermines it. To determine a peer group's rate for ancillary 56903  
and support costs, the department shall do all of the following: 56904

(a) Determine the rate for ancillary and support costs for 56905  
each nursing facility in the peer group for the applicable 56906  
calendar year by using the greater of the nursing facility's 56907  
actual inpatient days for the applicable calendar year or the 56908  
inpatient days the nursing facility would have had for the 56909  
applicable calendar year if its occupancy rate had been ninety per 56910  
cent. For the purpose of determining a nursing facility's 56911  
occupancy rate under division (D)(1)(a) of this section, the 56912  
department shall include any beds that the nursing facility 56913  
removes from its medicaid-certified capacity unless the nursing 56914  
facility also removes the beds from its licensed bed capacity. 56915

(b) Subject to division (D)(2) of this section, identify 56916  
which nursing facility in the peer group is at the twenty-fifth 56917  
percentile of the rate for ancillary and support costs for the 56918  
applicable calendar year determined under division (D)(1)(a) of 56919  
this section. 56920

(c) Calculate the amount that is three per cent above the 56921  
rate for ancillary and support costs determined under division 56922  
(D)(1)(a) of this section for the nursing facility identified 56923  
under division (D)(1)(b) of this section. 56924

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. 56925  
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(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following: 56933  
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(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 56935  
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(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 56938  
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(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination. 56943  
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**Sec. 5111.241.** (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for 56950  
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each intermediate care facility for the mentally retarded shall be 56955  
the sum of the following, but shall not exceed the maximum rate 56956  
established for the facility's peer group under division (B) of 56957  
this section: 56958

(1) The facility's desk-reviewed, actual, allowable, per diem 56959  
indirect care costs from the calendar year preceding the fiscal 56960  
year in which the rate will be paid, adjusted for the inflation 56961  
rate estimated under division (C)(1) of this section; 56962

(2) An efficiency incentive in the following amount: 56963

(a) For fiscal years ending in even-numbered calendar years: 56964

(i) In the case of intermediate care facilities for the 56965  
mentally retarded with more than eight beds, seven and one-tenth 56966  
per cent of the maximum rate established for the facility's peer 56967  
group under division (B) of this section; 56968

(ii) In the case of intermediate care facilities for the 56969  
mentally retarded with eight or fewer beds, seven per cent of the 56970  
maximum rate established for the facility's peer group under 56971  
division (B) of this section; 56972

(b) For fiscal years ending in odd-numbered calendar years, 56973  
the amount calculated for the preceding fiscal year under division 56974  
(A)(2)(a) of this section. 56975

(B)(1) The maximum rate for indirect care costs for each peer 56976  
group of intermediate care facilities for the mentally retarded 56977  
with more than eight beds specified in rules adopted under 56978  
division (D) of this section shall be determined as follows: 56979

(a) For fiscal years ending in even-numbered calendar years, 56980  
the maximum rate for each peer group shall be the rate that is no 56981  
less than twelve and four-tenths per cent above the median 56982  
desk-reviewed, actual, allowable, per diem indirect care cost for 56983  
all intermediate care facilities for the mentally retarded with 56984

more than eight beds in the group, excluding facilities in the  
group whose indirect care costs for that period are more than  
three standard deviations from the mean desk-reviewed, actual,  
allowable, per diem indirect care cost for all intermediate care  
facilities for the mentally retarded with more than eight beds,  
for the calendar year preceding the fiscal year in which the rate  
will be paid, adjusted by the inflation rate estimated under  
division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years,  
the maximum rate for each peer group is the group's maximum rate  
for the previous fiscal year, adjusted for the inflation rate  
estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer  
group of intermediate care facilities for the mentally retarded  
with eight or fewer beds specified in rules adopted under division  
(D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years,  
the maximum rate for each peer group shall be the rate that is no  
less than ten and three-tenths per cent above the median  
desk-reviewed, actual, allowable, per diem indirect care cost for  
all intermediate care facilities for the mentally retarded with  
eight or fewer beds in the group, excluding facilities in the  
group whose indirect care costs are more than three standard  
deviations from the mean desk-reviewed, actual, allowable, per  
diem indirect care cost for all intermediate care facilities for  
the mentally retarded with eight or fewer beds, for the calendar  
year preceding the fiscal year in which the rate will be paid,  
adjusted by the inflation rate estimated under division (C)(1) of  
this section.

(b) For fiscal years that end in odd-numbered calendar years,  
the maximum rate for each peer group is the group's maximum rate

for the previous fiscal year, adjusted for the inflation rate 57016  
estimated under division (C)(2) of this section. 57017

(3) The department shall not recalculate a maximum rate for 57018  
indirect care costs under division (B)(1) or (2) of this section 57019  
based on additional information that it receives after the maximum 57020  
rate is set. The department shall recalculate the maximum rate for 57021  
indirect care costs only if it made an error in computing the 57022  
maximum rate based on the information available at the time of the 57023  
original calculation. 57024

(C)(1) When adjusting rates for inflation under divisions 57025  
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 57026  
shall estimate the rate of inflation for the eighteen-month period 57027  
beginning on the first day of July of the calendar year preceding 57028  
the fiscal year in which the rate will be paid and ending on the 57029  
thirty-first day of December of the fiscal year in which the rate 57030  
will be paid, using the consumer price index for all items for all 57031  
urban consumers for the north central region, published by the 57032  
United States bureau of labor statistics. 57033

(2) When adjusting rates for inflation under divisions 57034  
(B)(1)(b) and (B)(2)(b) of this section, the department shall 57035  
estimate the rate of inflation for the twelve-month period 57036  
beginning on the first day of January of the fiscal year preceding 57037  
the fiscal year in which the rate will be paid and ending on the 57038  
thirty-first day of December of the fiscal year in which the rate 57039  
will be paid, using the consumer price index for all items for all 57040  
urban consumers for the north central region, published by the 57041  
United States bureau of labor statistics. 57042

(3) If an inflation rate estimated under division (C)(1) or 57043  
(2) of this section is different from the actual inflation rate 57044  
for the relevant time period, as measured using the same index, 57045  
the difference shall be added to or subtracted from the inflation 57046



rate estimated pursuant to this division for the following fiscal 57047  
year. 57048

(D) The director of job and family services shall adopt rules 57049  
~~in accordance with Chapter 119.~~ under section 5111.02 of the 57050  
Revised Code that specify peer groups of intermediate care 57051  
facilities for the mentally retarded with more than eight beds, 57052  
and peer groups of intermediate care facilities for the mentally 57053  
retarded with eight or fewer beds, based on findings of 57054  
significant per diem indirect care cost differences due to 57055  
geography and facility bed-size. The rules also may specify peer 57056  
groups based on findings of significant per diem indirect care 57057  
cost differences due to other factors, including case-mix. 57058

Sec. 5111.242. (A) As used in this section: 57059

(1) "Applicable calendar year" means the following: 57060

(a) For the purpose of the department of job and family 57061  
services' initial determination under this section of nursing 57062  
facilities' rate for tax costs, calendar year 2003; 57063

(b) For the purpose of the department's subsequent 57064  
determinations under division (D) of this section of nursing 57065  
facilities' rate for tax costs, the calendar year the department 57066  
selects. 57067

(2) "Tax costs" means the costs of taxes imposed under 57068  
Chapter 5751. of the Revised Code, real estate taxes, personal 57069  
property taxes, and corporate franchise taxes. 57070

(B) The department of job and family services shall pay a 57071  
provider for each of the provider's eligible nursing facilities a 57072  
per resident per day rate for tax costs determined under division 57073  
(C) of this section. 57074

(C) At least once every ten years, the department shall 57075  
determine the rate for tax costs for each nursing facility. The 57076

rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.

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Sec. 5111.243. The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for the franchise permit fees paid for the nursing facility. The rate shall be equal to the franchise permit fee for the fiscal year for which the rate is paid.

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Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

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(B) Each year, the department of job and family services shall pay each nursing facility placed in the first, second, and third quality tier groups established under division (C) of this section a quality incentive payment. Nursing facilities placed in the first group shall receive the highest payment. Nursing facilities placed in the second group shall receive the second highest payment. Nursing facilities placed in the third group shall receive the third highest payment. Nursing facilities placed in the fourth group shall receive no payment. The mean payment, weighted by medicaid days, shall be two per cent of the average rate for all nursing facilities calculated under sections 5111.20 to 5111.33 of the Revised Code, excluding this section. Nursing facilities placed in the fourth group shall be included for the

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purpose of determining the mean payment. 57107

(C) Each year, the department shall establish four quality tier groups. Each group shall consist of one quarter of all nursing facilities participating in the medicaid program. The first group shall consist of the quarter of nursing facilities individually awarded the most number of points under division (D) of this section. The second group shall consist of the quarter of nursing facilities individually awarded the second most number of points under division (D) of this section. The third group shall consist of the quarter of nursing facilities individually awarded the third most number of points under division (D) of this section. The fourth group shall consist of the quarter of nursing facilities individually awarded the least number of points under division (D) of this section. 57108  
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(D) Each year, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets: 57121  
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(1) The facility had no health deficiencies on the facility's most recent standard survey. 57124  
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(2) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey. 57126  
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(3) The facility's resident satisfaction is above the statewide average. 57130  
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(4) The facility's family satisfaction is above the statewide average. 57132  
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(5) The number of hours the facility employs nurses is above the statewide average. 57134  
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(6) The facility's employee retention rate is above the 57136

<u>average for the facility's peer group established in division (C)</u>	57137
<u>of section 5111.231 of the Revised Code.</u>	57138
<u>(7) The facility's occupancy rate is above the statewide</u>	57139
<u>average.</u>	57140
<u>(8) The facility's medicaid utilization rate is above the</u>	57141
<u>statewide average.</u>	57142
<u>(9) The facility's case-mix score is above the statewide</u>	57143
<u>average.</u>	57144
<u>(E) The director of job and family services shall adopt rules</u>	57145
<u>under section 5111.02 of the Revised Code as necessary to</u>	57146
<u>implement this section. The rules shall include rules establishing</u>	57147
<u>the system for awarding points under division (D) of this section.</u>	57148
<b>Sec. 5111.25. (A) <u>As used in this section, "applicable</u></b>	57149
<b><u>calendar year" means the following:</u></b>	57150
<u>(1) For the purpose of the department of job and family</u>	57151
<u>services' initial determination under division (D) of this section</u>	57152
<u>of each peer group's median rate for capital costs, calendar year</u>	57153
<u>2003;</u>	57154
<u>(2) For the purpose of the department's subsequent</u>	57155
<u>determinations under division (D) of this section of each peer</u>	57156
<u>group's median rate for capital costs, the calendar year the</u>	57157
<u>department selects.</u>	57158
<u>(B) The department of job and family services shall pay a</u>	57159
<u>provider for each of the provider's eligible nursing facility</u>	57160
<u>facilities a per resident per day rate for <del>its reasonable</del> capital</u>	57161
<u>costs established <del>prospectively each fiscal year for each</del></u>	57162
<u>facility. <del>Except as otherwise provided in sections 5111.20 to</del></u>	57163
<u><del>5111.32 of the Revised Code, the</del> <u>A nursing facility's rate for</u></u>	57164
<u>capital costs shall be <del>based on</del> the <u>facility's median rate for</u></u>	57165
<u>capital costs for the <del>ealendar</del> year preceding the fiscal year in</u>	57166

~~which the rate will be paid nursing facilities in the nursing 57167  
facility's peer group as determined under division (D) of this 57168  
section. The rate shall equal the sum of divisions (A)(1) to (3) 57169  
of this section: 57170~~

~~(1) The lesser of the following: 57171~~

~~(a) Eighty eight and sixty five one hundredths per cent of 57172  
the facility's desk reviewed, actual, allowable, per diem cost of 57173  
ownership and eighty five per cent of the facility's actual, 57174  
allowable, per diem cost of nonextensive renovation determined 57175  
under division (F) of this section: 57176~~

~~(b) Eighty eight and sixty five one hundredths per cent of 57177  
the following limitation: 57178~~

~~(i) For the fiscal year beginning July 1, 1993, sixteen 57179  
dollars per resident day: 57180~~

~~(ii) For the fiscal year beginning July 1, 1994, sixteen 57181  
dollars per resident day, adjusted to reflect the rate of 57182  
inflation for the twelve month period beginning July 1, 1992, and 57183  
ending June 30, 1993, using the consumer price index for shelter 57184  
costs for all urban consumers for the north central region, 57185  
published by the United States bureau of labor statistics: 57186~~

~~(iii) For subsequent fiscal years, the limitation in effect 57187  
during the previous fiscal year, adjusted to reflect the rate of 57188  
inflation for the twelve month period beginning on the first day 57189  
of July for the calendar year preceding the calendar year that 57190  
precedes the fiscal year and ending on the following thirtieth day 57191  
of June, using the consumer price index for shelter costs for all 57192  
urban consumers for the north central region, published by the 57193  
United States bureau of labor statistics. 57194~~

~~(2) Any efficiency incentive determined under division (D) of 57195  
this section: 57196~~

~~(3) Any amounts for return on equity determined under~~ 57197  
~~division (H) of this section (C) For the purpose of determining~~ 57198  
~~nursing facilities' rate for capital costs, the department shall~~ 57199  
~~establish six peer groups.~~ 57200

Each nursing facility located in any of the following 57201  
counties shall be placed in peer group one or two: Brown, Butler, 57202  
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 57203  
located in any of those counties that has fewer than one hundred 57204  
beds shall be placed in peer group one. Each nursing facility 57205  
located in any of those counties that has one hundred or more beds 57206  
shall be placed in peer group two. 57207

Each nursing facility located in any of the following 57208  
counties shall be placed in peer group three or four: Ashtabula, 57209  
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 57210  
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 57211  
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 57212  
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 57213  
Union, and Wood. Each nursing facility located in any of those 57214  
counties that has fewer than one hundred beds shall be placed in 57215  
peer group three. Each nursing facility located in any of those 57216  
counties that has one hundred or more beds shall be placed in peer 57217  
group four. 57218

Each nursing facility located in any of the following 57219  
counties shall be placed in peer group five or six: Adams, Allen, 57220  
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 57221  
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 57222  
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 57223  
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 57224  
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 57225  
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 57226  
Washington, Wayne, Williams, and Wyandot. Each nursing facility 57227  
located in any of those counties that has fewer than one hundred 57228

beds shall be placed in peer group five. Each nursing facility 57229  
located in any of those counties that has one hundred or more beds 57230  
shall be placed in peer group six. 57231

(D)(1) At least once every ten years, the department shall 57232  
determine the median rate for capital costs for each peer group 57233  
established under division (C) of this section. The median rate 57234  
for capital costs determined under this division for a peer group 57235  
shall be used for subsequent years until the department 57236  
redetermines it. To determine a peer group's median rate for 57237  
capital costs, the department shall do both of the following: 57238

(a) Subject to division (D)(2) of this section, use the 57239  
greater of each nursing facility's actual inpatient days for the 57240  
applicable calendar year or the inpatient days the nursing 57241  
facility would have had for the applicable calendar year if its 57242  
occupancy rate had been one hundred per cent. 57243

(b) Exclude both of the following: 57244

(i) Nursing facilities that participated in the medicaid 57245  
program under the same provider for less than twelve months in the 57246  
applicable calendar year; 57247

(ii) Nursing facilities whose capital costs are more than one 57248  
standard deviation from the mean desk-reviewed, actual, allowable, 57249  
per diem capital cost for all nursing facilities in the nursing 57250  
facility's peer group for the applicable calendar year. 57251

(2) For the purpose of determining a nursing facility's 57252  
occupancy rate under division (D)(1)(a) of this section, the 57253  
department shall include any beds that the nursing facility 57254  
removes from its medicaid-certified capacity after June 30, 2005, 57255  
unless the nursing facility also removes the beds from its 57256  
licensed bed capacity. 57257

(E) Buildings shall be depreciated using the straight line 57258

method over forty years or over a different period approved by the 57259  
department. Components and equipment shall be depreciated using 57260  
the straight-line method over a period designated in rules adopted 57261  
~~by the director of job and family services in accordance with~~ 57262  
~~Chapter 119.~~ under section 5111.02 of the Revised Code, consistent 57263  
with the guidelines of the American hospital association, or over 57264  
a different period approved by the department. Any rules ~~adopted~~ 57265  
~~under~~ authorized by this division that specify useful lives of 57266  
buildings, components, or equipment apply only to assets acquired 57267  
on or after July 1, 1993. Depreciation for costs paid or 57268  
reimbursed by any government agency shall not be included in ~~cost~~ 57269  
~~of ownership or renovation~~ capital costs unless that part of the 57270  
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 57271  
Code is used to reimburse the government agency. 57272

~~(B)~~(F) The capital cost basis of nursing facility assets 57273  
shall be determined in the following manner: 57274

(1) ~~For purposes of calculating the rate to be paid for the~~ 57275  
~~fiscal year beginning July 1, 1993, for facilities with dates of~~ 57276  
~~licensure on or before June 30, 1993, the capital cost basis shall~~ 57277  
~~be equal to the following:~~ 57278

~~(a) For facilities that have not had a change of ownership~~ 57279  
~~during the period beginning January 1, 1993, and ending June 30,~~ 57280  
~~1993, the desk reviewed, actual, allowable capital cost basis that~~ 57281  
~~is listed on the facility's cost report for the cost reporting~~ 57282  
~~period ending December 31, 1992, plus the actual, allowable~~ 57283  
~~capital cost basis of any assets constructed or acquired after~~ 57284  
~~December 31, 1992, but before July 1, 1993, if the aggregate~~ 57285  
~~capital costs of those assets would increase the facility's rate~~ 57286  
~~for capital costs by twenty or more cents per resident per day.~~ 57287

~~(b) For facilities that have a date of licensure or had a~~ 57288  
~~change of ownership during the period beginning January 1, 1993,~~ 57289  
~~and ending June 30, 1993, the actual, allowable capital cost basis~~ 57290



~~of the person or government entity that owns the facility on June 30, 1993.~~ 57291  
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~~Capital cost basis shall be calculated as provided in division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.~~ 57293  
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~~The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.~~ 57297  
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~~(2) Except as provided in division (B)(4)(F)(3) of this section, for purposes of calculating the rates to be paid for fiscal years beginning after June 30, 1994, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.~~ 57309  
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~~(3)(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, except as otherwise provided in sections~~ 57317  
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5111.20 to ~~5111.32~~ 5111.33 of the Revised Code. 57322

~~(4)(3)~~ Except as provided in division ~~(B)(5)(F)(4)~~ of this 57323  
section, if a provider transfers an interest in a facility to 57324  
another provider after June 30, 1993, there shall be no increase 57325  
in the capital cost basis of the asset if the providers are 57326  
related parties or the provider to which the interest is 57327  
transferred authorizes the provider that transferred the interest 57328  
to continue to operate the facility under a lease, management 57329  
agreement, or other arrangement. If the ~~providers are not related~~ 57330  
~~parties or if they are related parties and division (B)(5) of this~~ 57331  
~~section requires previous sentence does not prohibit~~ the 57332  
adjustment of the capital cost basis under this division, the 57333  
basis of the asset shall be adjusted by the lesser of the 57334  
following: 57335

(a) One-half of the change in construction costs during the 57336  
time that the transferor held the asset, as calculated by the 57337  
department of job and family services using the "Dodge building 57338  
cost indexes, northeastern and north central states," published by 57339  
Marshall and Swift; 57340

(b) One-half of the change in the consumer price index for 57341  
all items for all urban consumers, as published by the United 57342  
States bureau of labor statistics, during the time that the 57343  
transferor held the asset. 57344

~~(5)(4)~~ If a provider transfers an interest in a facility to 57345  
another provider who is a related party, the capital cost basis of 57346  
the asset shall be adjusted as specified in division ~~(B)(4)(F)(3)~~ 57347  
of this section ~~for a transfer to a provider that is not a related~~ 57348  
~~party~~ if all of the following conditions are met: 57349

(a) The related party is a relative of owner; 57350

(b) Except as provided in division ~~(B)(5)(F)(4)(c)(ii)~~ of 57351  
this section, the provider making the transfer retains no 57352

ownership interest in the facility; 57353

(c) The department of job and family services determines that 57354  
the transfer is an arm's length transaction pursuant to rules ~~the~~ 57355  
~~department shall adopt in accordance with Chapter 119. adopted~~ 57356  
~~under section 5111.02 of the Revised Code no later than December~~ 57357  
~~31, 2000.~~ The rules shall provide that a transfer is an arm's 57358  
length transaction if all of the following apply: 57359

(i) Once the transfer goes into effect, the provider that 57360  
made the transfer has no direct or indirect interest in the 57361  
provider that acquires the facility or the facility itself, 57362  
including interest as an owner, officer, director, employee, 57363  
independent contractor, or consultant, but excluding interest as a 57364  
creditor. 57365

(ii) The provider that made the transfer does not reacquire 57366  
an interest in the facility except through the exercise of a 57367  
creditor's rights in the event of a default. If the provider 57368  
reacquires an interest in the facility in this manner, the 57369  
department shall treat the facility as if the transfer never 57370  
occurred when the department calculates its reimbursement rates 57371  
for capital costs. 57372

(iii) The transfer satisfies any other criteria specified in 57373  
the rules. 57374

(d) Except in the case of hardship caused by a catastrophic 57375  
event, as determined by the department, or in the case of a 57376  
provider making the transfer who is at least sixty-five years of 57377  
age, not less than twenty years have elapsed since, for the same 57378  
facility, the capital cost basis was adjusted most recently under 57379  
division ~~(B)(5)(F)(4)~~ of this section or actual, allowable cost of 57380  
ownership was determined most recently under division ~~(C)(G)(9)~~ of 57381  
this section. 57382

~~(C)(G)~~ As used in this division, "lease; 57383

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent. 57384  
57385

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease. ~~As used in this division, "new~~ 57386  
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"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease. 57389  
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(1) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57391  
of this section, for a lease of a facility that was effective on 57392  
May 27, 1992, the entire lease expense is an actual, allowable 57393  
capital cost of ownership during the term of the existing lease. 57394  
The entire lease expense also is an actual, allowable capital cost 57395  
~~of ownership~~ if a lease in existence on May 27, 1992, is renewed 57396  
under either of the following circumstances: 57397

(a) The renewal is pursuant to a renewal option that was in 57398  
existence on May 27, 1992; 57399

(b) The renewal is for the same lease payment amount and 57400  
between the same parties as the lease in existence on May 27, 57401  
1992. 57402

(2) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57403  
of this section, for a lease of a facility that was in existence 57404  
but not operated under a lease on May 27, 1992, actual, allowable 57405  
~~cost of ownership~~ capital costs shall include the lesser of the 57406  
annual lease expense or the annual depreciation expense and 57407  
imputed interest expense that would be calculated at the inception 57408  
of the lease using the lessor's entire historical capital asset 57409  
cost basis, adjusted by the lesser of the following amounts: 57410

(a) One-half of the change in construction costs during the 57411  
time the lessor held each asset until the beginning of the lease, 57412  
as calculated by the department using the "Dodge building cost 57413

indexes, northeastern and north central states," published by 57414  
Marshall and Swift; 57415

(b) One-half of the change in the consumer price index for 57416  
all items for all urban consumers, as published by the United 57417  
States bureau of labor statistics, during the time the lessor held 57418  
each asset until the beginning of the lease. 57419

(3) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57420  
of this section, for a lease of a facility with a date of 57421  
licensure on or after May 27, 1992, that is initially operated 57422  
under a lease, actual, allowable ~~cost of ownership~~ capital costs 57423  
shall include the annual lease expense if there was a substantial 57424  
commitment of money for construction of the facility after 57425  
December 22, 1992, and before July 1, 1993. If there was not a 57426  
substantial commitment of money after December 22, 1992, and 57427  
before July 1, 1993, actual, allowable ~~cost of ownership~~ capital 57428  
costs shall include the lesser of the annual lease expense or the 57429  
sum of the following: 57430

(a) The annual depreciation expense that would be calculated 57431  
at the inception of the lease using the lessor's entire historical 57432  
capital asset cost basis; 57433

(b) The greater of the lessor's actual annual amortization of 57434  
financing costs and interest expense at the inception of the lease 57435  
or the imputed interest expense calculated at the inception of the 57436  
lease using seventy per cent of the lessor's historical capital 57437  
asset cost basis. 57438

(4) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57439  
of this section, for a lease of a facility with a date of 57440  
licensure on or after May 27, 1992, that was not initially 57441  
operated under a lease and has been in existence for ten years, 57442  
actual, allowable ~~cost of ownership~~ capital costs shall include 57443  
the lesser of the annual lease expense or the annual depreciation 57444

expense and imputed interest expense that would be calculated at 57445  
the inception of the lease using the entire historical capital 57446  
asset cost basis of the lessor, adjusted by the lesser of the 57447  
following: 57448

(a) One-half of the change in construction costs during the 57449  
time the lessor held each asset until the beginning of the lease, 57450  
as calculated by the department using the "Dodge building cost 57451  
indexes, northeastern and north central states," published by 57452  
Marshall and Swift; 57453

(b) One-half of the change in the consumer price index for 57454  
all items for all urban consumers, as published by the United 57455  
States bureau of labor statistics, during the time the lessor held 57456  
each asset until the beginning of the lease. 57457

(5) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57458  
of this section, for a new lease of a facility that was operated 57459  
under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ 57460  
capital costs shall include the lesser of the annual new lease 57461  
expense or the annual old lease payment. If the old lease was in 57462  
effect for ten years or longer, the old lease payment from the 57463  
beginning of the old lease shall be adjusted by the lesser of the 57464  
following: 57465

(a) One-half of the change in construction costs from the 57466  
beginning of the old lease to the beginning of the new lease, as 57467  
calculated by the department using the "Dodge building cost 57468  
indexes, northeastern and north central states," published by 57469  
Marshall and Swift; 57470

(b) One-half of the change in the consumer price index for 57471  
all items for all urban consumers, as published by the United 57472  
States bureau of labor statistics, from the beginning of the old 57473  
lease to the beginning of the new lease. 57474

(6) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57475

of this section, for a new lease of a facility that was not in 57476  
existence or that was in existence but not operated under a lease 57477  
on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs 57478  
shall include the lesser of annual new lease expense or the annual 57479  
amount calculated for the old lease under division ~~(C)~~(G)(2), (3), 57480  
(4), or (6) of this section, as applicable. If the old lease was 57481  
in effect for ten years or longer, the lessor's historical capital 57482  
asset cost basis shall be adjusted by the lesser of the following 57483  
for purposes of calculating the annual amount under division 57484  
~~(C)~~(G)(2), (3), (4), or (6) of this section: 57485

(a) One-half of the change in construction costs from the 57486  
beginning of the old lease to the beginning of the new lease, as 57487  
calculated by the department using the "Dodge building cost 57488  
indexes, northeastern and north central states," published by 57489  
Marshall and Swift; 57490

(b) One-half of the change in the consumer price index for 57491  
all items for all urban consumers, as published by the United 57492  
States bureau of labor statistics, from the beginning of the old 57493  
lease to the beginning of the new lease. 57494

In the case of a lease under division ~~(C)~~(G)(3) of this 57495  
section of a facility for which a substantial commitment of money 57496  
was made after December 22, 1992, and before July 1, 1993, the old 57497  
lease payment shall be adjusted for the purpose of determining the 57498  
annual amount. 57499

(7) For any revision of a lease described in division 57500  
~~(C)~~(G)(1), (2), (3), (4), (5), or (6) of this section, or for any 57501  
subsequent lease of a facility operated under such a lease, other 57502  
than execution of a new lease, the portion of actual, allowable 57503  
~~cost of ownership~~ capital costs attributable to the lease shall be 57504  
the same as before the revision or subsequent lease. 57505

(8) Except as provided in division ~~(C)~~(G)(9) of this section, 57506

if a provider leases an interest in a facility to another provider 57507  
who is a related party or previously operated the facility, the 57508  
related party's or previous operator's actual, allowable ~~cost of~~ 57509  
~~ownership~~ capital costs shall include the lesser of the annual 57510  
lease expense or the reasonable cost to the lessor. 57511

(9) If a provider leases an interest in a facility to another 57512  
provider who is a related party, regardless of the date of the 57513  
lease, the related party's actual, allowable ~~cost of ownership~~ 57514  
capital costs shall include the annual lease expense, subject to 57515  
the limitations specified in divisions ~~(C)(G)~~(1) to (7) of this 57516  
section, if all of the following conditions are met: 57517

(a) The related party is a relative of owner; 57518

(b) If the lessor retains an ownership interest, it is, 57519  
except as provided in division ~~(C)(G)~~(9)(c)(ii) of this section, 57520  
in only the real property and any improvements on the real 57521  
property; 57522

(c) The department of job and family services determines that 57523  
the lease is an arm's length transaction pursuant to rules ~~the~~ 57524  
~~department shall adopt in accordance with Chapter 119. adopted~~ 57525  
under section 5111.02 of the Revised Code ~~no later than December~~ 57526  
~~31, 2000~~. The rules shall provide that a lease is an arm's length 57527  
transaction if all of the following apply: 57528

(i) Once the lease goes into effect, the lessor has no direct 57529  
or indirect interest in the lessee or, except as provided in 57530  
division ~~(C)(G)~~(9)(b) of this section, the facility itself, 57531  
including interest as an owner, officer, director, employee, 57532  
independent contractor, or consultant, but excluding interest as a 57533  
lessor. 57534

(ii) The lessor does not reacquire an interest in the 57535  
facility except through the exercise of a lessor's rights in the 57536  
event of a default. If the lessor reacquires an interest in the 57537



facility in this manner, the department shall treat the facility 57538  
as if the lease never occurred when the department calculates its 57539  
reimbursement rates for capital costs. 57540

(iii) The lease satisfies any other criteria specified in the 57541  
rules. 57542

(d) Except in the case of hardship caused by a catastrophic 57543  
event, as determined by the department, or in the case of a lessor 57544  
who is at least sixty-five years of age, not less than twenty 57545  
years have elapsed since, for the same facility, the capital cost 57546  
basis was adjusted most recently under division ~~(B)(5)~~(F)(4) of 57547  
this section or actual, allowable ~~cost of ownership was~~ capital  
costs were determined most recently under division ~~(C)(G)~~(9) of 57548  
this section. 57549  
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(10) This division does not apply to leases of specific items 57551  
of equipment. 57552

~~(D)(1) Subject to division (D)(2) of this section, the 57553  
department shall pay each nursing facility an efficiency incentive 57554  
that is equal to fifty per cent of the difference between the 57555  
following: 57556~~

~~(a) Eighty eight and sixty five one hundredths per cent of 57557  
the facility's desk reviewed, actual, allowable, per diem cost of 57558  
ownership; 57559~~

~~(b) The applicable amount specified in division (E) of this 57560  
section. 57561~~

~~(2) The efficiency incentive paid to a nursing facility shall 57562  
not exceed the greater of the following: 57563~~

~~(a) The efficiency incentive the facility was paid during the 57564  
fiscal year ending June 30, 1994; 57565~~

~~(b) Three dollars per resident per day, adjusted annually for 57566  
rates paid beginning July 1, 1994, for the inflation rate for the 57567~~

~~twelve month period beginning on the first day of July of the  
calendar year preceding the calendar year that precedes the fiscal  
year for which the efficiency incentive is determined and ending  
on the thirtieth day of the following June, using the consumer  
price index for shelter costs for all urban consumers for the  
north central region, as published by the United States bureau of  
labor statistics.~~

~~(3) For purposes of calculating the efficiency incentive,  
depreciation for costs that are paid or reimbursed by any  
government agency shall be considered as costs of ownership, and  
renovation costs that are paid under division (F) of this section  
shall not be considered costs of ownership.~~

~~(E) The following amounts shall be used to calculate  
efficiency incentives for nursing facilities under this section:~~

~~(1) For facilities with dates of licensure prior to January  
1, 1958, four dollars and twenty four cents per patient day;~~

~~(2) For facilities with dates of licensure after December 31,  
1957, but prior to January 1, 1968:~~

~~(a) Five dollars and twenty four cents per patient day if the  
cost of construction was three thousand five hundred dollars or  
more per bed;~~

~~(b) Four dollars and twenty four cents per patient day if the  
cost of construction was less than three thousand five hundred  
dollars per bed.~~

~~(3) For facilities with dates of licensure after December 31,  
1967, but prior to January 1, 1976:~~

~~(a) Six dollars and twenty four cents per patient day if the  
cost of construction was five thousand one hundred fifty dollars  
or more per bed;~~

~~(b) Five dollars and twenty four cents per patient day if the~~

~~cost of construction was less than five thousand one hundred fifty  
dollars per bed, but exceeded three thousand five hundred dollars  
per bed;~~ 57598  
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~~(c) Four dollars and twenty four cents per patient day if the  
cost of construction was three thousand five hundred dollars or  
less per bed.~~ 57601  
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~~(4) For facilities with dates of licensure after December 31,  
1975, but prior to January 1, 1979;~~ 57604  
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~~(a) Seven dollars and twenty four cents per patient day if  
the cost of construction was six thousand eight hundred dollars or  
more per bed;~~ 57606  
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~~(b) Six dollars and twenty four cents per patient day if the  
cost of construction was less than six thousand eight hundred  
dollars per bed but exceeded five thousand one hundred fifty  
dollars per bed;~~ 57609  
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~~(c) Five dollars and twenty four cents per patient day if the  
cost of construction was five thousand one hundred fifty dollars  
or less per bed, but exceeded three thousand five hundred dollars  
per bed;~~ 57613  
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~~(d) Four dollars and twenty four cents per patient day if the  
cost of construction was three thousand five hundred dollars or  
less per bed.~~ 57617  
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~~(5) For facilities with dates of licensure after December 31,  
1978, but prior to January 1, 1981;~~ 57620  
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~~(a) Seven dollars and seventy four cents per patient day if  
the cost of construction was seven thousand six hundred  
twenty five dollars or more per bed;~~ 57622  
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~~(b) Seven dollars and twenty four cents per patient day if  
the cost of construction was less than seven thousand six hundred  
twenty five dollars per bed but exceeded six thousand eight~~ 57625  
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~~hundred dollars per bed;~~ 57628

~~(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;~~ 57629  
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~~(d) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;~~ 57633  
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~~(e) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~ 57636  
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~~(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:~~ 57639  
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~~(a) For facilities with construction costs less than seven thousand six hundred twenty five dollars per bed, the applicable amounts for the construction costs specified in divisions (E)(5)(b) to (e) of this section;~~ 57641  
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~~(b) For facilities with construction costs of seven thousand six hundred twenty five dollars or more per bed, six dollars per patient day, provided that for 1981 and annually thereafter prior to December 22, 1992, department shall do both of the following to the six dollar amount:~~ 57645  
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~~(i) Adjust the amount for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, using 1980 as the base year;~~ 57650  
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~~(ii) Increase the amount, as adjusted for inflation under division (E)(6)(b)(i) of this section, by one dollar and seventy four cents.~~ 57654  
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~~(7) For facilities with dates of licensure on or after~~ 57657

~~January 1, 1992, seven dollars and ninety seven cents, adjusted  
for fluctuations in construction costs between 1991 and 1993 as  
calculated by the department using the "Dodge building cost  
indexes, northeastern and north central states," published by  
Marshall and Swift, and then increased by one dollar and  
seventy four cents.~~

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~~For the fiscal year that begins July 1, 1994, each of the  
amounts listed in divisions (E)(1) to (7) of this section shall be  
increased by twenty five cents. For the fiscal year that begins  
July 1, 1995, each of those amounts shall be increased by an  
additional twenty five cents. For subsequent fiscal years, each of  
those amounts, as increased for the prior fiscal year, shall be  
adjusted to reflect the rate of inflation for the twelve month  
period beginning on the first day of July of the calendar year  
preceding the calendar year that precedes the fiscal year and  
ending on the following thirtieth day of June, using the consumer  
price index for shelter costs for all urban consumers for the  
north central region, as published by the United States bureau of  
labor statistics.~~

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~~If the amount established for a nursing facility under this  
division is less than the amount that applied to the facility  
under division (B) of former section 5111.25 of the Revised Code,  
as the former section existed immediately prior to December 22,  
1992, the amount used to calculate the efficiency incentive for  
the facility under division (D)(2) of this section shall be the  
amount that was calculated under division (B) of the former  
section.~~

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~~(F) Beginning July 1, 1993, regardless of the facility's date  
of licensure or the date of the nonextensive renovations, the rate  
for the costs of nonextensive renovations for nursing facilities  
shall be eighty five per cent of the desk reviewed, actual,  
allowable, per diem, nonextensive renovation costs. This division~~

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~~applies to nonextensive renovations regardless of whether they are  
made by an owner or a lessee. If the tenancy of a lessee that has  
made nonextensive renovations ends before the depreciation expense  
for the renovation costs has been fully reported, the former  
lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to  
qualify for payment under this division, both of the following  
conditions must be met:~~

~~(a) At least five years have elapsed since the date of  
licensure of the portion of the facility that is proposed to be  
renovated, except that this condition does not apply if the  
renovation is necessary to meet the requirements of federal,  
state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the  
department of job and family services, and if required the  
director of health has granted a certificate of need for the  
renovation under section 3702.52 of the Revised Code. The provider  
shall submit a plan that describes in detail the changes in  
capital assets to be accomplished by means of the renovation and  
the timetable for completing the project. The time for completion  
of the project shall be no more than eighteen months after the  
renovation begins. The department of job and family services shall  
adopt rules in accordance with Chapter 119. of the Revised Code  
that specify criteria and procedures for prior approval of  
renovation projects. No provider shall separate a project with the  
intent to evade the characterization of the project as a  
renovation or as an extensive renovation. No provider shall  
increase the scope of a project after it is approved by the  
department of job and family services unless the increase in scope  
is approved by the department.~~

~~(2) The payment provided for in this division is the only~~

~~payment that shall be made for the costs of a nonextensive  
renovation. Nonextensive renovation costs shall not be included in  
costs of ownership, and a nonextensive renovation shall not affect  
the date of licensure for purposes of calculating the efficiency  
incentive under divisions (D) and (E) of this section.~~

~~(G) The owner of a nursing facility operating under a  
provider agreement shall provide written notice to the department  
of job and family services at least forty five days prior to  
entering into any contract of sale for the facility or voluntarily  
terminating participation in the medical assistance program. (H)  
After the date on which a transaction of sale is closed, the ~~owner~~  
provider shall refund to the department the amount of excess  
depreciation paid to the provider for the facility by the  
department for each year the ~~owner~~ provider has operated the  
facility under a provider agreement and prorated according to the  
number of medicaid patient days for which the ~~facility~~ provider  
has received payment for the facility. ~~If a nursing facility is  
sold after five or fewer years of operation under a provider  
agreement, the refund to the department shall be equal to the  
excess depreciation paid to the facility. If a nursing facility is  
sold after more than five years but less than ten years of  
operation under a provider agreement, the refund to the department  
shall equal the excess depreciation paid to the facility  
multiplied by twenty per cent, multiplied by the difference  
between ten and the number of years that the facility was operated  
under a provider agreement. If a nursing facility is sold after  
ten or more years of operation under a provider agreement, the  
owner shall not refund any excess depreciation to the department.~~  
The ~~owner~~ provider of a facility that is sold or that voluntarily  
terminates participation in the ~~medical assistance~~ medicaid  
program also shall refund any other amount that the department  
properly finds to be due after the audit conducted under this~~

division. For the purposes of this division, "depreciation paid to 57753  
the provider for the facility" means the amount paid to the 57754  
provider for the nursing facility for ~~cost of ownership~~ capital 57755  
costs pursuant to this section less any amount paid for interest 57756  
costs, amortization of financing costs, and lease expenses. For 57757  
the purposes of this division, "excess depreciation" is the 57758  
nursing facility's depreciated basis, which is the ~~owner's~~ 57759  
provider's cost less accumulated depreciation, subtracted from the 57760  
purchase price net of selling costs but not exceeding the amount 57761  
of depreciation paid to the provider for the facility. 57762

~~A cost report shall be filed with the department within 57763  
ninety days after the date on which the transaction of sale is 57764  
closed or participation is voluntarily terminated. The report 57765  
shall show the accumulated depreciation, the sales price, and 57766  
other information required by the department. The department shall 57767  
provide for a bank, trust company, or savings and loan association 57768  
to hold in escrow the amount of the last two monthly payments to a 57769  
nursing facility made pursuant to division (A)(1) of section 57770  
5111.22 of the Revised Code before a sale or termination of 57771  
participation or, if the owner fails, within the time required by 57772  
this division, to notify the department before entering into a 57773  
contract of sale for the facility, the amount of the first two 57774  
monthly payments made to the facility after the department learns 57775  
of the contract, regardless of whether a new owner is in 57776  
possession of the facility. If the amount the owner will be 57777  
required to refund under this section is likely to be less than 57778  
the amount of the two monthly payments otherwise put into escrow 57779  
under this division, the department shall take one of the 57780  
following actions instead of withholding the amount of the two 57781  
monthly payments:~~ 57782

~~(1) In the case of an owner that owns other facilities that 57783  
participate in the medical assistance program, obtain a promissory 57784~~



~~note in an amount sufficient to cover the amount likely to be  
refunded;~~ 57785  
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~~(2) In the case of all other owners, withhold the amount of  
the last monthly payment to the nursing facility or, if the owner  
fails, within the time required by this division, to notify the  
department before entering into a contract of sale for the  
facility, the amount of the first monthly payment made to the  
facility after the department learns of the contract, regardless  
of whether a new owner is in possession of the facility.~~ 57787  
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~~The department shall, within ninety days following the filing  
of the cost report, audit the cost report and issue an audit  
report to the owner. The department also may audit any other cost  
report that the facility has filed during the previous three  
years. In the audit report, the department shall state its  
findings and the amount of any money owed to the department by the  
nursing facility. The findings shall be subject to adjudication  
conducted in accordance with Chapter 119. of the Revised Code. No  
later than fifteen days after the owner agrees to a settlement,  
any funds held in escrow less any amounts due to the department  
shall be released to the owner and amounts due to the department  
shall be paid to the department. If the amounts in escrow are less  
than the amounts due to the department, the balance shall be paid  
to the department within fifteen days after the owner agrees to a  
settlement. If the department does not issue its audit report  
within the ninety day period, the department shall release any  
money held in escrow to the owner. For the purposes of this  
section, a transfer of corporate stock, the merger of one  
corporation into another, or a consolidation does not constitute a  
sale.~~ 57794  
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~~If a nursing facility is not sold or its participation is not  
terminated after notice is provided to the department under this  
division, the department shall order any payments held in escrow~~ 57814  
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~~released to the facility upon receiving written notice from the  
owner that there will be no sale or termination. After written  
notice is received from a nursing facility that a sale or  
termination will not take place, the facility shall provide notice  
to the department at least forty five days prior to entering into  
any contract of sale or terminating participation at any future  
time.~~

~~(H) The department shall pay each eligible proprietary  
nursing facility a return on the facility's net equity computed at  
the rate of one and one half times the average interest rate on  
special issues of public debt obligations issued to the federal  
hospital insurance trust fund for the cost reporting period,  
except that no facility's return on net equity shall exceed fifty  
cents per patient day.~~

~~When calculating the rate for return on net equity, the  
department shall use the greater of the facility's inpatient days  
during the applicable cost reporting period or the number of  
inpatient days the facility would have had during that period if  
its occupancy rate had been ninety five per cent.~~

~~(I) If a nursing facility would receive a lower rate for  
capital costs for assets in the facility's possession on July 1,  
1993, under this section than it would receive under former  
section 5111.25 of the Revised Code, as the former section existed  
immediately prior to December 22, 1992, the facility shall receive  
for those assets the rate it would have received under the former  
section for each fiscal year beginning on or after July 1, 1993,  
until the rate it would receive under this section exceeds the  
rate it would have received under the former section. Any facility  
that receives a rate calculated under the former section 5111.25  
of the Revised Code for assets in the facility's possession on  
July 1, 1993, also shall receive a rate calculated under this  
section for costs of any assets it constructs or acquires after~~

July 1, 1993. 57849

**Sec. 5111.251.** (A) The department of job and family services 57850  
shall pay a provider for each of the provider's eligible 57851  
intermediate care ~~facility~~ facilities for the mentally retarded 57852  
for its reasonable capital costs, a per resident per day rate 57853  
established prospectively each fiscal year for each intermediate 57854  
care facility for the mentally retarded. Except as otherwise 57855  
provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 57856  
Code, the rate shall be based on the facility's capital costs for 57857  
the calendar year preceding the fiscal year in which the rate will 57858  
be paid. The rate shall equal the sum of the following: 57859

(1) The facility's desk-reviewed, actual, allowable, per diem 57860  
cost of ownership for the preceding cost reporting period, limited 57861  
as provided in divisions (C) and (F) of this section; 57862

(2) Any efficiency incentive determined under division (B) of 57863  
this section; 57864

(3) Any amounts for renovations determined under division (D) 57865  
of this section; 57866

(4) Any amounts for return on equity determined under 57867  
division (I) of this section. 57868

Buildings shall be depreciated using the straight line method 57869  
over forty years or over a different period approved by the 57870  
department. Components and equipment shall be depreciated using 57871  
the straight line method over a period designated by the director 57872  
of job and family services in rules adopted ~~in accordance with~~ 57873  
~~Chapter 119.~~ under section 5111.02 of the Revised Code, consistent 57874  
with the guidelines of the American hospital association, or over 57875  
a different period approved by the department of job and family 57876  
services. Any rules ~~adopted under~~ authorized by this division that 57877  
specify useful lives of buildings, components, or equipment apply 57878

only to assets acquired on or after July 1, 1993. Depreciation for 57879  
costs paid or reimbursed by any government agency shall not be 57880  
included in costs of ownership or renovation unless that part of 57881  
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 57882  
Revised Code is used to reimburse the government agency. 57883

(B) The department of job and family services shall pay to a 57884  
provider for each of the provider's eligible intermediate care 57885  
~~facility~~ facilities for the mentally retarded an efficiency 57886  
incentive equal to fifty per cent of the difference between any 57887  
desk-reviewed, actual, allowable cost of ownership and the 57888  
applicable limit on cost of ownership payments under division (C) 57889  
of this section. For purposes of computing the efficiency 57890  
incentive, depreciation for costs paid or reimbursed by any 57891  
government agency shall be considered as a cost of ownership, and 57892  
the applicable limit under division (C) of this section shall 57893  
apply both to facilities with more than eight beds and facilities 57894  
with eight or fewer beds. The efficiency incentive paid to a 57895  
provider for a facility with eight or fewer beds shall not exceed 57896  
three dollars per patient day, adjusted annually for the inflation 57897  
rate for the twelve-month period beginning on the first day of 57898  
July of the calendar year preceding the calendar year that 57899  
precedes the fiscal year for which the efficiency incentive is 57900  
determined and ending on the thirtieth day of the following June, 57901  
using the consumer price index for shelter costs for all urban 57902  
consumers for the north central region, as published by the United 57903  
States bureau of labor statistics. 57904

(C) Cost of ownership payments ~~to~~ for intermediate care 57905  
facilities for the mentally retarded with more than eight beds 57906  
shall not exceed the following limits: 57907

(1) For facilities with dates of licensure prior to January 57908  
1, 1958, not exceeding two dollars and fifty cents per patient 57909  
day; 57910

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	57911
	57912
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	57913
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	57915
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	57916
	57917
	57918
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	57919
	57920
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	57921
	57922
	57923
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	57924
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	57927
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	57928
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	57930
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	57931
	57932
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	57933
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	57935
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	57936
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	57939
(c) Three dollars and fifty cents per patient day if the cost	57940

of construction was five thousand one hundred fifty dollars or  
less per bed, but exceeds three thousand five hundred dollars per  
bed;

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(d) Two dollars and fifty cents per patient day if the cost  
of construction was three thousand five hundred dollars or less  
per bed.

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(5) For facilities with dates of licensure after December 31,  
1978, but prior to January 1, 1980, not exceeding:

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(a) Six dollars per patient day if the cost of construction  
was seven thousand six hundred twenty-five dollars or more per  
bed;

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(b) Five dollars and fifty cents per patient day if the cost  
of construction was less than seven thousand six hundred  
twenty-five dollars per bed but exceeds six thousand eight hundred  
dollars per bed;

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(c) Four dollars and fifty cents per patient day if the cost  
of construction was six thousand eight hundred dollars or less per  
bed but exceeds five thousand one hundred fifty dollars per bed;

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(d) Three dollars and fifty cents per patient day if the cost  
of construction was five thousand one hundred fifty dollars or  
less but exceeds three thousand five hundred dollars per bed;

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(e) Two dollars and fifty cents per patient day if the cost  
of construction was three thousand five hundred dollars or less  
per bed.

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(6) For facilities with dates of licensure after December 31,  
1979, but prior to January 1, 1981, not exceeding:

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(a) Twelve dollars per patient day if the beds were  
originally licensed as residential facility beds by the department  
of mental retardation and developmental disabilities;

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(b) Six dollars per patient day if the beds were originally

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licensed as nursing home beds by the department of health. 57971

(7) For facilities with dates of licensure after December 31, 57972  
1980, but prior to January 1, 1982, not exceeding: 57973

(a) Twelve dollars per patient day if the beds were 57974  
originally licensed as residential facility beds by the department 57975  
of mental retardation and developmental disabilities; 57976

(b) Six dollars and forty-five cents per patient day if the 57977  
beds were originally licensed as nursing home beds by the 57978  
department of health. 57979

(8) For facilities with dates of licensure after December 31, 57980  
1981, but prior to January 1, 1983, not exceeding: 57981

(a) Twelve dollars per patient day if the beds were 57982  
originally licensed as residential facility beds by the department 57983  
of mental retardation and developmental disabilities; 57984

(b) Six dollars and seventy-nine cents per patient day if the 57985  
beds were originally licensed as nursing home beds by the 57986  
department of health. 57987

(9) For facilities with dates of licensure after December 31, 57988  
1982, but prior to January 1, 1984, not exceeding: 57989

(a) Twelve dollars per patient day if the beds were 57990  
originally licensed as residential facility beds by the department 57991  
of mental retardation and developmental disabilities; 57992

(b) Seven dollars and nine cents per patient day if the beds 57993  
were originally licensed as nursing home beds by the department of 57994  
health. 57995

(10) For facilities with dates of licensure after December 57996  
31, 1983, but prior to January 1, 1985, not exceeding: 57997

(a) Twelve dollars and twenty-four cents per patient day if 57998  
the beds were originally licensed as residential facility beds by 57999

the department of mental retardation and developmental disabilities; 58000  
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(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 58002  
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(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding: 58005  
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(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; 58007  
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(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 58011  
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(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding: 58014  
58015

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; 58016  
58017  
58018

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 58019  
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(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding: 58022  
58023

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; 58024  
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(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the 58028  
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department of health.	58030
(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;	58031 58032 58033
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;	58034 58035 58036
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	58037 58038 58039
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	58040 58041 58042
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	58043 58044 58045
(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.	58046 58047 58048
(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive	58049 58050 58051 58052 58053 58054 58055 58056 58057 58058 58059

renovation of an intermediate care facility for the mentally 58060  
retarded. Nonextensive renovation costs shall not be included in 58061  
cost of ownership, and a nonextensive renovation shall not affect 58062  
the date of licensure for purposes of division (C) of this 58063  
section. This division applies to nonextensive renovations 58064  
regardless of whether they are made by an owner or a lessee. If 58065  
the tenancy of a lessee that has made renovations ends before the 58066  
depreciation expense for the renovation costs has been fully 58067  
reported, the former lessee shall not report the undepreciated 58068  
balance as an expense. 58069

For a nonextensive renovation to qualify for payment under 58070  
this division, both of the following conditions must be met: 58071

(1) At least five years have elapsed since the date of 58072  
licensure or date of an extensive renovation of the portion of the 58073  
facility that is proposed to be renovated, except that this 58074  
condition does not apply if the renovation is necessary to meet 58075  
the requirements of federal, state, or local statutes, ordinances, 58076  
rules, or policies. 58077

(2) The provider has obtained prior approval from the 58078  
department of job and family services. The provider shall submit a 58079  
plan that describes in detail the changes in capital assets to be 58080  
accomplished by means of the renovation and the timetable for 58081  
completing the project. The time for completion of the project 58082  
shall be no more than eighteen months after the renovation begins. 58083  
The director of job and family services shall adopt rules ~~in~~ 58084  
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 58085  
Code that specify criteria and procedures for prior approval of 58086  
renovation projects. No provider shall separate a project with the 58087  
intent to evade the characterization of the project as a 58088  
renovation or as an extensive renovation. No provider shall 58089  
increase the scope of a project after it is approved by the 58090  
department of job and family services unless the increase in scope 58091

is approved by the department. 58092

(E) The amounts specified in divisions (C) and (D) of this 58093  
section shall be adjusted beginning July 1, 1993, for the 58094  
estimated inflation for the twelve-month period beginning on the 58095  
first day of July of the calendar year preceding the calendar year 58096  
that precedes the fiscal year for which rate will be paid and 58097  
ending on the thirtieth day of the following June, using the 58098  
consumer price index for shelter costs for all urban consumers for 58099  
the north central region, as published by the United States bureau 58100  
of labor statistics. 58101

(F)(1) For facilities of eight or fewer beds that have dates 58102  
of licensure or have been granted project authorization by the 58103  
department of mental retardation and developmental disabilities 58104  
before July 1, 1993, and for facilities of eight or fewer beds 58105  
that have dates of licensure or have been granted project 58106  
authorization after that date if the providers of the facilities 58107  
demonstrate that they made substantial commitments of funds on or 58108  
before that date, cost of ownership shall not exceed eighteen 58109  
dollars and thirty cents per resident per day. The eighteen-dollar 58110  
and thirty-cent amount shall be increased by the change in the 58111  
"Dodge building cost indexes, northeastern and north central 58112  
states," published by Marshall and Swift, during the period 58113  
beginning June 30, 1990, and ending July 1, 1993, and by the 58114  
change in the consumer price index for shelter costs for all urban 58115  
consumers for the north central region, as published by the United 58116  
States bureau of labor statistics, annually thereafter. 58117

(2) For facilities with eight or fewer beds that have dates 58118  
of licensure or have been granted project authorization by the 58119  
department of mental retardation and developmental disabilities on 58120  
or after July 1, 1993, for which substantial commitments of funds 58121  
were not made before that date, cost of ownership payments shall 58122  
not exceed the applicable amount calculated under division (F)(1) 58123

of this section, if the department of job and family services 58124  
gives prior approval for construction of the facility. If the 58125  
department does not give prior approval, cost of ownership 58126  
payments shall not exceed the amount specified in division (C) of 58127  
this section. 58128

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 58129  
section, the total payment for cost of ownership, cost of 58130  
ownership efficiency incentive, and capitalized costs of 58131  
renovations for an intermediate care facility for the mentally 58132  
retarded with eight or fewer beds shall not exceed the sum of the 58133  
limitations specified in divisions (C) and (D) of this section. 58134

(G) Notwithstanding any provision of this section or section 58135  
~~5111.24~~ 5111.241 of the Revised Code, the director of job and 58136  
family services may adopt rules ~~in accordance with Chapter 119.~~ 58137  
under section 5111.02 of the Revised Code that provide for a 58138  
calculation of a combined maximum payment limit for indirect care 58139  
costs and cost of ownership for intermediate care facilities for 58140  
the mentally retarded with eight or fewer beds. 58141

(H) ~~After June 30, 1980, the owner of an intermediate care 58142  
facility for the mentally retarded operating under a provider 58143  
agreement shall provide written notice to the department of job 58144  
and family services at least forty five days prior to entering 58145  
into any contract of sale for the facility or voluntarily 58146  
terminating participation in the medical assistance program. After 58147  
the date on which a transaction of sale is closed, the ~~owner~~ 58148  
provider shall refund to the department the amount of excess 58149  
depreciation paid to the provider for the facility by the 58150  
department for each year the ~~owner~~ provider has operated the 58151  
facility under a provider agreement and prorated according to the 58152  
number of medicaid patient days for which the facility provider 58153  
has received payment for the facility. ~~If an intermediate care 58154  
facility for the mentally retarded is sold after five or fewer 58155~~~~

~~years of operation under a provider agreement, the refund to the~~ 58156  
~~department shall be equal to the excess depreciation paid to the~~ 58157  
~~facility. If an intermediate care facility for the mentally~~ 58158  
~~retarded is sold after more than five years but less than ten~~ 58159  
~~years of operation under a provider agreement, the refund to the~~ 58160  
~~department shall equal the excess depreciation paid to the~~ 58161  
~~facility multiplied by twenty per cent, multiplied by the number~~ 58162  
~~of years less than ten that a facility was operated under a~~ 58163  
~~provider agreement. If an intermediate care facility for the~~ 58164  
~~mentally retarded is sold after ten or more years of operation~~ 58165  
~~under a provider agreement, the owner shall not refund any excess~~ 58166  
~~depreciation to the department. For the purposes of this division,~~ 58167  
~~"depreciation paid to the provider for the facility" means the~~ 58168  
~~amount paid to the provider for the intermediate care facility for~~ 58169  
~~the mentally retarded for cost of ownership pursuant to this~~ 58170  
~~section less any amount paid for interest costs. For the purposes~~ 58171  
~~of this division, "excess depreciation" is the intermediate care~~ 58172  
~~facility for the mentally retarded's depreciated basis, which is~~ 58173  
~~the ~~owner's~~ provider's cost less accumulated depreciation,~~ 58174  
~~subtracted from the purchase price but not exceeding the amount of~~ 58175  
~~depreciation paid to the provider for the facility.~~ 58176

~~A cost report shall be filed with the department within~~ 58177  
~~ninety days after the date on which the transaction of sale is~~ 58178  
~~closed or participation is voluntarily terminated for an~~ 58179  
~~intermediate care facility for the mentally retarded subject to~~ 58180  
~~this division. The report shall show the accumulated depreciation,~~ 58181  
~~the sales price, and other information required by the department.~~ 58182  
~~The department shall provide for a bank, trust company, or savings~~ 58183  
~~and loan association to hold in escrow the amount of the last two~~ 58184  
~~monthly payments to an intermediate care facility for the mentally~~ 58185  
~~retarded made pursuant to division (A)(1) of section 5111.22 of~~ 58186  
~~the Revised Code before a sale or voluntary termination of~~ 58187  
~~participation or, if the owner fails, within the time required by~~ 58188

~~this division, to notify the department before entering into a  
contract of sale for the facility, the amount of the first two  
monthly payments made to the facility after the department learns  
of the contract, regardless of whether a new owner is in  
possession of the facility. If the amount the owner will be  
required to refund under this section is likely to be less than  
the amount of the two monthly payments otherwise put into escrow  
under this division, the department shall take one of the  
following actions instead of withholding the amount of the two  
monthly payments:~~

~~(1) In the case of an owner that owns other facilities that  
participate in the medical assistance program, obtain a promissory  
note in an amount sufficient to cover the amount likely to be  
refunded;~~

~~(2) In the case of all other owners, withhold the amount of  
the last monthly payment to the intermediate care facility for the  
mentally retarded or, if the owner fails, within the time required  
by this division, to notify the department before entering into a  
contract of sale for the facility, the amount of the first monthly  
payment made to the facility after the department learns of the  
contract, regardless of whether a new owner is in possession of  
the facility.~~

~~The department shall, within ninety days following the filing  
of the cost report, audit the report and issue an audit report to  
the owner. The department also may audit any other cost reports  
for the facility that have been filed during the previous three  
years. In the audit report, the department shall state its  
findings and the amount of any money owed to the department by the  
intermediate care facility for the mentally retarded. The findings  
shall be subject to an adjudication conducted in accordance with  
Chapter 119. of the Revised Code. No later than fifteen days after  
the owner agrees to a settlement, any funds held in escrow less~~

~~any amounts due to the department shall be released to the owner 58221  
and amounts due to the department shall be paid to the department. 58222  
If the amounts in escrow are less than the amounts due to the 58223  
department, the balance shall be paid to the department within 58224  
fifteen days after the owner agrees to a settlement. If the 58225  
department does not issue its audit report within the ninety day 58226  
period, the department shall release any money held in escrow to 58227  
the owner. For the purposes of this section, a transfer of 58228  
corporate stock, the merger of one corporation into another, or a 58229  
consolidation does not constitute a sale. 58230~~

~~If an intermediate care facility for the mentally retarded is 58231  
not sold or its participation is not terminated after notice is 58232  
provided to the department under this division, the department 58233  
shall order any payments held in escrow released to the facility 58234  
upon receiving written notice from the owner that there will be no 58235  
sale or termination of participation. After written notice is 58236  
received from an intermediate care facility for the mentally 58237  
retarded that a sale or termination of participation will not take 58238  
place, the facility shall provide notice to the department at 58239  
least forty five days prior to entering into any contract of sale 58240  
or terminating participation at any future time. 58241~~

(I) The department of job and family services shall pay a 58242  
provider for each of the provider's eligible proprietary 58243  
intermediate care ~~facility~~ facilities for the mentally retarded a 58244  
return on the facility's net equity computed at the rate of one 58245  
and one-half times the average of interest rates on special issues 58246  
of public debt obligations issued to the federal hospital 58247  
insurance trust fund for the cost reporting period. No facility's 58248  
return on net equity paid under this division shall exceed one 58249  
dollar per patient day. 58250

In calculating the rate for return on net equity, the 58251  
department shall use the greater of the facility's inpatient days 58252

during the applicable cost reporting period or the number of 58253  
inpatient days the facility would have had during that period if 58254  
its occupancy rate had been ninety-five per cent. 58255

(J)(1) Except as provided in division (J)(2) of this section, 58256  
if a provider leases or transfers an interest in a facility to 58257  
another provider who is a related party, the related party's 58258  
allowable cost of ownership shall include the lesser of the 58259  
following: 58260

(a) The annual lease expense or actual cost of ownership, 58261  
whichever is applicable; 58262

(b) The reasonable cost to the lessor or provider making the 58263  
transfer. 58264

(2) If a provider leases or transfers an interest in a 58265  
facility to another provider who is a related party, regardless of 58266  
the date of the lease or transfer, the related party's allowable 58267  
cost of ownership shall include the annual lease expense or actual 58268  
cost of ownership, whichever is applicable, subject to the 58269  
limitations specified in divisions (B) to (I) of this section, if 58270  
all of the following conditions are met: 58271

(a) The related party is a relative of owner; 58272

(b) In the case of a lease, if the lessor retains any 58273  
ownership interest, it is, except as provided in division 58274  
(J)(2)(d)(ii) of this section, in only the real property and any 58275  
improvements on the real property; 58276

(c) In the case of a transfer, the provider making the 58277  
transfer retains, except as provided in division (J)(2)(d)(iv) of 58278  
this section, no ownership interest in the facility; 58279

(d) The department of job and family services determines that 58280  
the lease or transfer is an arm's length transaction pursuant to 58281  
~~rules the department shall adopt in accordance with Chapter 119.~~ 58282



adopted under section 5111.02 of the Revised Code ~~no later than~~ 58283  
~~December 31, 2000~~. The rules shall provide that a lease or 58284  
transfer is an arm's length transaction if all of the following, 58285  
as applicable, apply: 58286

(i) In the case of a lease, once the lease goes into effect, 58287  
the lessor has no direct or indirect interest in the lessee or, 58288  
except as provided in division (J)(2)(b) of this section, the 58289  
facility itself, including interest as an owner, officer, 58290  
director, employee, independent contractor, or consultant, but 58291  
excluding interest as a lessor. 58292

(ii) In the case of a lease, the lessor does not reacquire an 58293  
interest in the facility except through the exercise of a lessor's 58294  
rights in the event of a default. If the lessor reacquires an 58295  
interest in the facility in this manner, the department shall 58296  
treat the facility as if the lease never occurred when the 58297  
department calculates its reimbursement rates for capital costs. 58298

(iii) In the case of a transfer, once the transfer goes into 58299  
effect, the provider that made the transfer has no direct or 58300  
indirect interest in the provider that acquires the facility or 58301  
the facility itself, including interest as an owner, officer, 58302  
director, employee, independent contractor, or consultant, but 58303  
excluding interest as a creditor. 58304

(iv) In the case of a transfer, the provider that made the 58305  
transfer does not reacquire an interest in the facility except 58306  
through the exercise of a creditor's rights in the event of a 58307  
default. If the provider reacquires an interest in the facility in 58308  
this manner, the department shall treat the facility as if the 58309  
transfer never occurred when the department calculates its 58310  
reimbursement rates for capital costs. 58311

(v) The lease or transfer satisfies any other criteria 58312  
specified in the rules. 58313

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2007, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and

replacement nursing facilities. 58345

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code. 58346  
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(3) The rate for capital costs shall be the median rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code. 58349  
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(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code. 58352  
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(5) The quality incentive payment shall be the mean payment specified in division (B) of section 5111.244 of the Revised Code. 58356  
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(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.33 of the Revised Code. 58358  
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(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing 58363  
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facility's semiannual case-mix score until the nursing facility 58376  
submits two consecutive quarterly assessment data that qualify for 58377  
use in calculating a case-mix score. 58378

**Sec. 5111.255.** (A) The department of job and family services 58379  
shall establish initial rates for ~~a nursing facility or an~~ 58380  
intermediate care facility for the mentally retarded with a first 58381  
date of licensure that is on or after January 1, 1993, including a 58382  
facility that replaces one or more existing facilities, or for a 58383  
~~nursing facility or an~~ intermediate care facility for the mentally 58384  
retarded with a first date of licensure before that date that was 58385  
initially certified for the ~~medical assistance~~ medicaid program on 58386  
or after that date, in the following manner: 58387

(1) The rate for direct care costs shall be determined as 58388  
follows: 58389

(a) If there are no cost or resident assessment data as 58390  
necessary to calculate a rate under section 5111.23 of the Revised 58391  
Code, the rate shall be the median cost per case-mix unit 58392  
calculated under division (B)(1) of that section for the relevant 58393  
peer group for the calendar year preceding the fiscal year in 58394  
which the rate will be paid, multiplied by the median annual 58395  
average case-mix score for the peer group for that period and by 58396  
the rate of inflation estimated under division (B)~~(5)~~(3) of that 58397  
section. This rate shall be recalculated to reflect the facility's 58398  
actual quarterly average case-mix score, in accordance with that 58399  
section, after it submits its first quarterly assessment 58400  
~~information data~~ data that qualifies for use in calculating a case-mix 58401  
score in accordance with rules ~~adopted under~~ authorized by 58402  
division ~~(D)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. 58403  
If the facility's first two quarterly submissions do not contain 58404  
assessment ~~information data~~ data that qualifies for use in calculating 58405  
a case-mix score, the department shall continue to calculate the 58406

rate using the median annual case-mix score for the peer group in 58407  
lieu of an assigned quarterly case-mix score. The department shall 58408  
assign a case-mix score or, if necessary, a cost per case-mix unit 58409  
under division ~~(C)~~(D) of section ~~5111.231~~ 5111.232 of the Revised 58410  
Code for any subsequent submissions that do not contain assessment 58411  
~~information~~ data that qualifies for use in calculating a case-mix 58412  
score. 58413

(b) If the facility is a replacement facility and the 58414  
facility or facilities that are being replaced are in operation 58415  
immediately before the replacement facility opens, the rate shall 58416  
be the same as the rate for the replaced facility or facilities, 58417  
proportionate to the number of beds in each replaced facility. If 58418  
one or more of the replaced facilities is not in operation 58419  
immediately before the replacement facility opens, its proportion 58420  
shall be determined under division (A)(1)(a) of this section. 58421

(2) The rate for other protected costs shall be one hundred 58422  
fifteen per cent of the median rate for ~~the applicable type of~~ 58423  
~~facility~~ intermediate care facilities for the mentally retarded 58424  
calculated for the fiscal year under section 5111.235 of the 58425  
Revised Code. 58426

(3) The rate for indirect care costs shall be the applicable 58427  
maximum rate for the facility's peer group as specified in 58428  
division (B) of section ~~5111.24~~ or division (B) of section 58429  
5111.241 of the Revised Code. 58430

(4) The rate for capital costs shall be determined under 58431  
section ~~5111.25~~ or 5111.251 of the Revised Code using the greater 58432  
of actual inpatient days or an imputed occupancy rate of eighty 58433  
per cent. 58434

(B) The department shall adjust the rates established under 58435  
division (A) of this section at both of the following times: 58436

(1) Effective the first day of July, to reflect new rate 58437

calculations for all facilities under sections ~~5111.23~~ 5111.20 to 58438  
~~5111.25 and 5111.251~~ 5111.33 of the Revised Code; 58439

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the 58440  
facility's cost report under division (A)(1)(b) of section 5111.26 58441  
of the Revised Code. 58442

The department shall pay the rate adjusted based on the cost 58443  
report beginning the first day of the calendar quarter that begins 58444  
more than ninety days after the department receives the cost 58445  
report. 58446

Sec. 5111.257. If a provider of a nursing facility adds or 58447  
replaces one or more medicaid certified beds to or at the nursing 58448  
facility, or renovates one or more of the nursing facility's beds, 58449  
the rate for the added, replaced, or renovated beds shall be the 58450  
same as the rate for the nursing facility's existing beds. 58451

~~Sec. 5111.257~~ 5111.258. (A) Notwithstanding sections ~~5111.23,~~ 58452  
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and~~ 58453  
~~5111.255~~ 5111.20 to 5111.33 of the Revised Code, the director of 58454  
job and family services shall adopt rules ~~in accordance with~~ 58455  
~~Chapter 119.~~ under section 5111.02 of the Revised Code that 58456  
establish a methodology for calculating the prospective rates ~~for~~ 58457  
~~direct care costs, other protected costs, indirect care costs, and~~ 58458  
~~capital costs~~ that will be paid each fiscal year to a provider for 58459  
each of the provider's eligible nursing facilities and 58460  
intermediate care facilities for the mentally retarded, and 58461  
discrete units of the provider's nursing facilities or 58462  
intermediate care facilities for the mentally retarded, that serve 58463  
residents who have diagnoses or special care needs that require 58464  
direct care resources that are not measured adequately by the 58465  
applicable assessment instrument specified in rules ~~adopted under~~ 58466  
authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or 58467

who have diagnoses or special care needs specified in the rules as 58468  
otherwise qualifying for consideration under this section. The 58469  
facilities and units of facilities whose rates are established 58470  
under this division may include, but shall not be limited to, any 58471  
of the following: 58472

(1) In the case of nursing facilities, facilities and units 58473  
of facilities that serve medically fragile pediatric residents, 58474  
residents who are dependent on ventilators, or residents who have 58475  
severe traumatic brain injury, end-stage Alzheimer's disease, or 58476  
end-stage acquired immunodeficiency syndrome; 58477

(2) In the case of intermediate care facilities for the 58478  
mentally retarded, facilities and units of facilities that serve 58479  
residents who have complex medical conditions or severe behavioral 58480  
problems. 58481

The department shall use the methodology established under 58482  
this division to pay for services rendered by such facilities and 58483  
units after June 30, 1993. 58484

The rules ~~adopted under~~ authorized by this division shall 58485  
specify the criteria and procedures the department will apply when 58486  
designating facilities and units that qualify for calculation of 58487  
rates under this division. The criteria shall include 58488  
consideration of whether all of the allowable costs of the 58489  
facility or unit would be paid by rates established under sections 58490  
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 58491  
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 58492  
establish a minimum bed size for a facility or unit to qualify to 58493  
have its rates established under this division. The criteria shall 58494  
not be designed to require that residents be served only in 58495  
facilities located in large cities. The methodology established by 58496  
the rules shall consider the historical costs of providing care to 58497  
the residents of the facilities or units. 58498

The rules may require that a facility designated under this 58499  
division or containing a unit designated under this division 58500  
receive authorization from the department to admit or retain a 58501  
resident to the facility or unit and shall specify the criteria 58502  
and procedures the department will apply when granting that 58503  
authorization. 58504

Notwithstanding any other provision of sections 5111.20 to 58505  
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 58506  
facilities or units whose rates are established under this 58507  
division shall not be considered in establishing payment rates for 58508  
other facilities or units. 58509

(B) The director may adopt rules ~~in accordance with Chapter~~ 58510  
~~119-~~ under section 5111.02 of the Revised Code under which the 58511  
department, notwithstanding any other provision of sections 58512  
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 58513  
rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 58514  
5111.33 of the Revised Code for a facility that serves a resident 58515  
who has a diagnosis or special care need that, in the rules 58516  
~~adopted under~~ authorized by division (A) of this section, would 58517  
qualify a facility or unit of a facility to have its rate 58518  
determined under that division, but who is not in such a unit. The 58519  
rules may require that a facility that qualifies for a rate 58520  
adjustment under this division receive authorization from the 58521  
department to admit or retain a resident who qualifies the 58522  
facility for the rate adjustment and shall specify the criteria 58523  
and procedures the department will apply when granting that 58524  
authorization. 58525

**Sec. 5111.26.** (A)(1)(a) Except as provided in division 58526  
(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 58527  
~~care facility for the mentally retarded~~ provider shall file with 58528  
the department of job and family services an annual cost report 58529



~~prepared for each of the provider's nursing facilities and~~ 58530  
~~intermediate care facilities for the mentally retarded that~~ 58531  
~~participate in the medicaid program. A provider shall prepare the~~ 58532  
~~reports~~ in accordance with guidelines established by the 58533  
department. ~~The~~ A report shall cover a calendar year or the 58534  
portion of a calendar year during which the facility participated 58535  
in the ~~medical assistance~~ medicaid program. ~~All facilities~~ A 58536  
provider shall file the reports within ninety days after the end 58537  
of the calendar year. The department, for good cause, may grant a 58538  
fourteen-day extension of the time for filing cost reports upon 58539  
written request from a ~~facility~~ provider. The director of job and 58540  
family services shall prescribe, in rules adopted ~~in accordance~~ 58541  
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 58542  
cost reporting form and a uniform chart of accounts for the 58543  
purpose of cost reporting, and shall distribute cost reporting 58544  
forms or computer software for electronic submission of the cost 58545  
report to each ~~nursing facility and intermediate care facility for~~ 58546  
~~the mentally retarded~~ provider at least sixty days before the 58547  
~~facility's~~ reporting date. 58548

(b) ~~A facility for which~~ If rates are for a provider's 58549  
nursing facility or intermediate care facility for the mentally 58550  
retarded were most recently established under section 5111.254 or 58551  
5111.255 of the Revised Code, the provider shall submit a cost 58552  
report for that facility no later than ninety days after the end 58553  
of the facility's first three full calendar months of operation. A 58554  
If a nursing facility or intermediate care facility for the 58555  
mentally retarded undergoes a change of provider that the 58556  
department determines, in accordance with rules adopted under 58557  
section 5111.02 of the Revised Code, is an arm's length 58558  
transaction, the new provider shall submit a cost report for that 58559  
facility not later than ninety days after the end of the 58560  
facility's first three full calendar months of operation under the 58561  
new provider. The provider of a facility that opens or undergoes a 58562

change of provider that is an arm's length transaction after the 58563  
first day of October in any calendar year is not required to file 58564  
a cost report for that calendar year. 58565

(c) If a nursing facility undergoes a change of provider that 58566  
the department determines, in accordance with rules adopted under 58567  
section 5111.02 of the Revised Code, is not an arms length 58568  
transaction, the new provider shall file a cost report under 58569  
division (A)(1)(a) of this section for the facility. The cost 58570  
report shall cover the portion of the calendar year during which 58571  
the new provider operated the nursing facility and the portion of 58572  
the calendar year during which the previous provider operated the 58573  
nursing facility. 58574

(2) If a ~~nursing facility or intermediate care facility for~~ 58575  
~~the mentally retarded~~ provider required to submit a cost reports 58576  
report for a nursing facility or intermediate care facility for 58577  
the mentally retarded does not file the ~~reports~~ report within the 58578  
required time ~~periods~~ period or within fourteen days thereafter if 58579  
an extension is granted under division (A)(1)(a) of this section, 58580  
or files an incomplete or inadequate report for the facility, the 58581  
department shall provide immediate written notice to the facility 58582  
provider that ~~its~~ the provider agreement for the facility will be 58583  
terminated in thirty days unless the facility provider submits a 58584  
complete and adequate cost report for the facility within thirty 58585  
days. During the thirty-day termination period or any additional 58586  
time allowed for an appeal of the proposed termination of a 58587  
provider agreement, the facility provider shall be paid ~~its~~ the 58588  
facility's then current per resident per day rate, minus two 58589  
dollars. On July 1, 1994, the department shall adjust the 58590  
two-dollar reduction to reflect the rate of inflation during the 58591  
preceding twelve months, as shown in the consumer price index for 58592  
all items for all urban consumers for the north central region, 58593  
published by the United States bureau of labor statistics. On July 58594

1, 1995, and the first day of July of each year thereafter, the 58595  
department shall adjust the amount of the reduction in effect 58596  
during the previous twelve months to reflect the rate of inflation 58597  
during the preceding twelve months, as shown in the same index. 58598

(B) No ~~nursing facility or intermediate care facility for the~~ 58599  
~~mentally retarded~~ provider shall report fines paid under sections 58600  
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 58601  
cost report filed under this section. 58602

(C) The department shall develop an addendum to the cost 58603  
report form that a ~~nursing facility or intermediate care facility~~ 58604  
~~for the mentally retarded~~ provider may use to set forth costs that 58605  
the ~~facility~~ provider believes may be disputed by the department. 58606  
Any costs reported by the ~~facility~~ provider on the addendum may be 58607  
considered by the department in setting the facility's rate. If 58608  
the department does not consider the costs listed on the addendum 58609  
in setting the facility's rate, the ~~facility~~ provider may seek 58610  
reconsideration of that determination under section 5111.29 of the 58611  
Revised Code. If the department subsequently includes the costs 58612  
listed in the addendum in the facility's rate, the department 58613  
shall pay the ~~facility~~ provider interest at a reasonable rate 58614  
established in rules adopted ~~in accordance with Chapter 119.~~ under 58615  
section 5111.02 of the Revised Code for the time that the rate 58616  
paid excluded the costs. 58617

**Sec. 5111.261.** Except as otherwise provided in ~~sections~~ 58618  
~~5111.262 to~~ section 5111.264 of the Revised Code, the department 58619  
of job and family services, in determining whether an intermediate 58620  
care facility for the mentally retarded's direct care costs and 58621  
indirect care costs are allowable, shall place no limit on 58622  
specific categories of reasonable costs other than compensation of 58623  
owners, compensation of relatives of owners, compensation of 58624  
administrators and costs for resident meals that are prepared and 58625

consumed outside the facility. 58626

Compensation cost limits for owners and relatives of owners 58627  
shall be based on compensation costs for individuals who hold 58628  
comparable positions but who are not owners or relatives of 58629  
owners, as reported on facility cost reports. As used in this 58630  
section, "comparable position" means the position that is held by 58631  
the owner or the owner's relative, if that position is listed 58632  
separately on the cost report form, or if the position is not 58633  
listed separately, the group of positions that is listed on the 58634  
cost report form and that includes the position held by the owner 58635  
or the owner's relative. In the case of an owner or owner's 58636  
relative who serves the facility in a capacity such as corporate 58637  
officer, proprietor, or partner for which no comparable position 58638  
or group of positions is listed on the cost report form, the 58639  
compensation cost limit shall be based on civil service 58640  
equivalents and shall be specified in rules adopted ~~by the~~ 58641  
~~director of job and family services in accordance with Chapter~~ 58642  
~~119. under section 5111.02~~ of the Revised Code. 58643

Compensation cost limits for administrators shall be based on 58644  
compensation costs for administrators who are not owners or 58645  
relatives of owners, as reported on facility cost reports. 58646  
Compensation cost limits for administrators of four or more 58647  
intermediate care facilities for the mentally retarded shall be 58648  
the same as the limits for administrators of ~~nursing facilities or~~ 58649  
intermediate care facilities for the mentally retarded with one 58650  
hundred fifty or more beds. 58651

~~For nursing facilities, cost limits for resident meals that~~ 58652  
~~are prepared and consumed outside the facility shall be based on~~ 58653  
~~the statewide average cost of serving and preparing meals in all~~ 58654  
~~nursing facilities, as reported on the facility cost reports. For~~ 58655  
~~intermediate care facilities for the mentally retarded, cost~~ 58656  
~~limits for resident meals that are prepared and consumed outside~~ 58657

~~the facility shall be based on the statewide average cost of  
serving and preparing meals in all intermediate care facilities  
for the mentally retarded, as reported on the facility cost  
reports.~~

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**Sec. 5111.263.** (A) As used in this section, "covered therapy services" means physical therapy, occupational therapy, audiology, and speech therapy services that are provided by appropriately licensed therapists or therapy assistants and that are covered for nursing facility residents either by the medicare program established under Title XVIII ~~of the "Social Security Act,"~~ 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the ~~medical assistance~~ medicaid program as specified in rules adopted by the director of job and family services ~~in accordance with Chapter 119- under section 5111.02~~ of the Revised Code.

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(B) Except as provided in division (G) of this section, the costs of therapy are not allowable costs for nursing facilities for the purpose of determining rates under sections ~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code.

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(C) The department of job and family services shall process no claims for payment under the ~~medical assistance~~ medicaid program for covered therapy services rendered to a resident of a nursing facility other than such claims submitted, in accordance with this section, by a nursing facility that has a valid provider agreement with the department.

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(D) ~~Nursing Providers of nursing facilities that have entered into a provider agreement~~ may bill the department of job and family services for covered therapy services ~~it provides~~ the nursing facilities provide to residents of any nursing facility who are medicaid recipients ~~of the medical assistance program~~ and not eligible for the medicare program.

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(E) The department shall not process any claim for a covered therapy service provided to a nursing facility resident who is eligible for the medicare program unless the claim is for a copayment or deductible or the conditions in division (E)(1) or (2) of this section apply:

(1) The covered therapy service provided is, under the federal statutes, regulations, or policies governing the medicare program, not covered by the medicare program and the service is, under the provisions of this chapter or the rules adopted under this chapter, covered by the ~~medical assistance~~ medicaid program.

(2) All of the following apply:

(a) The individual or entity who provided the covered therapy service was eligible to bill the medicare program for the service.

(b) A complete, accurate, and timely claim was submitted to the medicare program and the program denied payment for the service as not medically necessary for the resident. For the purposes of division (E)(2)(b) of this section, a claim is not considered to have been denied by the medicare program until either a denial has been issued following a medicare fair hearing or six months have elapsed since the request for a fair hearing was filed.

(c) The facility is required to provide or arrange for the provision of the service by a licensed therapist or therapy assistant to be in compliance with federal or state nursing facility certification requirements for the ~~medical assistance~~ medicaid program.

(d) The claim for payment for the services under the ~~medical assistance~~ medicaid program is accompanied by documentation that divisions (E)(2)(b) and (c) of this section apply to the service.

(F) The reimbursement allowed by the department for covered

therapy services provided to nursing facility residents and billed 58719  
under division (D) or (E) of this section shall be fifteen per 58720  
cent less than the fees it pays for the same services rendered to 58721  
hospital outpatients. The director may adopt rules ~~in accordance~~ 58722  
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 58723  
establishing comparable fees for covered therapy services that are 58724  
not included in its schedule of fees paid for services rendered to 58725  
hospital outpatients. 58726

(G) A nursing facility's reasonable costs for rehabilitative, 58727  
restorative, or maintenance therapy services rendered to facility 58728  
residents by nurses or nurse aides, and the facility's overhead 58729  
costs to support provision of therapy services provided to nursing 58730  
facility residents, are allowable costs for the purposes of 58731  
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 58732  
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 58733  
5111.20 to 5111.33 of the Revised Code. 58734

**Sec. 5111.264.** Except as provided in section 5111.25 or 58735  
~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, 58736  
services, and facilities, furnished to a provider by a related 58737  
party are includable in the allowable costs of the provider at the 58738  
reasonable cost to the related party. 58739

**Sec. 5111.265.** If one or more medicaid-certified beds are 58740  
relocated from one nursing facility to another nursing facility 58741  
owned by a different person or government entity and the 58742  
application for the certificate of need authorizing the relocation 58743  
is filed with the director of health on or after the effective 58744  
date of this section, amortization of the cost of acquiring 58745  
operating rights for the relocated beds is not an allowable cost 58746  
for the purpose of determining the nursing facility's medicaid 58747  
reimbursement rate. 58748

Sec. 5111.266. A provider of a nursing facility filing the 58749  
facility's cost report with the department of job and family 58750  
services under section 5111.26 of the Revised Code shall report as 58751  
a nonreimbursable expense the cost of the nursing facility's 58752  
franchise permit fee. 58753

**Sec. 5111.27.** (A) The department of job and family services 58754  
shall conduct a desk review of each cost report it receives under 58755  
section 5111.26 of the Revised Code. Based on the desk review, the 58756  
department shall make a preliminary determination of whether the 58757  
reported costs are allowable costs. The department shall notify 58758  
each ~~nursing facility and intermediate care facility for the~~ 58759  
~~mentally retarded~~ provider of whether any of ~~its~~ the reported 58760  
costs are preliminarily determined not to be allowable, the rate 58761  
calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of 58762  
the Revised Code that results from that determination, and the 58763  
reasons for the determination and resulting rate. The department 58764  
shall allow the ~~facility~~ provider to verify the calculation and 58765  
submit additional information. 58766

(B) The department may conduct an audit, as defined by rule 58767  
adopted ~~by the director of job and family services in accordance~~ 58768  
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, of 58769  
any cost report and shall notify the ~~nursing facility or~~ 58770  
~~intermediate care facility for the mentally retarded~~ provider of 58771  
its findings. 58772

Audits shall be conducted by auditors under contract with or 58773  
employed by the department. The decision whether to conduct an 58774  
audit and the scope of the audit, which may be a desk or field 58775  
audit, shall be determined based on prior performance of the 58776  
provider and may be based on a risk analysis or other evidence 58777  
that gives the department reason to believe that the provider has 58778



reported costs improperly. A desk or field audit may be performed 58779  
annually, but is required whenever a provider does not pass the 58780  
risk analysis tolerance factors. The department shall issue the 58781  
audit report no later than three years after the cost report is 58782  
filed, or upon the completion of a desk or field audit on the 58783  
report or a report for a subsequent cost reporting period, 58784  
whichever is earlier. During the time within which the department 58785  
may issue an audit report, the provider may amend the cost report 58786  
upon discovery of a material error or material additional 58787  
information. The department shall review the amended cost report 58788  
for accuracy and notify the provider of its determination. 58789

The department may establish a contract for the auditing of 58790  
facilities by outside firms. Each contract entered into by bidding 58791  
shall be effective for one to two years. The department shall 58792  
establish an audit manual and program which shall require that all 58793  
field audits, conducted either pursuant to a contract or by 58794  
department employees: 58795

(1) Comply with the applicable rules prescribed pursuant to 58796  
Titles XVIII and XIX ~~of the "Social Security Act," 49 Stat. 620~~ 58797  
~~(1935), 42 U.S.C.A. 301, as amended;~~ 58798

(2) Consider generally accepted auditing standards prescribed 58799  
by the American institute of certified public accountants; 58800

(3) Include a written summary as to whether the costs 58801  
included in the report examined during the audit are allowable and 58802  
are presented fairly in accordance with generally accepted 58803  
accounting principles and department rules, and whether, in all 58804  
material respects, allowable costs are documented, reasonable, and 58805  
related to patient care; 58806

(4) Are conducted by accounting firms or auditors who, during 58807  
the period of the auditors' professional engagement or employment 58808  
and during the period covered by the cost reports, do not have nor 58809

are committed to acquire any direct or indirect financial interest 58810  
in the ownership, financing, or operation of a nursing facility or 58811  
intermediate care facility for the mentally retarded in this 58812  
state; 58813

(5) Are conducted by accounting firms or auditors who, as a 58814  
condition of the contract or employment, shall not audit any 58815  
facility that has been a client of the firm or auditor; 58816

(6) Are conducted by auditors who are otherwise independent 58817  
as determined by the standards of independence established by the 58818  
American institute of certified public accountants; 58819

(7) Are completed within the time period specified by the 58820  
department; 58821

(8) Provide to the ~~nursing facility or intermediate care~~ 58822  
~~facility for the mentally retarded~~ provider complete written 58823  
interpretations that explain in detail the application of all 58824  
relevant contract provisions, regulations, auditing standards, 58825  
rate formulae, and departmental policies, with explanations and 58826  
examples, that are sufficient to permit the ~~facility~~ provider to 58827  
calculate with reasonable certainty those costs that are allowable 58828  
and the rate to which the provider's facility is entitled. 58829

For the purposes of division (B)(4) of this section, 58830  
employment of a member of an auditor's family by a nursing 58831  
facility or intermediate care facility for the mentally retarded 58832  
that the auditor does not review does not constitute a direct or 58833  
indirect financial interest in the ownership, financing, or 58834  
operation of the facility. 58835

(C) The department, pursuant to rules adopted ~~in accordance~~ 58836  
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 58837  
conduct an exception review of assessment ~~information data~~ 58838  
submitted under section ~~5111.231~~ 5111.232 of the Revised Code. The 58839  
department may conduct an exception review based on the findings 58840

of a certification survey conducted by the department of health, a 58841  
risk analysis, or prior performance of the provider. 58842

Exception reviews shall be conducted at the facility by 58843  
appropriate health professionals under contract with or employed 58844  
by the department of job and family services. The professionals 58845  
may review resident assessment forms and supporting documentation, 58846  
conduct interviews, and observe residents to identify any patterns 58847  
or trends of inaccurate assessments and resulting inaccurate 58848  
case-mix scores. 58849

The rules shall establish an exception review program that 58850  
requires that exception reviews do all of the following: 58851

(1) Comply with Titles XVIII and XIX ~~of the "Social Security~~ 58852  
~~Act";~~ 58853

(2) Provide a written summary that states whether the 58854  
resident assessment forms have been completed accurately; 58855

(3) Are conducted by health professionals who, during the 58856  
period of their professional engagement or employment with the 58857  
department, neither have nor are committed to acquire any direct 58858  
or indirect financial interest in the ownership, financing, or 58859  
operation of a nursing facility or intermediate care facility for 58860  
the mentally retarded in this state; 58861

(4) Are conducted by health professionals who, as a condition 58862  
of their engagement or employment with the department, shall not 58863  
review any ~~facility~~ provider that has been a client of the 58864  
professional. 58865

For the purposes of division (C)(3) of this section, 58866  
employment of a member of a health professional's family by a 58867  
nursing facility or intermediate care facility for the mentally 58868  
retarded that the professional does not review does not constitute 58869  
a direct or indirect financial interest in the ownership, 58870  
financing, or operation of the facility. 58871

If an exception review is conducted before the effective date 58872  
of the rate that is based on the case-mix ~~information~~ data subject 58873  
to the review and the review results in findings that exceed 58874  
tolerance levels specified in the rules adopted under this 58875  
division, the department, in accordance with those rules, may use 58876  
the findings to recalculate individual resident case-mix scores, 58877  
quarterly average facility case-mix scores, and annual average 58878  
facility case-mix scores. The department may use the recalculated 58879  
quarterly and annual facility average case-mix scores to calculate 58880  
the facility's rate for direct care costs for the appropriate 58881  
calendar quarter or quarters. 58882

(D) The department shall prepare a written summary of any 58883  
audit disallowance or exception review finding that is made after 58884  
the effective date of the rate that is based on the cost or 58885  
case-mix ~~information~~ data. Where the ~~facility~~ provider is pursuing 58886  
judicial or administrative remedies in good faith regarding the 58887  
disallowance or finding, the department shall not withhold from 58888  
the ~~facility's~~ provider's current payments any amounts the 58889  
department claims to be due from the ~~facility~~ provider pursuant to 58890  
section 5111.28 of the Revised Code. 58891

(E) The department shall not reduce rates calculated under 58892  
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on 58893  
the basis that the ~~facility~~ provider charges a lower rate to any 58894  
resident who is not eligible for the ~~medical assistance~~ medicaid 58895  
program. 58896

(F) The department shall adjust the rates calculated under 58897  
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to 58898  
account for reasonable additional costs that must be incurred by 58899  
nursing facilities and intermediate care facilities for the 58900  
mentally retarded to comply with requirements of federal or state 58901  
statutes, rules, or policies enacted or amended after January 1, 58902  
1992, or with orders issued by state or local fire authorities. 58903

Sec. 5111.28. (A) If a provider properly amends its cost 58904  
report under section 5111.27 of the Revised Code and the amended 58905  
report shows that the provider received a lower rate under the 58906  
original cost report than it was entitled to receive, the 58907  
department of job and family services shall adjust the provider's 58908  
rate prospectively to reflect the corrected information. The 58909  
department shall pay the adjusted rate beginning two months after 58910  
the first day of the month after the provider files the amended 58911  
cost report. If the department finds, from an exception review of 58912  
resident assessment information conducted after the effective date 58913  
of the rate for direct care costs that is based on the assessment 58914  
information, that inaccurate assessment information resulted in 58915  
the provider receiving a lower rate than it was entitled to 58916  
receive, the department prospectively shall adjust the provider's 58917  
rate accordingly and shall make payments using the adjusted rate 58918  
for the remainder of the calendar quarter for which the assessment 58919  
information is used to determine the rate, beginning one month 58920  
after the first day of the month after the exception review is 58921  
completed. 58922

(B) If the provider properly amends its cost report under 58923  
section 5111.27 of the Revised Code, the department makes a 58924  
finding based on an audit under that section, or the department 58925  
makes a finding based on an exception review of resident 58926  
assessment information conducted under that section after the 58927  
effective date of the rate for direct care costs that is based on 58928  
the assessment information, any of which results in a 58929  
determination that the provider has received a higher rate than it 58930  
was entitled to receive, the department shall recalculate the 58931  
provider's rate using the revised information. The department 58932  
shall apply the recalculated rate to the periods when the provider 58933  
received the incorrect rate to determine the amount of the 58934  
overpayment. The provider shall refund the amount of the 58935

overpayment. 58936

In addition to requiring a refund under this division, the 58937  
department may charge the provider interest at the applicable rate 58938  
specified in this division from the time the overpayment was made. 58939

(1) If the overpayment resulted from costs reported for 58940  
calendar year 1993, the interest shall be no greater than one and 58941  
one-half times the average bank prime rate. 58942

(2) If the overpayment resulted from costs reported for 58943  
subsequent calendar years: 58944

(a) The interest shall be no greater than two times the 58945  
average bank prime rate if the overpayment was equal to or less 58946  
than one per cent of the total medicaid payments to the provider 58947  
for the fiscal year for which the incorrect information was used 58948  
to establish a rate. 58949

(b) The interest shall be no greater than two and one-half 58950  
times the current average bank prime rate if the overpayment was 58951  
greater than one per cent of the total medicaid payments to the 58952  
provider for the fiscal year for which the incorrect information 58953  
was used to establish a rate. 58954

(C) The department also may impose the following penalties: 58955

(1) If a provider does not furnish invoices or other 58956  
documentation that the department requests during an audit within 58957  
sixty days after the request, no more than the greater of one 58958  
thousand dollars per audit or twenty-five per cent of the 58959  
cumulative amount by which the costs for which documentation was 58960  
not furnished increased the total medicaid payments to the 58961  
provider during the fiscal year for which the costs were used to 58962  
establish a rate; 58963

(2) If an exiting operator or owner fails to provide notice 58964  
of ~~sale of the~~ a facility or closure, voluntary termination, or 58965

voluntary withdrawal of participation in the ~~medical assistance~~ 58966  
medicaid program, as required by section ~~5111.25 or 5111.251~~ 58967  
5111.66 of the Revised Code, or an exiting operator or owner and 58968  
entering operator fail to provide notice of a change of operator 58969  
as required by section 5111.67 of the Revised Code, no more than 58970  
the current average bank prime rate plus four per cent of the last 58971  
two monthly payments. 58972

(D) If the provider continues to participate in the ~~medical~~ 58973  
~~assistance~~ medicaid program, the department shall deduct any 58974  
amount that the provider is required to refund under this section, 58975  
and the amount of any interest charged or penalty imposed under 58976  
this section, from the next available payment from the department 58977  
to the provider. The department and the provider may enter into an 58978  
agreement under which the amount, together with interest, is 58979  
deducted in installments from payments from the department to the 58980  
provider. 58981

(E) The department shall transmit refunds and penalties to 58982  
the treasurer of state for deposit in the general revenue fund. 58983

(F) For the purpose of this section, the department shall 58984  
determine the average bank prime rate using statistical release 58985  
H.15, "selected interest rates," a weekly publication of the 58986  
federal reserve board, or any successor publication. If 58987  
statistical release H.15, or its successor, ceases to contain the 58988  
bank prime rate information or ceases to be published, the 58989  
department shall request a written statement of the average bank 58990  
prime rate from the federal reserve bank of Cleveland or the 58991  
federal reserve board. 58992

**Sec. 5111.29.** (A) The director of job and family services 58993  
shall adopt rules ~~in accordance with Chapter 119.~~ under section 58994  
5111.02 of the Revised Code that establish a process under which a 58995  
~~nursing facility or intermediate care facility for the mentally~~ 58996

~~retarded provider~~, or a group or association of ~~facilities~~ 58997  
~~providers~~, may seek reconsideration of rates established under 58998  
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, 58999  
including a rate for direct care costs recalculated before the 59000  
effective date of the rate as a result of an exception review of 59001  
resident assessment information conducted under section 5111.27 of 59002  
the Revised Code. 59003

(1) Except as provided in divisions (A)(2) to (4) of this 59004  
section, the only issue that a ~~facility~~ provider, group, or 59005  
association may raise in the rate reconsideration shall be whether 59006  
the rate was calculated in accordance with sections ~~5111.23~~ 59007  
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules 59008  
adopted under ~~those sections~~ section 5111.02 of the Revised Code. 59009  
The rules shall permit a ~~facility~~ provider, group, or association 59010  
to submit written arguments or other materials that support its 59011  
position. The rules shall specify time frames within which the 59012  
~~facility~~ provider, group, or association and the department must 59013  
act. If the department determines, as a result of the rate 59014  
reconsideration, that the rate established for one or more 59015  
facilities of a provider is less than the rate to which ~~it~~ the 59016  
facility is entitled, the department shall increase the rate. If 59017  
the department has paid the incorrect rate for a period of time, 59018  
the department shall pay the ~~facility~~ provider the difference 59019  
between the amount ~~it~~ the provider was paid for that period for 59020  
the facility and the amount ~~it~~ the provider should have been paid 59021  
for the facility. 59022

(2) The rules shall provide that during a fiscal year, the 59023  
department, by means of the rate reconsideration process, may 59024  
increase a ~~facility's~~ the rate determined for an intermediate care 59025  
facility for the mentally retarded as calculated under sections 59026  
~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the 59027  
provider of the facility demonstrates that ~~its~~ the facility's 59028



actual, allowable costs have increased because of extreme 59029  
circumstances. A facility may qualify for a rate increase only if 59030  
~~its~~ the facility's per diem, actual, allowable costs have 59031  
increased to a level that exceeds its total rate, ~~including any~~ 59032  
~~efficiency incentive and return on equity payment.~~ The rules shall 59033  
specify the circumstances that would justify a rate increase under 59034  
division (A)(2) of this section. ~~In the case of nursing~~ 59035  
~~facilities, the~~ The rules shall provide that the extreme 59036  
circumstances include ~~increased security costs for an inner-city~~ 59037  
~~nursing facility and an increase in workers' compensation~~ 59038  
~~experience rating of greater than five per cent for a facility~~ 59039  
~~that has an appropriate claims management program but do not~~ 59040  
~~include a change of ownership that results from bankruptcy,~~ 59041  
~~foreclosure, or findings of violations of certification~~ 59042  
~~requirements by the department of health. In the case of~~ 59043  
~~intermediate care facilities for the mentally retarded, the rules~~ 59044  
~~shall provide that the extreme circumstances include, but are not~~ 59045  
~~limited to, natural disasters,~~ renovations approved under division 59046  
(D) of section 5111.251 of the Revised Code, an increase in 59047  
workers' compensation experience rating of greater than five per 59048  
cent for a facility that has an appropriate claims management 59049  
program, increased security costs for an inner-city facility, and 59050  
a change of ownership that results from bankruptcy, foreclosure, 59051  
or findings of violations of certification requirements by the 59052  
department of health. An increase under division (A)(2) of this 59053  
section is subject to any rate limitations or maximum rates 59054  
established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the 59055  
Revised Code for specific cost centers. Any rate increase granted 59056  
under division (A)(2) of this section shall take effect on the 59057  
first day of the first month after the department receives the 59058  
request. 59059

(3) The rules shall provide that the department, through the 59060  
rate reconsideration process, may increase ~~a facility's~~ an 59061

intermediate care facility for the mentally retarded's rate as 59062  
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 59063  
the Revised Code if the department, in ~~its~~ the department's sole 59064  
discretion, determines that the rate as calculated under those 59065  
sections works an extreme hardship on the facility. 59066

(4) The rules shall provide that when beds certified for the 59067  
~~medical assistance~~ medicaid program are added to an existing 59068  
intermediate care facility, ~~for the mentally retarded or~~ replaced 59069  
at the same site, ~~or subject to a change of ownership or lease,~~ 59070  
the department, through the rate reconsideration process, shall 59071  
increase the ~~facility's~~ intermediate care facility for the 59072  
mentally retarded's rate for capital costs proportionately, as 59073  
limited by any applicable limitation under section ~~5111.25~~ or 59074  
5111.251 of the Revised Code, to account for the costs of the beds 59075  
that are added, or replaced, ~~or subject to a change of ownership~~ 59076  
~~or lease.~~ The department shall make this increase one month after 59077  
the first day of the month after the department receives 59078  
sufficient documentation of the costs. Any rate increase granted 59079  
under division (A)(4) of this section after June 30, 1993, shall 59080  
remain in effect until the effective date of a rate calculated 59081  
under section ~~5111.25~~ or 5111.251 of the Revised Code that 59082  
includes costs incurred for a full calendar year for the bed 59083  
addition, or bed replacement, ~~or change of ownership or lease.~~ The 59084  
facility shall report double accumulated depreciation in an amount 59085  
equal to the depreciation included in the rate adjustment on its 59086  
cost report for the first year of operation. During the term of 59087  
any loan used to finance a project for which a rate adjustment is 59088  
granted under division (A)(4) of this section, if the facility is 59089  
operated by the same provider, the ~~facility~~ provider shall 59090  
subtract from the interest costs it reports on its cost report an 59091  
amount equal to the difference between the following: 59092

(a) The actual, allowable interest costs for the loan during 59093

the calendar year for which the costs are being reported; 59094

(b) The actual, allowable interest costs attributable to the 59095  
loan that were used to calculate the rates paid to the provider 59096  
for the facility during the same calendar year. 59097

(5) The department's decision at the conclusion of the 59098  
reconsideration process shall not be subject to any administrative 59099  
proceedings under Chapter 119. or any other provision of the 59100  
Revised Code. 59101

(B) Any All of the following are subject to an adjudication 59102  
conducted in accordance with Chapter 119. of the Revised Code: 59103

(1) Any audit disallowance that the department makes as the 59104  
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 59105

(2) Any adverse finding that results from an exception review 59106  
of resident assessment information conducted under ~~that~~ section 59107  
5111.27 of the Revised Code after the effective date of the 59108  
facility's rate that is based on the assessment information, ~~and~~ 59109  
any; 59110

(3) Any medicaid payment deemed an overpayment under section 59111  
5111.683 of the Revised Code; 59112

(4) Any penalty the department imposes under division (C) of 59113  
section 5111.28 of the Revised Code ~~shall be subject to an~~ 59114  
~~adjudication conducted in accordance with Chapter 119. or section~~ 59115  
5111.683 of the Revised Code. 59116

**Sec. 5111.291.** Notwithstanding sections 5111.20 to ~~5111.29~~ 59117  
5111.33 of the Revised Code, the department of job and family 59118  
services may compute the rate for intermediate care facilities for 59119  
the mentally retarded operated by the department of mental 59120  
retardation and developmental disabilities or the department of 59121  
mental health according to the reasonable cost principles of Title 59122  
XVIII of the "Social Security Act," ~~49 Stat. 620 (1935), 42~~ 59123

U.S.C.A. 1395, as amended. 59124

**Sec. 5111.30.** The department of job and family services shall 59125  
terminate the provider agreement with a ~~nursing facility or~~ 59126  
~~intermediate care facility for the mentally retarded~~ provider that 59127  
does not comply with the requirements of section 3721.071 of the 59128  
Revised Code for the installation of fire extinguishing and fire 59129  
alarm systems. 59130

**Sec. 5111.31.** (A) Every provider agreement with the provider 59131  
of a nursing facility or intermediate care facility for the 59132  
mentally retarded shall: 59133

(1) Prohibit the ~~facility~~ provider from failing or refusing 59134  
to retain as a patient any person because the person is, becomes, 59135  
or may, as a patient in the facility, become a medicaid recipient 59136  
~~of assistance under the medical assistance program~~. For the 59137  
purposes of this division, a medicaid recipient ~~of medical~~ 59138  
~~assistance~~ who is a patient in a facility shall be considered a 59139  
patient in the facility during any hospital stays totaling less 59140  
than twenty-five days during any twelve-month period. Recipients 59141  
who have been identified by the department of job and family 59142  
services or its designee as requiring the level of care of an 59143  
intermediate care facility for the mentally retarded shall not be 59144  
subject to a maximum period of absences during which they are 59145  
considered patients if prior authorization of the department for 59146  
visits with relatives and friends and participation in therapeutic 59147  
programs is obtained under rules adopted under section 5111.02 of 59148  
the Revised Code. 59149

(2) ~~Include~~ Except as provided by division (B)(1) of this 59150  
section, include any part of the facility that meets standards for 59151  
certification of compliance with federal and state laws and rules 59152  
for participation in the ~~medical assistance~~ medicaid program, 59153

~~except that nursing facilities that, during the period beginning 59154  
July 1, 1987, and ending July 1, 1993, added beds licensed as 59155  
nursing home beds under Chapter 3721. of the Revised Code are not 59156  
required to include those beds under a provider agreement unless 59157  
otherwise required by federal law. Once added to the provider 59158  
agreement, however, those nursing home beds may not be removed 59159  
unless the facility withdraws from the medical assistance program 59160  
in its entirety. 59161~~

(3) Prohibit the ~~facility~~ provider from discriminating 59162  
against any patient on the basis of race, color, sex, creed, or 59163  
national origin. 59164

(4) Except as otherwise prohibited under section 5111.55 of 59165  
the Revised Code, prohibit the ~~facility~~ provider from failing or 59166  
refusing to accept a patient because the patient is, becomes, or 59167  
may, as a patient in the facility, become a medicaid recipient ~~of~~ 59168  
~~assistance under the medical assistance program~~ if less than 59169  
eighty per cent of the patients in the facility are medicaid 59170  
recipients ~~of medical assistance~~. 59171

(B)(1) Except as provided by division (B)(2) of this section, 59172  
the following are not required to be included in a provider 59173  
agreement unless otherwise required by federal law: 59174

(a) Beds added during the period beginning July 1, 1987, and 59175  
ending July 1, 1993, to a nursing home licensed under Chapter 59176  
3721. of the Revised Code; 59177

(b) Beds in an intermediate care facility for the mentally 59178  
retarded that are designated for respite care under a medicaid 59179  
waiver component operated pursuant to a waiver sought under 59180  
section 5111.87 of the Revised Code. 59181

(2) If a provider chooses to include a bed specified in 59182  
division (B)(1) of this section in a provider agreement, the bed 59183  
may not be removed from the provider agreement unless the provider 59184

withdraws the facility in which the bed is located from the  
medicaid program.

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(C) Nothing in this section shall bar ~~any a provider that is~~  
a religious organization operating a religious or denominational  
nursing facility or intermediate care facility for the mentally  
retarded ~~that is operated, supervised, or controlled by a~~  
~~religious organization~~ from giving preference to persons of the  
same religion or denomination. Nothing in this section shall bar  
any facility provider from giving preference to persons with whom  
~~it~~ the provider has contracted to provide continuing care.

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~~(C)~~(D) Nothing in this section shall bar ~~any the provider of~~  
a county home organized under Chapter 5155. of the Revised Code  
from admitting residents exclusively from the county in which the  
county home is located.

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~~(D)~~(E) No provider of a nursing facility or intermediate care  
facility for the mentally retarded ~~with~~ for which a provider  
agreement is in effect shall violate the provider contract  
obligations imposed under this section.

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~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section  
shall bar ~~any nursing facility or intermediate care facility for~~  
~~the mentally retarded~~ a provider from retaining patients who have  
resided in the provider's facility for not less than one year as  
private pay patients and who subsequently become medicaid  
~~recipients of assistance under the medicaid program,~~ but refusing  
to accept as a patient any person who is or may, as a patient in  
the facility, become a medicaid recipient ~~of assistance under the~~  
~~medicaid program,~~ if all of the following apply:

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(1) The ~~facility~~ provider does not refuse to retain any  
patient who has resided in the provider's facility for not less  
than one year as a private pay patient because the patient becomes  
a medicaid recipient ~~of assistance under the medicaid program,~~

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except as necessary to comply with division ~~(E)~~(F)(2) of this section; 59216  
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(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility; 59218  
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(3) On July 1, 1980, all the patients in the facility were private pay patients. 59221  
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**Sec. 5111.32.** Any patient has a cause of action against the provider of a nursing facility or intermediate care facility for the mentally retarded for breach of the provider agreement obligations or other duties imposed by section 5111.31 of the Revised Code. The action may be commenced by the patient, or on ~~his~~ the patient's behalf by ~~his~~ the patient's sponsor or a residents' rights advocate, as either is defined under section 3721.10 of the Revised Code, by the filing of a civil action in the court of common pleas of the county in which the facility is located, or in the court of common pleas of Franklin county. 59223  
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If the court finds that a breach of the provider agreement obligations imposed by section 5111.31 of the Revised Code has occurred, the court may enjoin the ~~facility~~ provider from engaging in the practice, order such affirmative relief as may be necessary, and award to the patient and a person or public agency that brings an action on behalf of a patient actual damages, costs, and reasonable attorney's fees. 59233  
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**Sec. 5111.33.** Reimbursement to ~~nursing facilities and intermediate care facilities for the mentally retarded~~ a provider under sections 5111.20 to 5111.32 of the Revised Code shall include payments to ~~facilities~~ the provider, at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the 59240  
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provider's nursing facility or intermediate care facility for the 59246  
mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 59247  
5111.33 of the Revised Code for the fiscal year for which the cost 59248  
of services is reimbursed, to reserve a bed for a recipient during 59249  
a temporary absence under conditions prescribed by the department, 59250  
to include hospitalization for an acute condition, visits with 59251  
relatives and friends, and participation in therapeutic programs 59252  
outside the facility, when the resident's plan of care provides 59253  
for such absence and federal participation in the payments is 59254  
available. The maximum period during which payments may be made to 59255  
reserve a bed shall not exceed the maximum period specified under 59256  
federal regulations, and shall not be more than thirty days during 59257  
any calendar year for hospital stays, visits with relatives and 59258  
friends, and participation in therapeutic programs. Recipients who 59259  
have been identified by the department as requiring the level of 59260  
care of an intermediate care facility for the mentally retarded 59261  
shall not be subject to a maximum period during which payments may 59262  
be made to reserve a bed if prior authorization of the department 59263  
is obtained for hospital stays, visits with relatives and friends, 59264  
and participation in therapeutic programs. The director of job and 59265  
family services shall adopt rules under ~~division (B)~~ of section 59266  
5111.02 of the Revised Code establishing conditions under which 59267  
prior authorization may be obtained. 59268

**Sec. 5111.62.** The proceeds of all fines, including interest, 59269  
collected under sections 5111.35 to 5111.62 of the Revised Code 59270  
shall be deposited in the state treasury to the credit of the 59271  
residents protection fund, which is hereby created. ~~Moneys~~ The 59272  
proceeds of all fines, including interest, collected under section 59273  
173.42 of the Revised Code shall be deposited in the state 59274  
treasury to the credit of the residents protection fund. 59275

Moneys in the fund shall be used for the protection of the 59276  
health or property of residents of nursing facilities in which the 59277



department of health finds deficiencies, including payment for the 59278  
costs of relocation of residents to other facilities, maintenance 59279  
of operation of a facility pending correction of deficiencies or 59280  
closure, and reimbursement of residents for the loss of money 59281  
managed by the facility under section 3721.15 of the Revised Code. 59282  
The 59283

The fund shall be maintained and administered by the 59284  
department of job and family services under rules developed in 59285  
consultation with the departments of health and aging and adopted 59286  
by the director of job and family services under Chapter 119. of 59287  
the Revised Code. 59288

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the 59289  
Revised Code: 59290

(A) "Change of operator" means an entering operator becoming 59291  
the operator of a nursing facility or intermediate care facility 59292  
for the mentally retarded in the place of the exiting operator. 59293

(1) Actions that constitute a change of operator include the 59294  
following: 59295

(a) A change in an exiting operator's form of legal 59296  
organization, including the formation of a partnership or 59297  
corporation from a sole proprietorship; 59298

(b) A transfer of all the exiting operator's ownership 59299  
interest in the operation of the facility to the entering 59300  
operator, regardless of whether ownership of any or all of the 59301  
real property or personal property associated with the facility is 59302  
also transferred; 59303

(c) A lease of the facility to the entering operator or the 59304  
exiting operator's termination of the exiting operator's lease; 59305

(d) If the exiting operator is a partnership, dissolution of 59306  
the partnership; 59307

<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	59308
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<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	59310
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<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	59312
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<u>(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.</u>	59314
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<u>(2) The following, alone, do not constitute a change of operator:</u>	59318
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<u>(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;</u>	59320
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<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;</u>	59324
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<u>(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.</u>	59329
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<u>(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.</u>	59333
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<u>(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or</u>	59336
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intermediate care facility for the mentally retarded resides in 59338  
the facility. 59339

(D) "Effective date of a voluntary termination" means the day 59340  
the intermediate care facility for the mentally retarded ceases to 59341  
accept medicaid patients. 59342

(E) "Effective date of a voluntary withdrawal of 59343  
participation" means the day the nursing facility ceases to accept 59344  
new medicaid patients other than the individuals who reside in the 59345  
nursing facility on the day before the effective date of the 59346  
voluntary withdrawal of participation. 59347

(F) "Entering operator" means the person or government entity 59348  
that will become the operator of a nursing facility or 59349  
intermediate care facility for the mentally retarded when a change 59350  
of operator occurs. 59351

(G) "Exiting operator" means any of the following: 59352

(1) An operator that will cease to be the operator of a 59353  
nursing facility or intermediate care facility for the mentally 59354  
retarded on the effective date of a change of operator; 59355

(2) An operator that will cease to be the operator of a 59356  
nursing facility or intermediate care facility for the mentally 59357  
retarded on the effective date of a facility closure; 59358

(3) An operator of an intermediate care facility for the 59359  
mentally retarded that is undergoing or has undergone a voluntary 59360  
termination; 59361

(4) An operator of a nursing facility that is undergoing or 59362  
has undergone a voluntary withdrawal of participation. 59363

(H)(1) "Facility closure" means discontinuance of the use of 59364  
the building, or part of the building, that houses the facility as 59365  
a nursing facility or intermediate care facility for the mentally 59366  
retarded that results in the relocation of all of the facility's 59367

<u>residents. A facility closure occurs regardless of any of the</u>	59368
<u>following:</u>	59369
<u>(a) The operator completely or partially replacing the</u>	59370
<u>facility by constructing a new facility or transferring the</u>	59371
<u>facility's license to another facility;</u>	59372
<u>(b) The facility's residents relocating to another of the</u>	59373
<u>operator's facilities;</u>	59374
<u>(c) Any action the department of health takes regarding the</u>	59375
<u>facility's certification under Title XIX of the "Social Security</u>	59376
<u>Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may</u>	59377
<u>result in the transfer of part of the facility's survey findings</u>	59378
<u>to another of the operator's facilities;</u>	59379
<u>(d) Any action the department of health takes regarding the</u>	59380
<u>facility's license under Chapter 3721. of the Revised Code;</u>	59381
<u>(e) Any action the department of mental retardation and</u>	59382
<u>developmental disabilities takes regarding the facility's license</u>	59383
<u>under section 5123.19 of the Revised Code.</u>	59384
<u>(2) A facility closure does not occur if all of the</u>	59385
<u>facility's residents are relocated due to an emergency evacuation</u>	59386
<u>and one or more of the residents return to a medicaid-certified</u>	59387
<u>bed in the facility not later than thirty days after the</u>	59388
<u>evacuation occurs.</u>	59389
<u>(I) "Fiscal year," "intermediate care facility for the</u>	59390
<u>mentally retarded," "nursing facility," "operator," "owner," and</u>	59391
<u>"provider agreement" have the same meanings as in section 5111.20</u>	59392
<u>of the Revised Code.</u>	59393
<u>(J) "Voluntary termination" means an operator's voluntary</u>	59394
<u>election to terminate the participation of an intermediate care</u>	59395
<u>facility for the mentally retarded in the medicaid program but to</u>	59396
<u>continue to provide service of the type provided by a residential</u>	59397

facility as defined in section 5123.19 of the Revised Code. 59398

(K) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility. 59399  
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Sec. 5111.651. Sections 5111.65 to 5111.688 of the Revised Code do not apply to a nursing facility or intermediate care facility for the mentally retarded that undergoes a facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator on or before September 30, 2005, if the exiting operator provided written notice of the facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator to the department of job and family services on or before June 30, 2005. 59403  
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Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following: 59412  
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 59421  
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(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice; 59423  
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(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice; 59426  
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(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation; 59428  
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(E) The signature of the exiting operator's or owner's representative. 59430  
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**Sec. 5111.661.** An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation. 59432  
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**Sec. 5111.67.** (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. The written notice shall include all of the following: 59436  
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(1) The name of the exiting operator and, if any, the exiting operator's authorized agent; 59449  
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(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator; 59451  
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(3) The exiting operator's medicaid provider agreement number for the facility that is the subject of the change of operator; 59454  
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(4) The name of the entering operator; 59456

<u>(5) The effective date of the change of operator;</u>	59457
<u>(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;</u>	59458
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<u>(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;</u>	59461
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<u>(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;</u>	59464
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<u>(9) The signature of the exiting operator's or owner's representative.</u>	59467
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<u>(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:</u>	59469
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<u>(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;</u>	59473
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<u>(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator.</u>	59479
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<u>Sec. 5111.671. The department of job and family services may enter into a provider agreement with an entering operator that</u>	59485
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goes into effect at 12:01 a.m. on the effective date of the change 59487  
of operator if all of the following requirements are met: 59488

(A) The department receives a properly completed written 59489  
notice required by section 5111.67 of the Revised Code on or 59490  
before the date required by that section. 59491

(B) The entering operator furnishes to the department copies 59492  
of all the fully executed leases, management agreements, merger 59493  
agreements and supporting documents, and sales contracts and 59494  
supporting documents relating to the change of operator not later 59495  
than ten days after the effective date of the change of operator. 59496

(C) The entering operator is eligible for medicaid payments 59497  
as provided in section 5111.21 of the Revised Code. 59498

**Sec. 5111.672.** (A) The department of job and family services 59499  
may enter into a provider agreement with an entering operator that 59500  
goes into effect at 12:01 a.m. on the date determined under 59501  
division (B) of this section if all of the following are the case: 59502

(1) The department receives a properly completed written 59503  
notice required by section 5111.67 of the Revised Code. 59504

(2) The entering operator furnishes to the department copies 59505  
of all the fully executed leases, management agreements, merger 59506  
agreements and supporting documents, and sales contracts and 59507  
supporting documents relating to the change of operator. 59508

(3) The requirement of division (A)(1) of this section is met 59509  
after the time required by section 5111.67 of the Revised Code, 59510  
the requirement of division (A)(2) of this section is met more 59511  
than ten days after the effective date of the change of operator, 59512  
or both. 59513

(4) The entering operator is eligible for medicaid payments 59514  
as provided in section 5111.21 of the Revised Code. 59515



(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows: 59516  
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(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, make the withholding required by section 5111.681 of the Revised Code, and withhold the final payment to the exiting operator until one hundred eighty days after either of the following: 59519  
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(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code; 59525  
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(b) The date that the department waives the cost report requirement of section 5111.682 of the Revised Code. 59528  
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(2) The effective date shall be not earlier than the later of the effective date of the change of operator or the date that the exiting operator or owner and entering operator comply with section 5111.67 of the Revised Code. 59530  
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(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section: 59534  
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(a) Forty-five days if the change of operator does not entail the relocation of residents; 59537  
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(b) Ninety days if the change of operator entails the relocation of residents. 59539  
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**Sec. 5111.673.** A provider that enters into a provider agreement with the department of job and family services under section 5111.671 or 5111.672 of the Revised Code shall do all of the following: 59541  
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<u>(A) Comply with all applicable federal statutes and regulations;</u>	59545 59546
<u>(B) Comply with section 5111.22 of the Revised Code and all other applicable state statutes and rules;</u>	59547 59548
<u>(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:</u>	59549 59550 59551
<u>(1) Any plan of correction;</u>	59552
<u>(2) Compliance with health and safety standards;</u>	59553
<u>(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	59554 59555
<u>(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;</u>	59556 59557
<u>(5) Compliance with additional requirements imposed by the department;</u>	59558 59559
<u>(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.</u>	59560 59561 59562 59563
<u><b>Sec. 5111.674.</b> In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility or intermediate care facility for the mentally retarded for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5111.671 or 5111.672 of the Revised Code.</u>	59564 59565 59566 59567 59568 59569 59570
<u><b>Sec. 5111.675.</b> The department of job and family services may enter into a provider agreement as provided in section 5111.22 of</u>	59571 59572

the Revised Code, rather than section 5111.671 or 5111.672 of the 59573  
Revised Code, with an entering operator if the entering operator 59574  
does not agree to a provider agreement that satisfies the 59575  
requirements of division (C) of section 5111.673 of the Revised 59576  
Code. The department may not enter into the provider agreement 59577  
unless the department of health certifies the nursing facility or 59578  
intermediate care facility for the mentally retarded under Title 59579  
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 59580  
1396, as amended. The effective date of the provider agreement 59581  
shall not precede any of the following: 59582

(A) The date that the department of health certifies the 59583  
facility; 59584

(B) The effective date of the change of operator; 59585

(C) The date the requirement of section 5111.67 of the 59586  
Revised Code is satisfied. 59587

**Sec. 5111.676.** The director of job and family services may 59588  
adopt rules in accordance with Chapter 119. of the Revised Code 59589  
governing adjustments to the medicaid reimbursement rate for a 59590  
nursing facility or intermediate care facility for the mentally 59591  
retarded that undergoes a change of operator. No rate adjustment 59592  
resulting from a change of operator shall be effective before the 59593  
effective date of the entering operator's provider agreement. This 59594  
is the case regardless of whether the provider agreement is 59595  
entered into under section 5111.671, section 5111.672, or, 59596  
pursuant to section 5111.675, section 5111.22 of the Revised Code. 59597

**Sec. 5111.677.** Neither of the following shall affect the 59598  
department of job and family services' determination of whether or 59599  
when a change of operator occurs or the effective date of an 59600  
entering operator's provider agreement under section 5111.671, 59601

section 5111.672, or, pursuant to section 5111.675, section 59602  
5111.22 of the Revised Code: 59603

(A) The department of health's determination that a change of 59604  
operator has or has not occurred for purposes of licensure under 59605  
Chapter 3721. of the Revised Code; 59606

(B) The department of mental retardation and developmental 59607  
disabilities' determination that a change of operator has or has 59608  
not occurred for purposes of licensure under section 5123.19 of 59609  
the Revised Code. 59610

**Sec. 5111.68.** (A) On receipt of a written notice under 59611  
section 5111.66 of the Revised Code of a facility closure, 59612  
voluntary termination, or voluntary withdrawal of participation or 59613  
a written notice under section 5111.67 of the Revised Code of a 59614  
change of operator, the department of job and family services 59615  
shall determine the amount of any overpayments made under the 59616  
medicaid program to the exiting operator, including overpayments 59617  
the exiting operator disputes, and other actual and potential 59618  
debts the exiting operator owes or may owe to the department and 59619  
United States centers for medicare and medicaid services under the 59620  
medicaid program. In determining the exiting operator's other 59621  
actual and potential debts to the department under the medicaid 59622  
program, the department shall include all of the following that 59623  
the department determines is applicable: 59624

(1) Refunds due the department under section 5111.27 of the 59625  
Revised Code; 59626

(2) Interest owed to the department and United States centers 59627  
for medicare and medicaid services; 59628

(3) Final civil monetary and other penalties for which all 59629  
right of appeal has been exhausted; 59630

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program. 59631  
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(B) If the department is unable to determine the amount of the overpayments and other debts for any period before the effective date of the entering operator's provider agreement or the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation, the department shall make a reasonable estimate of the overpayments and other debts for the period. The department shall make the estimate using information available to the department, including prior determinations of overpayments and other debts. 59636  
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**Sec. 5111.681.** (A) Except as provided in division (B) of this section, the department of job and family services shall withhold the greater of the following from payment due an exiting operator under the medicaid program: 59645  
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(1) The total amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts, including any unpaid penalties, the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program; 59649  
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(2) An amount equal to the average amount of monthly payments to the exiting operator under the medicaid program for the twelve-month period immediately preceding the month that includes the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. 59655  
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(B) The department may choose not to make the withholding under division (A) of this section if an entering operator does both of the following: 59661  
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(1) Enters into a nontransferable, unconditional, written agreement with the department to pay the department any debt the exiting operator owes the department under the medicaid program; 59664  
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(2) Provides the department a copy of the entering operator's balance sheet that assists the department in determining whether to make the withholding under division (A) of this section. 59667  
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**Sec. 5111.682.** (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of job and family services a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section 5111.26 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following: 59670  
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(1) The sale price of the nursing facility or intermediate care facility for the mentally retarded; 59684  
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(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer; 59686  
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(3) Any other information the department requires. 59689

(B) The department, at its sole discretion, may waive the 59690

requirement that an exiting operator file a cost report in 59691  
accordance with division (A) of this section. 59692

Sec. 5111.683. If an exiting operator required by section 59693  
5111.682 of the Revised Code to file a cost report with the 59694  
department of job and family services fails to file the cost 59695  
report in accordance with that section, all payments under the 59696  
medicaid program for the period the cost report is required to 59697  
cover are deemed overpayments until the date the department 59698  
receives the properly completed cost report. The department may 59699  
impose on the exiting operator a penalty of one hundred dollars 59700  
for each calendar day the properly completed cost report is late. 59701

Sec. 5111.684. The department of job and family services may 59702  
not provide an exiting operator final payment under the medicaid 59703  
program until the department receives all properly completed cost 59704  
reports the exiting operator is required to file under sections 59705  
5111.26 and 5111.682 of the Revised Code. 59706

Sec. 5111.685. The department of job and family services 59707  
shall determine the actual amount of debt an exiting operator owes 59708  
the department under the medicaid program by completing all final 59709  
fiscal audits not already completed and performing all other 59710  
appropriate actions the department determines to be necessary. The 59711  
department shall issue a debt summary report on this matter not 59712  
later than one hundred eighty days after the date the exiting 59713  
operator files the properly completed cost report required by 59714  
section 5111.682 of the Revised Code with the department or, if 59715  
the department waives the cost report requirement for the exiting 59716  
operator, one hundred eighty days after the date the department 59717  
waives the cost report requirement. The report shall include the 59718  
department's findings and the amount of debt the department 59719  
determines the exiting operator owes the department and United 59720

States centers for medicare and medicaid services under the 59721  
medicaid program. Only the parts of the report that are subject to 59722  
an adjudication as specified in section 5111.30 of the Revised 59723  
Code are subject to an adjudication conducted in accordance with 59724  
Chapter 119. of the Revised Code. 59725

**Sec. 5111.686.** The department of job and family services 59726  
shall release the actual amount withheld under division (A) of 59727  
section 5111.681 of the Revised Code, less any amount the exiting 59728  
operator owes the department and United States centers for 59729  
medicare and medicaid services under the medicaid program, as 59730  
follows: 59731

(A) One hundred eighty-one days after the date the exiting 59732  
operator files a properly completed cost report required by 59733  
section 5111.682 of the Revised Code unless the department issues 59734  
the report required by section 5111.685 of the Revised Code not 59735  
later than one hundred eighty days after the date the exiting 59736  
operator files the properly completed cost report; 59737

(B) Not later than sixty days after the exiting operator 59738  
agrees to a final fiscal audit resulting from the report required 59739  
by section 5111.685 of the Revised Code if the department issues 59740  
the report not later than one hundred eighty days after the date 59741  
the exiting operator files a properly completed cost report 59742  
required by section 5111.682 of the Revised Code; 59743

(C) One hundred eighty-one days after the date the department 59744  
waives the cost report requirement of section 5111.682 of the 59745  
Revised Code unless the department issues the report required by 59746  
section 5111.685 of the Revised Code not later than one hundred 59747  
eighty days after the date the department waives the cost report 59748  
requirement; 59749

(D) Not later than sixty days after the exiting operator 59750



agrees to a final fiscal audit resulting from the report required 59751  
by section 5111.685 of the Revised Code if the department issues 59752  
the report not later than one hundred eighty days after the date 59753  
the department waives the cost report requirement of section 59754  
5111.682 of the Revised Code. 59755

**Sec. 5111.687.** The department of job and family services, at 59756  
its sole discretion, may release the amount withheld under 59757  
division (A) of section 5111.681 of the Revised Code if the 59758  
exiting operator submits to the department written notice of a 59759  
postponement of a change of operator, facility closure, voluntary 59760  
termination, or voluntary withdrawal of participation and the 59761  
transactions leading to the change of operator, facility closure, 59762  
voluntary termination, or voluntary withdrawal of participation 59763  
are postponed for at least thirty days but less than ninety days 59764  
after the date originally proposed for the change of operator, 59765  
facility closure, voluntary termination, or voluntary withdrawal 59766  
of participation as reported in the written notice required by 59767  
section 5111.66 or 5111.67 of the Revised Code. The department 59768  
shall release the amount withheld if the exiting operator submits 59769  
to the department written notice of a cancellation or postponement 59770  
of a change of operator, facility closure, voluntary termination, 59771  
or voluntary withdrawal of participation and the transactions 59772  
leading to the change of operator, facility closure, voluntary 59773  
termination, or voluntary withdrawal of participation are canceled 59774  
or postponed for more than ninety days after the date originally 59775  
proposed for the change of operator, facility closure, voluntary 59776  
termination, or voluntary withdrawal of participation as reported 59777  
in the written notice required by section 5111.66 or 5111.67 of 59778  
the Revised Code. 59779

After the department receives a written notice regarding a 59780  
cancellation or postponement of a facility closure, voluntary 59781

termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5111.688. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65 to 5111.688 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid

waiver component" does not include a care management system 59813  
established under section 5111.16 of the Revised Code. 59814

(B) The director of job and family services may adopt rules 59815  
under Chapter 119. of the Revised Code governing medicaid waiver 59816  
components that establish all of the following: 59817

(1) Eligibility requirements for the medicaid waiver 59818  
components; 59819

(2) The type, amount, duration, and scope of services the 59820  
medicaid waiver components provide; 59821

(3) The conditions under which the medicaid waiver components 59822  
cover services; 59823

(4) The amount the medicaid waiver components pay for 59824  
services or the method by which the amount is determined; 59825

(5) The manner in which the medicaid waiver components pay 59826  
for services; 59827

(6) Safeguards for the health and welfare of medicaid 59828  
recipients receiving services under a medicaid waiver component; 59829

(7) Procedures for enforcing the rules, including 59830  
establishing corrective action plans for, and imposing financial 59831  
and administrative sanctions on, persons and government entities 59832  
that violate the rules. Sanctions shall include terminating 59833  
medicaid provider agreements. The procedures shall include due 59834  
process protections. 59835

(8) Other policies necessary for the efficient administration 59836  
of the medicaid waiver components. 59837

(C) The director of job and family services may adopt 59838  
different rules for the different medicaid waiver components. The 59839  
rules shall be consistent with the terms of the waiver authorizing 59840  
the medicaid waiver component. 59841

~~(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.~~

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 of the Revised Code:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer the component, that state agency or political subdivision.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a

hospital, nursing facility, or intermediate care facility for the 59872  
mentally retarded and whether the individual, if determined to 59873  
need that level of care, would receive hospital, nursing facility, 59874  
or intermediate care facility for the mentally retarded services 59875  
if not for a home and community-based services medicaid waiver 59876  
component. 59877

"Nursing facility" has the same meaning as in section 5111.20 59878  
of the Revised Code. 59879

"Skilled nursing facility" means a facility certified as a 59880  
skilled nursing facility under Title XVIII of the "Social Security 59881  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 59882

(B) The following requirements apply to each home and 59883  
community-based services medicaid waiver component: 59884

(1) Only an individual who qualifies for a component shall 59885  
receive that component's services. 59886

(2) A level of care determination shall be made as part of 59887  
the process of determining whether an individual qualifies for a 59888  
component and shall be made each year after the initial 59889  
determination if, during such a subsequent year, the 59890  
administrative agency determines there is a reasonable indication 59891  
that the individual's needs have changed. 59892

(3) A written plan of care or individual service plan based 59893  
on an individual assessment of the services that an individual 59894  
needs to avoid needing admission to a hospital, nursing facility, 59895  
or intermediate care facility for the mentally retarded shall be 59896  
created for each individual determined eligible for a component. 59897

(4) Each individual determined eligible for a component shall 59898  
receive that component's services in accordance with the 59899  
individual's level of care determination and written plan of care 59900  
or individual service plan. 59901

(5) No individual may receive services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or intermediate care facility for the mentally retarded. 59902  
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(6) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 59906  
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(7) Safeguards shall be taken to protect the health and welfare of individuals receiving services under a component, including safeguards established in rules adopted under section 5111.85 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's services. 59911  
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(8) No services may be provided under a component by a provider that is subject to standards that 42 U.S.C. 1382e(e)(1) requires be established if the provider fails to comply with the standards applicable to the provider. 59917  
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(9) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's services, including any choices that the individual or representative may make regarding the component's services, and given the choice of either receiving services under that component or, as appropriate, hospital, nursing facility, or intermediate care facility for the mentally retarded services. 59921  
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**Sec. 5111.852.** The department of job and family services may review and approve, modify, or deny written plans of care and individual service plans that section 5111.851 of the Revised Code requires be created for individuals determined eligible for a home 59928  
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and community-based services medicaid waiver component. If a state 59932  
agency or political subdivision contracts with the department 59933  
under section 5111.91 of the Revised Code to administer a home and 59934  
community-based services medicaid waiver component and approves, 59935  
modifies, or denies a written plan of care or individual service 59936  
plan pursuant to the agency's or subdivision's administration of 59937  
the component, the department may review the agency's or 59938  
subdivision's approval, modification, or denial and order the 59939  
agency or subdivision to reverse or modify the approval, 59940  
modification, or denial. The state agency or political subdivision 59941  
shall comply with the department's order. 59942

The department of job and family services shall be granted 59943  
full and immediate access to any records the department needs to 59944  
implement its duties under this section. 59945

Sec. 5111.853. Each administrative agency shall maintain, for 59946  
a period of time the department of job and family services shall 59947  
specify, financial records documenting the costs of services 59948  
provided under the home and community-based services medicaid 59949  
waiver components that the agency administers, including records 59950  
of independent audits. The administrative agency shall make the 59951  
financial records available on request to the United States 59952  
secretary of health and human services, United States comptroller 59953  
general, and their designees. 59954

Sec. 5111.854. Each administrative agency is financially 59955  
accountable for funds expended for services provided under the 59956  
home and community-based services medicaid waiver components that 59957  
the agency administers. 59958

Sec. 5111.855. Each state agency and political subdivision 59959  
that enters into a contract with the department of job and family 59960

services under section 5111.91 of the Revised Code to administer a 59961  
home and community-based services medicaid waiver component, or 59962  
one or more aspects of such a component, shall provide the 59963  
department a written assurance that the agency or subdivision will 59964  
not violate any of the requirements of sections 5111.85 to 59965  
5111.854 of the Revised Code. 59966

Sec. 5111.856. To the extent necessary for the efficient and 59967  
economical administration of medicaid waiver components, the 59968  
department of job and family services may transfer an individual 59969  
enrolled in a medicaid waiver component administered by the 59970  
department to another medicaid waiver component the department 59971  
administers if the individual is eligible for the medicaid waiver 59972  
component and the transfer does not jeopardize the individual's 59973  
health or safety. 59974

Sec. 5111.97 5111.86. (A) As used in this section: 59975

(1) "Hospital" has the same meaning as in section 3727.01 of 59976  
the Revised Code. 59977

(2) "Medicaid waiver component" has the same meaning as in 59978  
section 5111.85 of the Revised Code. 59979

(3) "Nursing facility" has the same meaning as in section 59980  
5111.20 of the Revised Code. 59981

(4) "Ohio home care program" means the program the department 59982  
of job and family services administers that provides state plan 59983  
services and medicaid waiver component services pursuant to rules 59984  
adopted under sections 5111.01 and 5111.02 of the Revised Code and 59985  
a medicaid waiver that went into effect July 1, 1998. 59986

(B) The director of job and family services may submit a 59987  
request requests to the United States secretary of health and 59988  
human services pursuant to section 1915 of the "Social Security 59989



Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 59990  
waivers of federal medicaid requirements that would otherwise be 59991  
violated in the creation and implementation of two or more 59992  
medicaid waiver components under which home and community-based 59993  
services ~~programs to replace the Ohio home care program being~~ 59994  
~~operated pursuant to rules adopted under sections 5111.01 and~~ 59995  
~~5111.02 of the Revised Code and a medicaid waiver granted prior to~~ 59996  
~~the effective date of this section~~ are provided to eligible 59997  
individuals who need the level of care provided by a nursing 59998  
facility or hospital. In the ~~request~~ requests, the director may 59999  
specify the following: 60000

(1) ~~That one of the replacement programs will provide home~~ 60001  
~~and community based services to individuals in need of nursing~~ 60002  
~~facility care, including individuals enrolled in the Ohio home~~ 60003  
~~care program;~~ 60004

(2) ~~That the other replacement program will provide services~~ 60005  
~~to individuals in need of hospital care, including individuals~~ 60006  
~~enrolled in the Ohio home care program;~~ 60007

(3) ~~That there will be a~~ The maximum number of individuals 60008  
who may be enrolled in the ~~replacement programs in addition to the~~ 60009  
~~number of individuals to be transferred from the Ohio home care~~ 60010  
~~program~~ each of the medicaid waiver components included in the 60011  
requests; 60012

(4) ~~That there will be a~~ (2) The maximum amount the 60013  
~~department medicaid program~~ may expend each year for each 60014  
individual enrolled in the ~~replacement programs~~ medicaid waiver 60015  
components; 60016

(5) ~~That there will be a~~ (3) The maximum aggregate amount the 60017  
~~department medicaid program~~ may expend each year for all 60018  
individuals enrolled in the ~~replacement programs~~ medicaid waiver 60019  
components; 60020

~~(6)(4)~~ Any other ~~requirement~~ requirements the director 60021  
selects for the ~~replacement programs~~ medicaid waiver components. 60022

~~(B)(C)~~ If the secretary ~~grants~~ approves the medicaid waivers 60023  
requested under this section, the director may create and 60024  
implement the ~~replacement programs~~ medicaid waiver components in 60025  
accordance with the provisions of the approved waivers ~~granted~~. 60026  
The department of job and family services shall administer the 60027  
~~replacement programs~~ medicaid waiver components. 60028

~~As the replacement programs are implemented, the director~~ 60029  
~~shall reduce the maximum number of individuals who may be enrolled~~ 60030  
~~in the Ohio home care program by the number of individuals who are~~ 60031  
~~transferred to the replacement programs. When all individuals who~~ 60032  
~~are eligible to be transferred to the replacement programs have~~ 60033  
~~been transferred, the director may submit to the secretary an~~ 60034  
~~amendment to the state medicaid plan to provide for the~~ 60035  
~~elimination of the Ohio home care program.~~ 60036

After the first of any medicaid waiver components created 60037  
under this section begins to enroll eligible individuals, the 60038  
director may submit to the United States secretary of health and 60039  
human services an amendment to a medicaid waiver component of the 60040  
Ohio home care program authorizing the department to cease 60041  
enrolling additional individuals in that medicaid waiver component 60042  
of the Ohio home care program. If the secretary approves the 60043  
amendment, the director may cease to enroll additional individuals 60044  
in that medicaid waiver component of the Ohio home care program. 60045

**Sec. 5111.87.** (A) As used in this section and section 60046  
5111.871 of the Revised Code, ~~"intermediate:~~ 60047

(1) "Intermediate care facility for the mentally retarded" 60048  
has the same meaning as in section 5111.20 of the Revised Code. 60049

(2) "Medicaid waiver component" has the same meaning as in 60050

section 5111.85 of the Revised Code. 60051

(B) The director of job and family services may apply to the 60052  
United States secretary of health and human services for both of 60053  
the following: 60054

(1) One or more medicaid ~~waivers~~ waiver components under 60055  
which home and community-based services are provided to 60056  
individuals with mental retardation or other developmental 60057  
disability as an alternative to placement in an intermediate care 60058  
facility for the mentally retarded; 60059

(2) One or more medicaid ~~waivers~~ waiver components under 60060  
which home and community-based services are provided in the form 60061  
of ~~either or both~~ any of the following: 60062

(a) Early intervention and supportive services for children 60063  
under three years of age ~~that are provided or arranged by county~~ 60064  
~~boards of mental retardation and who have~~ developmental delays or 60065  
disabilities the director determines are significant; 60066

(b) Therapeutic services for children who have autism ~~and are~~ 60067  
~~under six years of age at the time of enrollment;~~ 60068

(c) Specialized habilitative services for individuals who are 60069  
eighteen years of age or older and have autism. 60070

(C) No medicaid waiver component authorized by division 60071  
(B)(2)(b) or (c) of this section shall provide services that are 60072  
available under another medicaid waiver component. No medicaid 60073  
waiver component authorized by division (B)(2)(b) of this section 60074  
shall provide services to an individual that the individual is 60075  
eligible to receive through an individualized education program as 60076  
defined in section 3323.01 of the Revised Code. 60077

(D) The director of mental retardation and developmental 60078  
disabilities or director of health may request that the director 60079  
of job and family services apply for one or more medicaid waivers 60080

under this section. 60081

~~(D)~~(E) Before applying for a waiver under this section, the 60082  
director of job and family services shall seek, accept, and 60083  
consider public comments. 60084

**Sec. 5111.871.** The department of job and family services 60085  
shall enter into a contract with the department of mental 60086  
retardation and developmental disabilities under section 5111.91 60087  
of the Revised Code with regard to one or more of the components 60088  
of the medicaid program established by the department of job and 60089  
family services under one or more of the medicaid waivers sought 60090  
under section 5111.87 of the Revised Code. The contract shall 60091  
provide for the department of mental retardation and developmental 60092  
disabilities to administer the components in accordance with the 60093  
terms of the waivers. The directors of job and family services and 60094  
mental retardation and developmental disabilities shall adopt 60095  
rules in accordance with Chapter 119. of the Revised Code 60096  
governing the components. 60097

If the department of mental retardation and developmental 60098  
disabilities or the department of job and family services denies 60099  
an individual's application for home and community-based services 60100  
provided under any of these medicaid components, the department 60101  
that denied the services shall give timely notice to the 60102  
individual that the individual may request a hearing under section 60103  
5101.35 of the Revised Code. 60104

The departments of mental retardation and developmental 60105  
disabilities and job and family services may approve, reduce, 60106  
deny, or terminate a service included in the individualized 60107  
service plan developed for a medicaid recipient eligible for home 60108  
and community-based services provided under any of these medicaid 60109  
components. The departments shall consider the recommendations a 60110  
county board of mental retardation and developmental disabilities 60111

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makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

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If supported living or residential services, as defined in section 5126.01 of the Revised Code, are to be provided under any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 or certificate under section ~~5123.045~~ 5123.16 or 5126.431 of the Revised Code may provide the services.

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Sec. 5111.88. (A) As used in sections 5111.88 to 5111.889 of the Revised Code:

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"Administrative agency" means the department of job and family services or, if the department assigns the day-to-day administration of the ICF/MR deinstitutionalization pilot program to the department of mental retardation and developmental disabilities pursuant to section 5111.886 of the Revised Code, the department of mental retardation and developmental disabilities.

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"Deinstitutionalized services" means services specified in rules adopted under section 5111.85 of the Revised Code provided under the ICF/MR deinstitutionalization pilot program.

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"ICF/MR deinstitutionalization pilot program" means the medicaid waiver component authorized by a waiver sought under division (B)(1) of this section.

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"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for

medicaid-covered intermediate care facility for the mentally retarded services. 60142  
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"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 60144  
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"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 60146  
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(B) Not later than thirty days after the effective date of this section, the director of job and family services shall submit both of the following to the United States secretary of health and human services: 60148  
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(1) An application for a waiver authorizing the ICF/MR deinstitutionalization pilot program under which intermediate care facilities for the mentally retarded, other than such facilities operated by the department of mental retardation and developmental disabilities, may volunteer to convert from providing intermediate care facility for the mentally retarded services to providing deinstitutionalized services and individuals with mental retardation or a developmental disability who are eligible for ICF/MR services may volunteer to receive instead deinstitutionalized services; 60152  
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(2) An amendment to the state medicaid plan to authorize the director, beginning on the first day that the ICF/MR deinstitutionalization pilot program begins implementation under section 5111.881 of the Revised Code, to refuse to enter into or amend a medicaid provider agreement with the operator of an intermediate care facility for the mentally retarded if the provider agreement or amendment would authorize the operator to receive medicaid payments for more intermediate care facility for the mentally retarded beds than the operator receives on the day before that day. 60162  
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(C) The director shall notify the governor, speaker and 60172

minority leader of the house of representatives, and president and 60173  
minority leader of the senate when the director submits the 60174  
application for the ICF/MR deinstitutionalization pilot program 60175  
under division (B)(1) of this section and the amendment to the 60176  
state medicaid plan under division (B)(2) of this section. The 60177  
director is not required to submit the application and the 60178  
amendment at the same time. 60179

Sec. 5111.881. If the United States secretary of health and 60180  
human services approves the waiver requested under division (B)(1) 60181  
of section 5111.88 of the Revised Code, the administrative agency 60182  
shall implement the ICF/MR deinstitutionalization pilot program as 60183  
follows: 60184

(A) Permit no more than two hundred individuals to 60185  
participate in the program at one time; 60186

(B) Select, from among volunteers only, enough intermediate 60187  
care facilities for the mentally retarded to convert from 60188  
providing ICF/MR services to providing deinstitutionalized 60189  
services as necessary to accommodate each individual participating 60190  
in the program and ensure that the facilities selected for 60191  
conversion cease to provide any ICF/MR services once the 60192  
conversion takes place; 60193

(C) Subject to division (A) of this section, permit 60194  
individuals who reside in an intermediate care facility for the 60195  
mentally retarded that converts to providing deinstitutionalized 60196  
services to choose whether to participate in the program or to 60197  
transfer to another intermediate care facility for the mentally 60198  
retarded that is not converting; 60199

(D) Ensure that no individual receiving ICF/MR services on 60200  
the effective date of this section suffers an interruption in 60201  
medicaid-covered services that the individual is eligible to 60202

receive; 60203

(E) Collect information as necessary for the ICF/MR 60204  
deinstitutionalization study council to be able to conduct the 60205  
evaluation required by section 5111.889 of the Revised Code; 60206

(F) Terminate the program on July 1, 2007. 60207

Sec. 5111.882. Each individual participating in the ICF/MR 60208  
deinstitutionalization pilot program shall receive 60209  
deinstitutionalized services pursuant to a written individual 60210  
service plan that shall be created for the individual. The 60211  
individual service plan shall provide for the individual to 60212  
receive deinstitutionalized services as necessary to meet the 60213  
individual's health and welfare needs. 60214

Sec. 5111.883. Each individual participating in the ICF/MR 60215  
deinstitutionalization pilot program has the right to choose the 60216  
qualified and willing provider from which the individual will 60217  
receive deinstitutionalized services. 60218

Sec. 5111.884. The administrative agency shall inform each 60219  
individual participating in the ICF/MR deinstitutionalization 60220  
pilot program of the individual's right to a state hearing under 60221  
section 5101.35 of the Revised Code regarding a decision or order 60222  
the administrative agency makes concerning the individual's 60223  
participation in the program. 60224

Sec. 5111.885. The department of mental retardation and 60225  
developmental disabilities may not convert any of the intermediate 60226  
care facilities for the mentally retarded that the department 60227  
operates to a provider of deinstitutionalized services. 60228

Sec. 5111.886. (A) If the United States secretary of health 60229



and human services approves the waiver requested under division 60230  
(B)(1) of section 5111.88 of the Revised Code, the department of 60231  
job and family services may do both of the following: 60232

(1) Contract with the department of mental retardation and 60233  
developmental disabilities under section 5111.91 of the Revised 60234  
Code to assign the day-to-day administration of the ICF/MR 60235  
deinstitutionalization pilot program to the department of mental 60236  
retardation and developmental disabilities; 60237

(2) Transfer funds to pay for the nonfederal share of the 60238  
costs of the ICF/MR deinstitutionalization pilot program to the 60239  
department of mental retardation and developmental disabilities. 60240

(B) If the department of job and family services takes both 60241  
actions authorized by division (A) of this section, the department 60242  
of mental retardation and developmental disabilities shall be 60243  
responsible for paying the nonfederal share of the costs of the 60244  
ICF/MR deinstitutionalization pilot program. 60245

Sec. 5111.887. The director of job and family services, in 60246  
consultation with the ICF/MR deinstitutionalization study council, 60247  
shall adopt rules under section 5111.85 of the Revised Code as 60248  
necessary to implement the ICF/MR deinstitutionalization pilot 60249  
program, including rules establishing both of the following: 60250

(A) The type, amount, duration, and scope of services 60251  
provided under the program; 60252

(B) The amount the program pays for the services or the 60253  
method by which the amount is determined. 60254

Sec. 5111.888. (A) There is hereby created the ICF/MR 60255  
deinstitutionalization study council. The council shall consist of 60256  
all of the following members: 60257

<u>(1) Two members of the house of representatives appointed by</u>	60258
<u>the speaker of the house of representatives, each from a different</u>	60259
<u>political party;</u>	60260
<u>(2) Two members of the senate appointed by the president of</u>	60261
<u>the senate, each from a different political party;</u>	60262
<u>(3) The director of job and family services or the director's</u>	60263
<u>designee;</u>	60264
<u>(4) The director of mental retardation and developmental</u>	60265
<u>disabilities or the director's designee;</u>	60266
<u>(5) One representative of each of the following</u>	60267
<u>organizations, appointed by the organization:</u>	60268
<u>(a) Advocacy and protective services, incorporated;</u>	60269
<u>(b) The arc of Ohio;</u>	60270
<u>(c) The Ohio league for the mentally retarded;</u>	60271
<u>(d) People first of Ohio;</u>	60272
<u>(e) The Ohio association of county boards of mental</u>	60273
<u>retardation and developmental disabilities;</u>	60274
<u>(f) The Ohio provider resource association;</u>	60275
<u>(g) The Ohio health care association.</u>	60276
<u>(B) The speaker of the house of representatives and the</u>	60277
<u>president of the senate jointly shall appoint one of the members</u>	60278
<u>appointed under division (A)(1) or (2) of this section to serve as</u>	60279
<u>chair of the ICF/MR deinstitutionalization study council.</u>	60280
<u>(C) Members of the ICF/MR deinstitutionalization study</u>	60281
<u>council shall receive no compensation for serving on the council.</u>	60282
<b><u>Sec. 5111.889. (A) The ICF/MR deinstitutionalization study</u></b>	60283
<b><u>council shall conduct an evaluation of the ICF/MR</u></b>	60284
<b><u>deinstitutionalization pilot program. The council shall examine</u></b>	60285

<u>all of the following as part of the evaluation:</u>	60286
<u>(1) The deinstitutionalized services' effectiveness in</u>	60287
<u>meeting the health and welfare needs of the individuals</u>	60288
<u>participating in the program as identified in the individuals'</u>	60289
<u>written individual service plan;</u>	60290
<u>(2) The satisfaction of the individuals participating in the</u>	60291
<u>program with the deinstitutionalized services;</u>	60292
<u>(3) The impact that the conversion from providing ICF/MR</u>	60293
<u>services to providing deinstitutionalized services has on the</u>	60294
<u>intermediate care facilities for the mentally retarded that</u>	60295
<u>convert;</u>	60296
<u>(4) The program's cost effectiveness, including</u>	60297
<u>administrative cost effectiveness;</u>	60298
<u>(5) Feedback about the program from the individuals</u>	60299
<u>participating in the program, such individuals' families and</u>	60300
<u>guardians, county boards of mental retardation and developmental</u>	60301
<u>disabilities, and providers of deinstitutionalized services;</u>	60302
<u>(6) Other matters the council considers appropriate for</u>	60303
<u>evaluation.</u>	60304
<u>(B) Not later than December 31, 2007, the ICF/MR</u>	60305
<u>deinstitutionalization study council shall prepare a report of the</u>	60306
<u>evaluation conducted under this section and provide a copy of the</u>	60307
<u>report to the governor, president and minority leader of the</u>	60308
<u>senate, and speaker and minority leader of the house of</u>	60309
<u>representatives. The council shall include in the report</u>	60310
<u>recommendations for changes that the council determines are</u>	60311
<u>necessary for the ICF/MR deinstitutionalization pilot program to</u>	60312
<u>be implemented effectively statewide. The council shall cease to</u>	60313
<u>exist on the issuance of the report.</u>	60314

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 60315  
the Revised Code: 60316

"Assisted living program" means the medicaid waiver component 60317  
for which the director of job and family services is authorized by 60318  
this section to request a medicaid waiver. 60319

"Assisted living services" means the following home and 60320  
community-based services: personal care, homemaker, chore, 60321  
attendant care, companion, medication oversight, and therapeutic 60322  
social and recreational programming. 60323

"County or district home" means a county or district home 60324  
operated under Chapter 5155. of the Revised Code. 60325

"Medicaid waiver component" has the same meaning as in 60326  
section 5111.85 of the Revised Code. 60327

"Nursing facility" has the same meaning as in section 5111.20 60328  
of the Revised Code. 60329

"Residential care facility" has the same meaning as in 60330  
section 3721.01 of the Revised Code. 60331

(B) The director of job and family services may submit a 60332  
request to the United States secretary of health and human 60333  
services under 42 U.S.C. 1396n to obtain a waiver of federal 60334  
medicaid requirements that would otherwise be violated in the 60335  
creation and implementation of a program under which assisted 60336  
living services are provided to not more than one thousand eight 60337  
hundred individuals who meet the program's eligibility 60338  
requirements established under section 5111.891 of the Revised 60339  
Code. 60340

If the secretary approves the medicaid waiver requested under 60341  
this section and the director of budget and management approves 60342  
the contract, the department of job and family services shall 60343  
enter into a contract with the department of aging under section 60344

5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs. 60345  
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The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the assisted living program. The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the program that the rules adopted by the director of job and family services authorize the director of aging to adopt. 60348  
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Sec. 5111.891. To be eligible for the assisted living program, an individual must meet all of the following requirements: 60354  
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(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code; 60357  
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(B) At the time the individual applies for the assisted living program, be one of the following: 60359  
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(1) A nursing facility resident who is seeking to move to a residential care facility or county or district home and would remain in a nursing facility for long term care if not for the assisted living program; 60361  
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(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program: 60365  
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(a) The PASSPORT program created under section 173.40 of the Revised Code; 60368  
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(b) The medicaid waiver component called the choices program that the department of aging administers; 60370  
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(c) A medicaid waiver component that the department of job and family services administers. 60372  
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(C) At the time the individual receives assisted living services under the assisted living program, reside in either of the following: 60374  
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(1) A residential care facility, including a residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility; 60377  
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(2) A county or district home. 60382

(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code. 60383  
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**Sec. 5111.892.** A residential care facility or county or district home providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 60386  
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(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 60391  
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(B) Provide supervision services for those individuals; 60394

(C) Help keep the individuals safe and secure. 60395

**Sec. 5111.893.** If the United States secretary of health and human services approves a medicaid waiver authorizing the assisted living program, the director of aging shall contract with a person or government entity to evaluate the program's cost effectiveness. The director shall provide the results of the evaluation to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives not later than 60396  
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June 30, 2007.

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**Sec. 5111.911.** Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

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(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

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(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

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(C) How providers will be paid for providing the alcohol, drug addiction, and mental health services covered by medicaid under the federal option of covering rehabilitative services;

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(D) A process for making payments to the providers;

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(E) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including;

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(F) Procedures for program oversight and quality assurance.

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**Sec. 5111.914.** (A) As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code.

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(B) If a state agency that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code identifies that a medicaid overpayment has been made to a provider, the state agency may commence actions to recover the overpayment on behalf of the department.

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(C) In recovering an overpayment pursuant to this section, a state agency shall comply with the following procedures: 60431  
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(1) The state agency shall attempt to recover the overpayment by notifying the provider of the overpayment and requesting voluntary repayment. Not later than five business days after notifying the provider, the state agency shall notify the department in writing of the overpayment. The state agency may negotiate a settlement of the overpayment and notify the department of the settlement. A settlement negotiated by the state agency is not valid and shall not be implemented until the department has given its written approval of the settlement. 60433  
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(2) If the state agency is unable to obtain voluntary repayment of an overpayment, the agency shall give the provider notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. If the provider timely requests a hearing in accordance with section 119.07 of the Revised Code, the state agency shall conduct the hearing to determine the legal and factual validity of the overpayment. On completion of the hearing, the state agency shall submit its hearing officer's report and recommendation and the complete record of proceedings, including all transcripts, to the director of job and family services for final adjudication. The director may issue a final adjudication order in accordance with Chapter 119. of the Revised Code. The state agency shall pay any attorney's fees imposed under section 119.092 of the Revised Code. The department of job and family services shall pay any attorney's fees imposed under section 2335.39 of the Revised Code. 60442  
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(D) In any action taken by a state agency under this section that requires the agency to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the agency gives notice of the opportunity for a hearing but the provider subject to the notice does not request a hearing or 60458  
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timely request a hearing in accordance with section 119.07 of the Revised Code, the agency is not required to hold a hearing. The agency may request that the director of job and family services issue a final adjudication order in accordance with Chapter 119. of the Revised Code. 60463  
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(E) This section does not preclude the department of job and family services from adjudicating a final fiscal audit under section 5111.06 of the Revised Code, recovering overpayments under section 5111.061 of the Revised Code, or making findings or taking other actions authorized by this chapter. 60468  
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Sec. 5111.915. (A) The department of job and family services shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.05 of the Revised Code with a qualified vendor pursuant to division (B) of this section to develop a computer system to collect data. 60473  
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This computer system shall be used to enhance fraud and abuse detection, improve program management and budgeting, and improve performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, alcohol and drug addiction services, health, job and family services, mental health, and mental retardation and developmental disabilities. 60480  
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The department of administrative services shall take all necessary steps to receive and review bids for the data system within ninety days after the effective date of this section. Also within ninety days after the effective date of this section, the department of job and family services shall seek enhanced federal funding for ninety per cent of the funds required to establish the data system. 60487  
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(B) A qualified vendor with whom the department of administrative services contracts to implement the data system must have performed the following services prior to the department accepting the vendor's bid: 60494  
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(1) Successfully implemented a data system in another state; 60498

(2) Demonstrated an ability to link, at a minimum, the following data sets: 60499  
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(a) Medicaid; 60501

(b) Temporary assistance for needy families; 60502

(c) Vital records. 60503

**Sec. ~~5111.88~~ 5111.97.** (A) As used in this section and in section 5111.971 of the Revised Code, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 60504  
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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The department may limit the number of program participants. 60507  
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To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements: 60516  
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(1) Be a recipient of medicaid-funded nursing facility services, at the time of applying for the benefits; 60518  
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(2) Have resided continuously in a nursing facility for not less than ~~eighteen~~ six months prior to applying to participate in the project; 60520  
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(3) Need the level of care provided by nursing facilities;	60523
(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;	60524 60525 60526 60527
(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.	60528 60529 60530
(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:	60531 60532 60533
(1) The first month's rent in a community setting;	60534
(2) Rental deposits;	60535
(3) Utility deposits;	60536
(4) Moving expenses;	60537
(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.	60538 60539 60540
(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.	60541 60542 60543
(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.	60544 60545 60546 60547 60548 60549 60550 60551

Sec. 5111.971. (A) As used in this section, "long-term 60552  
medicaid waiver component" means any of the following: 60553

(1) The PASSPORT program created under section 173.40 of the 60554  
Revised Code; 60555

(2) The medicaid waiver component called the choices program 60556  
that the department of aging administers; 60557

(3) A medicaid waiver component that the department of job 60558  
and family services administers. 60559

(B) The director of job and family services shall submit a 60560  
request to the United States secretary of health and human 60561  
services for a waiver of federal medicaid requirements that would 60562  
be otherwise violated in the creation of a pilot program for 60563  
issuing vouchers to medicaid recipients for use by the recipients 60564  
and their families or other representatives to pay for the cost of 60565  
obtaining health care services outside of a nursing facility. In 60566  
submitting the request, the director shall specify all of the 60567  
following: 60568

(1) That the number of medicaid recipients permitted to 60569  
participate in the program will not exceed two hundred; 60570

(2) That an individual will not be eligible to participate 60571  
unless the individual meets all of the following requirements: 60572

(a) Needs an intermediate level of care as determined under 60573  
rule 5101:3-3-06 of the Administrative Code; 60574

(b) At the time the individual applies for a voucher, be one 60575  
of the following: 60576

(i) A nursing facility resident who is seeking to move to a 60577  
residential care facility or county or district home and who would 60578  
remain in a nursing facility if not for the voucher; 60579

(ii) A participant of any long-term medicaid waiver component 60580

who would move to a nursing facility if not for the voucher. 60581

(c) Meets all other eligibility requirements for the voucher established in rules adopted under section 5111.85 of the Revised Code. 60582  
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(3) That a participant will be given a voucher in an amount not exceeding seventy-five per cent of the cost that the medicaid program would incur for care provided to the individual in a nursing facility; 60585  
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(4) That the services of a fiscal intermediary and other case management services will be available to the participant when needed. 60589  
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(C) On receipt of the waiver, the director shall enter into an interagency agreement with the director of aging to have the pilot program administered by the department of aging. Each director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to carry out the purposes of this section. 60592  
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**Sec. 5111.98.** (A) The director of job and family services may do all of the following as necessary for the department of job and family services to fulfill the duties it has, as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173, 117 Stat. 2066: 60598  
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(1) Adopt rules; 60604

(2) Assign duties to county departments of job and family services; 60605  
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(3) Make payments to the United States department of health and human services from appropriations made to the department of job and family services for this purpose. 60607  
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(B) Rules adopted under division (A)(1) of this section shall 60610  
be adopted as follows: 60611

(1) If the rules concern the department's duties regarding 60612  
service providers, in accordance with Chapter 119. of the Revised 60613  
Code; 60614

(2) If the rules concern the department's duties concerning 60615  
individuals' eligibility for services, in accordance with section 60616  
111.15 of the Revised Code; 60617

(3) If the rules concern the department's duties concerning 60618  
financial and operational matters between the department and 60619  
county departments of job and family services, in accordance with 60620  
section 111.15 of the Revised Code as if the rules were internal 60621  
management rules. 60622

**Sec. 5111.99.** (A) Whoever violates division (B) of section 60623  
5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code 60624  
shall be fined not less than five hundred dollars nor more than 60625  
one thousand dollars for the first offense and not less than one 60626  
thousand dollars nor more than five thousand dollars for each 60627  
subsequent offense. Fines paid under this section shall be 60628  
deposited in the state treasury to the credit of the general 60629  
revenue fund. 60630

(B) Whoever violates division (D) of section 5111.61 of the 60631  
Revised Code is guilty of registering a false complaint, a 60632  
misdemeanor of the first degree. 60633

**Sec. 5112.03.** (A) The director of job and family services 60634  
shall adopt, and may amend and rescind, rules in accordance with 60635  
Chapter 119. of the Revised Code for the purpose of administering 60636  
sections 5112.01 to 5112.21 of the Revised Code, including rules 60637  
that do all of the following: 60638

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total

facility costs" excludes costs associated with any of the	60669
following:	60670
(1) Recipients of the medical assistance program;	60671
(2) Recipients of financial assistance provided under Chapter	60672
5115. of the Revised Code;	60673
<del>(3) Recipients of medical assistance provided under Chapter</del>	60674
<del>5115. of the Revised Code;</del>	60675
<del>(4)</del> Recipients of the program for medically handicapped	60676
children established under section 3701.023 of the Revised Code;	60677
<del>(5)</del> <u>(4)</u> Recipients of the medicare program established under	60678
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42	60679
U.S.C.A. 301, as amended:	60680
<del>(6)</del> <u>(5)</u> Recipients of Title V of the "Social Security Act";	60681
<del>(7)</del> <u>(6)</u> Any other category of costs deemed appropriate by the	60682
director in accordance with Title XIX of the "Social Security Act"	60683
and the rules adopted under that title.	60684
<b>Sec. 5112.08.</b> The director of job and family services shall	60685
adopt rules under section 5112.03 of the Revised Code establishing	60686
a methodology to pay hospitals that is sufficient to expend all	60687
money in the indigent care pool. Under the rules:	60688
(A) The department of job and family services may classify	60689
similar hospitals into groups and allocate funds for distribution	60690
within each group.	60691
(B) The department shall establish a method of allocating	60692
funds to hospitals, taking into consideration the relative amount	60693
of indigent care provided by each hospital or group of hospitals.	60694
The amount to be allocated shall be based on any combination of	60695
the following indicators of indigent care that the director	60696
considers appropriate:	60697



(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~and~~ recipients of disability financial or medical assistance provided under Chapter 5115. of the Revised Code, and recipients of disability medical assistance formerly provided under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental

transfers, the department shall pay an installment under this 60729  
section not later than ten working days after the earlier of that 60730  
deadline or the deadline established in rules for the governmental 60731  
hospital to pay an installment on its intergovernmental transfer. 60732  
If the amount in the hospital care assurance program fund and the 60733  
hospital care assurance match fund created under section 5112.18 60734  
of the Revised Code is insufficient to make the total 60735  
distributions for which hospitals are eligible to receive in any 60736  
period, the department shall reduce the amount of each 60737  
distribution by the percentage by which the amount is 60738  
insufficient. The department shall distribute to hospitals any 60739  
amounts not distributed in the period in which they are due as 60740  
soon as moneys are available in the funds. 60741

**Sec. 5112.17.** (A) As used in this section: 60742

(1) "Federal poverty guideline" means the official poverty 60743  
guideline as revised annually by the United States secretary of 60744  
health and human services in accordance with section 673 of the 60745  
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 60746  
U.S.C.A. 9902, as amended, for a family size equal to the size of 60747  
the family of the person whose income is being determined. 60748

(2) "Third-party payer" means any private or public entity or 60749  
program that may be liable by law or contract to make payment to 60750  
or on behalf of an individual for health care services. 60751  
"Third-party payer" does not include a hospital. 60752

(B) Each hospital that receives funds distributed under 60753  
sections 5112.01 to 5112.21 of the Revised Code shall provide, 60754  
without charge to the individual, basic, medically necessary 60755  
hospital-level services to individuals who are residents of this 60756  
state, are not recipients of the medical assistance program, and 60757  
whose income is at or below the federal poverty guideline. 60758  
Recipients of disability financial assistance ~~and recipients of~~ 60759

~~disability medical assistance~~ provided under Chapter 5115. of the 60760  
Revised Code qualify for services under this section. The director 60761  
of job and family services shall adopt rules under section 5112.03 60762  
of the Revised Code specifying the hospital services to be 60763  
provided under this section. 60764

(C) Nothing in this section shall be construed to prevent a 60765  
hospital from requiring an individual to apply for eligibility 60766  
under the medical assistance program before the hospital processes 60767  
an application under this section. Hospitals may bill any 60768  
third-party payer for services rendered under this section. 60769  
Hospitals may bill the medical assistance program, in accordance 60770  
with Chapter 5111. of the Revised Code and the rules adopted under 60771  
that chapter, for services rendered under this section if the 60772  
individual becomes a recipient of the program. Hospitals may bill 60773  
individuals for services under this section if all of the 60774  
following apply: 60775

(1) The hospital has an established post-billing procedure 60776  
for determining the individual's income and canceling the charges 60777  
if the individual is found to qualify for services under this 60778  
section. 60779

(2) The initial bill, and at least the first follow-up bill, 60780  
is accompanied by a written statement that does all of the 60781  
following: 60782

(a) Explains that individuals with income at or below the 60783  
federal poverty guideline are eligible for services without 60784  
charge; 60785

(b) Specifies the federal poverty guideline for individuals 60786  
and families of various sizes at the time the bill is sent; 60787

(c) Describes the procedure required by division (C)(1) of 60788  
this section. 60789

(3) The hospital complies with any additional rules the 60790

department adopts under section 5112.03 of the Revised Code. 60791

Notwithstanding division (B) of this section, a hospital 60792  
providing care to an individual under this section is subrogated 60793  
to the rights of any individual to receive compensation or 60794  
benefits from any person or governmental entity for the hospital 60795  
goods and services rendered. 60796

(D) Each hospital shall collect and report to the department, 60797  
in the form and manner prescribed by the department, information 60798  
on the number and identity of patients served pursuant to this 60799  
section. 60800

(E) This section applies beginning May 22, 1992, regardless 60801  
of whether the department has adopted rules specifying the 60802  
services to be provided. Nothing in this section alters the scope 60803  
or limits the obligation of any governmental entity or program, 60804  
including the program awarding reparations to victims of crime 60805  
under sections 2743.51 to 2743.72 of the Revised Code and the 60806  
program for medically handicapped children established under 60807  
section 3701.023 of the Revised Code, to pay for hospital services 60808  
in accordance with state or local law. 60809

**Sec. 5112.30.** As used in sections 5112.30 to 5112.39 of the 60810  
Revised Code, ~~"intermediate:~~ 60811

(A) "Intermediate care facility for the mentally retarded" 60812  
has the same meaning as in section 5111.20 of the Revised Code, 60813  
except that it does not include any such facility operated by the 60814  
department of mental retardation and developmental disabilities. 60815

(B) "Medicaid" has the same meaning as in section 5111.01 of 60816  
the Revised Code. 60817

**Sec. 5112.31.** The department of job and family services shall 60818  
do all of the following: 60819

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and sixty-three cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the department shall~~ take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do either of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty

assessed under section 5112.34 of the Revised Code from a medicaid 60850  
payment due the facility until the facility pays the installment 60851  
and penalty; 60852

(2) Terminate the facility's medicaid provider agreement. 60853

(B) The department may withhold a medicaid payment under 60854  
division (A)(1) of this section without providing notice to the 60855  
intermediate care facility for the mentally retarded and without 60856  
conducting an adjudication under Chapter 119. of the Revised Code. 60857

**Sec. 5115.20.** (A) The department of job and family services 60858  
shall establish a disability advocacy program and each county 60859  
department of job and family services shall establish a disability 60860  
advocacy program unit or join with other county departments of job 60861  
and family services to establish a joint county disability 60862  
advocacy program unit. Through the program the department and 60863  
county departments shall cooperate in efforts to assist applicants 60864  
for and recipients of assistance under the disability financial 60865  
assistance program ~~and the disability medical assistance program,~~ 60866  
who might be eligible for supplemental security income benefits 60867  
under Title XVI of the "Social Security Act," 86 Stat. 1475 60868  
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 60869  
benefits. 60870

As part of their disability advocacy programs, the state 60871  
department and county departments may enter into contracts for the 60872  
services of persons and government entities that in the judgment 60873  
of the department or county department have demonstrated expertise 60874  
in representing persons seeking supplemental security income 60875  
benefits. Each contract shall require the person or entity with 60876  
which a department contracts to assess each person referred to it 60877  
by the department to determine whether the person appears to be 60878  
eligible for supplemental security income benefits, and, if the 60879  
person appears to be eligible, assist the person in applying and 60880

represent the person in any proceeding of the social security  
administration, including any appeal or reconsideration of a  
denial of benefits. The department or county department shall  
provide to the person or entity with which it contracts all  
records in its possession relevant to the application for  
supplemental security income benefits. The department shall  
require a county department with relevant records to submit them  
to the person or entity.

(B) Each applicant for or recipient of disability financial  
assistance ~~or disability medical assistance~~ who, in the judgment  
of the department or a county department might be eligible for  
supplemental security benefits, shall, as a condition of  
eligibility for assistance, apply for such benefits if directed to  
do so by the department or county department.

(C) With regard to applicants for and recipients of  
disability financial assistance ~~or disability medical assistance~~,  
each county department of job and family services shall do all of  
the following:

(1) Identify applicants and recipients who might be eligible  
for supplemental security income benefits;

(2) Assist applicants and recipients in securing  
documentation of disabling conditions or refer them for such  
assistance to a person or government entity with which the  
department or county department has contracted under division (A)  
of this section;

(3) Inform applicants and recipients of available sources of  
representation, which may include a person or government entity  
with which the department or county department has contracted  
under division (A) of this section, and of their right to  
represent themselves in reconsiderations and appeals of social  
security administration decisions that deny them supplemental

security income benefits. The county department may require the  
applicants and recipients, as a condition of eligibility for  
assistance, to pursue reconsiderations and appeals of social  
security administration decisions that deny them supplemental  
security income benefits, and shall assist applicants and  
recipients as necessary to obtain such benefits or refer them to a  
person or government entity with which the department or county  
department has contracted under division (A) of this section.

(4) Require applicants and recipients who, in the judgment of  
the county department, are or may be aged, blind, or disabled, to  
apply for medical assistance under Chapter 5111. of the Revised  
Code, make determinations when appropriate as to eligibility for  
medical assistance, and refer their applications when necessary to  
the disability determination unit established in accordance with  
division (F) of this section for expedited review;

(5) Require each applicant and recipient who in the judgment  
of the department or the county department might be eligible for  
supplemental security income benefits, as a condition of  
eligibility for disability financial assistance ~~or disability  
medical assistance~~, to execute a written authorization for the  
secretary of health and human services to withhold benefits due  
that individual and pay to the director of job and family services  
or the director's designee an amount sufficient to reimburse the  
state and county shares of interim assistance furnished to the  
individual. For the purposes of division (C)(5) of this section,  
"benefits" and "interim assistance" have the meanings given in  
Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules  
in accordance with section 111.15 of the Revised Code for the  
effective administration of the disability advocacy program. The  
rules shall include all of the following:



(1) Methods to be used in collecting information from and disseminating it to county departments, including the following: 60943  
60944

(a) The number of individuals in the county who are disabled recipients of disability financial assistance ~~or disability medical assistance~~; 60945  
60946  
60947

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section. 60948  
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(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section; 60952  
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(3) Requirements for the written authorization required by division (C)(5) of this section. 60956  
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(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy. 60958  
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(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations. 60963  
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(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described 60970  
60971  
60972

in division (C)(5) of this section to persons or government 60973  
entities that assist or represent assistance recipients in 60974  
reconsiderations and appeals of social security administration 60975  
decisions denying them supplemental security income benefits. 60976

(H) The director shall conduct investigations to determine 60977  
whether disability advocacy programs are being administered in 60978  
compliance with the Revised Code and the rules adopted by the 60979  
director pursuant to this section. 60980

**Sec. 5115.22.** (A) If a recipient of disability financial 60981  
assistance ~~or disability medical assistance~~, or an individual 60982  
whose income and resources are included in determining the 60983  
recipient's eligibility for the assistance, becomes possessed of 60984  
resources or income in excess of the amount allowed to retain 60985  
eligibility, or if other changes occur that affect the recipient's 60986  
eligibility or need for assistance, the recipient shall notify the 60987  
state or county department of job and family services within the 60988  
time limits specified in rules adopted by the director of job and 60989  
family services in accordance with section 111.15 of the Revised 60990  
Code. Failure of a recipient to report possession of excess 60991  
resources or income or a change affecting eligibility or need 60992  
within those time limits shall be considered prima-facie evidence 60993  
of intent to defraud under section 5115.23 of the Revised Code. 60994

(B) As a condition of eligibility for disability financial 60995  
assistance ~~or disability medical assistance~~, and as a means of 60996  
preventing or reducing the provision of assistance at public 60997  
expense, each applicant for or recipient of the assistance shall 60998  
make reasonable efforts to secure support from persons responsible 60999  
for the applicant's or recipient's support, and from other 61000  
sources, including any federal program designed to provide 61001  
assistance to individuals with disabilities. The state or county 61002  
department of job and family services may provide assistance to 61003

the applicant or recipient in securing other forms of financial 61004  
assistance. 61005

**Sec. 5115.23.** As used in this section, "erroneous payments" 61006  
means disability financial assistance payments ~~or disability~~ 61007  
~~medical assistance payments~~ made to persons who are not entitled 61008  
to receive them, including payments made as a result of 61009  
misrepresentation or fraud, and payments made due to an error by 61010  
the recipient or by the county department of job and family 61011  
services that made the payment. 61012

The department of job and family services shall adopt rules 61013  
in accordance with section 111.15 of the Revised Code specifying 61014  
the circumstances under which action is to be taken under this 61015  
section to recover erroneous payments. The department, or a county 61016  
department of job and family services at the request of the 61017  
department, shall take action to recover erroneous payments in the 61018  
circumstances specified in the rules. The department or county 61019  
department may institute a civil action to recover erroneous 61020  
payments. 61021

Whenever disability financial assistance ~~or disability~~ 61022  
~~medical assistance~~ has been furnished to a recipient for whose 61023  
support another person is responsible, the other person shall, in 61024  
addition to the liability otherwise imposed, as a consequence of 61025  
failure to support the recipient, be liable for all assistance 61026  
furnished the recipient. The value of the assistance so furnished 61027  
may be recovered in a civil action brought by the county 61028  
department of job and family services. 61029

Each county department of job and family services shall 61030  
retain fifty per cent of the erroneous payments it recovers under 61031  
this section. The department of job and family services shall 61032  
receive the remaining fifty per cent. 61033

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

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

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

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

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

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

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

(ii) Specify the manner in which boards are accountable for

ensuring that ongoing mental health services are effectively 61064  
arranged for individuals with mental illness or severe mental 61065  
disability who are referred by the board or mental health agency 61066  
under contract with the board to an adult care facility. 61067

(c) Rules governing a board of alcohol, drug addiction, and 61068  
mental health services when making a report to the director of 61069  
health under section 3722.17 of the Revised Code regarding the 61070  
quality of care and services provided by an adult care facility to 61071  
a person with mental illness or a severe mental disability. 61072

(2) Rules may be adopted to govern the method of paying a 61073  
community mental health facility, as defined in section ~~5111.022~~ 61074  
5111.023 of the Revised Code, for providing services listed in 61075  
division (B) of that section. Such rules must be consistent with 61076  
the contract entered into between the departments of job and 61077  
family services and mental health under section 5111.91 of the 61078  
Revised Code and include requirements ensuring appropriate service 61079  
utilization. 61080

(B) Review and evaluate, and, taking into account the 61081  
findings and recommendations of the board of alcohol, drug 61082  
addiction, and mental health services of the district served by 61083  
the program and the requirements and priorities of the state 61084  
mental health plan, including the needs of residents of the 61085  
district now residing in state mental institutions, approve and 61086  
allocate funds to support community programs, and make 61087  
recommendations for needed improvements to boards of alcohol, drug 61088  
addiction, and mental health services; 61089

(C) Withhold state and federal funds for any program, in 61090  
whole or in part, from a board of alcohol, drug addiction, and 61091  
mental health services in the event of failure of that program to 61092  
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 61093  
or 5119.62 of the Revised Code or rules of the department of 61094

mental health. The director shall identify the areas of 61095  
noncompliance and the action necessary to achieve compliance. The 61096  
director shall offer technical assistance to the board to achieve 61097  
compliance. The director shall give the board a reasonable time 61098  
within which to comply or to present its position that it is in 61099  
compliance. Before withholding funds, a hearing shall be conducted 61100  
to determine if there are continuing violations and that either 61101  
assistance is rejected or the board is unable to achieve 61102  
compliance. Subsequent to the hearing process, if it is determined 61103  
that compliance has not been achieved, the director may allocate 61104  
all or part of the withheld funds to a public or private agency to 61105  
provide the services not in compliance until the time that there 61106  
is compliance. The director shall establish rules pursuant to 61107  
Chapter 119. of the Revised Code to implement this division. 61108

(D) Withhold state or federal funds from a board of alcohol, 61109  
drug addiction, and mental health services that denies available 61110  
service on the basis of religion, race, color, creed, sex, 61111  
national origin, age, disability as defined in section 4112.01 of 61112  
the Revised Code, developmental disability, or the inability to 61113  
pay; 61114

(E) Provide consultative services to community mental health 61115  
agencies with the knowledge and cooperation of the board of 61116  
alcohol, drug addiction, and mental health services; 61117

(F) Provide to boards of alcohol, drug addiction, and mental 61118  
health services state or federal funds, in addition to those 61119  
allocated under section 5119.62 of the Revised Code, for special 61120  
programs or projects the director considers necessary but for 61121  
which local funds are not available; 61122

(G) Establish criteria by which a board of alcohol, drug 61123  
addiction, and mental health services reviews and evaluates the 61124  
quality, effectiveness, and efficiency of services provided 61125

through its community mental health plan. The criteria shall  
include requirements ensuring appropriate service utilization. The  
department shall assess a board's evaluation of services and the  
compliance of each board with this section, Chapter 340. or  
section 5119.62 of the Revised Code, and other state or federal  
law and regulations. The department, in cooperation with the  
board, periodically shall review and evaluate the quality,  
effectiveness, and efficiency of services provided through each  
board. The department shall collect information that is necessary  
to perform these functions.

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

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

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

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

Boards shall submit the information specified in division  
(H)(1) of this section no less frequently than annually for each  
client, and each time the client's case is opened or closed. The  
department shall not collect any information for the purpose of

identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards.

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

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

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

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

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer



technical assistance to the board to help it meet the criteria. 61188

If the approval of a plan remains in dispute thirty days 61189  
prior to the conclusion of the fiscal year in which the board's 61190  
current plan is scheduled to expire, the board or the director may 61191  
request that the dispute be submitted to a mutually agreed upon 61192  
third-party mediator with the cost to be shared by the board and 61193  
the department. The mediator shall issue to the board and the 61194  
department recommendations for resolution of the dispute. Prior to 61195  
the conclusion of the fiscal year in which the current plan is 61196  
scheduled to expire, the director, taking into consideration the 61197  
recommendations of the mediator, shall make a final determination 61198  
and approve or disapprove the plan, in whole or in part. 61199

**Sec. 5120.09.** Under the supervision and control of the 61200  
director of rehabilitation and correction, the division of 61201  
business administration shall do all of the following: 61202

(A) Submit the budgets for the several divisions of the 61203  
department of rehabilitation and correction, as prepared by the 61204  
respective chiefs of those divisions, to the director. The 61205  
director, with the assistance of the chief of the division of 61206  
business administration, shall compile a departmental budget that 61207  
contains all proposals submitted by the chiefs of the divisions 61208  
and shall forward the departmental budget to the governor with 61209  
comments and recommendations that the director considers 61210  
necessary. 61211

(B) Maintain accounts and records and compile statistics that 61212  
the director prescribes; 61213

(C) Under the control of the director, coordinate and make 61214  
the necessary purchases and requisitions for the department and 61215  
its divisions, except as provided under section 5119.16 of the 61216  
Revised Code; 61217

(D) Administer within this state federal criminal justice acts that the governor requires the department to administer. In order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government sources, or private sources. As used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section ~~101.51~~ 5502.61 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise other powers and perform other duties that the director may assign to the division of business administration.

**Sec. 5120.51.** (A)(1) If the director of rehabilitation and correction determines that a bill introduced in the general assembly is likely to have a significant impact on the population of, or the cost of operating, any or all state correctional institutions under the administration of the department of rehabilitation and correction, the department shall prepare a population and cost impact statement for the bill, in accordance

with division (A)(2) of this section. 61249

(2) A population and cost impact statement required for a 61250  
bill ~~shall~~ shall estimate the increase or decrease in the 61251  
correctional institution population that likely would result if 61252  
the bill were enacted, shall estimate, in dollars, the amount by 61253  
which revenues or expenditures likely would increase or decrease 61254  
if the bill were enacted, and briefly shall explain each of the 61255  
estimates. 61256

A population and cost impact statement required for a bill 61257  
initially shall be prepared after the bill is referred to a 61258  
committee of the general assembly in the house of origination but 61259  
before the meeting of the committee at which the committee is 61260  
scheduled to vote on whether to recommend the bill for passage. A 61261  
copy of the statement shall be distributed to each member of the 61262  
committee that is considering the bill and to the member of the 61263  
general assembly who introduced it. If the bill is recommended for 61264  
passage by the committee, the department shall update the 61265  
statement before the bill is taken up for final consideration by 61266  
the house of origination. A copy of the updated statement shall be 61267  
distributed to each member of that house and to the member of the 61268  
general assembly who introduced the bill. If the bill is passed by 61269  
the house of origination and is introduced in the second house, 61270  
the provisions of this division concerning the preparation, 61271  
updating, and distribution of the statement in the house of 61272  
origination also apply in the second house. 61273

(B) The governor or any member of the general assembly, at 61274  
any time, may request the department to prepare a population and 61275  
cost impact statement for any bill introduced in the general 61276  
assembly. Upon receipt of a request, the department promptly shall 61277  
prepare a statement that includes the estimates and explanations 61278  
described in division (A)(2) of this section and present a copy of 61279  
it to the governor or member who made the request. 61280

(C) In the preparation of a population and cost impact statement required by division (A) or (B) of this section, the department shall use a technologically sophisticated system capable of estimating future state correctional institution populations. The system shall have the capability to adjust its estimates based on actual and proposed changes in sentencing laws and trends, sentence durations, parole rates, crime rates, and any other data that affect state correctional institution populations. The department, in conjunction with the advisory committee appointed under division (E) of this section, shall review and update the data used in the system, not less than once every six months, to improve the accuracy of the system.

(D) At least once every six months, the department shall provide to the correctional institution inspection committee a copy of the estimates of state correctional institution populations obtained through use of the system described in division (C) of this section and a description of the assumptions regarding sentencing laws and trends, sentence durations, parole rates, crime rates, and other relevant data that were made by the department to obtain the estimates. Additionally, a copy of the estimates and a description of the assumptions made to obtain them shall be provided, upon reasonable request, to other legislative staff, including the staff of the legislative service commission ~~and the legislative budget office of the legislative service commission~~, to the office of budget and management, and to the ~~office~~ division of criminal justice services in the department of public safety.

(E) The correctional institution inspection committee shall appoint an advisory committee to review the operation of the system for estimating future state correctional institution populations that is used by the department in the preparation of population cost impact statements pursuant to this section and to

join with the department in its reviews and updating of the data 61313  
used in the system under division (C) of this section. The 61314  
advisory committee shall be comprised of at least one prosecuting 61315  
attorney, at least one common pleas court judge, at least one 61316  
public defender, at least one person who is a member or staff 61317  
employee of the committee, and at least one representative of the 61318  
office division of criminal justice services in the department of 61319  
public safety. 61320

**Sec. ~~5121.03~~ 5121.01.** As used in ~~this chapter~~ sections 61321  
5121.01 to 5121.21 of the Revised Code: 61322

~~(A) Patient means a person receiving care or treatment in a~~ 61323  
~~program or facility that provides services to mentally ill~~ 61324  
~~individuals.~~ 61325

~~(B)~~ "The department" means the department of mental health or 61326  
the department of mental retardation and developmental 61327  
disabilities, whichever provides care or treatment to the ~~patient~~ 61328  
recipient or resident. 61329

~~(C)~~(B) "Resident" means a person admitted to an institution 61330  
or other facility pursuant to Chapter 5123. of the Revised Code 61331  
who is under observation or receiving habilitation and care in an 61332  
institution for the mentally retarded. 61333

(C) "Community mental health services recipient" or 61334  
"recipient" means a person receiving state-operated community 61335  
mental health services. 61336

(D) "State-operated community mental health services" means 61337  
community-based services the department of mental health operates 61338  
for a board of alcohol, drug addiction, and mental health services 61339  
pursuant to a community mental health plan approved under division 61340  
(A)(1)(c) of section 340.03 of the Revised Code. 61341

(E) "Applicable cost" means the rate for support applicable 61342

to a ~~patient or~~ resident or recipient as specified in this 61343  
section. 61344

The cost for support of ~~patients in hospitals and~~ residents 61345  
in institutions under the jurisdiction of ~~the department of mental~~ 61346  
~~health or~~ the department of mental retardation and developmental 61347  
disabilities, and of residents in private facilities or homes 61348  
whose care or treatment is being paid for by the department of 61349  
mental retardation and developmental disabilities, shall be based 61350  
on the average per capita cost of the care and treatment of such 61351  
~~patients or~~ residents. The cost of services for ~~mentally ill~~ 61352  
~~patients or~~ mentally retarded residents shall be computed using 61353  
the projected average daily per capita cost at the ~~hospital or~~ 61354  
institution, or at the discretion of the department under the 61355  
jurisdiction of which the ~~hospital or~~ institution is operated, the 61356  
subunit thereof in which services are provided. Such costs shall 61357  
be computed at least annually for the next prospective period 61358  
using generally accepted governmental accounting principles. The 61359  
cost of services for mentally retarded residents that are being 61360  
cared for and maintained in a private facility or home under the 61361  
supervision of the department of mental retardation and 61362  
developmental disabilities regional offices and for which a 61363  
purchase of services contract is being paid to the private 61364  
facility or home by the department shall not be more than the per 61365  
diem cost of the contract. The cost of services for a resident 61366  
receiving pre-admission care, after-care, day-care, or routine 61367  
consultation and treatment services in a community service unit 61368  
under the jurisdiction of the department, shall be computed on the 61369  
basis of the average cost of such services at the institution at 61370  
which they are provided. 61371

The cost for support of a ~~patient receiving~~ recipient of 61372  
state-operated community mental health services is an amount 61373  
determined using guidelines the department of mental health shall 61374

issue. The guidelines shall be based on cost-findings and 61375  
rate-settings applicable to such services. 61376

The appropriate department shall annually determine the 61377  
ability to pay of a ~~patient or~~ resident, recipient, or the 61378  
~~patient's or~~ resident's or recipient's liable relatives and the 61379  
amount that such person shall pay in accordance with section 61380  
5121.04 of the Revised Code. 61381

Collections of support payments shall be made by the 61382  
department of mental health and the department of mental 61383  
retardation and developmental disabilities and, subject to meeting 61384  
prior requirements for payment and crediting of such collections 61385  
and other available receipts, in accordance with the bond 61386  
proceedings applicable to obligations issued pursuant to section 61387  
154.20 of the Revised Code, such collections and other available 61388  
receipts designated by the director of the department of mental 61389  
health and the director of the department of mental retardation 61390  
and developmental disabilities for deposit in the special 61391  
accounts, together with insurance contract payments provided for 61392  
in division (B)(8) of section 5121.04 of the Revised Code, shall 61393  
be remitted to the treasurer of state for deposit in the state 61394  
treasury to the credit of the mental health operating fund and the 61395  
mental retardation operating fund, which are hereby created, to be 61396  
used for the general purposes of the department of mental health 61397  
and the department of mental retardation and developmental 61398  
disabilities. The department of mental health shall make refunds 61399  
of overpayment of support charges from the mental health operating 61400  
fund, and the department of mental retardation and developmental 61401  
disabilities shall make refunds of overpayment of support charges 61402  
from the mental retardation operating fund. 61403

**Sec. ~~5121.01~~ 5121.02.** All ~~patients or~~ residents of a 61404  
~~benevolent~~ admitted to an institution, or facility pursuant to 61405

Chapter 5123. of the Revised Code shall be maintained at the 61406  
expense of the state. Their traveling and incidental expenses in 61407  
conveying them to the institution or facility shall be paid by the 61408  
county of commitment. Upon admission, the ~~patients or~~ residents 61409  
shall be neatly and comfortably clothed. Thereafter, the expense 61410  
of necessary clothing shall be borne by the responsible relatives 61411  
or guardian if they are financially able. If not furnished, the 61412  
state shall bear the expense. Any required traveling expense after 61413  
admission to the institution or facility shall be borne by the 61414  
state if the responsible relatives or guardian are unable to do 61415  
so. 61416

**Sec. ~~5121.02~~ 5121.03.** When any person is committed to an 61417  
institution under the jurisdiction of ~~the department of mental~~ 61418  
~~health or~~ the department of mental retardation and developmental 61419  
disabilities pursuant to judicial proceedings, the judge ordering 61420  
such commitment shall: 61421

(A) Make a reliable report on the financial condition of such 61422  
person and of each of the relatives of the person who are liable 61423  
for ~~his~~ the person's support, as provided in section 5121.06 of 61424  
the Revised Code and rules and procedures agreed upon by ~~the~~ 61425  
~~director of mental health and~~ the director of mental retardation 61426  
and developmental disabilities; 61427

(B) Certify to the managing officer of such institution, and 61428  
the managing officer shall thereupon enter upon ~~his~~ the managing 61429  
officer's records the name and address of any guardian appointed 61430  
and of any relative liable for such person's support under section 61431  
5121.06 of the Revised Code. 61432

**Sec. 5121.04.** (A) The ~~department of mental health and the~~ 61433  
department of mental retardation and developmental disabilities 61434  
shall investigate the financial condition of the ~~patients in~~ 61435



~~hospitals and~~ residents in institutions, residents whose care or 61436  
treatment is being paid for in a private facility or home under 61437  
the control of the department of mental retardation and 61438  
developmental disabilities, and of the relatives named in section 61439  
5121.06 of the Revised Code as liable for the support of such 61440  
~~patients or~~ residents, in order to determine the ability of any 61441  
~~patient, resident, or such~~ relatives of residents to pay for the 61442  
support of the ~~patient or~~ resident and to provide suitable 61443  
clothing as required by the superintendent of the institution. 61444

The department of mental health shall investigate the 61445  
financial condition of ~~patients receiving state operated community~~ 61446  
~~mental health services~~ recipients and of the liable relatives of 61447  
recipients to determine the ~~patient's~~ recipient's or relative's 61448  
ability to pay for the ~~patient's~~ recipient's support. In all 61449  
cases, in determining ability to pay and the amount to be charged, 61450  
due regard shall be had for others who may be dependent for 61451  
support upon such relatives or the estate of the ~~patient~~ 61452  
recipient. 61453

(B) The department shall follow the provisions of this 61454  
division in determining the ability to pay of a ~~patient or~~ 61455  
resident or recipient or the ~~patient's or~~ resident's or 61456  
recipient's liable relatives and the amount to be charged such 61457  
~~patient or~~ resident, recipient, or liable relatives. 61458

(1) Subject to divisions (B)(10) and (11) of this section, a 61459  
~~patient or~~ resident or recipient without dependents shall be 61460  
liable for the full applicable cost. A ~~patient or~~ resident or 61461  
recipient without dependents who has a gross annual income equal 61462  
to or exceeding the sum of the full applicable cost, plus fifty 61463  
dollars per month, regardless of the source of such income, shall 61464  
pay currently the full amount of the applicable cost; if the 61465  
~~patient's or~~ resident's or recipient's gross annual income is less 61466  
than such sum, not more than fifty dollars per month shall be kept 61467

for personal use by or on behalf of the ~~patient or~~ resident or 61468  
recipient, except as permitted in the state plan for providing 61469  
medical assistance under Title XIX of the "Social Security Act," 61470  
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance 61471  
shall be paid currently on the ~~patient's or~~ resident's or 61472  
recipient's support. Subject to divisions (B)(10) and (11) of this 61473  
section, the estate of a ~~patient or~~ resident or recipient without 61474  
dependents shall pay currently any remaining difference between 61475  
the applicable cost and the amounts prescribed in this section, or 61476  
shall execute an agreement with the department for payment to be 61477  
made at some future date under terms suitable to the department. 61478  
However, no security interest, mortgage, or lien shall be taken, 61479  
granted, or charged against any principal residence of a ~~patient~~ 61480  
~~or~~ resident or recipient without dependents under an agreement or 61481  
otherwise to secure support payments, and no foreclosure actions 61482  
shall be taken on security interests, mortgages, or liens taken, 61483  
granted, or charged against principal residences of ~~patients or~~ 61484  
residents or recipients prior to October 7, 1977. 61485

(2) The ability to pay of a ~~patient or~~ resident or recipient 61486  
with dependents, or of a liable relative of a ~~patient or~~ resident 61487  
or recipient either with or without dependents, shall be 61488  
determined in accordance with the ~~patient's,~~ resident's, 61489  
recipient's, or liable relative's income or other assets, the 61490  
needs of others who are dependent on such income and other assets 61491  
for support, and, if applicable, divisions (B)(10) and (11) of 61492  
this section. 61493

For the first thirty days of care and treatment of each 61494  
admission and for the first thirty days of care and treatment from 61495  
state-operated community mental health services, but in no event 61496  
for more than thirty days in any calendar year, the ~~mentally ill~~ 61497  
~~patient or mentally retarded~~ resident or recipient with dependents 61498  
or the liable relative of a ~~mentally ill patient or a mentally~~ 61499

~~retarded~~ resident or recipient either with or without dependents 61500  
shall be charged an amount equal to the percentage of the average 61501  
applicable cost determined in accordance with the schedule of 61502  
adjusted gross annual income contained after this paragraph. After 61503  
such first thirty days of care and treatment, such ~~mentally ill~~ 61504  
~~patient or mentally retarded~~ resident, recipient, or such liable 61505  
relative shall be charged an amount equal to the percentage of a 61506  
base support rate of four dollars per day for ~~mentally ill~~ 61507  
~~patients and mentally retarded~~ residents or recipients, as 61508  
determined in accordance with the schedule of gross annual income 61509  
contained after this paragraph, or in accordance with division 61510  
(B)(5) of this section. Beginning January 1, 1978, the department 61511  
shall increase the base rate when the consumer price index average 61512  
is more than 4.0 for the preceding calendar year by not more than 61513  
the average for such calendar year. 61514

Adjusted Gross Annual 61515

Income of Patient or Resident 61516

or Liable Relative (FN a)                      Number of Dependents (FN b) 61517

8 or 61518

1    2    3    4    5    6    7    more 61519

Rate of Support (In Percentages) 61520

\$15,000 or less                      --    --    --    --    --    --    --    -- 61521

15,001 to 17,500                      20    --    --    --    --    --    --    -- 61522

17,501 to 20,000                      25    20    --    --    --    --    --    -- 61523

20,001 to 21,000                      30    25    20    --    --    --    --    -- 61524

21,001 to 22,000                      35    30    25    20    --    --    --    -- 61525

22,001 to 23,000                      40    35    30    25    20    --    --    -- 61526

23,001 to 24,000                      45    40    35    30    25    20    --    -- 61527

24,001 to 25,000                      50    45    40    35    30    25    20    -- 61528

25,001 to 26,000                      55    50    45    40    35    30    25    20 61529

26,001 to 27,000                      60    55    50    45    40    35    30    25 61530

27,001 to 28,000                      70    60    55    50    45    40    35    30 61531

28,001 to 30,000                      80    70    60    55    50    45    40    35 61532

30,001 to 40,000	90	80	70	60	55	50	45	40	61533
40,001 and over	100	90	80	70	60	55	50	45	61534

Footnote a. The ~~patient or~~ resident, recipient, or relative shall furnish a copy of the ~~patient's~~, resident's, recipient's, or relative's federal income tax return as evidence of gross annual income. 61535  
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Footnote b. The number of dependents includes the liable relative but excludes ~~the patient or a~~ resident in ~~the hospital or an~~ institution. "Dependent" includes any person who receives more than half the person's support from the ~~patient~~ resident, recipient, or the ~~patient's~~ resident's or recipient's liable relative. 61539  
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(3) A ~~patient or~~ resident, recipient, or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 61545  
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(4) Additional dependencies may be claimed if: 61552

(a) The liable relative is blind; 61553

(b) The liable relative is over sixty-five; 61554

(c) A child is a college student with expenses in excess of fifty dollars per month; 61555  
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(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the ~~patient or~~ resident or recipient. 61557  
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(5) If with respect to any ~~patient or~~ resident or recipient with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the 61560  
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base support rate was used, less than fifty per cent of the amount 61563  
determined by use of the base support rate, and if with respect to 61564  
such ~~patient or resident~~ or recipient there is a liable relative 61565  
who has an estate having a value in excess of fifteen thousand 61566  
dollars or if such ~~patient or resident~~ or recipient has a 61567  
dependent and an estate having a value in excess of fifteen 61568  
thousand dollars, there shall be paid with respect to such ~~patient~~ 61569  
~~or resident~~ or recipient a total of fifty per cent of the 61570  
applicable cost or the base support rate amount, as the case may 61571  
be, on a current basis or there shall be executed with respect to 61572  
such ~~patient or resident~~ or recipient an agreement with the 61573  
department for payment to be made at some future date under terms 61574  
suitable to the department. 61575

(6) When a person has been a ~~patient or resident~~ or recipient 61576  
for fifteen years and the support charges for which a relative is 61577  
liable have been paid for the fifteen-year period, the liable 61578  
relative shall be relieved of any further support charges. 61579

(7) The department shall accept voluntary payments from 61580  
~~patients or residents,~~ recipients, or liable relatives whose 61581  
incomes are below the minimum shown in the schedule set forth in 61582  
this division. The department also shall accept voluntary payments 61583  
in excess of required amounts from both liable and nonliable 61584  
relatives. 61585

(8) If a ~~patient or resident~~ or recipient is covered by an 61586  
insurance policy, or other contract that provides for payment of 61587  
expenses for care and treatment for mental illness or mental 61588  
retardation at or from an institution, or facility (including a 61589  
~~hospital or~~ community service unit under the jurisdiction of the 61590  
department), or state-operated community mental health service, 61591  
the other provisions of this section, except divisions (B)(8), 61592  
(10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of 61593  
the Revised Code shall be suspended to the extent that such 61594

insurance policy or other contract is in force, and such ~~patient~~ 61595  
~~or~~ resident or recipient shall be charged the full amount of the 61596  
applicable cost. Any insurance carrier or other third party payor 61597  
providing coverage for such care and treatment shall pay for this 61598  
support obligation in an amount equal to the lesser of either the 61599  
applicable cost or the benefits provided under the policy or other 61600  
contract. Whether or not an insured, owner of, or other person 61601  
having an interest in such policy or other contract is liable for 61602  
support payments under other provisions of this chapter, the 61603  
insured, policy owner, or other person shall assign payment 61604  
directly to the department of all assignable benefits under the 61605  
policy or other contract and shall pay over to the department, 61606  
within ten days of receipt, all insurance or other benefits 61607  
received as reimbursement or payment for expenses incurred by the 61608  
~~patient or~~ resident or recipient or for any other reason. If the 61609  
insured, policy owner, or other person refuses to assign such 61610  
payment to the department or refuses to pay such received 61611  
reimbursements or payments over to the department within ten days 61612  
of receipt, the insured's, policy owners', or other person's total 61613  
liability for the services equals the applicable statutory 61614  
liability for payment for the services as determined under other 61615  
provisions of this chapter, plus the amounts payable under the 61616  
terms of the policy or other contract. In no event shall this 61617  
total liability exceed the full amount of the applicable cost. 61618  
Upon its request, the department is entitled to a court order that 61619  
compels the insured, owner of, or other person having an interest 61620  
in the policy or other contract to comply with the assignment 61621  
requirements of this division or that itself serves as a legally 61622  
sufficient assignment in compliance with such requirements. 61623  
Notwithstanding section 5122.31 of the Revised Code and any other 61624  
law relating to confidentiality of records, the managing officer 61625  
of the institution or facility where a person is or has been a 61626  
~~patient or~~ resident, or the managing officer of the state-operated 61627

community mental health services from which the ~~patient~~ recipient 61628  
receives services, shall disclose pertinent medical information 61629  
concerning the ~~patient~~ or resident or recipient to the insurance 61630  
carrier or other third party payor in question, in order to effect 61631  
collection from the carrier or payor of the state's claim for care 61632  
and treatment under this division. For such disclosure, the 61633  
managing officer is not subject to any civil or criminal 61634  
liability. 61635

(9) The rate to be charged for pre-admission care, 61636  
after-care, day-care, or routine consultation and treatment 61637  
services shall be based upon the ability of the ~~patient~~ or 61638  
resident or the ~~patient's~~ or resident's liable relatives to pay. 61639  
When it is determined by the department that a charge shall be 61640  
made, such charge shall be computed as provided in divisions 61641  
(B)(1) and (2) of this section. 61642

(10) If a ~~patient~~ or resident or recipient with or without 61643  
dependents is the beneficiary of a trust created pursuant to 61644  
section 1339.51 of the Revised Code, then, notwithstanding any 61645  
contrary provision of this chapter or of a rule adopted pursuant 61646  
to this chapter, divisions (C) and (D) of that section shall apply 61647  
in determining the assets or resources of the ~~patient~~ or resident, 61648  
the recipient, the ~~patient's~~ or resident's or recipient's estate, 61649  
the settlor, or the settlor's estate and to claims arising under 61650  
this chapter against the ~~patient~~ or resident, the recipient, the 61651  
~~patient's~~ or resident's or recipient's estate, the settlor, or the 61652  
settlor's estate. 61653

(11) If the department of mental retardation and 61654  
developmental disabilities waives the liability of an individual 61655  
and the individual's liable relatives pursuant to section 5123.194 61656  
of the Revised Code, the liability of the individual and relative 61657  
ceases in accordance with the waiver's terms. 61658

(C) The department may enter into agreements with a ~~patient~~ 61659

~~or~~ resident, a recipient, or a liable relative for support 61660  
payments to be made in the future. However, no security interest, 61661  
mortgage, or lien shall be taken, granted, or charged against any 61662  
principal family residence of a ~~patient~~ ~~or~~ resident or recipient 61663  
with dependents or a liable relative under an agreement or 61664  
otherwise to secure support payments, and no foreclosure actions 61665  
shall be taken on security interests, mortgages or liens taken, 61666  
granted, or charged against principal residences of ~~patients~~ ~~or~~ 61667  
residents, recipients, or liable relatives prior to October 7, 61668  
1977. 61669

(D) The department shall make all investigations and 61670  
determinations required by this section within ninety days after a 61671  
~~patient~~ ~~or~~ resident is admitted to an institution under the 61672  
department's control or a ~~patient~~ recipient begins to receive 61673  
state-operated community mental health services, and immediately 61674  
shall notify by mail the persons liable of the amount to be 61675  
charged. 61676

(E) All actions to enforce the collection of payments agreed 61677  
upon or charged by the department shall be commenced within six 61678  
years after the date of default of an agreement to pay support 61679  
charges or the date such payment becomes delinquent. If a payment 61680  
is made pursuant to an agreement which is in default, a new 61681  
six-year period for actions to enforce the collection of payments 61682  
under such agreement shall be computed from the date of such 61683  
payment. For purposes of this division an agreement is in default 61684  
or a payment is delinquent if a payment is not made within thirty 61685  
days after it is incurred or a payment, pursuant to an agreement, 61686  
is not made within thirty days after the date specified for such 61687  
payment. In all actions to enforce the collection of payment for 61688  
the liability for support, every court of record shall receive 61689  
into evidence the proof of claim made by the state together with 61690  
all debts and credits, and it shall be prima-facie evidence of the 61691



facts contained in it.

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

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

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

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

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

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

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applicable cost.

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

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

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**Sec. 5121.061.** The authority of the department of mental health or the department of mental retardation and developmental disabilities to modify support charges pursuant to section 5121.04 of the Revised Code shall not be exercised until the ~~patient or~~ resident, recipient, or liable relative has petitioned the department for modification as provided in section 5121.07 of the Revised Code and has offered to the department satisfactory proof of ~~his~~ the resident's, recipient's, or liable relative's earnings and assets. The department may modify the charges if its

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investigation warrants such modification. 61753

**Sec. 5121.07.** Any person who has been charged with the 61754  
payment of the support of a ~~patient or~~ resident of any benevolent 61755  
institution; for pre-admission care, after-care, day-care, or 61756  
routine consultation and treatment services in a community service 61757  
unit under the control of ~~the department of mental health or~~ the 61758  
department of mental retardation and developmental disabilities; 61759  
or for the cost of state-operated community mental health services 61760  
may petition the department for a release from, or modification 61761  
of, such charge, and the department, after an investigation, may 61762  
cancel or modify such former charge, or may cancel, compromise, or 61763  
settle any accrued liability in an amount not exceeding five 61764  
thousand dollars. Amounts in excess thereof may be canceled, 61765  
compromised, or settled as provided in section 131.02 of the 61766  
Revised Code. The department may for due cause increase the amount 61767  
previously ordered paid. 61768

**Sec. 5121.08.** The managing officers of the benevolent 61769  
institutions under the control of ~~the department of mental health~~ 61770  
~~and~~ the department of mental retardation and developmental 61771  
disabilities, the managing officers of state-operated community 61772  
mental health services, and the committing court, if requested, 61773  
shall submit to the department such information as they may obtain 61774  
concerning the financial condition of any ~~patient or~~ resident, 61775  
recipient, or of relatives liable for the ~~patient's or~~ resident's 61776  
or recipient's support. 61777

**Sec. 5121.09.** In case the estate of any ~~patient or~~ resident 61778  
in a benevolent institution under the jurisdiction of ~~the~~ 61779  
~~department of mental health or~~ the department of mental 61780  
retardation and developmental disabilities or ~~receiving~~ recipient 61781  
of state-operated community mental health services is sufficient 61782

for the ~~patient's or~~ resident's or recipient's support, without 61783  
hardship to any others who may be dependent thereon, and no 61784  
guardian has been appointed for such estate, the agent of the 61785  
department shall petition the probate court of the proper county 61786  
to appoint a guardian. 61787

**Sec. 5121.10.** Upon the death of a person who is a ~~patient or~~ 61788  
resident, or has been a ~~patient or~~ resident, of any benevolent 61789  
institution under the jurisdiction of ~~the department of mental~~ 61790  
~~health or~~ the department of mental retardation and developmental 61791  
disabilities or of a person who is a recipient or has been a 61792  
recipient of state-operated community mental health services, or 61793  
~~upon the death~~ of a person responsible under section 5121.06 of 61794  
the Revised Code for the support of a ~~patient or~~ resident or 61795  
recipient, the department may waive the presentation of any claim 61796  
for support against the estate of such decedent, when in its 61797  
judgment an otherwise dependent person will be directly benefited 61798  
by the estate. Claims against an estate for support of a ~~patient~~ 61799  
~~or~~ resident or recipient are subject to section 1339.51 and 61800  
Chapter 2117. of the Revised Code, and shall be treated, and may 61801  
be barred, the same as the claims of other creditors of the 61802  
estate, pursuant to that section or chapter. 61803

The department may accept from a guardian or trustee of a 61804  
~~patient or~~ resident or recipient a contract agreeing to pay to the 61805  
state from the property of the guardian's or trustee's ward before 61806  
or at the death of the ward a fixed annual amount for the support 61807  
of the ward while the ward is a ~~patient or~~ resident or recipient, 61808  
with interest at four per cent per annum. A copy of the contract 61809  
shall be filed in the probate court of the proper county and duly 61810  
entered as a part of the records concerning the ward. 61811

**Sec. 5121.11.** The state shall bear the expense of the burial 61812  
or cremation of an indigent ~~patient or~~ resident who dies in a 61813

~~state hospital for the mentally ill, or an~~ institution for the 61814  
mentally retarded, or in a state correctional institution, if the 61815  
body is not claimed for interment or cremation at the expense of 61816  
friends or relatives, or is not delivered for anatomical purposes 61817  
or for the study of embalming in accordance with section 1713.34 61818  
of the Revised Code. The managing officer of the institution shall 61819  
provide at the grave of the person or, if the person's cremated 61820  
remains are buried, at the grave of the person's cremated remains, 61821  
a metal, stone, or concrete marker on which shall be inscribed the 61822  
name and age of the person and the date of death. 61823

**Sec. 5121.12.** The support and maintenance of ~~patients~~ 61824  
~~confined in state hospitals for the mentally ill or of~~ residents 61825  
confined in state institutions for the mentally retarded, 61826  
including those transferred to them from state correctional 61827  
institutions, and also including persons under indictment or 61828  
conviction for crime, shall be collected and paid in accordance 61829  
with this chapter. 61830

**Sec. 5121.21.** ~~(A)~~ If payment of any amount due the state 61831  
under the provisions of Chapter 5121. of the Revised Code is made 61832  
on account of a ~~patient or~~ resident or recipient by any liable 61833  
relative, as defined in division (A) of section 5121.06 of the 61834  
Revised Code, such relative may recover the following amounts from 61835  
the following persons; provided, that in no event may such 61836  
relative recover in total more than such relative has paid the 61837  
state, and provided, that in no event is the person from whom 61838  
recovery is sought obliged to pay at a rate of support higher than 61839  
such person would have paid had the state proceeded directly 61840  
against such person: 61841

~~(1)~~ (A) Any liable person may recover from the ~~patient or~~ 61842  
resident or recipient, ~~his~~ the resident's or recipient's guardian, 61843  
or from the executor or administrator of the ~~patient's or~~ 61844

resident's or recipient's estate, the full amount of payment made 61845  
by such liable relative. 61846

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 61847  
resident's ~~husband or wife,~~ or recipient's spouse the full amount 61848  
of payment made by such liable relative. 61849

~~(3)~~(C) A minor ~~patient's or~~ resident's or recipient's mother 61850  
may recover from such minor ~~patient's or~~ resident's or recipient's 61851  
father the full amount of payment made by such mother. 61852

~~(4)~~(D) Any liable relative, other than the ~~patient's or~~ 61853  
resident's or recipient's spouse ~~and other than or~~ a minor 61854  
~~patient's or~~ resident's or recipient's parent, may recover from 61855  
such ~~of a patient's or~~ resident's or recipient's adult ~~sons and~~ 61856  
~~daughters~~ children as are liable under division (A)(4) of section 61857  
5121.06 of the Revised Code, the full amount of payment made by 61858  
such liable relative; provided, that there may be recovered from 61859  
each such ~~son or daughter~~ adult child only such proportion of the 61860  
total payment as the figure one bears to the total number of such 61861  
adult ~~sons and daughters~~ children. 61862

~~(5)~~(E) An adult ~~patient's or~~ resident's or recipient's mother 61863  
may recover from an adult ~~patient's or~~ resident's or recipient's 61864  
father the full amount of payment made by such mother. 61865

Sec. 5121.30. As used in sections 5121.30 to 5121.55 of the 61866  
Revised Code: 61867

(A) "Countable assets" means all of the following: 61868

(1) Cash; 61869

(2) Bank deposits; 61870

(3) Securities; 61871

(4) Individual retirement accounts; 61872

(5) Qualified employer plans, including 401(k) and Keogh 61873

<u>plans;</u>	61874
<u>(6) Pension funds;</u>	61875
<u>(7) Annuities;</u>	61876
<u>(8) Funds in a trust created under section 1339.51 of the Revised Code;</u>	61877 61878
<u>(9) Investment property and income;</u>	61879
<u>(10) The cash surrender values of life insurance policies;</u>	61880
<u>(11) Assets acquired by gift, bequest, devise, or inheritance;</u>	61881 61882
<u>(12) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	61883 61884
<u>(B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	61885 61886 61887 61888 61889 61890 61891
<u>(C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	61892 61893 61894 61895 61896 61897
<u>(D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.</u>	61898 61899 61900
<u>(E) "Liable relative" means both of the following:</u>	61901
<u>(1) A patient's spouse;</u>	61902

(2) A patient's mother or father, or both, if the patient is 61903  
under eighteen years of age. 61904

(F) "Patient" means a person admitted to a hospital for 61905  
inpatient care or treatment. 61906

**Sec. 5121.31.** All patients shall be maintained at the expense 61907  
of the state. The traveling and incidental expenses in conveying 61908  
them to a hospital shall be paid by the county of commitment. On 61909  
admission, patients shall be neatly and comfortably clothed. 61910  
Thereafter, the expense of necessary clothing shall be borne by 61911  
the responsible relatives or guardian if they are financially 61912  
able. If not furnished, the state shall bear the expense. Any 61913  
required traveling expense after admission to the hospital shall 61914  
be borne by the state if the responsible relatives or guardian is 61915  
unable to do so. 61916

**Sec. 5121.32.** On an annual basis, the department of mental 61917  
health shall determine both of the following using generally 61918  
accepted governmental accounting principles: 61919

(A) The applicable per diem charge for each hospital operated 61920  
by the department; 61921

(B) The ancillary per diem rate for each hospital operated by 61922  
the department. 61923

In determining a hospital's applicable per diem charge and 61924  
ancillary per diem rate, the department shall consider the average 61925  
actual per diem cost of maintaining and treating a patient at the 61926  
hospital or, at the department's discretion, the average actual 61927  
per diem cost of maintaining and treating a patient in a unit of 61928  
the hospital. 61929

**Sec. 5121.33.** Except as provided in sections 5121.35, 61930  
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 61931



Code, the department of mental health shall, for each billing 61932  
cycle, charge a patient, patient's estate, or liable relative an 61933  
amount equal to the sum of the following: 61934

(A) The applicable per diem charge multiplied by the number 61935  
of days the patient was admitted to the hospital; 61936

(B) An amount that was previously billed but not paid. 61937

**Sec. 5121.34.** A patient, patient's estate, and patient's 61938  
liable relatives shall be jointly and severally liable for amounts 61939  
charged by the department of mental health in accordance with 61940  
sections 5121.33 and 5121.35 of the Revised Code. In no case shall 61941  
any of the foregoing persons be liable for more than one hundred 61942  
per cent of any amount charged. 61943

**Sec. 5121.35.** The department of mental health shall charge a 61944  
patient, patient's estate, or liable relative an amount discounted 61945  
from the amount the department charges under section 5121.33 of 61946  
the Revised Code if the department determines through the 61947  
application process described in section 5121.36 of the Revised 61948  
Code or through the financial assessment process described in 61949  
section 5121.37 of the Revised Code that the patient, estate, or 61950  
relative is eligible for a discount. 61951

**Sec. 5121.36.** (A) A patient, patient's estate, or liable 61952  
relative may apply for a discount by completing an application 61953  
form the director of mental health specifies in rules adopted 61954  
under section 5121.55 of the Revised Code. The department of 61955  
mental health may require a patient, estate, or relative to 61956  
furnish any of the following with an application form: 61957

(1) A copy of the patient's, estate's, or liable relative's 61958  
federal income tax return for the year preceding the date of 61959

application or, if that is not yet available, the preceding year; 61960

(2) A copy of the patient's, estate's, or liable relative's 61961  
employee tax withholding return (form W-2) for the year preceding 61962  
the date of application. 61963

(B) To be considered, an application must be submitted to the 61964  
department not later than one hundred twenty days after the date 61965  
the patient is admitted to a hospital. 61966

(C) From the information provided by a patient, estate, or 61967  
relative, the department shall determine whether the department 61968  
will charge the person a discounted amount in accordance with 61969  
sections 5121.40 and 5121.41 of the Revised Code. In making this 61970  
determination, the department shall consider whether the patient 61971  
is covered by an insurance policy or other contract that provides 61972  
for payment of expenses and treatment for mental illness. If the 61973  
department determines that the patient has coverage, the 61974  
department shall require payment in accordance with section 61975  
5121.43 of the Revised Code. 61976

(D) The department shall notify the person who submitted the 61977  
application form in writing regarding whether that person will be 61978  
charged a discounted amount and the per diem rate to be charged. 61979

(E) In accordance with section 5121.42 of the Revised Code, 61980  
the department may, at any time, modify an amount charged or 61981  
change the per diem rate to be charged if the department learns of 61982  
countable assets or income that was not previously disclosed or 61983  
was acquired after the application form was submitted. Within a 61984  
reasonable time, the department shall notify in writing any person 61985  
affected by a modification or change. 61986

Sec. 5121.37. After a patient's admittance to a hospital, the 61987  
department of mental health shall conduct a financial assessment 61988  
to determine whether the patient, patient's estate, or liable 61989

relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code.

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

In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the assessment was conducted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

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

Sec. 5121.39. The managing officers of the institutions under the control of the department of mental health shall submit to the department such information as they may obtain concerning the financial condition of any patient or relatives liable for the patient's support.

Sec. 5121.40. (A) A patient, patient's estate, or liable relative may be eligible to be charged an amount discounted from the amount the department of mental health charges under section 5121.33 of the Revised Code if the patient, estate, or relative

has countable assets with a total value that is not greater than 62019  
an amount equal to fifty per cent of the gross annual income that 62020  
corresponds with the family size of the patient, estate, or liable 62021  
relative under the federal poverty guidelines. For purposes of 62022  
determining family size, the patient is one dependent. One 62023  
additional dependent shall be included for each of the following 62024  
circumstances and persons: 62025

(1) The patient or liable relative is legally blind or deaf; 62026

(2) The patient or liable relative is of sixty-five years of 62027  
age or older; 62028

(3) Each child under eighteen years of age for which the 62029  
patient or liable relative is legally responsible for support; 62030

(4) The patient's or liable relative's spouse. 62031

(B) A patient, estate, or relative may, not later than one 62032  
hundred twenty days after the patient's admission to a hospital, 62033  
surrender the value of countable assets sufficient to reduce 62034  
countable assets to not more than the limit described in division 62035  
(A) of this section. 62036

**Sec. 5121.41.** (A) If the assets of a patient, patient's 62037  
estate, or liable relative do not exceed the countable asset limit 62038  
in section 5121.40 of the Revised Code and the annual income of 62039  
the patient, estate, or relative does not exceed four hundred per 62040  
cent of the federal poverty level, the patient, estate, or 62041  
relative shall be charged an amount discounted from the amount the 62042  
department charges under section 5121.33 of the Revised Code for 62043  
the first thirty days the patient is admitted as an inpatient in a 62044  
hospital. The amount of the discount shall be computed according 62045  
to the following schedule: 62046

Annual Gross Income 62047

Expressed as a Percentage of FPL 62048

<u>Inpatient</u>	<u>1 -</u>	<u>176 -</u>	<u>200 -</u>	<u>250 -</u>	<u>300 -</u>	<u>350 -</u>	62049
<u>Days at a</u>	<u>175</u>	<u>199</u>	<u>249</u>	<u>299</u>	<u>349</u>	<u>399</u>	62050
<u>Hospital</u>							62051
	<u>Percentage discount from charged amount</u>						62052
<u>1 - 14</u>	<u>100</u>	<u>90</u>	<u>70</u>	<u>50</u>	<u>30</u>	<u>10</u>	62053
<u>15 - 30</u>	<u>100</u>	<u>95</u>	<u>75</u>	<u>55</u>	<u>35</u>	<u>15</u>	62054

(B) A patient, estate, or relative who is charged a 62055  
discounted amount for the first thirty days the patient is 62056  
admitted as an inpatient and who has an annual income not greater 62057  
than one hundred seventy-five per cent of the federal poverty 62058  
level shall not be charged for the days the patient is admitted 62059  
beyond the thirtieth day. 62060

(C) A patient, estate, or relative who is charged a 62061  
discounted amount for the first thirty days the patient is 62062  
admitted as an inpatient and who has an annual income greater than 62063  
one hundred seventy-five per cent of the federal poverty level 62064  
shall be charged an amount equal to the sum of the following for 62065  
the days the patient is admitted beyond the thirtieth day: 62066

(1) The ancillary per diem rate multiplied by the number of 62067  
days the patient was admitted to the hospital; 62068

(2) An amount that was previously charged but not paid. 62069

**Sec. 5121.42.** (A) Except as provided in division (B) of this 62070  
section, a patient, patient's estate, or liable relative shall 62071  
cease to be eligible for a discount under sections 5121.36 or 62072  
5121.37 of the Revised Code on accumulation of countable assets in 62073  
excess of an amount equal to fifty per cent of the gross annual 62074  
income that corresponds with the family size of the patient, 62075  
estate, or relative plus one additional dependent under the 62076  
federal poverty guidelines. In making this determination, an 62077  
additional dependent shall be included for each of the following 62078  
circumstances and persons: 62079

(1) The patient or liable relative is legally blind or deaf; 62080

(2) The patient or liable relative is over sixty-five years 62081  
of age; 62082

(3) Each child under eighteen years of age for which the 62083  
patient or liable relative is legally responsible for support; 62084

(4) The patient's or liable relative's spouse. 62085

(B) Money needed to meet the patient's needs and burial fund 62086  
as determined by a needs assessment conducted by the department of 62087  
mental health pursuant to rules adopted under section 5119.01 of 62088  
the Revised Code shall be excluded from any determination the 62089  
department makes under division (A) of this section. 62090

**Sec. 5121.43.** If a patient is covered by an insurance policy 62091  
or other contract that provides for payment of expenses for care 62092  
and treatment for mental illness at or from an institution, 62093  
state-operated community mental health service, or facility, 62094  
including a hospital or community service unit under the 62095  
jurisdiction of the department of mental health, sections 5121.33 62096  
to 5121.55 of the Revised Code are inapplicable to the extent that 62097  
the policy or contract is in force. Any insurance carrier or other 62098  
third party payor providing coverage for such care and treatment 62099  
shall pay for the patient's support obligation in amounts equal to 62100  
the lesser of amounts charged by the department under section 62101  
5121.33 of the Revised Code or the benefits provided under the 62102  
policy or other contract. Whether or not an insured, owner of, or 62103  
other person having an interest in such policy or other contract 62104  
is liable for support payments, the insured, policy owner, or 62105  
other person shall assign payment directly to the department of 62106  
all assignable benefits under the policy or other contract and 62107  
shall pay to the department, within ten days of receipt, all 62108  
insurance or other benefits received as reimbursement or payment 62109

for expenses incurred by the patient or for any other reason. If 62110  
the insured, policy owner, or other person refuses to assign 62111  
payment to the department or refuses to pay received 62112  
reimbursements or payments to the department within ten days of 62113  
receipt, the total liability of the insured, policy owner, or 62114  
other person for the services equals the sum of the following: 62115

(A) The amount computed under section 5121.33 of the Revised 62116  
Code; 62117

(B) The amounts payable under the terms of the policy or 62118  
other contract. 62119

In no event shall this total liability exceed the 62120  
department's actual cost of providing care and treatment to a 62121  
patient. The department may disqualify patients and liable 62122  
relatives who have retained third party funds for future 62123  
discounts. The department may request that the attorney general 62124  
petition a court of competent jurisdiction to compel the insured, 62125  
owner of, or other person having an interest in the policy or 62126  
contract to comply with the assignment requirements in this 62127  
section. 62128

**Sec. 5121.44.** The department of mental health may enter into 62129  
an extended payment agreement with a patient, patient's estate, or 62130  
liable relative who has notified the department that the patient, 62131  
estate, or relative cannot reasonably pay an amount the department 62132  
has charged. In no case shall the department take a security 62133  
interest, mortgage, or lien against the principal family residence 62134  
of a patient or liable relative with a dependent. 62135

**Sec. 5121.45.** (A) For purposes of this section, "delinquent 62136  
payment" means an amount owed by a patient, patient's estate, or 62137  
liable relative to the department of mental health for which the 62138

person has failed to do either of the following not later than 62139  
ninety days after the service associated with the charge was 62140  
incurred: 62141

(1) Make payment in full; 62142

(2) Make a payment in accordance with the terms of an 62143  
agreement entered into under section 5121.44 of the Revised Code. 62144

(B) An action to enforce the collection of a delinquent 62145  
payment shall be commenced not later than six years after the 62146  
later of the following: 62147

(1) The last date the department received money to satisfy 62148  
the delinquent payment; 62149

(2) The date the charge was due. 62150

(C) In all actions to enforce the collection of delinquent 62151  
payments, a court of record shall receive into evidence the proof 62152  
of claim document made by the state together with all debts and 62153  
credits. The proof of claim document shall be prima-facie evidence 62154  
of the facts stated in the document. 62155

**Sec. 5121.46.** The department of mental health shall not 62156  
charge a liable relative under sections 5121.33 and 5121.35 of the 62157  
Revised Code who has done either of the following: 62158

(A) Paid all amounts charged by the department for the care 62159  
and treatment of a particular patient for fifteen consecutive 62160  
years; 62161

(B) Paid amounts charged by the department for the care and 62162  
treatment of more than one patient for a total of fifteen 62163  
consecutive years. 62164

**Sec. 5121.47.** Irrespective of the number of patients for 62165  
which the department of mental health may charge a liable relative 62166



under sections 5121.33 or 5121.35 of the Revised Code, the 62167  
department shall not charge a liable relative or group of liable 62168  
relatives who are members of the same family unit for the support 62169  
of more than one patient during the same period of time. 62170

**Sec. 5121.49.** (A) Any person who has been charged under 62171  
section 5121.33 or 5121.35 of the Revised Code may petition the 62172  
department of mental health to do the following: 62173

(1) Release the person from a charge; 62174

(2) Modify or cancel a charge. 62175

(B) The department shall respond to a petition in writing and 62176  
inform the petitioner of whether a release, modification, or 62177  
cancellation has been approved. 62178

**Sec. 5121.50.** When a patient is committed to a hospital 62179  
pursuant to judicial proceedings, the judge ordering the 62180  
commitment shall: 62181

(A) Make a reliable report on the financial condition of the 62182  
patient and of each liable relative, as provided in rules adopted 62183  
by the director of mental health; 62184

(B) Certify the report required under division (A) of this 62185  
section to the managing officer of the hospital. The managing 62186  
officer shall thereupon enter in the managing officer's records 62187  
the name and address of any guardian appointed and of any relative 62188  
liable for the patient's support. 62189

**Sec. 5121.51.** In case the estate of any patient in a hospital 62190  
is sufficient for the patient's support, without hardship to any 62191  
others who may be dependent thereon, and no guardian has been 62192  
appointed for such estate, the agent of the department of mental 62193  
health shall petition the probate court of the proper county to 62194

appoint a guardian.

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Sec. 5121.52. On the death of a person who is a patient, or  
has been a patient in a hospital, or on the death of a person  
responsible under section 5121.34 of the Revised Code for the  
support of a patient, the department of mental health may waive  
the presentation of any claim for support against the estate of  
such decedent, when in its judgment an otherwise dependent person  
will be directly benefited by the estate. Claims against an estate  
for support of a patient are subject to section 1339.51 and  
Chapter 2117. of the Revised Code, and shall be treated, and may  
be barred, the same as the claims of other creditors of the  
estate, pursuant to that section or chapter.

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

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

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Sec. 5121.54. (A) If payment of any amount due the state 62225  
under the provisions of this chapter is made on account of a 62226  
patient by any liable relative, as defined in section 5121.30 of 62227  
the Revised Code, the relative may recover the following amounts 62228  
from the following persons; provided, that in no event may a 62229  
relative recover in total more than the relative has paid the 62230  
state, and provided, that in no event is the person from whom 62231  
recovery is sought obliged to pay at a rate of support higher than 62232  
the person would have paid had the state proceeded directly 62233  
against that person: 62234

(1) A liable relative may recover from the patient, the 62235  
patient's guardian, or from the executor or administrator of the 62236  
patient's estate, the full amount of payment made by the liable 62237  
relative. 62238

(2) A parent may recover from the patient's or resident's 62239  
spouse the full amount of payment made by the parent for 62240  
hospitalization that occurred during the marriage. 62241

Sec. 5121.55. The director of mental health shall adopt rules 62242  
in accordance with Chapter 119. of the Revised Code regarding the 62243  
application form a person must use to apply for a discount as 62244  
described in section 5121.36 of the Revised Code. 62245

**Sec. 5122.03.** A patient admitted under section 5122.02 of the 62246  
Revised Code who requests ~~his~~ release in writing, or whose release 62247  
is requested in writing by ~~his~~ the patient's counsel, legal 62248  
guardian, parent, spouse, or adult next of kin shall be released 62249  
forthwith, except that when: 62250

(A) The patient was admitted on ~~his~~ the patient's own 62251  
application and the request for release is made by a person other 62252  
than the patient, release may be conditional upon the agreement of 62253

the patient; or 62254

(B) The chief clinical officer of the hospital, within three 62255  
court days from the receipt of the request for release, files or 62256  
causes to be filed with the court of the county where the patient 62257  
is hospitalized or of the county where the patient is a resident, 62258  
an affidavit under section 5122.11 of the Revised Code. Release 62259  
may be postponed until the hearing held under section 5122.141 of 62260  
the Revised Code. A telephone communication within three court 62261  
days from the receipt of the request for release from the chief 62262  
clinical officer to the court, indicating that the required 62263  
affidavit has been mailed, is sufficient compliance with the time 62264  
limit for filing such affidavit. 62265

Unless the patient is released within three days from the 62266  
receipt of the request by the chief clinical officer, the request 62267  
shall serve as a request for an initial hearing under section 62268  
5122.141 of the Revised Code. If the court finds that the patient 62269  
is a mentally ill person subject to hospitalization by court 62270  
order, all provisions of this chapter with respect to involuntary 62271  
hospitalization apply to such person. 62272

Judicial proceedings for hospitalization shall not be 62273  
commenced with respect to a voluntary patient except pursuant to 62274  
this section. 62275

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.55 of the Revised 62276  
Code apply to persons received in a hospital operated by the 62277  
department of mental health on a voluntary application. 62278

The chief clinical officer of the hospital shall provide 62279  
reasonable means and arrangements for informing patients of their 62280  
rights to release as provided in this section and for assisting 62281  
them in making and presenting requests for release or for a 62282  
hearing under section 5122.141 of the Revised Code. 62283

Before a patient is released from a public hospital, the 62284

chief clinical officer shall, when possible, notify the board of 62285  
the patient's county of residence of the patient's pending release 62286  
after ~~he~~ the chief clinical officer has informed the patient that 62287  
the board will be so notified. 62288

**Sec. 5122.31.** (A) All certificates, applications, records, 62289  
and reports made for the purpose of this chapter and sections 62290  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 62291  
Code, other than court journal entries or court docket entries, 62292  
and directly or indirectly identifying a patient or former patient 62293  
or person whose hospitalization has been sought under this 62294  
chapter, shall be kept confidential and shall not be disclosed by 62295  
any person except: 62296

~~(A)~~(1) If the person identified, or the person's legal 62297  
guardian, if any, or if the person is a minor, the person's parent 62298  
or legal guardian, consents, and if the disclosure is in the best 62299  
interests of the person, as may be determined by the court for 62300  
judicial records and by the chief clinical officer for medical 62301  
records; 62302

~~(B)~~(2) When disclosure is provided for in this chapter or 62303  
section 5123.60 of the Revised Code; 62304

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 62305  
mental health services, and community mental health agencies may 62306  
release necessary medical information to insurers and other 62307  
third-party payers, including government entities responsible for 62308  
processing and authorizing payment, to obtain payment for goods 62309  
and services furnished to the patient; 62310

~~(D)~~(4) Pursuant to a court order signed by a judge; 62311

~~(E)~~(5) That a patient shall be granted access to the 62312  
patient's own psychiatric and medical records, unless access 62313  
specifically is restricted in a patient's treatment plan for clear 62314

treatment reasons; 62315

~~(F)~~(6) That hospitals and other institutions and facilities 62316  
within the department of mental health may exchange psychiatric 62317  
records and other pertinent information with other hospitals, 62318  
institutions, and facilities of the department, and with community 62319  
mental health agencies and boards of alcohol, drug addiction, and 62320  
mental health services with which the department has a current 62321  
agreement for patient care or services. Records and information 62322  
that may be released pursuant to this division shall be limited to 62323  
medication history, physical health status and history, financial 62324  
status, summary of course of treatment in the hospital, summary of 62325  
treatment needs, and a discharge summary, if any. 62326

~~(G)~~(7) That a patient's family member who is involved in the 62327  
provision, planning, and monitoring of services to the patient may 62328  
receive medication information, a summary of the patient's 62329  
diagnosis and prognosis, and a list of the services and personnel 62330  
available to assist the patient and the patient's family, if the 62331  
patient's treating physician determines that the disclosure would 62332  
be in the best interests of the patient. No such disclosure shall 62333  
be made unless the patient is notified first and receives the 62334  
information and does not object to the disclosure. 62335

~~(H)~~(8) That community mental health agencies may exchange 62336  
psychiatric records and certain other information with the board 62337  
of alcohol, drug addiction, and mental health services and other 62338  
agencies in order to provide services to a person involuntarily 62339  
committed to a board. Release of records under this division shall 62340  
be limited to medication history, physical health status and 62341  
history, financial status, summary of course of treatment, summary 62342  
of treatment needs, and discharge summary, if any. 62343

~~(I)~~(9) That information may be disclosed to the executor or 62344  
the administrator of an estate of a deceased patient when the 62345  
information is necessary to administer the estate; 62346

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

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

~~(L)~~(12) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

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

~~(N)~~(14) That a community mental health agency that ceases to operate may transfer to either a community mental health agency

that assumes its caseload or to the board of alcohol, drug 62378  
addiction, and mental health services of the service district in 62379  
which the patient resided at the time services were most recently 62380  
provided any treatment records that have not been transferred 62381  
elsewhere at the patient's request. 62382

~~(B)~~ Before records are disclosed pursuant to divisions 62383  
~~(A)(3)~~, ~~(F)(6)~~, and ~~(H)(8)~~ of this section, the custodian of 62384  
the records shall attempt to obtain the patient's consent for the 62385  
disclosure. No person shall reveal the contents of a medical 62386  
record of a patient except as authorized by law. 62387

(C) The managing officer of a hospital who releases necessary 62388  
medical information under division (A)(3) of this section to allow 62389  
an insurance carrier or other third party payor to comply with 62390  
section 5121.43 of the Revised Code shall neither be subject to 62391  
criminal nor civil liability. 62392

**Sec. 5123.01.** As used in this chapter: 62393

(A) "Chief medical officer" means the licensed physician 62394  
appointed by the managing officer of an institution for the 62395  
mentally retarded with the approval of the director of mental 62396  
retardation and developmental disabilities to provide medical 62397  
treatment for residents of the institution. 62398

(B) "Chief program director" means a person with special 62399  
training and experience in the diagnosis and management of the 62400  
mentally retarded, certified according to division (C) of this 62401  
section in at least one of the designated fields, and appointed by 62402  
the managing officer of an institution for the mentally retarded 62403  
with the approval of the director to provide habilitation and care 62404  
for residents of the institution. 62405

(C) "Comprehensive evaluation" means a study, including a 62406  
sequence of observations and examinations, of a person leading to 62407



conclusions and recommendations formulated jointly, with 62408  
dissenting opinions if any, by a group of persons with special 62409  
training and experience in the diagnosis and management of persons 62410  
with mental retardation or a developmental disability, which group 62411  
shall include individuals who are professionally qualified in the 62412  
fields of medicine, psychology, and social work, together with 62413  
such other specialists as the individual case may require. 62414

(D) "Education" means the process of formal training and 62415  
instruction to facilitate the intellectual and emotional 62416  
development of residents. 62417

(E) "Habilitation" means the process by which the staff of 62418  
the institution assists the resident in acquiring and maintaining 62419  
those life skills that enable the resident to cope more 62420  
effectively with the demands of the resident's own person and of 62421  
the resident's environment and in raising the level of the 62422  
resident's physical, mental, social, and vocational efficiency. 62423  
Habilitation includes but is not limited to programs of formal, 62424  
structured education and training. 62425

~~(F) "Habilitation center services" means services provided by 62426  
a habilitation center certified by the department of mental 62427  
retardation and developmental disabilities under section 5123.041 62428  
of the Revised Code and covered by the medicaid program pursuant 62429  
to rules adopted under section 5111.041 of the Revised Code. 62430~~

~~(G)~~ "Health officer" means any public health physician, 62431  
public health nurse, or other person authorized or designated by a 62432  
city or general health district. 62433

~~(H)~~(G) "Home and community-based services" means 62434  
medicaid-funded home and community-based services specified in 62435  
division (B)(1) of section 5111.87 of the Revised Code provided 62436  
under the medicaid waiver components the department of mental 62437  
retardation and developmental disabilities administers pursuant to 62438

section 5111.871 of the Revised Code. 62439

~~(I)~~(H) "Indigent person" means a person who is unable, 62440  
without substantial financial hardship, to provide for the payment 62441  
of an attorney and for other necessary expenses of legal 62442  
representation, including expert testimony. 62443

~~(J)~~(I) "Institution" means a public or private facility, or a 62444  
part of a public or private facility, that is licensed by the 62445  
appropriate state department and is equipped to provide 62446  
residential habilitation, care, and treatment for the mentally 62447  
retarded. 62448

~~(K)~~(J) "Licensed physician" means a person who holds a valid 62449  
certificate issued under Chapter 4731. of the Revised Code 62450  
authorizing the person to practice medicine and surgery or 62451  
osteopathic medicine and surgery, or a medical officer of the 62452  
government of the United States while in the performance of the 62453  
officer's official duties. 62454

~~(L)~~(K) "Managing officer" means a person who is appointed by 62455  
the director of mental retardation and developmental disabilities 62456  
to be in executive control of an institution for the mentally 62457  
retarded under the jurisdiction of the department. 62458

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 62459  
of the Revised Code. 62460

~~(N)~~(M) "Medicaid case management services" means case 62461  
management services provided to an individual with mental 62462  
retardation or other developmental disability that the state 62463  
medicaid plan requires. 62464

~~(O)~~(N) "Mentally retarded person" means a person having 62465  
significantly subaverage general intellectual functioning existing 62466  
concurrently with deficiencies in adaptive behavior, manifested 62467  
during the developmental period. 62468

~~(P)~~(O) "Mentally retarded person subject to 62469  
institutionalization by court order" means a person eighteen years 62470  
of age or older who is at least moderately mentally retarded and 62471  
in relation to whom, because of the person's retardation, either 62472  
of the following conditions exist: 62473

(1) The person represents a very substantial risk of physical 62474  
impairment or injury to self as manifested by evidence that the 62475  
person is unable to provide for and is not providing for the 62476  
person's most basic physical needs and that provision for those 62477  
needs is not available in the community; 62478

(2) The person needs and is susceptible to significant 62479  
habilitation in an institution. 62480

~~(Q)~~(P) "A person who is at least moderately mentally 62481  
retarded" means a person who is found, following a comprehensive 62482  
evaluation, to be impaired in adaptive behavior to a moderate 62483  
degree and to be functioning at the moderate level of intellectual 62484  
functioning in accordance with standard measurements as recorded 62485  
in the most current revision of the manual of terminology and 62486  
classification in mental retardation published by the American 62487  
association on mental retardation. 62488

~~(R)~~(O) As used in this division, "substantial functional 62489  
limitation," "developmental delay," and "established risk" have 62490  
the meanings established pursuant to section 5123.011 of the 62491  
Revised Code. 62492

"Developmental disability" means a severe, chronic disability 62493  
that is characterized by all of the following: 62494

(1) It is attributable to a mental or physical impairment or 62495  
a combination of mental and physical impairments, other than a 62496  
mental or physical impairment solely caused by mental illness as 62497  
defined in division (A) of section 5122.01 of the Revised Code. 62498

- (2) It is manifested before age twenty-two. 62499
- (3) It is likely to continue indefinitely. 62500
- (4) It results in one of the following: 62501
- (a) In the case of a person under three years of age, at 62502  
least one developmental delay or an established risk; 62503
- (b) In the case of a person at least three years of age but 62504  
under six years of age, at least two developmental delays or an 62505  
established risk; 62506
- (c) In the case of a person six years of age or older, a 62507  
substantial functional limitation in at least three of the 62508  
following areas of major life activity, as appropriate for the 62509  
person's age: self-care, receptive and expressive language, 62510  
learning, mobility, self-direction, capacity for independent 62511  
living, and, if the person is at least sixteen years of age, 62512  
capacity for economic self-sufficiency. 62513
- (5) It causes the person to need a combination and sequence 62514  
of special, interdisciplinary, or other type of care, treatment, 62515  
or provision of services for an extended period of time that is 62516  
individually planned and coordinated for the person. 62517
- ~~(S)~~(R) "Developmentally disabled person" means a person with 62518  
a developmental disability. 62519
- ~~(T)~~(S) "State institution" means an institution that is 62520  
tax-supported and under the jurisdiction of the department. 62521
- ~~(U)~~(T) "Residence" and "legal residence" have the same 62522  
meaning as "legal settlement," which is acquired by residing in 62523  
Ohio for a period of one year without receiving general assistance 62524  
prior to July 17, 1995, under former Chapter 5113. of the Revised 62525  
Code, financial assistance under Chapter 5115. of the Revised 62526  
Code, or assistance from a private agency that maintains records 62527  
of assistance given. A person having a legal settlement in the 62528

state shall be considered as having legal settlement in the 62529  
assistance area in which the person resides. No adult person 62530  
coming into this state and having a spouse or minor children 62531  
residing in another state shall obtain a legal settlement in this 62532  
state as long as the spouse or minor children are receiving public 62533  
assistance, care, or support at the expense of the other state or 62534  
its subdivisions. For the purpose of determining the legal 62535  
settlement of a person who is living in a public or private 62536  
institution or in a home subject to licensing by the department of 62537  
job and family services, the department of mental health, or the 62538  
department of mental retardation and developmental disabilities, 62539  
the residence of the person shall be considered as though the 62540  
person were residing in the county in which the person was living 62541  
prior to the person's entrance into the institution or home. 62542  
Settlement once acquired shall continue until a person has been 62543  
continuously absent from Ohio for a period of one year or has 62544  
acquired a legal residence in another state. A woman who marries a 62545  
man with legal settlement in any county immediately acquires the 62546  
settlement of her husband. The legal settlement of a minor is that 62547  
of the parents, surviving parent, sole parent, parent who is 62548  
designated the residential parent and legal custodian by a court, 62549  
other adult having permanent custody awarded by a court, or 62550  
guardian of the person of the minor, provided that: 62551

(1) A minor female who marries shall be considered to have 62552  
the legal settlement of her husband and, in the case of death of 62553  
her husband or divorce, she shall not thereby lose her legal 62554  
settlement obtained by the marriage. 62555

(2) A minor male who marries, establishes a home, and who has 62556  
resided in this state for one year without receiving general 62557  
assistance prior to July 17, 1995, under former Chapter 5113. of 62558  
the Revised Code, financial assistance under Chapter 5115. of the 62559  
Revised Code, or assistance from a private agency that maintains 62560

records of assistance given shall be considered to have obtained a 62561  
legal settlement in this state. 62562

(3) The legal settlement of a child under eighteen years of 62563  
age who is in the care or custody of a public or private child 62564  
caring agency shall not change if the legal settlement of the 62565  
parent changes until after the child has been in the home of the 62566  
parent for a period of one year. 62567

No person, adult or minor, may establish a legal settlement 62568  
in this state for the purpose of gaining admission to any state 62569  
institution. 62570

~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of 62571  
this section, a person who is admitted either voluntarily or 62572  
involuntarily to an institution or other facility pursuant to 62573  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 62574  
Code subsequent to a finding of not guilty by reason of insanity 62575  
or incompetence to stand trial or under this chapter who is under 62576  
observation or receiving habilitation and care in an institution. 62577

(2) "Resident" does not include a person admitted to an 62578  
institution or other facility under section 2945.39, 2945.40, 62579  
2945.401, or 2945.402 of the Revised Code to the extent that the 62580  
reference in this chapter to resident, or the context in which the 62581  
reference occurs, is in conflict with any provision of sections 62582  
2945.37 to 2945.402 of the Revised Code. 62583

~~(W)~~(V) "Respondent" means the person whose detention, 62584  
commitment, or continued commitment is being sought in any 62585  
proceeding under this chapter. 62586

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, 62587  
Wednesday, Thursday, and Friday, except when such day is a legal 62588  
holiday. 62589

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village 62590

solicitor, city director of law, or similar chief legal officer 62591  
who prosecuted a criminal case in which a person was found not 62592  
guilty by reason of insanity, who would have had the authority to 62593  
prosecute a criminal case against a person if the person had not 62594  
been found incompetent to stand trial, or who prosecuted a case in 62595  
which a person was found guilty. 62596

~~(Z)~~(Y) "Court" means the probate division of the court of 62597  
common pleas. 62598

**Sec. 5123.045.** ~~(A)~~ No person or government entity shall 62599  
receive payment for providing home and community-based services 62600  
unless the person or government entity is one of the following: 62601

~~(1)~~(A) Certified under ~~this~~ section 5123.16 of the Revised 62602  
Code; 62603

~~(2)~~(B) Certified as a supported living provider under section 62604  
5126.431 of the Revised Code and certified under section 5123.16 62605  
of the Revised Code; 62606

~~(3)~~(C) Licensed as a residential facility under section 62607  
5123.19 of the Revised Code. ~~Division (A)(3) of this section does~~ 62608  
~~not apply to an intermediate care facility for the mentally~~ 62609  
~~retarded as defined in section 5111.20 of the Revised Code.~~ 62610

~~(B) The department of mental retardation and developmental~~ 62611  
~~disabilities shall do all of the following in accordance with~~ 62612  
~~Chapter 119. of the Revised Code:~~ 62613

~~(1) Certify a person or government entity to provide home and~~ 62614  
~~community-based services if the person or government entity~~ 62615  
~~satisfies the requirements for certification established by rules~~ 62616  
~~adopted under division (C) of this section;~~ 62617

~~(2) Revoke a certificate when required to do so by rules~~ 62618  
~~adopted under division (C) of this section;~~ 62619

~~(3) Hold hearings when there is a dispute between the~~ 62620

~~department and a person or government entity concerning actions 62621  
the department takes or does not take under division (B)(1) or (2) 62622  
of this section. 62623~~

~~(C) The director of mental retardation and developmental 62624  
disabilities shall adopt rules in accordance with Chapter 119. of 62625  
the Revised Code establishing certification requirements and 62626  
procedures for a person or government entity that seeks to provide 62627  
home and community based services and is not certified as a 62628  
supported living provider under section 5126.431 of the Revised 62629  
Code or licensed as a residential facility under section 5123.19 62630  
of the Revised Code. The rules shall specify the program areas for 62631  
which certification is required and include procedures for all of 62632  
the following: 62633~~

~~(1) Ensuring that providers comply with section 5126.28 or 62634  
5126.281 of the Revised Code, as appropriate; 62635~~

~~(2) Evaluating the services provided to ensure that they are 62636  
provided in a quality manner advantageous to the individual 62637  
receiving the services. The procedures shall require that all of 62638  
the following be considered as part of an evaluation: 62639~~

~~(a) The provider's experience and financial responsibility; 62640~~

~~(b) The provider's ability to comply with standards for the 62641  
home and community based services that the provider provides; 62642~~

~~(c) The provider's ability to meet the needs of the 62643  
individuals served; 62644~~

~~(d) Any other factor the director considers relevant. 62645~~

~~(3) Determining when to revoke a provider's certificate. The 62646  
reasons for which a certificate may be revoked may include good 62647  
cause, including misfeasance, malfeasance, nonfeasance, confirmed 62648  
abuse or neglect, financial irresponsibility, or other conduct the 62649  
director determines is injurious to individuals being served. 62650~~



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

**Sec. 5123.046.** The department of mental retardation and developmental disabilities shall review each component of the three-calendar year plan it receives from a county board of mental retardation and developmental disabilities under section 5126.054 of the Revised Code and, in consultation with the department of job and family services and office of budget and management, approve each component that includes all the information and conditions specified in that section. The fourth component of the plan shall be approved or disapproved not later than forty-five days after the fourth component is submitted to the department under division (B)(3) of section 5126.054 of the Revised Code. If the department approves all four components of the plan, the plan is approved. Otherwise, the plan is disapproved. If the plan is disapproved, the department shall take action against the county board under division (B) of section 5126.056 of the Revised Code.

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

The department shall establish protocols that the department

shall use to determine whether a county board is complying with 62682  
the programmatic and financial accountability mechanisms and 62683  
achieving outcomes specified in its approved plan. If the 62684  
department determines that a county board is not in compliance 62685  
with the mechanisms or achieving the outcomes specified in its 62686  
approved plan, the department may take action under division 62687  
~~(C)~~(F) of section 5126.055 of the Revised Code. 62688

**Sec. 5123.047.** ~~(A) The department of mental retardation and 62689  
developmental disabilities shall pay the nonfederal share of 62690  
medicaid expenditures for habilitation center services provided to 62691  
an individual with mental retardation or other developmental 62692  
disability unless section 5111.041 of the Revised Code requires a 62693  
county board of mental retardation and developmental disabilities 62694  
or a school district to pay the nonfederal share. 62695~~

~~(B) The department of mental retardation and developmental 62696  
disabilities shall pay the nonfederal share of medicaid 62697  
expenditures for medicaid case management services if ~~either of 62698  
the following apply:~~ 62699~~

~~(1) The the services are provided to an individual with 62700  
mental retardation or other developmental disability who a county 62701  
board of mental retardation and developmental disabilities has 62702  
determined under section 5126.041 of the Revised Code is not 62703  
eligible for county board services. 62704~~

~~(2) The services are provided to an individual with mental 62705  
retardation or other developmental disability by a public or 62706  
private agency with which the department has contracted under 62707  
section 5123.56 of the Revised Code to provide protective services 62708  
to the individual. 62709~~

~~(C)~~(B) The department shall pay the nonfederal share of 62710  
medicaid expenditures for home and community-based services if 62711

either any of the following apply: 62712

(1) The services are provided to an individual with mental 62713  
retardation or other developmental disability who a county board 62714  
has determined under section 5126.041 of the Revised Code is not 62715  
eligible for county board services; 62716

(2) The services are provided to an individual with mental 62717  
retardation or other developmental disability given priority for 62718  
the services pursuant to division (D)(3) of section 5126.042 of 62719  
the Revised Code. The department shall pay the nonfederal share of 62720  
medicaid expenditures for home and community-based services 62721  
provided to such an individual for as long as the individual 62722  
continues to be eligible for and receive the services, regardless 62723  
of whether the services are provided after June 30, 2003. 62724

(3) An agreement entered into under section 5123.048 of the 62725  
Revised Code requires that the department pay the nonfederal share 62726  
of medicaid expenditures for the services. 62727

**Sec. 5123.048.** The director of mental retardation and 62728  
developmental disabilities may enter into an agreement with a 62729  
county board of mental retardation and developmental disabilities 62730  
under which the department of mental retardation and developmental 62731  
disabilities is to pay the nonfederal share of medicaid 62732  
expenditures for home and community-based services provided to 62733  
individuals with mental retardation or other developmental 62734  
disability residing in the county served by the county board if 62735  
the agreement is necessary for home and community-based services 62736  
to be available statewide. 62737

**Sec. 5123.049.** The director of mental retardation and 62738  
developmental disabilities shall adopt rules in accordance with 62739  
Chapter 119. of the Revised Code governing the authorization and 62740  
payment of home and community-based services, and medicaid case 62741

management services, ~~and habilitation center services~~. The rules 62742  
shall provide for private providers of the services to receive one 62743  
hundred per cent of the medicaid allowable payment amount and for 62744  
government providers of the services to receive the federal share 62745  
of the medicaid allowable payment, less the amount withheld as a 62746  
fee under section 5123.0412 of the Revised Code and any amount 62747  
that may be required by rules adopted under section 5123.0413 of 62748  
the Revised Code to be deposited into the state MR/DD risk fund. 62749  
The rules shall establish the process by which county boards of 62750  
mental retardation and developmental disabilities shall certify 62751  
and provide the nonfederal share of medicaid expenditures that the 62752  
county board is required by division (A) of section 5126.057 of 62753  
the Revised Code to pay. The process shall require a county board 62754  
to certify that the county board has funding available at one time 62755  
for two months costs for those expenditures. The process may 62756  
permit a county board to certify that the county board has funding 62757  
available at one time for more than two months costs for those 62758  
expenditures. 62759

**Sec. 5123.0412.** (A) The department of mental retardation and 62760  
developmental disabilities shall charge each county board of 62761  
mental retardation and developmental disabilities an annual fee 62762  
equal to one and one-half per cent of the total value of all 62763  
medicaid paid claims for medicaid case management services and 62764  
home and community-based services ~~for which the county board~~ 62765  
~~contracts or provides itself~~ provided during the year to an 62766  
individual eligible for services from the county board. No county 62767  
board shall pass the cost of a fee charged to the county board 62768  
under this section on to ~~a person or government entity with which~~ 62769  
~~the county board contracts to provide the~~ another provider of 62770  
these services. 62771

(B) The fees collected under this section shall be deposited 62772  
into the ODMR/DD administration and oversight fund and the ODJFS 62773

administration and oversight fund, both of which are hereby  
created in the state treasury. The portion of the fees to be  
deposited into the ODMR/DD administration and oversight fund and  
the portion of the fees to be deposited into the ODJFS  
administration and oversight fund shall be the portion specified  
in an interagency agreement entered into under division (C) of  
this section. The department of mental retardation and  
developmental disabilities shall use the money in the ODMR/DD  
administration and oversight fund and the department of job and  
family services shall use the money in the ODJFS administration  
and oversight fund for both of the following purposes:

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

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local  
administrative authority under section 5126.055 of the Revised  
Code for the services.

(C) The departments of mental retardation and developmental  
disabilities and job and family services shall enter into an

interagency agreement to do both of the following:

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(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

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(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.

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(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

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Sec. 5123.16. (A) In accordance with Chapter 119. of the Revised Code, the director of mental retardation and developmental disabilities shall adopt and may amend and rescind rules for the certification of persons or government entities that provide or propose to provide home and community-based waiver services. The rules shall establish or specify all of the following:

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(1) Procedures for issuing and renewing certification and establishing expiration dates for currently certified providers;

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(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking certification in accordance with this section and Chapter 119. of the Revised Code;

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(3) Procedures for ordering the suspension of a certified provider's certification;

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(4) Fees for issuing and renewing certification. All fees collected pursuant to this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used solely

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<u>for the operation of the provider certification program</u>	62834
<u>established under this section.</u>	62835
<u>(5) Program services for which certification is required and</u>	62836
<u>provider standards for those services;</u>	62837
<u>(6) Procedures for certification;</u>	62838
<u>(7) Procedures for ensuring that providers comply with</u>	62839
<u>sections 5123.52 and 5126.281 of the Revised Code.</u>	62840
<u>(B) A provider's certification may be terminated when the</u>	62841
<u>certified provider has not billed for services for a period of</u>	62842
<u>more than twelve consecutive months and the provider has been</u>	62843
<u>notified in accordance with Chapter 119. of the Revised Code.</u>	62844
<u>(C) The director may suspend or revoke a provider's</u>	62845
<u>certification in accordance with Chapter 119. of the Revised Code</u>	62846
<u>for good cause, including misfeasance, malfeasance, nonfeasance,</u>	62847
<u>confirmed abuse or neglect, noncompliance with provider</u>	62848
<u>certification standards, financial irresponsibility, or other</u>	62849
<u>conduct the department determines is injurious to individuals</u>	62850
<u>being served.</u>	62851
<u>(D)(1) The director may suspend a certified provider's</u>	62852
<u>certification to serve one or more individuals currently served by</u>	62853
<u>the provider in one or more counties before providing an</u>	62854
<u>opportunity for an adjudication under Chapter 119. of the Revised</u>	62855
<u>Code when the director determines that the certified provider has</u>	62856
<u>demonstrated a pattern of serious noncompliance with certification</u>	62857
<u>standards or that a violation of certification standards creates a</u>	62858
<u>substantial risk to the health and safety of an individual served</u>	62859
<u>by the certified provider and both the following conditions are</u>	62860
<u>met:</u>	62861
<u>(a) The individual or guardian, as appropriate, has been made</u>	62862
<u>aware of the patterns of serious noncompliance or violations of</u>	62863

certification standards that create a substantial risk to the 62864  
health and safety of the individual, and the individual or 62865  
guardian does not choose to select another certified provider; and 62866

(b) A county board of mental retardation and developmental 62867  
disabilities has filed a compliant with the probate court in 62868  
accordance with section 5126.33 of the Revised Code and the 62869  
probate court does not issue an order authorizing the board to 62870  
arrange protective services for the individual. 62871

(2) The director may suspend a certified provider's 62872  
certification to begin to serve one or more individuals not 62873  
currently being served by the provider in one or more counties 62874  
before providing an opportunity for an adjudication under Chapter 62875  
119. of the Revised Code when the director determines that the 62876  
certified provider has demonstrated a pattern of serious 62877  
noncompliance with certification standards or that a violation of 62878  
certification standards creates a substantial risk to the health 62879  
and safety of an individual served by the certified provider. 62880

(3) Except as provided in division (D)(4) of this section, 62881  
appeals from proceedings initiated to terminate a provider's 62882  
certification under division (B) of this section or to suspend or 62883  
revoke a provider's certification under division (C) of this 62884  
section shall be conducted in accordance with Chapter 119. of the 62885  
Revised Code. 62886

(4) Appeals from proceedings initiated to order the 62887  
suspension of a certified provider's certification shall be 62888  
conducted in accordance with Chapter 119. of the Revised Code, 62889  
unless the order was issued before providing an opportunity for an 62890  
adjudication, in which case all of the following apply: 62891

(a) The department shall notify the certified provider within 62892  
twenty-four hours of ordering of the suspension. 62893

(b) The certified provider may request a hearing not later 62894



than ten days after receiving the notice specified in section 62895  
119.07 of the Revised Code. 62896

(c) If a timely request for a hearing is made, the hearing 62897  
shall commence not later than thirty days after the department 62898  
receives the request. 62899

(d) After commencing, the hearing shall continue, 62900  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 62901  
unless other interruptions are agreed to by the provider and the 62902  
director. 62903

(e) If the hearing is conducted by a hearing examiner, the 62904  
hearing examiner shall file a report and recommendations not later 62905  
than ten days after the close of the hearing. For purposes of 62906  
division (D)(4)(d) of this section, the hearing shall not be 62907  
considering closed until the hearing examiner receives the 62908  
transcript of the hearing, if a transcript is ordered, and all 62909  
post-hearing briefs, if any, are timely filed. 62910

(f) A copy of such written report and recommendations of the 62911  
hearing examiner shall, within five days of the date of the filing 62912  
thereof, be served upon the provider or the provider's attorney, 62913  
by certified mail. 62914

(g) The provider may file objections to the report and 62915  
recommendations not later than five days after the receipt of the 62916  
report and recommendations. 62917

(h) No recommendation of the hearing examiner shall be 62918  
approved, modified, or disapproved by the department until five 62919  
days after service of the hearing examiner's report and 62920  
recommendations upon the provider or the provider's attorney. 62921

(i) Not later than fifteen days after the service of such 62922  
report and recommendations of the hearing examiner upon the 62923  
provider or the provider's attorney, the director shall issue an 62924

order approving, modifying, or disapproving the report and 62925  
recommendation. 62926

(j) The order shall be lifted when the provider has submitted 62927  
an acceptable plan of compliance and the department determines the 62928  
plan of compliance has been appropriately implemented. 62929

(k) Following the issuance of an adjudication order by the 62930  
director, the provider may appeal the order in accordance with 62931  
section 119.12 of the Revised Code. 62932

(l) Notwithstanding the pendency of the hearing, the director 62933  
shall lift the order for the suspension of the certified 62934  
provider's certification under division (D)(1) or (D)(2) of this 62935  
section when the director determines that the violation that 62936  
formed the basis for the order has been corrected. The hearing 62937  
shall continue unless the provider withdraws, in writing, the 62938  
appeal of the department's suspension. 62939

(E) All applicants for or holders of certification under this 62940  
section shall maintain a current address with the director at all 62941  
times. 62942

(F) An applicant whose certification has been denied in 62943  
accordance with this section may not apply to become a certified 62944  
provider within one year of the date of the applicant's denial of 62945  
certification. A certified provider whose certification has been 62946  
revoked in accordance with this section may not apply for 62947  
certification within five years of the revocation of the certified 62948  
provider's certification. 62949

(G) The records of surveys of providers conducted in 62950  
accordance with this section are public records for purposes of 62951  
section 149.43 of the Revised Code and shall be made available 62952  
upon request of any person, including individuals being served, 62953  
individuals seeking supported living, and county boards of mental 62954  
retardation and developmental disabilities. 62955

(H) The certification of a provider that is certified to provide supported living on the effective date of the amendment of this section shall remain in effect until the department establishes an expiration date for the certification unless the certification is voluntarily surrendered or terminated, suspended or revoked in accordance with this section. 62956  
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(I) As used in this section, "home and community-based services" has the same meaning as in section 5126.01 of the Revised Code. 62962  
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(J) The director of mental retardation and developmental disabilities shall not apply any provisions of sections 5126.40 to 5126.47 of the Revised Code to any provider of home and community-based services certified under this section. 62965  
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**Sec. 5123.34.** This chapter attempts to do all of the following: 62969  
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(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons with mental retardation or a developmental disability; 62971  
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(B) Promote the study of the causes of mental retardation and developmental disabilities, with a view to ultimate prevention; 62974  
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(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of mental retardation and developmental disabilities. 62976  
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Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain these purposes. 62980  
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**Sec. 5123.41.** As used in this section and sections 5123.42 to 5123.47 of the Revised Code: 62983  
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(A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.	62985 62986
(B) "Certified home and community-based services provider" means a person or government entity certified under section <del>5123.045</del> <u>5123.16</u> of the Revised Code.	62987 62988 62989
(C) "Certified supported living provider" means a person or government entity certified under section 5126.431 of the Revised Code.	62990 62991 62992
(D) "Drug" has the same meaning as in section 4729.01 of the Revised Code.	62993 62994
(E) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.	62995 62996
(F) "Health-related activities" means the following:	62997
(1) Taking vital signs;	62998
(2) Application of clean dressings that do not require health assessment;	62999 63000
(3) Basic measurement of bodily intake and output;	63001
(4) Oral suctioning;	63002
(5) Use of glucometers;	63003
(6) External urinary catheter care;	63004
(7) Emptying and replacing colostomy bags;	63005
(8) Collection of specimens by noninvasive means.	63006
(G) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	63007 63008 63009
(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	63010 63011
(I) "MR/DD personnel" means the employees and the workers	63012

under contract who provide specialized services to individuals 63013  
with mental retardation and developmental disabilities. "MR/DD 63014  
personnel" includes those who provide the services as follows: 63015

(1) Through direct employment with the department of mental 63016  
retardation and developmental disabilities or a county board of 63017  
mental retardation and developmental disabilities; 63018

(2) Through an entity under contract with the department of 63019  
mental retardation and developmental disabilities or a county 63020  
board of mental retardation and developmental disabilities; 63021

(3) Through direct employment or by being under contract with 63022  
private entities, including private entities that operate 63023  
residential facilities. 63024

(J) "Nursing delegation" means the process established in 63025  
rules adopted by the board of nursing pursuant to Chapter 4723. of 63026  
the Revised Code under which a registered nurse or licensed 63027  
practical nurse acting at the direction of a registered nurse 63028  
transfers the performance of a particular nursing activity or task 63029  
to another person who is not otherwise authorized to perform the 63030  
activity or task. 63031

(K) "Prescribed medication" means a drug that is to be 63032  
administered according to the instructions of a licensed health 63033  
professional authorized to prescribe drugs. 63034

(L) "Residential facility" means a facility licensed under 63035  
section 5123.19 of the Revised Code or subject to section 5123.192 63036  
of the Revised Code. 63037

(M) "Specialized services" has the same meaning as in section 63038  
5123.50 of the Revised Code. 63039

(N) "Tube feeding" means the provision of nutrition to an 63040  
individual through a gastrostomy tube or a jejunostomy tube. 63041

Sec. 5123.701. (A) Except as provided in division (E) of this 63042  
section, any person in the community who is eighteen years of age 63043  
or older and who is or believes self to be mentally retarded may 63044  
make written application to the managing officer of any 63045  
institution for temporary admission for short-term care. The 63046  
application may be made on behalf of a minor by a parent or 63047  
guardian, and on behalf of an adult adjudicated mentally 63048  
incompetent by a guardian. 63049

(B) For purposes of this section, short-term care shall be 63050  
defined to mean appropriate services provided to a person with 63051  
mental retardation for no more than fourteen consecutive days and 63052  
for no more than forty-two days in a fiscal year. When 63053  
circumstances warrant, the fourteen-day period may be extended at 63054  
the discretion of the managing officer. Short-term care is 63055  
provided in a developmental center to meet the family's or 63056  
caretaker's needs for separation from the person with mental 63057  
retardation. 63058

(C) The managing officer of an institution, with the 63059  
concurrence of the chief program director, may admit a person for 63060  
short-term care only after a medical examination has been made of 63061  
the person and only if the managing officer concludes that the 63062  
person is mentally retarded. 63063

(D) If application for admission for short-term care of a 63064  
minor or of a person adjudicated mentally incompetent is made by 63065  
the minor's parent or guardian or by the incompetent's guardian 63066  
and the minor or incompetent is admitted, the probate division of 63067  
the court of common pleas shall determine, upon petition by the 63068  
legal rights service, whether the admission for short-term care is 63069  
in the best interest of the minor or the incompetent. 63070

(E) A person who is found not guilty by reason of insanity 63071  
shall not admit self to an institution for short-term care unless 63072

a hearing was held regarding the person pursuant to division (A) 63073  
of section 2945.40 of the Revised Code and either of the following 63074  
applies: 63075

(1) The person was found at the hearing not to be a mentally 63076  
retarded person subject to institutionalization by court order; 63077

(2) The person was found at the hearing to be a mentally 63078  
retarded person subject to institutionalization by court order, 63079  
was involuntarily committed, and was finally discharged. 63080

(F) The mentally retarded person, liable relatives, and 63081  
guardians of mentally retarded persons admitted for respite care 63082  
shall pay support charges in accordance with sections ~~5121.03~~ 63083  
5121.01 to 5121.07 of the Revised Code. 63084

(G) At the conclusion of each period of short-term care, the 63085  
person shall return to the person's family or caretaker. Under no 63086  
circumstances shall a person admitted for short-term care 63087  
according to this section remain in the institution after the 63088  
period of short-term care unless the person is admitted according 63089  
to section 5123.70, sections 5123.71 to 5123.76, or section 63090  
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 63091  
Code. 63092

**Sec. 5123.71.** (A)(1) Proceedings for the involuntary 63093  
institutionalization of a person pursuant to sections 5123.71 to 63094  
5123.76 of the Revised Code shall be commenced by the filing of an 63095  
affidavit with the probate division of the court of common pleas 63096  
of the county where the person resides or where the person is 63097  
institutionalized, in the manner and form prescribed by the 63098  
department of mental retardation and developmental disabilities 63099  
either on information or actual knowledge, whichever is determined 63100  
to be proper by the court. The affidavit may be filed only by a 63101  
person who has custody of the individual as a parent, guardian, or 63102

service provider or by a person acting on behalf of the department 63103  
or a county board of mental retardation and developmental 63104  
disabilities. This section does not apply regarding the 63105  
institutionalization of a person pursuant to section 2945.39, 63106  
2945.40, 2945.401, or 2945.402 of the Revised Code. 63107

The affidavit shall contain an allegation setting forth the 63108  
specific category or categories under division ~~(P)~~(O) of section 63109  
5123.01 of the Revised Code upon which the commencement of 63110  
proceedings is based and a statement of the factual ground for the 63111  
belief that the person is a mentally retarded person subject to 63112  
institutionalization by court order. Except as provided in 63113  
division (A)(2) of this section, the affidavit shall be 63114  
accompanied by both of the following: 63115

(a) A comprehensive evaluation report prepared by the 63116  
person's evaluation team that includes a statement by the members 63117  
of the team certifying that they have performed a comprehensive 63118  
evaluation of the person and that they are of the opinion that the 63119  
person is a mentally retarded person subject to 63120  
institutionalization by court order; 63121

(b) An assessment report prepared by the county board of 63122  
mental retardation and developmental disabilities under section 63123  
5123.711 of the Revised Code specifying that the individual is in 63124  
need of services on an emergency or priority basis. 63125

(2) In lieu of the comprehensive evaluation report, the 63126  
affidavit may be accompanied by a written and sworn statement that 63127  
the person or the guardian of a person adjudicated incompetent has 63128  
refused to allow a comprehensive evaluation and county board 63129  
assessment and assessment reports. Immediately after accepting an 63130  
affidavit that is not accompanied by the reports of a 63131  
comprehensive evaluation and county board assessment, the court 63132  
shall cause a comprehensive evaluation and county board assessment 63133  
of the person named in the affidavit to be performed. The 63134



evaluation shall be conducted in the least restrictive environment 63135  
possible and the assessment shall be conducted in the same manner 63136  
as assessments conducted under section 5123.711 of the Revised 63137  
Code. The evaluation and assessment must be completed before a 63138  
probable cause hearing or full hearing may be held under section 63139  
5123.75 or 5123.76 of the Revised Code. 63140

A written report of the evaluation team's findings and the 63141  
county board's assessment shall be filed with the court. The 63142  
reports shall, consistent with the rules of evidence, be accepted 63143  
as probative evidence in any proceeding under section 5123.75 or 63144  
5123.76 of the Revised Code. If the counsel for the person who is 63145  
evaluated or assessed is known, the court shall send to the 63146  
counsel a copy of the reports as soon as possible after they are 63147  
filed and prior to any proceedings under section 5123.75 or 63148  
5123.76 of the Revised Code. 63149

(B) Any person who is involuntarily detained in an 63150  
institution or otherwise is in custody under this chapter shall be 63151  
informed of the right to do the following: 63152

(1) Immediately make a reasonable number of telephone calls 63153  
or use other reasonable means to contact an attorney, a physician, 63154  
or both, to contact any other person or persons to secure 63155  
representation by counsel, or to obtain medical assistance, and be 63156  
provided assistance in making calls if the assistance is needed 63157  
and requested; 63158

(2) Retain counsel and have independent expert evaluation 63159  
and, if the person is an indigent person, be represented by 63160  
court-appointed counsel and have independent expert evaluation at 63161  
court expense; 63162

(3) Upon request, have a hearing to determine whether there 63163  
is probable cause to believe that the person is a mentally 63164  
retarded person subject to institutionalization by court order. 63165

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The designee of the director shall present the evidence 63226  
for the state. In proceedings under this chapter, the attorney 63227  
general shall present the comprehensive evaluation, assessment, 63228  
diagnosis, prognosis, record of habilitation and care, if any, and 63229  
less restrictive habilitation plans, if any. The attorney general 63230  
does not have a similar presentation responsibility in connection 63231  
with a person who has been found not guilty by reason of insanity 63232  
and who is the subject of a hearing under section 2945.40 of the 63233  
Revised Code to determine whether the person is a mentally 63234  
retarded person subject to institutionalization by court order. 63235

(11) The respondent has the right to testify and the 63236  
respondent or the respondent's counsel has the right to subpoena 63237  
witnesses and documents and to present and cross-examine 63238  
witnesses. 63239

(12) The respondent shall not be compelled to testify and 63240  
shall be so advised by the court. 63241

(13) On motion of the respondent or the respondent's counsel 63242  
for good cause shown, or upon the court's own motion, the court 63243  
may order a continuance of the hearing. 63244

(14) To an extent not inconsistent with this chapter, the 63245  
Rules of Civil Procedure shall be applicable. 63246

(B) Unless, upon completion of the hearing, the court finds 63247  
by clear and convincing evidence that the respondent named in the 63248  
affidavit is a mentally retarded person subject to 63249  
institutionalization by court order, it shall order the 63250  
respondent's discharge forthwith. 63251

(C) If, upon completion of the hearing, the court finds by 63252  
clear and convincing evidence that the respondent is a mentally 63253  
retarded person subject to institutionalization by court order, 63254  
the court may order the respondent's discharge or order the 63255  
respondent, for a period not to exceed ninety days, to any of the 63256

following: 63257

(1) A public institution, provided that commitment of the 63258  
respondent to the institution will not cause the institution to 63259  
exceed its licensed capacity determined in accordance with section 63260  
5123.19 of the Revised Code and provided that such a placement is 63261  
indicated by the comprehensive evaluation report filed pursuant to 63262  
section 5123.71 of the Revised Code; 63263

(2) A private institution; 63264

(3) A county mental retardation program; 63265

(4) Receive private habilitation and care; 63266

(5) Any other suitable facility, program, or the care of any 63267  
person consistent with the comprehensive evaluation, assessment, 63268  
diagnosis, prognosis, and habilitation needs of the respondent. 63269

(D) Any order made pursuant to division (C)(2), (4), or (5) 63270  
of this section shall be conditional upon the receipt by the court 63271  
of consent by the facility, program, or person to accept the 63272  
respondent. 63273

(E) In determining the place to which, or the person with 63274  
whom, the respondent is to be committed, the court shall consider 63275  
the comprehensive evaluation, assessment, diagnosis, and projected 63276  
habilitation plan for the respondent, and shall order the 63277  
implementation of the least restrictive alternative available and 63278  
consistent with habilitation goals. 63279

(F) If, at any time it is determined by the director of the 63280  
facility or program to which, or the person to whom, the 63281  
respondent is committed that the respondent could be equally well 63282  
habilitated in a less restrictive environment that is available, 63283  
the following shall occur: 63284

(1) The respondent shall be released by the director of the 63285  
facility or program or by the person forthwith and referred to the 63286

court together with a report of the findings and recommendations  
of the facility, program, or person. 63287  
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(2) The director of the facility or program or the person  
shall notify the respondent's counsel and the designee of the  
director of mental retardation and developmental disabilities. 63289  
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(3) The court shall dismiss the case or order placement in  
the less restrictive environment. 63292  
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(G)(1) Except as provided in divisions (G)(2) and (3) of this  
section, any person who has been committed under this section may  
apply at any time during the ninety-day period for voluntary  
admission to an institution under section 5123.69 of the Revised  
Code. Upon admission of a voluntary resident, the managing officer  
immediately shall notify the court, the respondent's counsel, and  
the designee of the director in writing of that fact by mail or  
otherwise, and, upon receipt of the notice, the court shall  
dismiss the case. 63294  
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(2) A person who is found incompetent to stand trial or not  
guilty by reason of insanity and who is committed pursuant to  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised  
Code shall not be voluntarily admitted to an institution pursuant  
to division (G)(1) of this section until after the termination of  
the commitment, as described in division (J) of section 2945.401  
of the Revised Code. 63303  
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(H) If, at the end of any commitment period, the respondent  
has not already been discharged or has not requested voluntary  
admission status, the director of the facility or program, or the  
person to whose care the respondent has been committed, shall  
discharge the respondent forthwith, unless at least ten days  
before the expiration of that period the designee of the director  
of mental retardation and developmental disabilities or the  
prosecutor files an application with the court requesting 63310  
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continued commitment. 63318

(1) An application for continued commitment shall include a 63319  
written report containing a current comprehensive evaluation and 63320  
assessment, a diagnosis, a prognosis, an account of progress and 63321  
past habilitation, and a description of alternative habilitation 63322  
settings and plans, including a habilitation setting that is the 63323  
least restrictive setting consistent with the need for 63324  
habilitation. A copy of the application shall be provided to 63325  
respondent's counsel. The requirements for notice under section 63326  
5123.73 of the Revised Code and the provisions of divisions (A) to 63327  
(E) of this section apply to all hearings on such applications. 63328

(2) A hearing on the first application for continued 63329  
commitment shall be held at the expiration of the first ninety-day 63330  
period. The hearing shall be mandatory and may not be waived. 63331

(3) Subsequent periods of commitment not to exceed one 63332  
hundred eighty days each may be ordered by the court if the 63333  
designee of the director of mental retardation and developmental 63334  
disabilities files an application for continued commitment, after 63335  
a hearing is held on the application or without a hearing if no 63336  
hearing is requested and no hearing required under division (H)(4) 63337  
of this section is waived. Upon the application of a person 63338  
involuntarily committed under this section, supported by an 63339  
affidavit of a licensed physician alleging that the person is no 63340  
longer a mentally retarded person subject to institutionalization 63341  
by court order, the court for good cause shown may hold a full 63342  
hearing on the person's continued commitment prior to the 63343  
expiration of any subsequent period of commitment set by the 63344  
court. 63345

(4) A mandatory hearing shall be held at least every two 63346  
years after the initial commitment. 63347

(5) If the court, after a hearing upon a request to continue 63348

commitment, finds that the respondent is a mentally retarded person subject to institutionalization by court order, the court may make an order pursuant to divisions (C), (D), and (E) of this section. 63349  
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(I) Notwithstanding the provisions of division (H) of this section, no person who is found to be a mentally retarded person subject to institutionalization by court order pursuant to division ~~(P)~~(O)(2) of section 5123.01 of the Revised Code shall be held under involuntary commitment for more than five years. 63353  
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(J) The managing officer admitting a person pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the department. 63358  
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**Sec. 5126.01.** As used in this chapter: 63361

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code. 63362  
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(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills. 63369  
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(2) "Adult services" includes all of the following: 63376

(a) Adult day habilitation services; 63377

(b) Adult day care; 63378



(c) Prevocational services;	63379
(d) Sheltered employment;	63380
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	63381 63382 63383 63384 63385 63386 63387
(f) Community employment services and supported employment services.	63388 63389
(B)(1) "Adult day habilitation services" means adult services that do the following:	63390 63391
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	63392 63393 63394 63395 63396 63397 63398 63399
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	63400 63401 63402 63403
(2) "Adult day habilitation services" includes all of the following:	63404 63405
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult	63406 63407 63408

day habilitation services;	63409
(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;	63410 63411 63412 63413
(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;	63414 63415 63416 63417 63418 63419 63420
(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;	63421 63422 63423
(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;	63424 63425 63426 63427 63428
(f) Transportation necessary to access adult day habilitation services;	63429 63430
(g) Habilitation management, as described in section 5126.14 of the Revised Code.	63431 63432
(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.	63433 63434 63435
(C) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment	63436 63437 63438

services" or "supported employment services" include all of the 63439  
following: 63440

(1) Job training resulting in the attainment of competitive 63441  
work, supported work in a typical work environment, or 63442  
self-employment; 63443

(2) Supervised work experience through an employer paid to 63444  
provide the supervised work experience; 63445

(3) Ongoing work in a competitive work environment at a wage 63446  
commensurate with workers without disabilities; 63447

(4) Ongoing supervision by an employer paid to provide the 63448  
supervision. 63449

(D) As used in this division, "substantial functional 63450  
limitation," "developmental delay," and "established risk" have 63451  
the meanings established pursuant to section 5123.011 of the 63452  
Revised Code. 63453

"Developmental disability" means a severe, chronic disability 63454  
that is characterized by all of the following: 63455

(1) It is attributable to a mental or physical impairment or 63456  
a combination of mental and physical impairments, other than a 63457  
mental or physical impairment solely caused by mental illness as 63458  
defined in division (A) of section 5122.01 of the Revised Code; 63459

(2) It is manifested before age twenty-two; 63460

(3) It is likely to continue indefinitely; 63461

(4) It results in one of the following: 63462

(a) In the case of a person under age three, at least one 63463  
developmental delay or an established risk; 63464

(b) In the case of a person at least age three but under age 63465  
six, at least two developmental delays or an established risk; 63466

(c) In the case of a person age six or older, a substantial 63467

functional limitation in at least three of the following areas of  
major life activity, as appropriate for the person's age:  
self-care, receptive and expressive language, learning, mobility,  
self-direction, capacity for independent living, and, if the  
person is at least age sixteen, capacity for economic  
self-sufficiency.

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

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

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

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

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

(G) "Family support services" means the services provided

under a family support services program operated under section 63499  
5126.11 of the Revised Code. 63500

(H) "Habilitation" means the process by which the staff of 63501  
the facility or agency assists an individual with mental 63502  
retardation or other developmental disability in acquiring and 63503  
maintaining those life skills that enable the individual to cope 63504  
more effectively with the demands of the individual's own person 63505  
and environment, and in raising the level of the individual's 63506  
personal, physical, mental, social, and vocational efficiency. 63507  
Habilitation includes, but is not limited to, programs of formal, 63508  
structured education and training. 63509

~~(I) "Habilitation center services" means services provided by 63510  
a habilitation center certified by the department of mental 63511  
retardation and developmental disabilities under section 5123.041 63512  
of the Revised Code and covered by the medicaid program pursuant 63513  
to rules adopted under section 5111.041 of the Revised Code. 63514~~

~~(J)~~ "Home and community-based services" means medicaid-funded 63515  
home and community-based services specified in division (B)(1) of 63516  
section 5111.87 of the Revised Code and provided under the 63517  
medicaid waiver components the department of mental retardation 63518  
and developmental disabilities administers pursuant to section 63519  
5111.871 of the Revised Code. 63520

~~(K)~~(J) "Medicaid" has the same meaning as in section 5111.01 63521  
of the Revised Code. 63522

~~(L)~~(K) "Medicaid case management services" means case 63523  
management services provided to an individual with mental 63524  
retardation or other developmental disability that the state 63525  
medicaid plan requires. 63526

~~(M)~~(L) "Mental retardation" means a mental impairment 63527  
manifested during the developmental period characterized by 63528  
significantly subaverage general intellectual functioning existing 63529

concurrently with deficiencies in the effectiveness or degree with 63530  
which an individual meets the standards of personal independence 63531  
and social responsibility expected of the individual's age and 63532  
cultural group. 63533

~~(N)~~(M) "Residential services" means services to individuals 63534  
with mental retardation or other developmental disabilities to 63535  
provide housing, food, clothing, habilitation, staff support, and 63536  
related support services necessary for the health, safety, and 63537  
welfare of the individuals and the advancement of their quality of 63538  
life. "Residential services" includes program management, as 63539  
described in section 5126.14 of the Revised Code. 63540

~~(O)~~(N) "Resources" means available capital and other assets, 63541  
including moneys received from the federal, state, and local 63542  
governments, private grants, and donations; appropriately 63543  
qualified personnel; and appropriate capital facilities and 63544  
equipment. 63545

~~(P)~~(O) "Service and support administration" means the duties 63546  
performed by a service and support administrator pursuant to 63547  
section 5126.15 of the Revised Code. 63548

~~(Q)~~(P)(1) "Specialized medical, adaptive, and assistive 63549  
equipment, supplies, and supports" means equipment, supplies, and 63550  
supports that enable an individual to increase the ability to 63551  
perform activities of daily living or to perceive, control, or 63552  
communicate within the environment. 63553

(2) "Specialized medical, adaptive, and assistive equipment, 63554  
supplies, and supports" includes the following: 63555

(a) Eating utensils, adaptive feeding dishes, plate guards, 63556  
mylatex straps, hand splints, reaches, feeder seats, adjustable 63557  
pointer sticks, interpreter services, telecommunication devices 63558  
for the deaf, computerized communications boards, other 63559  
communication devices, support animals, veterinary care for 63560

support animals, adaptive beds, supine boards, prone boards, 63561  
wedges, sand bags, sidelayers, bolsters, adaptive electrical 63562  
switches, hand-held shower heads, air conditioners, humidifiers, 63563  
emergency response systems, folding shopping carts, vehicle lifts, 63564  
vehicle hand controls, other adaptations of vehicles for 63565  
accessibility, and repair of the equipment received. 63566

(b) Nondisposable items not covered by medicaid that are 63567  
intended to assist an individual in activities of daily living or 63568  
instrumental activities of daily living. 63569

~~(R)~~(O) "Supportive home services" means a range of services 63570  
to families of individuals with mental retardation or other 63571  
developmental disabilities to develop and maintain increased 63572  
acceptance and understanding of such persons, increased ability of 63573  
family members to teach the person, better coordination between 63574  
school and home, skills in performing specific therapeutic and 63575  
management techniques, and ability to cope with specific 63576  
situations. 63577

~~(S)~~(R)(1) "Supported living" means services provided for as 63578  
long as twenty-four hours a day to an individual with mental 63579  
retardation or other developmental disability through any public 63580  
or private resources, including moneys from the individual, that 63581  
enhance the individual's reputation in community life and advance 63582  
the individual's quality of life by doing the following: 63583

(a) Providing the support necessary to enable an individual 63584  
to live in a residence of the individual's choice, with any number 63585  
of individuals who are not disabled, or with not more than three 63586  
individuals with mental retardation and developmental disabilities 63587  
unless the individuals are related by blood or marriage; 63588

(b) Encouraging the individual's participation in the 63589  
community; 63590

(c) Promoting the individual's rights and autonomy; 63591

(d) Assisting the individual in acquiring, retaining, and 63592  
improving the skills and competence necessary to live successfully 63593  
in the individual's residence. 63594

(2) "Supported living" includes the provision of all of the 63595  
following: 63596

(a) Housing, food, clothing, habilitation, staff support, 63597  
professional services, and any related support services necessary 63598  
to ensure the health, safety, and welfare of the individual 63599  
receiving the services; 63600

(b) A combination of life-long or extended-duration 63601  
supervision, training, and other services essential to daily 63602  
living, including assessment and evaluation and assistance with 63603  
the cost of training materials, transportation, fees, and 63604  
supplies; 63605

(c) Personal care services and homemaker services; 63606

(d) Household maintenance that does not include modifications 63607  
to the physical structure of the residence; 63608

(e) Respite care services; 63609

(f) Program management, as described in section 5126.14 of 63610  
the Revised Code. 63611

**Sec. 5126.035.** (A) As used in this section: 63612

(1) "Provider" means a person or government entity that 63613  
provides services to an individual with mental retardation or 63614  
other developmental disability pursuant to a service contract. 63615

(2) "Service contract" means a contract between a county 63616  
board of mental retardation and developmental disabilities and a 63617  
provider under which the provider is to provide services to an 63618  
individual with mental retardation or other developmental 63619  
disability. 63620



(B) Each service contract that a county board of mental 63621  
retardation and developmental disabilities enters into with a 63622  
provider shall do ~~all~~ both of the following: 63623

(1) ~~Comply with rules adopted under division (E) of this 63624  
section;~~ 63625

~~(2)~~ If the provider is to provide home and community-based 63626  
services, or medicaid case management services, ~~or habilitation 63627  
center services,~~ comply with all applicable statewide medicaid 63628  
requirements; 63629

~~(3)~~(2) Include a general operating agreement component and an 63630  
individual service needs addendum. 63631

(C) The general operating agreement component shall include 63632  
all of the following: 63633

(1) The roles and responsibilities of the county board 63634  
regarding services for individuals with mental retardation or 63635  
other developmental disability who reside in the county the county 63636  
board serves; 63637

(2) The roles and responsibilities of the provider as 63638  
specified in the individual service needs addendum; 63639

(3) Procedures for the county board to monitor the provider's 63640  
services; 63641

(4) Procedures for the county board to evaluate the quality 63642  
of care and cost effectiveness of the provider's services; 63643

(5) Procedures for payment of eligible claims; 63644

(6) If the provider is to provide home and community-based 63645  
services, or medicaid case management services, ~~or habilitation 63646  
center services,~~ both of the following: 63647

(a) Procedures for reimbursement that conform to the 63648  
statewide reimbursement process and the county board's plan 63649

submitted under section 5126.054 of the Revised Code; 63650

(b) Procedures that ensure that the county board pays the 63651  
nonfederal share of the medicaid expenditures that the county 63652  
board is required by division (A) of section 5126.057 of the 63653  
Revised Code to pay. 63654

(7) Procedures for the county board to perform service 63655  
utilization reviews and the implementation of required corrective 63656  
actions; 63657

(8) Procedures for the provider to submit claims for payment 63658  
for a service no later than three hundred thirty days after the 63659  
date the service is provided; 63660

(9) Procedures for rejecting claims for payment that are 63661  
submitted after the time required by division ~~(B)(9)~~(C)(8) of this 63662  
section; 63663

(10) Procedures for developing, modifying, and executing 63664  
initial and subsequent service plans. The procedures shall provide 63665  
for the provider's participation. 63666

(11) Procedures for affording individuals due process 63667  
protections; 63668

(12) General staffing, training, and certification 63669  
requirements that are consistent with state requirements and 63670  
compensation arrangements that are necessary to attract, train, 63671  
and retain competent personnel to deliver the services pursuant to 63672  
the individual service needs addendum; 63673

(13) Methods to be used to document services provided and 63674  
procedures for submitting reports the county board requires; 63675

(14) Methods for authorizing and documenting within 63676  
seventy-two hours changes to the individual service needs 63677  
addendum. The methods shall allow for changes to be initially 63678  
authorized verbally and subsequently in writing. 63679

(15) Procedures for modifying the individual service needs addendum in accordance with changes to the recipient's individualized service plan;	63680 63681 63682
(16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient;	63683 63684
(17) A requirement that all parties to the contract accept the contract's terms and conditions;	63685 63686
(18) A designated contact person and the method of contacting the designated person to respond to medical or behavioral problems and allegations of major unusual incidents or unusual incidents;	63687 63688 63689
(19) Procedures for ensuring the health and welfare of the recipient;	63690 63691
(20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data;	63692 63693
(21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code;	63694 63695
(22) Procedures for amending or terminating the contract, including as necessary to make the general operating agreement component consistent with any changes made to the individual service needs addendum;	63696 63697 63698 63699
(23) Anything else allowable under federal and state law that the county board and provider agree to.	63700 63701
(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:	63702 63703 63704
(1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services;	63705 63706 63707 63708

(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools; 63709  
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(3) A copy of the recipient's assessment and individualized service plan; 63712  
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(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare. 63714  
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~~(E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts.~~ A service contract does not negate the requirement that a provider of home and community-based services, or medicaid case management services, ~~or~~ ~~habilitation center services~~ have a medicaid provider agreement with the department of job and family services. 63719  
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**Sec. 5126.042.** (A) As used in this section, "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations: 63726  
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(1) Loss of present residence for any reason, including legal action; 63732  
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(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual; 63734  
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(3) Abuse, neglect, or exploitation of the individual; 63738

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

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

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

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

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

In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their

intention to request in the future a service they are not  
currently receiving. The purpose of the registry is to enable the  
board to document requests and to plan appropriately. The board  
may not place an individual on the registry who meets the  
conditions for receipt of services on an emergency basis.

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

(1) Early childhood services;

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

(3) Adult services;

(4) Service and support administration;

(5) Residential services and supported living;

(6) Transportation services;

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

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

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

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

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

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

(ii) Receives supported living or family support services.

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

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

(ii) Receives adult services from the county board.

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

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

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed; 63829  
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(ii) An emotional disorder for which anti-psychotic medication is needed; 63831  
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(iii) A medical condition that leaves the individual dependent on life-support medical technology; 63833  
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(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed; 63835  
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(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization. 63838  
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(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis. 63842  
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(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this 63846  
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section of the individuals identified by the department and the  
individuals' assessed needs.

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

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

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

(2) No more than four hundred individuals in the state may  
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007  
biennium pursuant to division (D)(2)(b) of this section.

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

(4) No more than forty individuals in the state may receive 63891  
priority for services pursuant to division (E) of this section for 63892  
each year that priority category is in effect as specified in 63893  
rules adopted under division (K) of this section. 63894

(H) Prior to establishing any waiting list under this 63895  
section, a county board shall develop and implement a policy for 63896  
waiting lists that complies with this section and rules adopted 63897  
under division (K) of this section. 63898

Prior to placing an individual on a waiting list, the county 63899  
board shall assess the service needs of the individual in 63900  
accordance with all applicable state and federal laws. The county 63901  
board shall place the individual on the appropriate waiting list 63902  
and may place the individual on more than one waiting list. The 63903  
county board shall notify the individual of the individual's 63904  
placement and position on each waiting list on which the 63905  
individual is placed. 63906

At least annually, the county board shall reassess the 63907  
service needs of each individual on a waiting list. If it 63908  
determines that an individual no longer needs a program or 63909  
service, the county board shall remove the individual from the 63910  
waiting list. If it determines that an individual needs a program 63911  
or service other than the one for which the individual is on the 63912  
waiting list, the county board shall provide the program or 63913  
service to the individual or place the individual on a waiting 63914  
list for the program or service in accordance with the board's 63915  
policy for waiting lists. 63916

When a program or service for which there is a waiting list 63917  
becomes available, the county board shall reassess the service 63918  
needs of the individual next scheduled on the waiting list to 63919  
receive that program or service. If the reassessment demonstrates 63920  
that the individual continues to need the program or service, the 63921

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

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

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

(K)(1) The department of mental retardation and developmental  
disabilities shall adopt rules in accordance with Chapter 119. of  
the Revised Code governing waiting lists established under this  
section. The rules shall include procedures to be followed to  
ensure that the due process rights of individuals placed on

waiting lists are not violated.

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

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

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

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

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

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(1) Medicaid rules and regulations;

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

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**Sec. 5126.054.** (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a

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three-calendar year plan that includes the following four 63984  
components: 63985

(1) An assessment component that includes all of the 63986  
following: 63987

(a) The number of individuals with mental retardation or 63988  
other developmental disability residing in the county who need the 63989  
level of care provided by an intermediate care facility for the 63990  
mentally retarded, may seek home and community-based services, are 63991  
given priority for the services pursuant to division (D) of 63992  
section 5126.042 of the Revised Code; the service needs of those 63993  
individuals; and the projected annualized cost for services; 63994

(b) The source of funds available to the county board to pay 63995  
the nonfederal share of medicaid expenditures that the county 63996  
board is required by division (A) of section 5126.057 of the 63997  
Revised Code to pay; 63998

(c) Any other applicable information or conditions that the 63999  
department of mental retardation and developmental disabilities 64000  
requires as a condition of approving the component under section 64001  
5123.046 of the Revised Code. 64002

(2) A component that provides for the recruitment, training, 64003  
and retention of existing and new direct care staff necessary to 64004  
implement services included in individualized service plans, 64005  
including behavior management services and health management 64006  
services such as delegated nursing and other habilitation 64007  
services, and protect the health and welfare of individuals 64008  
receiving services included in the individual's individualized 64009  
service plan by complying with safeguards for unusual and major 64010  
unusual incidents, day-to-day program management, and other 64011  
requirements the department shall identify. A county board shall 64012  
develop this component in collaboration with providers of 64013  
medicaid-funded services with which the county board contracts. A 64014

county board shall include all of the following in the component: 64015

(a) The source and amount of funds available for the 64016  
component; 64017

(b) A plan and timeline for implementing the component with 64018  
the medicaid providers under contract with the county board; 64019

(c) The mechanisms the county board shall use to ensure the 64020  
financial and program accountability of the medicaid provider's 64021  
implementation of the component. 64022

(3) A preliminary implementation component that specifies the 64023  
number of individuals to be provided, during the first year that 64024  
the plan is in effect, home and community-based services pursuant 64025  
to the priority given to them under divisions (D)(1) and (2) of 64026  
section 5126.042 of the Revised Code and the types of home and 64027  
community-based services the individuals are to receive; 64028

(4) A component that provides for the implementation of 64029  
~~habilitation center services,~~ medicaid case management services, 64030  
and home and community-based services for individuals who begin to 64031  
receive the services on or after the date the plan is approved 64032  
under section 5123.046 of the Revised Code. A county board shall 64033  
include all of the following in the component: 64034

(a) If the department of mental retardation and developmental 64035  
disabilities or department of job and family services requires, an 64036  
agreement to pay the nonfederal share of medicaid expenditures 64037  
that the county board is required by division (A) of section 64038  
5126.057 of the Revised Code to pay; 64039

(b) How the services are to be phased in over the period the 64040  
plan covers, including how the county board will serve individuals 64041  
on a waiting list established under division (C) of section 64042  
5126.042 who are given priority status under division (D)(1) of 64043  
that section; 64044

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

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

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

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

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

(iv) To employ or contract with a medicaid services manager who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee. Two or three county boards that have a combined total enrollment in county board services not exceeding one thousand individuals as determined pursuant to certifications made under division (B) of section 5126.12 of the

Revised Code may satisfy this requirement by sharing the services  
of a medicaid services manager or using the services of a medicaid  
services manager employed by or under contract with a regional  
council that the county boards establish under section 5126.13 of  
the Revised Code.

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

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

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

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

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

(2) Submit the component required by division (A)(3) of this  
section to the department not later than January 31, 2002;

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

(C) A county board whose plan developed under division (A) of



this section is approved by the department under section 5123.046 64106  
of the Revised Code shall update and renew the plan in accordance 64107  
with a schedule the department shall develop. 64108

**Sec. 5126.055.** (A) Except as provided in section 5126.056 of 64109  
the Revised Code, a county board of mental retardation and 64110  
developmental disabilities has medicaid local administrative 64111  
authority to, and shall, do all of the following for an individual 64112  
with mental retardation or other developmental disability who 64113  
resides in the county that the county board serves and seeks or 64114  
receives home and community-based services: 64115

(1) Perform assessments and evaluations of the individual. As 64116  
part of the assessment and evaluation process, the county board 64117  
shall do all of the following: 64118

(a) Make a recommendation to the department of mental 64119  
retardation and developmental disabilities on whether the 64120  
department should approve or deny the individual's application for 64121  
the services, including on the basis of whether the individual 64122  
needs the level of care an intermediate care facility for the 64123  
mentally retarded provides; 64124

(b) If the individual's application is denied because of the 64125  
county board's recommendation and the individual requests a 64126  
hearing under section 5101.35 of the Revised Code, present, with 64127  
the department of mental retardation and developmental 64128  
disabilities or department of job and family services, whichever 64129  
denies the application, the reasons for the recommendation and 64130  
denial at the hearing; 64131

(c) If the individual's application is approved, recommend to 64132  
the departments of mental retardation and developmental 64133  
disabilities and job and family services the services that should 64134  
be included in the individual's individualized service plan and, 64135

if either department approves, reduces, denies, or terminates a  
service included in the individual's individualized service plan  
under section 5111.871 of the Revised Code because of the county  
board's recommendation, present, with the department that made the  
approval, reduction, denial, or termination, the reasons for the  
recommendation and approval, reduction, denial, or termination at  
a hearing under section 5101.35 of the Revised Code.

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

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

(4) Unless the county board provides the services under  
division (A)(5) of this section, contract with the person or  
government entity the individual chooses in accordance with  
section 5126.046 of the Revised Code to provide the services if  
the person or government entity is qualified and agrees to provide  
the services. The contract shall contain all the provisions  
required by section 5126.035 of the Revised Code and require the  
provider to agree to furnish, in accordance with the provider's  
medicaid provider agreement and for the authorized reimbursement  
rate, the services the individual requires.

(5) If the county board is certified under section ~~5123.045~~ 64168  
5123.16 of the Revised Code to provide the services and agrees to 64169  
provide the services to the individual and the individual chooses 64170  
the county board to provide the services, furnish, in accordance 64171  
with the county board's medicaid provider agreement and for the 64172  
authorized reimbursement rate, the services the individual 64173  
requires; 64174

(6) Monitor the services provided to the individual and 64175  
ensure the individual's health, safety, and welfare. The 64176  
monitoring shall include quality assurance activities. If the 64177  
county board provides the services, the department of mental 64178  
retardation and developmental disabilities shall also monitor the 64179  
services. 64180

(7) Develop, with the individual and the provider of the 64181  
individual's services, an effective individualized service plan 64182  
that includes coordination of services, recommend that the 64183  
departments of mental retardation and developmental disabilities 64184  
and job and family services approve the plan, and implement the 64185  
plan unless either department disapproves it; 64186

(8) Have an investigative agent conduct investigations under 64187  
section 5126.313 of the Revised Code that concern the individual; 64188

(9) Have a service and support administrator perform the 64189  
duties under division (B)(9) of section 5126.15 of the Revised 64190  
Code that concern the individual. 64191

(B) ~~Except as provided in section 5126.056 of the Revised~~ 64192  
~~Code, a county board has medicaid local administrative authority~~ 64193  
~~to, and shall, do all of the following for an individual with~~ 64194  
~~mental retardation or other developmental disability who resides~~ 64195  
~~in the county that the county board serves and seeks or receives~~ 64196  
~~medicaid case management services or habilitation center services,~~ 64197  
~~other than habilitation center services for which a school~~ 64198

~~district is required by division (E) of section 5111.041 of the Revised Code to pay the nonfederal share:~~

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

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

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

~~(a) The county board providing the individual up to date information about qualified providers that the department of mental retardation and developmental disabilities shall make available to the county board:~~

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

~~(4) Unless the county board provides the services under division (B)(5) of this section, contract with the person or government entity that the individual chooses in accordance with the rules adopted under division (B)(3) of this section to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.~~

~~(5) If the county board is certified under section 5123.041 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;~~

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

~~(7) Develop with the individual and the provider of the individual's services, and with the approval of the departments of mental retardation and developmental disabilities and job and~~

~~family services, implement an effective plan for coordinating the~~ 64262  
~~services in accordance with the individual's approved~~ 64263  
~~individualized service plan;~~ 64264

~~(8) Have an investigative agent conduct investigations under~~ 64265  
~~section 5126.313 of the Revised Code that concern the individual;~~ 64266

~~(9) Have a service and support administrator perform the~~ 64267  
~~duties under division (B)(9) of section 5126.15 of the Revised~~ 64268  
~~Code that concern the individual.~~ 64269

~~(C)~~ A county board shall perform its medicaid local 64270  
administrative authority under this section in accordance with all 64271  
of the following: 64272

(1) The county board's plan that the department of mental 64273  
retardation and developmental disabilities approves under section 64274  
5123.046 of the Revised Code; 64275

(2) All applicable federal and state laws; 64276

(3) All applicable policies of the departments of mental 64277  
retardation and developmental disabilities and job and family 64278  
services and the United States department of health and human 64279  
services; 64280

(4) The department of job and family services' supervision 64281  
under its authority under section 5111.01 of the Revised Code to 64282  
act as the single state medicaid agency; 64283

(5) The department of mental retardation and developmental 64284  
disabilities' oversight. 64285

~~(D)~~(C) The departments of mental retardation and 64286  
developmental disabilities and job and family services shall 64287  
communicate with and provide training to county boards regarding 64288  
medicaid local administrative authority granted by this section. 64289  
The communication and training shall include issues regarding 64290  
audit protocols and other standards established by the United 64291

States department of health and human services that the 64292  
departments determine appropriate for communication and training. 64293  
County boards shall participate in the training. The departments 64294  
shall assess the county board's compliance against uniform 64295  
standards that the departments shall establish. 64296

~~(E)~~(D) A county board may not delegate its medicaid local 64297  
administrative authority granted under this section but may 64298  
contract with a person or government entity, including a council 64299  
of governments, for assistance with its medicaid local 64300  
administrative authority. A county board that enters into such a 64301  
contract shall notify the director of mental retardation and 64302  
developmental disabilities. The notice shall include the tasks and 64303  
responsibilities that the contract gives to the person or 64304  
government entity. The person or government entity shall comply in 64305  
full with all requirements to which the county board is subject 64306  
regarding the person or government entity's tasks and 64307  
responsibilities under the contract. The county board remains 64308  
ultimately responsible for the tasks and responsibilities. 64309

~~(F)~~(E) A county board that has medicaid local administrative 64310  
authority under this section shall, through the departments of 64311  
mental retardation and developmental disabilities and job and 64312  
family services, reply to, and cooperate in arranging compliance 64313  
with, a program or fiscal audit or program violation exception 64314  
that a state or federal audit or review discovers. The department 64315  
of job and family services shall timely notify the department of 64316  
mental retardation and developmental disabilities and the county 64317  
board of any adverse findings. After receiving the notice, the 64318  
county board, in conjunction with the department of mental 64319  
retardation and developmental disabilities, shall cooperate fully 64320  
with the department of job and family services and timely prepare 64321  
and send to the department a written plan of correction or 64322  
response to the adverse findings. The county board is liable for 64323

any adverse findings that result from an action it takes or fails 64324  
to take in its implementation of medicaid local administrative 64325  
authority. 64326

~~(G)~~(F) If the department of mental retardation and 64327  
developmental disabilities or department of job and family 64328  
services determines that a county board's implementation of its 64329  
medicaid local administrative authority under this section is 64330  
deficient, the department that makes the determination shall 64331  
require that county board do the following: 64332

(1) If the deficiency affects the health, safety, or welfare 64333  
of an individual with mental retardation or other developmental 64334  
disability, correct the deficiency within twenty-four hours; 64335

(2) If the deficiency does not affect the health, safety, or 64336  
welfare of an individual with mental retardation or other 64337  
developmental disability, receive technical assistance from the 64338  
department or submit a plan of correction to the department that 64339  
is acceptable to the department within sixty days and correct the 64340  
deficiency within the time required by the plan of correction. 64341

**Sec. 5126.056.** (A) The department of mental retardation and 64342  
developmental disabilities shall take action under division (B) of 64343  
this section against a county board of mental retardation and 64344  
developmental disabilities if any of the following are the case: 64345

(1) The county board fails to submit to the department all 64346  
the components of its three-year plan required by section 5126.054 64347  
of the Revised Code within the time required by division (B) of 64348  
that section. 64349

(2) The department disapproves the county board's three-year 64350  
plan under section 5123.046 of the Revised Code. 64351

(3) The county board fails, as required by division (C) of 64352  
section 5126.054 of the Revised Code, to update and renew its 64353



three-year plan in accordance with a schedule the department  
develops under that section. 64354  
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(4) The county board fails to implement its initial or  
renewed three-year plan approved by the department. 64356  
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(5) The county board fails to correct a deficiency within the  
time required by division ~~(G)~~(F) of section 5126.055 of the  
Revised Code to the satisfaction of the department. 64358  
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(6) The county board fails to submit an acceptable plan of  
correction to the department within the time required by division  
~~(G)~~(F)(2) of section 5126.055 of the Revised Code. 64361  
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(B) If required by division (A) of this section to take  
action against a county board, the department shall issue an order  
terminating the county board's medicaid local administrative  
authority over all or part of home and community-based services,  
medicaid case management services, ~~habilitation center services,~~  
~~all or part of two of those services,~~ or all or part of ~~all three~~  
both of those services. The department shall provide a copy of the  
order to the board of county commissioners, probate judge, county  
auditor, and president and superintendent of the county board. The  
department shall specify in the order the medicaid local  
administrative authority that the department is terminating, the  
reason for the termination, and the county board's option and  
responsibilities under this division. 64364  
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A county board whose medicaid local administrative authority  
is terminated may, not later than thirty days after the department  
issues the termination order, recommend to the department that  
another county board that has not had any of its medicaid local  
administrative authority terminated or another entity the  
department approves administer the services for which the county  
board's medicaid local administrative authority is terminated. The  
department may contract with the other county board or entity to 64377  
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administer the services. If the department enters into such a  
contract, the county board shall adopt a resolution giving the  
other county board or entity full medicaid local administrative  
authority over the services that the other county board or entity  
is to administer. The other county board or entity shall be known  
as the contracting authority.

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

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

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

shall implement the plan.

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

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

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**Sec. 5126.057.** (A) A county board of mental retardation and developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services shall pay the nonfederal share of medicaid expenditures for such services

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provided to an individual with mental retardation or other 64448  
developmental disability who the county board determines under 64449  
section 5126.041 of the Revised Code is eligible for county board 64450  
services unless division ~~(C)(B)(2) or (3)~~ of section 5123.047 of 64451  
the Revised Code requires the department of mental retardation and 64452  
developmental disabilities to pay the nonfederal share. 64453

A county board that ~~has medicaid local administrative~~ 64454  
~~authority under division (B) of section 5126.055 of the Revised~~ 64455  
~~Code for~~ provides medicaid case management services shall pay the 64456  
nonfederal share of medicaid expenditures for such services 64457  
provided to an individual with mental retardation or other 64458  
developmental disability who the county board determines under 64459  
section 5126.041 of the Revised Code is eligible for county board 64460  
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 64461  
~~Code requires the department of mental retardation and~~ 64462  
~~developmental disabilities to pay the nonfederal share.~~ 64463

~~A county board shall pay the nonfederal share of medicaid~~ 64464  
~~expenditures for habilitation center services when required to do~~ 64465  
~~so by division (D) of section 5111.041 of the Revised Code.~~ 64466

(B) A county board may use the following funds to pay the 64467  
nonfederal share of the services that the county board is required 64468  
by division (A) of this section to pay: 64469

(1) To the extent consistent with the levy that generated the 64470  
taxes, the following taxes: 64471

(a) Taxes levied pursuant to division (L) of section 5705.19 64472  
of the Revised Code and section 5705.222 of the Revised Code; 64473

(b) Taxes levied under section 5705.191 of the Revised Code 64474  
that the board of county commissioners allocates to the county 64475  
board to pay the nonfederal share of the services. 64476

(2) Funds that the department of mental retardation and 64477

developmental disabilities distributes to the county board under 64478  
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 64479  
Revised Code; 64480

~~(3) Funds that the department allocates to the county board 64481  
for habilitation center services provided under section 5111.041 64482  
of the Revised Code; 64483~~

~~(4) Earned federal revenue funds the county board receives 64484  
for medicaid services the county board provides pursuant to the 64485  
county board's valid medicaid provider agreement. 64486~~

(C) If by December 31, 2001, the United States secretary of 64487  
health and human services approves at least five hundred more 64488  
slots for home and community-based services for calendar year 2002 64489  
than were available for calendar year 2001, each county board 64490  
shall provide, by the last day of calendar year 2001, assurances 64491  
to the department of mental retardation and developmental 64492  
disabilities that the county board will have for calendar year 64493  
2002 at least one-third of the value of one-half, effective mill 64494  
levied in the county the preceding year available to pay the 64495  
nonfederal share of the services that the county board is required 64496  
by division (A) of this section to pay. 64497

If by December 31, 2002, the United States secretary approves 64498  
at least five hundred more slots for home and community-based 64499  
services for calendar year 2003 than were available for calendar 64500  
year 2002, each county board shall provide, by the last day of 64501  
calendar year 2002, assurances to the department that the county 64502  
board will have for calendar year 2003 at least two-thirds of the 64503  
value of one-half, effective mill levied in the county the 64504  
preceding year available to pay the nonfederal share of the 64505  
services that the county board is required by division (A) of this 64506  
section to pay. 64507

If by December 31, 2003, the United States secretary approves 64508

at least five hundred more slots for home and community-based 64509  
services for calendar year 2004 than were available for calendar 64510  
year 2003, each county board shall provide, by the last day of 64511  
calendar year 2003 and each calendar year thereafter, assurances 64512  
to the department that the county board will have for calendar 64513  
year 2004 and each calendar year thereafter at least the value of 64514  
one-half, effective mill levied in the county the preceding year 64515  
available to pay the nonfederal share of the services that the 64516  
county board is required by division (A) of this section to pay. 64517

(D) Each year, each county board shall adopt a resolution 64518  
specifying the amount of funds it will use in the next year to pay 64519  
the nonfederal share of the services that the county board is 64520  
required by division (A) of this section to pay. The amount 64521  
specified shall be adequate to assure that the services will be 64522  
available in the county in a manner that conforms to all 64523  
applicable state and federal laws. A county board shall state in 64524  
its resolution that the payment of the nonfederal share represents 64525  
an ongoing financial commitment of the county board. A county 64526  
board shall adopt the resolution in time for the county auditor to 64527  
make the determination required by division (E) of this section. 64528

(E) Each year, a county auditor shall determine whether the 64529  
amount of funds a county board specifies in the resolution it 64530  
adopts under division (D) of this section will be available in the 64531  
following year for the county board to pay the nonfederal share of 64532  
the services that the county board is required by division (A) of 64533  
this section to pay. The county auditor shall make the 64534  
determination not later than the last day of the year before the 64535  
year in which the funds are to be used. 64536

**Sec. 5126.12.** (A) As used in this section: 64537

(1) "Approved school age class" means a class operated by a 64538  
county board of mental retardation and developmental disabilities 64539

and funded by the department of education under section 3317.20 of the Revised Code. 64540  
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(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code. 64542  
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(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status. 64546  
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(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in home and community-based services. 64555  
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~~(5) "Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.~~ 64563  
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~~(6)~~ "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services. 64567  
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(B) Each county board of mental retardation and developmental 64570

disabilities shall certify to the director of mental retardation 64571  
and developmental disabilities all of the following: 64572

(1) On or before the fifteenth day of October, the average 64573  
daily membership for the first full week of programs and services 64574  
during October receiving: 64575

(a) Early childhood services provided pursuant to section 64576  
5126.05 of the Revised Code for children who are less than three 64577  
years of age on the thirtieth day of September of the academic 64578  
year; 64579

(b) Special education for handicapped children in approved 64580  
school age classes; 64581

(c) Adult services for persons sixteen years of age and older 64582  
operated pursuant to section 5126.05 and division (B) of section 64583  
5126.051 of the Revised Code. Separate counts shall be made for 64584  
the following: 64585

(i) Persons enrolled in traditional adult services who are 64586  
eligible for but not enrolled in active treatment ~~under the~~ 64587  
~~community alternative funding system;~~ 64588

(ii) Persons enrolled in traditional adult services who are 64589  
eligible for and enrolled in active treatment ~~under the community~~ 64590  
~~alternative funding system;~~ 64591

(iii) Persons enrolled in traditional adult services but who 64592  
are not eligible for active treatment ~~under the community~~ 64593  
~~alternative funding system;~~ 64594

(iv) Persons participating in community employment services. 64595  
To be counted as participating in community employment services, a 64596  
person must have spent an average of no less than ten hours per 64597  
week in that employment during the preceding six months. 64598

(d) Other programs in the county for individuals with mental 64599  
retardation and developmental disabilities that have been approved 64600



for payment of subsidy by the department of mental retardation and 64601  
developmental disabilities. 64602

The membership in each such program and service in the county 64603  
shall be reported on forms prescribed by the department of mental 64604  
retardation and developmental disabilities. 64605

The department of mental retardation and developmental 64606  
disabilities shall adopt rules defining full-time equivalent 64607  
enrollees and for determining the average daily membership 64608  
therefrom, except that certification of average daily membership 64609  
in approved school age classes shall be in accordance with rules 64610  
adopted by the state board of education. The average daily 64611  
membership figure shall be determined by dividing the amount 64612  
representing the sum of the number of enrollees in each program or 64613  
service in the week for which the certification is made by the 64614  
number of days the program or service was offered in that week. No 64615  
enrollee may be counted in average daily membership for more than 64616  
one program or service. 64617

(2) By the fifteenth day of December, the number of children 64618  
enrolled in approved preschool units on the first day of December; 64619

(3) On or before the thirtieth day of March, an itemized 64620  
report of all income and operating expenditures for the 64621  
immediately preceding calendar year, in the format specified by 64622  
the department of mental retardation and developmental 64623  
disabilities; 64624

(4) By the fifteenth day of February, a report of the total 64625  
annual cost per enrollee for operation of programs and services in 64626  
the preceding calendar year. The report shall include a grand 64627  
total of all programs operated, the cost of the individual 64628  
programs, and the sources of funds applied to each program. 64629

(5) That each required certification and report is in 64630  
accordance with rules established by the department of mental 64631

retardation and developmental disabilities and the state board of  
education for the operation and subsidization of the programs and  
services. 64632  
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(C) To compute payments under this section to the board for  
the fiscal year, the department of mental retardation and  
developmental disabilities shall use the certification of average  
daily membership required by division (B)(1) of this section  
exclusive of the average daily membership in any approved school  
age class and the number in any approved preschool unit. 64635  
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(D) The department shall pay each county board for each  
fiscal year an amount equal to nine hundred fifty dollars times  
the certified number of persons who on the first day of December  
of the academic year are under three years of age and are not in  
an approved preschool unit. For persons who are at least age  
sixteen and are not in an approved school age class, the  
department shall pay each county board for each fiscal year the  
following amounts: 64641  
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(1) One thousand dollars times the certified average daily  
membership of persons enrolled in traditional adult services who  
are eligible for but not enrolled in active treatment ~~under the~~  
~~community alternative funding system;~~ 64649  
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(2) One thousand two hundred dollars times the certified  
average daily membership of persons enrolled in traditional adult  
services who are eligible for and enrolled in active treatment  
~~under the community alternative funding system;~~ 64653  
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(3) No less than one thousand five hundred dollars times the  
certified average daily membership of persons enrolled in  
traditional adult services but who are not eligible for active  
treatment ~~under the community alternative funding system;~~ 64657  
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(4) No less than one thousand five hundred dollars times the  
certified average daily membership of persons participating in 64661  
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community employment services. 64663

(E) The department shall distribute this subsidy to county 64664  
boards in quarterly installments of equal amounts. The 64665  
installments shall be made not later than the thirtieth day of 64666  
September, the thirty-first day of December, the thirty-first day 64667  
of March, and the thirtieth day of June. 64668

(F) The director of mental retardation and developmental 64669  
disabilities shall make efforts to obtain increases in the 64670  
subsidies for early childhood services and adult services so that 64671  
the amount of the subsidies is equal to at least fifty per cent of 64672  
the statewide average cost of those services minus any applicable 64673  
federal reimbursements for those services. The director shall 64674  
advise the director of budget and management of the need for any 64675  
such increases when submitting the biennial appropriations request 64676  
for the department. 64677

(G) In determining the reimbursement of a county board for 64678  
the provision of service and support administration, family 64679  
support services, and other services required or approved by the 64680  
director for which children three through twenty-one years of age 64681  
are eligible, the department shall include the average daily 64682  
membership in approved school age or preschool units. The 64683  
department, in accordance with this section and upon receipt and 64684  
approval of the certification required by this section and any 64685  
other information it requires to enable it to determine a board's 64686  
payments, shall pay the agency providing the specialized training 64687  
the amounts payable under this section. 64688

**Sec. 5139.01.** (A) As used in this chapter: 64689

(1) "Commitment" means the transfer of the physical custody 64690  
of a child or youth from the court to the department of youth 64691  
services. 64692

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services. 64693  
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(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities. 64695  
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(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents. 64710  
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(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks. 64716  
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(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or 64718  
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until the legal custody is terminated as otherwise provided by law. 64724  
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(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person. 64726  
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(8) "Discharge" means that the department of youth services' legal custody of a child is terminated. 64729  
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(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release. 64731  
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(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 64735  
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(11) "Felony delinquent" means any child who is at least ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony. 64737  
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(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 64745  
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(13) "Public safety beds" means all of the following: 64747

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a 64748  
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community corrections facility; 64754

(b) Felony delinquents who, while committed to the department 64755  
of youth services and in the care and custody of an institution or 64756  
a community corrections facility, are adjudicated delinquent 64757  
children for having committed in that institution or community 64758  
corrections facility an act that if committed by an adult would be 64759  
a misdemeanor or a felony; 64760

(c) Children who satisfy all of the following: 64761

(i) They are at least ten years of age but less than eighteen 64762  
years of age. 64763

(ii) They are adjudicated delinquent children for having 64764  
committed acts that if committed by an adult would be a felony. 64765

(iii) They are committed to the department of youth services 64766  
by the juvenile court of a county that has had one-tenth of one 64767  
per cent or less of the statewide adjudications for felony 64768  
delinquents as averaged for the past four fiscal years. 64769

(iv) They are in the care and custody of an institution or a 64770  
community corrections facility. 64771

(d) Felony delinquents who, while committed to the department 64772  
of youth services and in the care and custody of an institution 64773  
are serving disciplinary time for having committed an act 64774  
described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 64775  
and who have been institutionalized or institutionalized in a 64776  
secure facility for the minimum period of time specified in 64777  
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 64778

(e) Felony delinquents who are subject to and serving a 64779  
three-year period of commitment order imposed by a juvenile court 64780  
pursuant to divisions (A) and (B) of section 2152.17 of the 64781  
Revised Code for an act, other than a violation of section 2911.11 64782  
of the Revised Code, that would be a category one offense or 64783

category two offense if committed by an adult. 64784

(f) Felony delinquents who are described in divisions 64785  
(A)(13)(a) to (e) of this section, who have been granted a 64786  
judicial release to court supervision under division (B) of 64787  
section 2152.22 of the Revised Code or a judicial release to the 64788  
department of youth services supervision under division (C) of 64789  
that section from the commitment to the department of youth 64790  
services for the act described in divisions (A)(13)(a) to (e) of 64791  
this section, who have violated the terms and conditions of that 64792  
release, and who, pursuant to an order of the court of the county 64793  
in which the particular felony delinquent was placed on release 64794  
that is issued pursuant to division (D) of section 2152.22 of the 64795  
Revised Code, have been returned to the department for 64796  
institutionalization or institutionalization in a secure facility. 64797

(g) Felony delinquents who have been committed to the custody 64798  
of the department of youth services, who have been granted 64799  
supervised release from the commitment pursuant to section 5139.51 64800  
of the Revised Code, who have violated the terms and conditions of 64801  
that supervised release, and who, pursuant to an order of the 64802  
court of the county in which the particular child was placed on 64803  
supervised release issued pursuant to division (F) of section 64804  
5139.52 of the Revised Code, have had the supervised release 64805  
revoked and have been returned to the department for 64806  
institutionalization. A felony delinquent described in this 64807  
division shall be a public safety bed only for the time during 64808  
which the felony delinquent is institutionalized as a result of 64809  
the revocation subsequent to the initial thirty-day period of 64810  
institutionalization required by division (F) of section 5139.52 64811  
of the Revised Code. 64812

(14) Unless the context requires a different meaning, 64813  
"community corrections facility" means a county or multicounty 64814  
rehabilitation center for felony delinquents who have been 64815

committed to the department of youth services and diverted from 64816  
care and custody in an institution and placed in the 64817  
rehabilitation center pursuant to division (E) of section 5139.36 64818  
of the Revised Code. 64819

(15) "Secure facility" means any facility that is designed 64820  
and operated to ensure that all of its entrances and exits are 64821  
under the exclusive control of its staff and to ensure that, 64822  
because of that exclusive control, no child who has been 64823  
institutionalized in the facility may leave the facility without 64824  
permission or supervision. 64825

(16) "Community residential program" means a program that 64826  
satisfies both of the following: 64827

(a) It is housed in a building or other structure that has no 64828  
associated major restraining construction, including, but not 64829  
limited to, a security fence. 64830

(b) It provides twenty-four-hour care, supervision, and 64831  
programs for felony delinquents who are in residence. 64832

(17) "Category one offense" and "category two offense" have 64833  
the same meanings as in section 2151.26 of the Revised Code. 64834

(18) "Disciplinary time" means additional time that the 64835  
department of youth services requires a felony delinquent to serve 64836  
in an institution, that delays the felony delinquent's planned 64837  
release, and that the department imposes upon the felony 64838  
delinquent following the conduct of an internal due process 64839  
hearing for having committed any of the following acts while 64840  
committed to the department and in the care and custody of an 64841  
institution: 64842

(a) An act that if committed by an adult would be a felony; 64843

(b) An act that if committed by an adult would be a 64844  
misdemeanor; 64845



(c) An act that is not described in division (A)(18)(a) or 64846  
(b) of this section and that violates an institutional rule of 64847  
conduct of the department. 64848

(19) "Unruly child" has the same meaning as in section 64849  
2151.022 of the Revised Code. 64850

(20) "Revocation" means the act of revoking a child's 64851  
supervised release for a violation of a term or condition of the 64852  
child's supervised release in accordance with section 5139.52 of 64853  
the Revised Code. 64854

(21) "Release authority" means the release authority of the 64855  
department of youth services that is established by section 64856  
5139.50 of the Revised Code. 64857

(22) "Supervised release" means the event of the release of a 64858  
child under this chapter from an institution and the period after 64859  
that release during which the child is supervised and assisted by 64860  
an employee of the department of youth services under specific 64861  
terms and conditions for reintegration of the child into the 64862  
community. 64863

(23) "Victim" means the person identified in a police report, 64864  
complaint, or information as the victim of an act that would have 64865  
been a criminal offense if committed by an adult and that provided 64866  
the basis for adjudication proceedings resulting in a child's 64867  
commitment to the legal custody of the department of youth 64868  
services. 64869

(24) "Victim's representative" means a member of the victim's 64870  
family or another person whom the victim or another authorized 64871  
person designates in writing, pursuant to section 5139.56 of the 64872  
Revised Code, to represent the victim with respect to proceedings 64873  
of the release authority of the department of youth services and 64874  
with respect to other matters specified in that section. 64875

(25) "Member of the victim's family" means a spouse, child, 64876  
stepchild, sibling, parent, stepparent, grandparent, other 64877  
relative, or legal guardian of a child but does not include a 64878  
person charged with, convicted of, or adjudicated a delinquent 64879  
child for committing a criminal or delinquent act against the 64880  
victim or another criminal or delinquent act arising out of the 64881  
same conduct, criminal or delinquent episode, or plan as the 64882  
criminal or delinquent act committed against the victim. 64883

(26) "Judicial release to court supervision" means a release 64884  
of a child from institutional care or institutional care in a 64885  
secure facility that is granted by a court pursuant to division 64886  
(B) of section 2152.22 of the Revised Code during the period 64887  
specified in that division. 64888

(27) "Judicial release to department of youth services 64889  
supervision" means a release of a child from institutional care or 64890  
institutional care in a secure facility that is granted by a court 64891  
pursuant to division (C) of section 2152.22 of the Revised Code 64892  
during the period specified in that division. 64893

(28) "Juvenile justice system" includes all of the functions 64894  
of the juvenile courts, the department of youth services, any 64895  
public or private agency whose purposes include the prevention of 64896  
delinquency or the diversion, adjudication, detention, or 64897  
rehabilitation of delinquent children, and any of the functions of 64898  
the criminal justice system that are applicable to children. 64899

(29) "Metropolitan county criminal justice services agency" 64900  
means an agency that is established pursuant to division (A) of 64901  
section ~~181.54~~ 5502.64 of the Revised Code. 64902

(30) "Administrative planning district" means a district that 64903  
is established pursuant to division (A) or (B) of section ~~181.56~~ 64904  
5502.66 of the Revised Code. 64905

(31) "Criminal justice coordinating council" means a criminal 64906

justice services agency that is established pursuant to division 64907  
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 64908

(32) "Comprehensive plan" means a document that coordinates, 64909  
evaluates, and otherwise assists, on an annual or multi-year 64910  
basis, all of the functions of the juvenile justice systems of the 64911  
state or a specified area of the state, that conforms to the 64912  
priorities of the state with respect to juvenile justice systems, 64913  
and that conforms with the requirements of all federal criminal 64914  
justice acts. These functions include, but are not limited to, all 64915  
of the following: 64916

(a) Delinquency; 64917

(b) Identification, detection, apprehension, and detention of 64918  
persons charged with delinquent acts; 64919

(c) Assistance to crime victims or witnesses, except that the 64920  
comprehensive plan does not include the functions of the attorney 64921  
general pursuant to sections 109.91 and 109.92 of the Revised 64922  
Code; 64923

(d) Adjudication or diversion of persons charged with 64924  
delinquent acts; 64925

(e) Custodial treatment of delinquent children; 64926

(f) Institutional and noninstitutional rehabilitation of 64927  
delinquent children. 64928

(B) There is hereby created the department of youth services. 64929  
The governor shall appoint the director of the department with the 64930  
advice and consent of the senate. The director shall hold office 64931  
during the term of the appointing governor but subject to removal 64932  
at the pleasure of the governor. Except as otherwise authorized in 64933  
section 108.05 of the Revised Code, the director shall devote the 64934  
director's entire time to the duties of the director's office and 64935  
shall hold no other office or position of trust or profit during 64936

the director's term of office.

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

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

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

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(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

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(b) It ensures equal access for minority felony delinquents 64967  
to the programs and services for which a potential grant would be 64968  
used. 64969

(2) The department of youth services shall review each 64970  
application submitted pursuant to division (B)(1) of this section 64971  
to determine whether the plan described in that division, the 64972  
community corrections facility, and the application comply with 64973  
this section and the rules adopted under it. 64974

(C) To be eligible for a grant under this section and for 64975  
continued receipt of moneys comprising a grant under this section, 64976  
a community corrections facility shall satisfy at least all of the 64977  
following requirements: 64978

(1) Be constructed, reconstructed, improved, or financed by 64979  
the Ohio building authority pursuant to section 307.021 of the 64980  
Revised Code and Chapter 152. of the Revised Code for the use of 64981  
the department of youth services and be designated as a community 64982  
corrections facility; 64983

(2) Have written standardized criteria governing the types of 64984  
felony delinquents that are eligible for the programs and services 64985  
provided by the facility; 64986

(3) Have a written standardized intake screening process and 64987  
an intake committee that at least performs both of the following 64988  
tasks: 64989

(a) Screens all eligible felony delinquents who are being 64990  
considered for admission to the facility in lieu of commitment to 64991  
the department; 64992

(b) Notifies, within ten days after the date of the referral 64993  
of a felony delinquent to the facility, the committing court 64994  
whether the felony delinquent will be admitted to the facility. 64995

(4) Comply with all applicable fiscal and program rules that 64996

the department adopts in accordance with Chapter 119. of the  
Revised Code and demonstrate that felony delinquents served by the  
facility have been or will be diverted from a commitment to the  
department.

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

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

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

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(3) Counties that are not associated with a community  
corrections facility may refer children to a community corrections  
facility with the consent of the facility. The department of youth

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services shall debit the county that makes the referral in 65028  
accordance with sections 5139.41 to 5139.43 of the Revised Code. 65029

(F) If the board or other governing body of a community 65030  
corrections facility establishes an advisory board, the board or 65031  
other governing authority of the community corrections facility 65032  
shall reimburse the members of the advisory board for their actual 65033  
and necessary expenses incurred in the performance of their 65034  
official duties on the advisory board. The members of advisory 65035  
boards shall serve without compensation. 65036

**Sec. 5153.16.** (A) Except as provided in section 2151.422 of 65037  
the Revised Code, in accordance with rules of the department of 65038  
job and family services, and on behalf of children in the county 65039  
whom the public children services agency considers to be in need 65040  
of public care or protective services, the public children 65041  
services agency shall do all of the following: 65042

(1) Make an investigation concerning any child alleged to be 65043  
an abused, neglected, or dependent child; 65044

(2) Enter into agreements with the parent, guardian, or other 65045  
person having legal custody of any child, or with the department 65046  
of job and family services, department of mental health, 65047  
department of mental retardation and developmental disabilities, 65048  
other department, any certified organization within or outside the 65049  
county, or any agency or institution outside the state, having 65050  
legal custody of any child, with respect to the custody, care, or 65051  
placement of any child, or with respect to any matter, in the 65052  
interests of the child, provided the permanent custody of a child 65053  
shall not be transferred by a parent to the public children 65054  
services agency without the consent of the juvenile court; 65055

(3) Accept custody of children committed to the public 65056  
children services agency by a court exercising juvenile 65057

jurisdiction; 65058

(4) Provide such care as the public children services agency 65059  
considers to be in the best interests of any child adjudicated to 65060  
be an abused, neglected, or dependent child the agency finds to be 65061  
in need of public care or service; 65062

(5) Provide social services to any unmarried girl adjudicated 65063  
to be an abused, neglected, or dependent child who is pregnant 65064  
with or has been delivered of a child; 65065

(6) Make available to the bureau for children with medical 65066  
handicaps of the department of health at its request any 65067  
information concerning a crippled child found to be in need of 65068  
treatment under sections 3701.021 to 3701.028 of the Revised Code 65069  
who is receiving services from the public children services 65070  
agency; 65071

(7) Provide temporary emergency care for any child considered 65072  
by the public children services agency to be in need of such care, 65073  
without agreement or commitment; 65074

(8) Find certified foster homes, within or outside the 65075  
county, for the care of children, including handicapped children 65076  
from other counties attending special schools in the county; 65077

(9) Subject to the approval of the board of county 65078  
commissioners and the state department of job and family services, 65079  
establish and operate a training school or enter into an agreement 65080  
with any municipal corporation or other political subdivision of 65081  
the county respecting the operation, acquisition, or maintenance 65082  
of any children's home, training school, or other institution for 65083  
the care of children maintained by such municipal corporation or 65084  
political subdivision; 65085

(10) Acquire and operate a county children's home, establish, 65086  
maintain, and operate a receiving home for the temporary care of 65087



children, or procure certified foster homes for this purpose; 65088

(11) Enter into an agreement with the trustees of any 65089  
district children's home, respecting the operation of the district 65090  
children's home in cooperation with the other county boards in the 65091  
district; 65092

(12) Cooperate with, make its services available to, and act 65093  
as the agent of persons, courts, the department of job and family 65094  
services, the department of health, and other organizations within 65095  
and outside the state, in matters relating to the welfare of 65096  
children, except that the public children services agency shall 65097  
not be required to provide supervision of or other services 65098  
related to the exercise of parenting time rights granted pursuant 65099  
to section 3109.051 or 3109.12 of the Revised Code or 65100  
companionship or visitation rights granted pursuant to section 65101  
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 65102  
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 65103  
a common pleas court, pursuant to division (E)(6) of section 65104  
3113.31 of the Revised Code, requires the provision of supervision 65105  
or other services related to the exercise of the parenting time 65106  
rights or companionship or visitation rights; 65107

(13) Make investigations at the request of any superintendent 65108  
of schools in the county or the principal of any school concerning 65109  
the application of any child adjudicated to be an abused, 65110  
neglected, or dependent child for release from school, where such 65111  
service is not provided through a school attendance department; 65112

(14) Administer funds provided under Title IV-E of the 65113  
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 65114  
amended, in accordance with rules adopted under section 5101.141 65115  
of the Revised Code; 65116

(15) In addition to administering Title IV-E adoption 65117  
assistance funds, enter into agreements to make adoption 65118

- assistance payments under section 5153.163 of the Revised Code; 65119
- (16) Implement a system of risk assessment, in accordance 65120  
with rules adopted by the director of job and family services, to 65121  
assist the public children services agency in determining the risk 65122  
of abuse or neglect to a child; 65123
- (17) Enter into a plan of cooperation with the board of 65124  
county commissioners under section 307.983 of the Revised Code and 65125  
comply with each fiscal agreement the board enters into under 65126  
section 307.98 of the Revised Code that include family services 65127  
duties of public children services agencies and contracts the 65128  
board enters into under sections 307.981 and 307.982 of the 65129  
Revised Code that affect the public children services agency; 65130
- (18) Make reasonable efforts to prevent the removal of an 65131  
alleged or adjudicated abused, neglected, or dependent child from 65132  
the child's home, eliminate the continued removal of the child 65133  
from the child's home, or make it possible for the child to return 65134  
home safely, except that reasonable efforts of that nature are not 65135  
required when a court has made a determination under division 65136  
(A)(2) of section 2151.419 of the Revised Code; 65137
- (19) Make reasonable efforts to place the child in a timely 65138  
manner in accordance with the permanency plan approved under 65139  
division (E) of section 2151.417 of the Revised Code and to 65140  
complete whatever steps are necessary to finalize the permanent 65141  
placement of the child; 65142
- (20) Administer a Title IV-A program identified under 65143  
division (A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised 65144  
Code that the department of job and family services provides for 65145  
the public children services agency to administer under the 65146  
department's supervision pursuant to section 5101.801 of the 65147  
Revised Code; 65148
- (21) Administer the kinship permanency incentive program 65149

created under section 5101.802 of the Revised Code under the 65150  
supervision of the director of job and family services; 65151

(22) Provide independent living services pursuant to sections 65152  
2151.81 to 2151.84 of the Revised Code. 65153

(B) The public children services agency shall use the system 65154  
implemented pursuant to division (B)(16) of this section in 65155  
connection with an investigation undertaken pursuant to division 65156  
(F)(1) of section 2151.421 of the Revised Code and may use the 65157  
system at any other time the agency is involved with any child 65158  
when the agency determines that risk assessment is necessary. 65159

(C) Except as provided in section 2151.422 of the Revised 65160  
Code, in accordance with rules of the director of job and family 65161  
services, and on behalf of children in the county whom the public 65162  
children services agency considers to be in need of public care or 65163  
protective services, the public children services agency may do 65164  
the following: 65165

(1) Provide or find, with other child serving systems, 65166  
specialized foster care for the care of children in a specialized 65167  
foster home, as defined in section 5103.02 of the Revised Code, 65168  
certified under section 5103.03 of the Revised Code; 65169

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 65170  
this section, contract with the following for the purpose of 65171  
assisting the agency with its duties: 65172

(i) County departments of job and family services; 65173

(ii) Boards of alcohol, drug addiction, and mental health 65174  
services; 65175

(iii) County boards of mental retardation and developmental 65176  
disabilities; 65177

(iv) Regional councils of political subdivisions established 65178  
under Chapter 167. of the Revised Code; 65179

(v) Private and government providers of services;	65180
(vi) Managed care organizations and prepaid health plans.	65181
(b) A public children services agency contract under division	65182
(C)(2)(a) of this section regarding the agency's duties under	65183
section 2151.421 of the Revised Code may not provide for the	65184
entity under contract with the agency to perform any service not	65185
authorized by the department's rules.	65186
(c) Only a county children services board appointed under	65187
section 5153.03 of the Revised Code that is a public children	65188
services agency may contract under division (C)(2)(a) of this	65189
section. If an entity specified in division (B) or (C) of section	65190
5153.02 of the Revised Code is the public children services agency	65191
for a county, the board of county commissioners may enter into	65192
contracts pursuant to section 307.982 of the Revised Code	65193
regarding the agency's duties.	65194
<b>Sec. 5502.01.</b> (A) The department of public safety shall	65195
administer and enforce the laws relating to the registration,	65196
licensing, sale, and operation of motor vehicles and the laws	65197
pertaining to the licensing of drivers of motor vehicles.	65198
The department shall compile, analyze, and publish statistics	65199
relative to motor vehicle accidents and the causes of them,	65200
prepare and conduct educational programs for the purpose of	65201
promoting safety in the operation of motor vehicles on the	65202
highways, and conduct research and studies for the purpose of	65203
promoting safety on the highways of this state.	65204
(B) The department shall administer the laws and rules	65205
relative to trauma and emergency medical services specified in	65206
Chapter 4765. of the Revised Code.	65207
(C) The department shall administer and enforce the laws	65208
contained in Chapters 4301. and 4303. of the Revised Code and	65209

enforce the rules and orders of the liquor control commission 65210  
pertaining to retail liquor permit holders. 65211

(D) The department shall administer the laws governing the 65212  
state emergency management agency and shall enforce all additional 65213  
duties and responsibilities as prescribed in the Revised Code 65214  
related to emergency management services. 65215

(E) The department shall conduct investigations pursuant to 65216  
Chapter 5101. of the Revised Code in support of the duty of the 65217  
department of job and family services to administer food stamp 65218  
programs throughout this state. The department of public safety 65219  
shall conduct investigations necessary to protect the state's 65220  
property rights and interests in the food stamp program. 65221

(F) The department of public safety shall enforce compliance 65222  
with orders and rules of the public utilities commission and 65223  
applicable laws in accordance with Chapters 4919., 4921., and 65224  
4923. of the Revised Code regarding commercial motor vehicle 65225  
transportation safety, economic, and hazardous materials 65226  
requirements. 65227

(G) Notwithstanding Chapter 4117. of the Revised Code, the 65228  
department of public safety may establish requirements for its 65229  
enforcement personnel, including its enforcement agents described 65230  
in section 5502.14 of the Revised Code, that include standards of 65231  
conduct, work rules and procedures, and criteria for eligibility 65232  
as law enforcement personnel. 65233

(H) The department shall administer, maintain, and operate 65234  
the Ohio criminal justice network. The Ohio criminal justice 65235  
network shall be a computer network that supports state and local 65236  
criminal justice activities. The network shall be an electronic 65237  
repository for various data, which may include arrest warrants, 65238  
notices of persons wanted by law enforcement agencies, criminal 65239  
records, prison inmate records, stolen vehicle records, vehicle 65240

operator's licenses, and vehicle registrations and titles. 65241

(I) The department shall coordinate all homeland security 65242  
activities of all state agencies and shall be a liaison between 65243  
state agencies and local entities for those activities and related 65244  
purposes. 65245

(J) Beginning July 1, 2004, the department shall administer 65246  
and enforce the laws relative to private investigators and 65247  
security service providers specified in Chapter 4749. of the 65248  
Revised Code. 65249

(K) The department shall administer criminal justice services 65250  
in accordance with sections 5502.61 to 5502.66 of the Revised 65251  
Code. 65252

**Sec. ~~181.51~~ 5502.61.** As used in sections ~~181.51~~ 5502.61 to 65253  
~~181.56~~ 5502.66 of the Revised Code: 65254

(A) "Federal criminal justice acts" means any federal law 65255  
that authorizes financial assistance and other forms of assistance 65256  
to be given by the federal government to the states to be used for 65257  
the improvement of the criminal and juvenile justice systems of 65258  
the states. 65259

(B)(1) "Criminal justice system" includes all of the 65260  
functions of the following: 65261

(a) The state highway patrol, county sheriff offices, 65262  
municipal and township police departments, and all other law 65263  
enforcement agencies; 65264

(b) The courts of appeals, courts of common pleas, municipal 65265  
courts, county courts, and mayor's courts, when dealing with 65266  
criminal cases; 65267

(c) The prosecuting attorneys, city directors of law, village 65268  
solicitors, and other prosecuting authorities when prosecuting or 65269

otherwise handling criminal cases and the county and joint county  
public defenders and other public defender agencies or offices; 65270  
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(d) The department of rehabilitation and correction,  
probation departments, county and municipal jails and workhouses,  
and any other department, agency, or facility that is concerned  
with the rehabilitation or correction of criminal offenders; 65272  
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(e) Any public or private agency whose purposes include the  
prevention of crime or the diversion, adjudication, detention, or  
rehabilitation of criminal offenders; 65276  
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(f) Any public or private agency, the purposes of which  
include assistance to crime victims or witnesses. 65279  
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(2) The inclusion of any public or private agency, the  
purposes of which include assistance to crime victims or  
witnesses, as part of the criminal justice system pursuant to  
division (B)(1) of this section does not limit, and shall not be  
construed as limiting, the discretion or authority of the attorney  
general with respect to crime victim assistance and criminal  
justice programs. 65281  
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(C) "Juvenile justice system" includes all of the functions  
of the juvenile courts, the department of youth services, any  
public or private agency whose purposes include the prevention of  
delinquency or the diversion, adjudication, detention, or  
rehabilitation of delinquent children, and any of the functions of  
the criminal justice system that are applicable to children. 65288  
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(D) "Comprehensive plan" means a document that coordinates,  
evaluates, and otherwise assists, on an annual or multi-year  
basis, any of the functions of the criminal and juvenile justice  
systems of the state or a specified area of the state, that  
conforms to the priorities of the state with respect to criminal  
and juvenile justice systems, and that conforms with the  
requirements of all federal criminal justice acts. These functions 65294  
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may include, but are not limited to, any of the following: 65301

(1) Crime and delinquency prevention; 65302

(2) Identification, detection, apprehension, and detention of 65303  
persons charged with criminal offenses or delinquent acts; 65304

(3) Assistance to crime victims or witnesses, except that the 65305  
comprehensive plan does not include the functions of the attorney 65306  
general pursuant to sections 109.91 and 109.92 of the Revised 65307  
Code; 65308

(4) Adjudication or diversion of persons charged with 65309  
criminal offenses or delinquent acts; 65310

(5) Custodial treatment of criminal offenders, delinquent 65311  
children, or both; 65312

(6) Institutional and noninstitutional rehabilitation of 65313  
criminal offenders, delinquent children, or both. 65314

(E) "Metropolitan county criminal justice services agency" 65315  
means an agency that is established pursuant to division (A) of 65316  
section ~~181.54~~ 5502.64 of the Revised Code. 65317

(F) "Administrative planning district" means a district that 65318  
is established pursuant to division (A) or (B) of section ~~181.56~~ 65319  
5502.66 of the Revised Code. 65320

(G) "Criminal justice coordinating council" means a criminal 65321  
justice services agency that is established pursuant to division 65322  
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 65323

(H) "Local elected official" means any person who is a member 65324  
of a board of county commissioners or township trustees or of a 65325  
city or village council, judge of the court of common pleas, a 65326  
municipal court, or a county court, sheriff, county coroner, 65327  
prosecuting attorney, city director of law, village solicitor, or 65328  
mayor. 65329



(I) "Juvenile justice coordinating council" means a juvenile 65330  
justice services agency that is established pursuant to division 65331  
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 65332

**Sec. ~~181.52~~ 5502.62.** (A) There is hereby created ~~an office in~~ 65333  
~~the department of public safety a division~~ of criminal justice 65334  
services. The ~~governor~~ director of public safety, with the 65335  
concurrence of the governor, shall appoint a an executive director 65336  
of the ~~office,~~ and the director may appoint, within the office, 65337  
~~any professional and technical personnel and other employees that~~ 65338  
~~are necessary to enable the office to comply with sections 181.51~~ 65339  
~~to 181.56 of the Revised Code~~ division of criminal justice 65340  
services. The executive director shall be the head of the 65341  
division. The executive director shall serve at the pleasure of 65342  
the director of public safety. To carry out the duties assigned 65343  
under this section and to comply with sections 5502.63 to 5502.66 65344  
of the Revised Code, the executive director, subject to the 65345  
direction and control of the director of public safety, may 65346  
appoint and maintain any necessary staff and may enter into any 65347  
necessary contracts and other agreements. The executive director 65348  
~~and the assistant director~~ of the ~~office~~ division, and all 65349  
professional and technical personnel employed within the ~~office~~ 65350  
division who are not public employees as defined in section 65351  
4117.01 of the Revised Code, shall be in the unclassified civil 65352  
service, and all other persons employed within the ~~office~~ division 65353  
shall be in the classified civil service. ~~The director may enter~~ 65354  
~~into any contracts, except contracts governed by Chapter 4117. of~~ 65355  
~~the Revised Code, that are necessary for the operation of the~~ 65356  
~~office.~~ 65357

(B) Subject to division (E) of this section and subject to 65358  
divisions (D) to (F) of section 5120.09 of the Revised Code 65359  
insofar as those divisions relate to federal criminal justice acts 65360

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

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

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

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

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

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

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

(7) Implement the state comprehensive plans;

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

(9) Monitor or evaluate the performance of criminal justice

system projects and programs in the state that are financed in whole or in part by funds granted through the ~~office~~ division; 65391  
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(10) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts, or made available from other federal, state, or private sources, to improve the criminal justice system in the state. ~~All~~ Except as otherwise provided in this division, all money from such federal grants shall, if the terms under which the money is received require that the money be deposited into an interest-bearing fund or account, be deposited in the state treasury to the credit of the federal program purposes fund, which is hereby created. All investment earnings of the federal program purposes fund shall be credited to the fund. All money from such federal grants that require that the money be deposited into an interest-bearing fund or account, that are intended to provide funding to local criminal justice programs, and that require that investment earnings be distributed for program purposes shall be deposited in the state treasury to the credit of the federal justice programs fund, which is hereby created. All investment earnings of the federal justice programs fund shall be credited to the fund and distributed in accordance with the terms of the grant under which the money is received. 65393  
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(11) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the ~~office~~ division; 65413  
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(12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state; 65416  
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(13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile 65419  
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justice systems in the state; 65422

(14) Prepare and recommend legislation to the director of public safety, general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state; 65423  
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(15) Assist, advise, and make any reports that are requested or required by the governor, director of public safety, attorney general, or general assembly; 65426  
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(16) ~~Adopt~~ Subject to the approval of the director of public safety, adopt rules pursuant to Chapter 119. of the Revised Code. 65429  
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(C) Upon the request of the director of public safety or governor, the ~~office~~ division of criminal justice services may do any of the following: 65431  
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(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state; 65434  
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(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons; 65436  
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(3) Encourage and assist agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the ~~office~~ division. 65442  
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(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs. 65446  
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(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency. 65449  
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**Sec. ~~181.251~~ 5502.63.** The ~~office~~ division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office~~ division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

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

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

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

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

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

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

(4) Encourage and assist agencies of the criminal and

juvenile justice systems and other appropriate organizations and persons to solve problems that relate to its duties;

(5) Administer within its services area any federal criminal justice acts or juvenile justice acts that the ~~office~~ division of criminal justice services pursuant to section 5139.11 of the Revised Code or the department of youth services administers within the state;

(6) Implement the comprehensive plans for its services area;

(7) Monitor or evaluate, within its services area, the performance of the criminal and juvenile justice systems projects and programs that are financed in whole or in part by funds granted through it;

(8) Apply for, allocate, and disburse grants that are made available pursuant to any federal criminal justice acts, or pursuant to any other federal, state, or private sources for the purpose of improving the criminal and juvenile justice systems;

(9) Contract with federal, state, and local agencies, foundations, corporations, and other businesses or persons to carry out the duties of the agency.

**Sec. ~~181.55~~ 5502.65.** (A)(1) When funds are available for criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the ~~office~~ division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The ~~office~~ division of criminal justice services shall provide funds to an agency only if it complies with the conditions of division (B) of this section.

(2) When funds are available for juvenile justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the

department of youth services shall provide funds to metropolitan 65511  
county criminal justice services agencies for the purpose of 65512  
developing, coordinating, evaluating, and implementing 65513  
comprehensive plans within their respective counties. The 65514  
department shall provide funds to an agency only if it complies 65515  
with the conditions of division (B) of this section. 65516

(B) A metropolitan county criminal justice services agency 65517  
shall do all of the following: 65518

(1) Submit, in a form that is acceptable to the ~~office~~ 65519  
division of criminal justice services or the department of youth 65520  
services pursuant to section 5139.01 of the Revised Code, a 65521  
comprehensive plan for the county; 65522

(2) Establish a metropolitan county criminal justice services 65523  
supervisory board whose members shall include a majority of the 65524  
local elected officials in the county and representatives from law 65525  
enforcement agencies, courts, prosecuting authorities, public 65526  
defender agencies, rehabilitation and correction agencies, 65527  
community organizations, juvenile justice services agencies, 65528  
professionals, and private citizens in the county, and that shall 65529  
have the authority set forth in division (C) of this section; 65530

(3) Organize in the manner provided in sections 167.01 to 65531  
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 65532  
unless the board created pursuant to division (B)(2) of this 65533  
section organizes pursuant to these sections. 65534

(C) A metropolitan county criminal justice services 65535  
supervisory board shall do all of the following: 65536

(1) Exercise leadership in improving the quality of the 65537  
criminal and juvenile justice systems in the county; 65538

(2) Review, approve, and maintain general oversight of the 65539  
comprehensive plans for the county and the implementation of the 65540  
plans; 65541

(3) Review and comment on the overall needs and 65542  
accomplishments of the criminal and juvenile justice systems in 65543  
the county; 65544

(4) Establish, as required to comply with this division, task 65545  
forces, ad hoc committees, and other committees, whose members 65546  
shall be appointed by the chairperson of the board; 65547

(5) Establish any rules that the board considers necessary 65548  
and that are consistent with the federal criminal justice acts and 65549  
section ~~181.52~~ 5502.62 of the Revised Code. 65550

**Sec. ~~181.56~~ 5502.66.** (A) In counties in which a metropolitan 65551  
county criminal justice services agency does not exist, the ~~office~~ 65552  
division of criminal justice services shall discharge the ~~office's~~ 65553  
division's duties that the ~~governor~~ director of public safety 65554  
requires it to administer by establishing administrative planning 65555  
districts for criminal justice programs. An administrative 65556  
planning district shall contain a group of contiguous counties in 65557  
which no county has a metropolitan county criminal justice 65558  
services agency. 65559

(B) In counties in which a metropolitan county criminal 65560  
justice services agency does not exist, the department of youth 65561  
services shall discharge pursuant to section 5139.11 of the 65562  
Revised Code the department's duty by establishing administrative 65563  
planning districts for juvenile justice programs. 65564

(C) All administrative planning districts shall contain a 65565  
group of contiguous counties in which no county has a metropolitan 65566  
county criminal justice services agency. 65567

(D) Any county or any combination of contiguous counties 65568  
within an administrative planning district may form a criminal 65569  
justice coordinating council or a juvenile justice coordinating 65570  
council for its respective programs, if the county or the group of 65571



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

**Sec. 5531.10.** (A) As used in this chapter: 65578

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

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

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

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

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

(6) "Pledged receipts" means moneys accruing to the state 65602  
from the lease, lease-purchase, sale, or other disposition, or 65603  
use, of qualified projects, and from the repayment, including 65604  
interest, of loans made from proceeds received from the sale of 65605  
obligations; accrued interest received from the sale of 65606  
obligations; income from the investment of the special funds; any 65607  
gifts, grants, donations, and pledges, and receipts therefrom, 65608  
available for the payment of bond service charges; and any amounts 65609  
in the state infrastructure bank pledged to the payment of such 65610  
charges. If the amounts in the state infrastructure bank are 65611  
insufficient for the payment of such charges, "pledged receipts" 65612  
also means moneys that are apportioned by the United States 65613  
secretary of transportation under United States Code, Title XXIII, 65614  
as amended, or any successor legislation, or under any other 65615  
federal law relating to aid for highways, and that are to be 65616  
received as a grant by the state, to the extent the state is not 65617  
prohibited by state or federal law from using such moneys and the 65618  
moneys are pledged to the payment of such bond service charges. 65619

(7) "Special funds" or "funds" means, except where the 65620  
context does not permit, the bond service fund, and any other 65621  
funds, including reserve funds, created under the bond 65622  
proceedings, and the state infrastructure bank revenue bond 65623  
service fund created by division (R) of this section to the extent 65624  
provided in the bond proceedings, including all moneys and 65625  
investments, and earnings from investment, credited and to be 65626  
credited thereto. 65627

(8) "State infrastructure project" means any public 65628  
transportation project undertaken by the state, including, but not 65629  
limited to, all components of any such project, as described in 65630  
division (D) of section ~~5131.09~~ 5531.09 of the Revised Code. 65631

(9) "District obligations" means bonds, notes, or other 65632  
evidence of obligation including interest coupons pertaining 65633

thereto, issued to finance a qualified project by a transportation 65634  
improvement district created pursuant to section 5540.02 of the 65635  
Revised Code, of which the principal, including mandatory sinking 65636  
fund requirements for retirement of such obligations, and interest 65637  
and redemption premium, if any, are payable by the department of 65638  
transportation. 65639

(B) The issuing authority, after giving written notice to the 65640  
director of budget and management and upon the certification by 65641  
the director of transportation to the issuing authority of the 65642  
amount of moneys or additional moneys needed either for state 65643  
infrastructure projects or to provide financial assistance for any 65644  
of the purposes for which the state infrastructure bank may be 65645  
used under section 5531.09 of the Revised Code, or needed for 65646  
capitalized interest, funding reserves, and paying costs and 65647  
expenses incurred in connection with the issuance, carrying, 65648  
securing, paying, redeeming, or retirement of the obligations or 65649  
any obligations refunded thereby, including payment of costs and 65650  
expenses relating to letters of credit, lines of credit, 65651  
insurance, put agreements, standby purchase agreements, indexing, 65652  
marketing, remarketing and administrative arrangements, interest 65653  
swap or hedging agreements, and any other credit enhancement, 65654  
liquidity, remarketing, renewal, or refunding arrangements, all of 65655  
which are authorized by this section, shall issue obligations of 65656  
the state under this section in the required amount. The proceeds 65657  
of such obligations, except for the portion to be deposited in 65658  
special funds, including reserve funds, as may be provided in the 65659  
bond proceedings, shall as provided in the bond proceedings be 65660  
credited to the infrastructure bank obligations fund of the state 65661  
infrastructure bank created by section 5531.09 of the Revised 65662  
Code. The issuing authority may appoint trustees, paying agents, 65663  
transfer agents, and authenticating agents, and may retain the 65664  
services of financial advisors, accounting experts, and attorneys, 65665

and retain or contract for the services of marketing, remarketing, 65666  
indexing, and administrative agents, other consultants, and 65667  
independent contractors, including printing services, as are 65668  
necessary in the issuing authority's judgment to carry out this 65669  
section. The costs of such services are payable from funds of the 65670  
state infrastructure bank. 65671

(C) The holders or owners of such obligations shall have no 65672  
right to have moneys raised by taxation by the state of Ohio 65673  
obligated or pledged, and moneys so raised shall not be obligated 65674  
or pledged, for the payment of bond service charges. The right of 65675  
such holders and owners to the payment of bond service charges is 65676  
limited to all or that portion of the pledged receipts and those 65677  
special funds pledged thereto pursuant to the bond proceedings for 65678  
such obligations in accordance with this section, and each such 65679  
obligation shall bear on its face a statement to that effect. 65680

(D) Obligations shall be authorized by order of the issuing 65681  
authority and the bond proceedings shall provide for the purpose 65682  
thereof and the principal amount or amounts, and shall provide for 65683  
or authorize the manner or agency for determining the principal 65684  
maturity or maturities, not exceeding twenty-five years from the 65685  
date of issuance, the interest rate or rates or the maximum 65686  
interest rate, the date of the obligations and the dates of 65687  
payment of interest thereon, their denomination, and the 65688  
establishment within or without the state of a place or places of 65689  
payment of bond service charges. Sections 9.98 to 9.983 of the 65690  
Revised Code are applicable to obligations issued under this 65691  
section. The purpose of such obligations may be stated in the bond 65692  
proceedings in terms describing the general purpose or purposes to 65693  
be served. The bond proceedings also shall provide, subject to the 65694  
provisions of any other applicable bond proceedings, for the 65695  
pledge of all, or such part as the issuing authority may 65696  
determine, of the pledged receipts and the applicable special fund 65697

or funds to the payment of bond service charges, which pledges may  
be made either prior or subordinate to other expenses, claims, or  
payments, and may be made to secure the obligations on a parity  
with obligations theretofore or thereafter issued, if and to the  
extent provided in the bond proceedings. The pledged receipts and  
special funds so pledged and thereafter received by the state  
immediately are subject to the lien of such pledge without any  
physical delivery thereof or further act, and the lien of any such  
pledges is valid and binding against all parties having claims of  
any kind against the state or any governmental agency of the  
state, irrespective of whether such parties have notice thereof,  
and shall create a perfected security interest for all purposes of  
Chapter 1309. of the Revised Code, without the necessity for  
separation or delivery of funds or for the filing or recording of  
the bond proceedings by which such pledge is created or any  
certificate, statement, or other document with respect thereto;  
and the pledge of such pledged receipts and special funds is  
effective and the money therefrom and thereof may be applied to  
the purposes for which pledged without necessity for any act of  
appropriation. Every pledge, and every covenant and agreement made  
with respect thereto, made in the bond proceedings may therein be  
extended to the benefit of the owners and holders of obligations  
authorized by this section, and to any trustee therefor, for the  
further security of the payment of the bond service charges.

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

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

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued; 65729  
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(5) The deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority; 65731  
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(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; 65739  
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(7) Any provision that may be made in a trust agreement or indenture; 65744  
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(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security relating to financial assistance for qualified projects under section 5531.09 of the Revised Code. 65746  
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(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or 65751  
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coupon ceases to be the issuing authority before delivery thereof, 65760  
such signature or facsimile nevertheless is valid and sufficient 65761  
for all purposes as if the former issuing authority had remained 65762  
the issuing authority until such delivery; and in case the seal to 65763  
be affixed to obligations has been changed after a facsimile of 65764  
the seal has been imprinted on such obligations, such facsimile 65765  
seal shall continue to be sufficient as to such obligations and 65766  
obligations issued in substitution or exchange therefor. 65767

(G) All obligations are negotiable instruments and securities 65768  
under Chapter 1308. of the Revised Code, subject to the provisions 65769  
of the bond proceedings as to registration. The obligations may be 65770  
issued in coupon or in registered form, or both, as the issuing 65771  
authority determines. Provision may be made for the registration 65772  
of any obligations with coupons attached thereto as to principal 65773  
alone or as to both principal and interest, their exchange for 65774  
obligations so registered, and for the conversion or reconversion 65775  
into obligations with coupons attached thereto of any obligations 65776  
registered as to both principal and interest, and for reasonable 65777  
charges for such registration, exchange, conversion, and 65778  
reconversion. 65779

(H) Obligations may be sold at public sale or at private 65780  
sale, as determined in the bond proceedings. 65781

(I) Pending preparation of definitive obligations, the 65782  
issuing authority may issue interim receipts or certificates which 65783  
shall be exchanged for such definitive obligations. 65784

(J) In the discretion of the issuing authority, obligations 65785  
may be secured additionally by a trust agreement or indenture 65786  
between the issuing authority and a corporate trustee which may be 65787  
any trust company or bank having its principal place of business 65788  
within the state. Any such agreement or indenture may contain the 65789  
order authorizing the issuance of the obligations, any provisions 65790

that may be contained in any bond proceedings, and other 65791  
provisions which are customary or appropriate in an agreement or 65792  
indenture of such type, including, but not limited to: 65793

(1) Maintenance of each pledge, trust agreement, indenture, 65794  
or other instrument comprising part of the bond proceedings until 65795  
the state has fully paid the bond service charges on the 65796  
obligations secured thereby, or provision therefor has been made; 65797

(2) In the event of default in any payments required to be 65798  
made by the bond proceedings, or any other agreement of the 65799  
issuing authority made as a part of the contract under which the 65800  
obligations were issued, enforcement of such payments or agreement 65801  
by mandamus, the appointment of a receiver, suit in equity, action 65802  
at law, or any combination of the foregoing; 65803

(3) The rights and remedies of the holders of obligations and 65804  
of the trustee, and provisions for protecting and enforcing them, 65805  
including limitations on the rights of individual holders of 65806  
obligations; 65807

(4) The replacement of any obligations that become mutilated 65808  
or are destroyed, lost, or stolen; 65809

(5) Such other provisions as the trustee and the issuing 65810  
authority agree upon, including limitations, conditions, or 65811  
qualifications relating to any of the foregoing. 65812

(K) Any holder of obligations or a trustee under the bond 65813  
proceedings, except to the extent that the holder's or trustee's 65814  
rights are restricted by the bond proceedings, may by any suitable 65815  
form of legal proceedings, protect and enforce any rights under 65816  
the laws of this state or granted by such bond proceedings. Such 65817  
rights include the right to compel the performance of all duties 65818  
of the issuing authority and the director of transportation 65819  
required by the bond proceedings or sections 5531.09 and 5531.10 65820  
of the Revised Code; to enjoin unlawful activities; and in the 65821



event of default with respect to the payment of any bond service 65822  
charges on any obligations or in the performance of any covenant 65823  
or agreement on the part of the issuing authority or the director 65824  
of transportation in the bond proceedings, to apply to a court 65825  
having jurisdiction of the cause to appoint a receiver to receive 65826  
and administer the pledged receipts and special funds, other than 65827  
those in the custody of the treasurer of state, which are pledged 65828  
to the payment of the bond service charges on such obligations or 65829  
which are the subject of the covenant or agreement, with full 65830  
power to pay, and to provide for payment of bond service charges 65831  
on, such obligations, and with such powers, subject to the 65832  
direction of the court, as are accorded receivers in general 65833  
equity cases, excluding any power to pledge additional revenues or 65834  
receipts or other income or moneys of the state or local 65835  
governmental entities, or agencies thereof, to the payment of such 65836  
principal and interest and excluding the power to take possession 65837  
of, mortgage, or cause the sale or otherwise dispose of any 65838  
project facilities. 65839

Each duty of the issuing authority and the issuing 65840  
authority's officers and employees, and of each state or local 65841  
governmental agency and its officers, members, or employees, 65842  
undertaken pursuant to the bond proceedings or any loan, loan 65843  
guarantee, lease, lease-purchase agreement, or other agreement 65844  
made under authority of section 5531.09 of the Revised Code, and 65845  
in every agreement by or with the issuing authority, is hereby 65846  
established as a duty of the issuing authority, and of each such 65847  
officer, member, or employee having authority to perform such 65848  
duty, specifically enjoined by the law resulting from an office, 65849  
trust, or station within the meaning of section 2731.01 of the 65850  
Revised Code. 65851

The person who is at the time the issuing authority, or the 65852  
issuing authority's officers or employees, are not liable in their 65853

personal capacities on any obligations issued by the issuing 65854  
authority or any agreements of or with the issuing authority. 65855

(L) The issuing authority may authorize and issue obligations 65856  
for the refunding, including funding and retirement, and advance 65857  
refunding with or without payment or redemption prior to maturity, 65858  
of any obligations previously issued by the issuing authority or 65859  
of district obligations. Such refunding obligations may be issued 65860  
in amounts sufficient for payment of the principal amount of the 65861  
prior obligations or district obligations, any redemption premiums 65862  
thereon, principal maturities of any such obligations or district 65863  
obligations maturing prior to the redemption of the remaining 65864  
obligations or district obligations on a parity therewith, 65865  
interest accrued or to accrue to the maturity dates or dates of 65866  
redemption of such obligations or district obligations, and any 65867  
expenses incurred or to be incurred in connection with such 65868  
issuance and such refunding, funding, and retirement. Subject to 65869  
the bond proceedings therefor, the portion of proceeds of the sale 65870  
of refunding obligations issued under this division to be applied 65871  
to bond service charges on the prior obligations or district 65872  
obligations shall be credited to an appropriate account held by 65873  
the trustee for such prior or new obligations or to the 65874  
appropriate account in the bond service fund for such obligations 65875  
or district obligations. Obligations authorized under this 65876  
division shall be deemed to be issued for those purposes for which 65877  
such prior obligations or district obligations were issued and are 65878  
subject to the provisions of this section pertaining to other 65879  
obligations, except as otherwise provided in this section. The 65880  
last maturity of obligations authorized under this division shall 65881  
not be later than twenty-five years from the date of issuance of 65882  
the original securities issued for the original purpose. 65883

(M) The authority to issue obligations under this section 65884  
includes authority to issue obligations in the form of bond 65885

anticipation notes and to renew the same from time to time by the  
issuance of new notes. The holders of such notes or interest  
coupons pertaining thereto shall have a right to be paid solely  
from the pledged receipts and special funds that may be pledged to  
the payment of the bonds anticipated, or from the proceeds of such  
bonds or renewal notes, or both, as the issuing authority provides  
in the order authorizing such notes. Such notes may be  
additionally secured by covenants of the issuing authority to the  
effect that the issuing authority and the state will do such or  
all things necessary for the issuance of such bonds or renewal  
notes in the appropriate amount, and apply the proceeds thereof to  
the extent necessary, to make full payment of the principal of and  
interest on such notes at the time or times contemplated, as  
provided in such order. For such purpose, the issuing authority  
may issue bonds or renewal notes in such principal amount and upon  
such terms as may be necessary to provide funds to pay when  
required the principal of and interest on such notes,  
notwithstanding any limitations prescribed by or for purposes of  
this section. Subject to this division, all provisions for and  
references to obligations in this section are applicable to notes  
authorized under this division.

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

(N) Obligations issued under this section are lawful  
investments for banks, societies for savings, savings and loan  
associations, deposit guarantee associations, trust companies,  
trustees, fiduciaries, insurance companies, including domestic for  
life and domestic not for life, trustees or other officers having  
charge of sinking and bond retirement or other special funds of  
political subdivisions and taxing districts of this state, the

commissioners of the sinking fund of the state, the administrator 65918  
of workers' compensation in accordance with the investment policy 65919  
established by the workers' compensation oversight commission 65920  
pursuant to section 4121.12 of the Revised Code, the state 65921  
teachers retirement system, the public employees retirement 65922  
system, the school employees retirement system, and the Ohio 65923  
police and fire pension fund, notwithstanding any other provisions 65924  
of the Revised Code or rules adopted pursuant thereto by any 65925  
agency of the state with respect to investments by them, and are 65926  
also acceptable as security for the deposit of public moneys. 65927

(O) Unless otherwise provided in any applicable bond 65928  
proceedings, moneys to the credit of or in the special funds 65929  
established by or pursuant to this section may be invested by or 65930  
on behalf of the issuing authority only in notes, bonds, or other 65931  
obligations of the United States, or of any agency or 65932  
instrumentality of the United States, obligations guaranteed as to 65933  
principal and interest by the United States, obligations of this 65934  
state or any political subdivision of this state, and certificates 65935  
of deposit of any national bank located in this state and any 65936  
bank, as defined in section 1101.01 of the Revised Code, subject 65937  
to inspection by the superintendent of financial institutions. If 65938  
the law or the instrument creating a trust pursuant to division 65939  
(J) of this section expressly permits investment in direct 65940  
obligations of the United States or an agency of the United 65941  
States, unless expressly prohibited by the instrument, such moneys 65942  
also may be invested in no-front-end-load money market mutual 65943  
funds consisting exclusively of obligations of the United States 65944  
or an agency of the United States and in repurchase agreements, 65945  
including those issued by the fiduciary itself, secured by 65946  
obligations of the United States or an agency of the United 65947  
States; and in collective investment funds as defined in division 65948  
(A) of section 1111.01 of the Revised Code and consisting 65949

exclusively of any such securities. The income from such 65950  
investments shall be credited to such funds as the issuing 65951  
authority determines, and such investments may be sold at such 65952  
times as the issuing authority determines or authorizes. 65953

(P) Provision may be made in the applicable bond proceedings 65954  
for the establishment of separate accounts in the bond service 65955  
fund and for the application of such accounts only to the 65956  
specified bond service charges on obligations pertinent to such 65957  
accounts and bond service fund and for other accounts therein 65958  
within the general purposes of such fund. Unless otherwise 65959  
provided in any applicable bond proceedings, moneys to the credit 65960  
of or in the several special funds established pursuant to this 65961  
section shall be disbursed on the order of the treasurer of state, 65962  
provided that no such order is required for the payment from the 65963  
bond service fund when due of bond service charges on obligations. 65964

(Q)(1) The issuing authority may pledge all, or such portion 65965  
as the issuing authority determines, of the pledged receipts to 65966  
the payment of bond service charges on obligations issued under 65967  
this section, and for the establishment and maintenance of any 65968  
reserves, as provided in the bond proceedings, and make other 65969  
provisions therein with respect to pledged receipts as authorized 65970  
by this chapter, which provisions are controlling notwithstanding 65971  
any other provisions of law pertaining thereto. 65972

(2) An action taken under division (Q)(2) of this section 65973  
does not limit the generality of division (Q)(1) of this section, 65974  
and is subject to division (C) of this section and, if and to the 65975  
extent otherwise applicable, Section 13 of Article VIII, Ohio 65976  
Constitution. The bond proceedings may contain a covenant that, in 65977  
the event the pledged receipts primarily pledged and required to 65978  
be used for the payment of bond service charges on obligations 65979  
issued under this section, and for the establishment and 65980  
maintenance of any reserves, as provided in the bond proceedings, 65981

are insufficient to make any such payment in full when due, or to  
maintain any such reserve, the director of transportation shall so  
notify the governor, and shall determine to what extent, if any,  
the payment may be made or moneys may be restored to the reserves  
from lawfully available moneys previously appropriated for that  
purpose to the department of transportation. The covenant also may  
provide that if the payments are not made or the moneys are not  
immediately and fully restored to the reserves from such moneys,  
the director shall promptly submit to the governor and to the  
director of budget and management a written request for either or  
both of the following:

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

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

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

(R) There is hereby created the state infrastructure bank 66013  
revenue bond service fund, which shall be in the custody of the 66014  
treasurer of state but shall not be a part of the state treasury. 66015  
All moneys received by or on account of the issuing authority or 66016  
state agencies and required by the applicable bond proceedings, 66017  
consistent with this section, to be deposited, transferred, or 66018  
credited to the bond service fund, and all other moneys 66019  
transferred or allocated to or received for the purposes of the 66020  
fund, shall be deposited and credited to such fund and to any 66021  
separate accounts therein, subject to applicable provisions of the 66022  
bond proceedings, but without necessity for any act of 66023  
appropriation. The state infrastructure bank revenue bond service 66024  
fund is a trust fund and is hereby pledged to the payment of bond 66025  
service charges to the extent provided in the applicable bond 66026  
proceedings, and payment thereof from such fund shall be made or 66027  
provided for by the treasurer of state in accordance with such 66028  
bond proceedings without necessity for any act of appropriation. 66029

(S) The obligations issued pursuant to this section, the 66030  
transfer thereof, and the income therefrom, including any profit 66031  
made on the sale thereof, shall at all times be free from taxation 66032  
within this state. 66033

**Sec. 5540.01.** As used in this chapter: 66034

(A) "Transportation improvement district" or "district" means 66035  
a transportation improvement district designated pursuant to 66036  
section 5540.02 of the Revised Code. 66037

(B) "Governmental agency" means a department, division, or 66038  
other unit of state government; a county, township, or municipal 66039  
corporation or other political subdivision; a regional transit 66040  
authority or regional transit commission created pursuant to 66041  
Chapter 306. of the Revised Code; a port authority created 66042  
pursuant to Chapter 4582. of the Revised Code; and the United 66043

States or any agency thereof. 66044

(C) "Project" means a street, highway, or other 66045  
transportation project constructed or improved under this chapter 66046  
and includes all bridges, tunnels, overpasses, underpasses, 66047  
interchanges, approaches, those portions of connecting streets or 66048  
highways that serve interchanges and are determined by the 66049  
district to be necessary for the safe merging of traffic between 66050  
the project and those streets or highways, service facilities, and 66051  
administration, storage, and other buildings, property, and 66052  
facilities, that the district considers necessary for the 66053  
operation of the project, together with all property and rights 66054  
that must be acquired by the district for the construction, 66055  
maintenance, or operation of the project. 66056

(D) "Cost," as applied to the construction of a project, 66057  
includes the cost of construction, including bridges over or under 66058  
existing highways and railroads, acquisition of all property 66059  
acquired by the district for such construction, demolishing or 66060  
removing any buildings or structures on land so acquired, 66061  
including the cost of acquiring any lands to which such buildings 66062  
or structures may be moved, site clearance, improvement, and 66063  
preparation, diverting streets or highways, interchanges with 66064  
streets or highways, access roads to private property, including 66065  
the cost of land or easements therefor, all machinery, 66066  
furnishings, and equipment, communications facilities, financing 66067  
expenses, interest prior to and during construction and for one 66068  
year after completion of construction, traffic estimates, 66069  
indemnity and surety bonds and premiums on insurance, and 66070  
guarantees, engineering, feasibility studies, and legal expenses, 66071  
plans, specifications, surveys, estimates of cost and revenues, 66072  
other expenses necessary or incidental to determining the 66073  
feasibility or practicability of constructing a project, and such 66074  
other expense as may be necessary or incident to the construction 66075



of the project and the financing of such construction. Any 66076  
obligation or expense incurred by any governmental agency or 66077  
person for surveys, borings, preparation of plans and 66078  
specifications, and other engineering services, or any other cost 66079  
described above, in connection with the construction of a project 66080  
may be regarded as part of the cost of the project and reimbursed 66081  
from revenues, taxes, or the proceeds of bonds as authorized by 66082  
this chapter. 66083

(E) "Owner" includes any person having any title or interest 66084  
in any property authorized to be acquired by a district under this 66085  
chapter. 66086

(F) "Revenues" means all moneys received by a district with 66087  
respect to the lease, sublease, or sale, including installment 66088  
sale, conditional sale, or sale under a lease-purchase agreement, 66089  
of a project, all moneys received by a district under an agreement 66090  
pursuant to section 5540.032 of the Revised Code, any gift or 66091  
grant received with respect to a project, tolls, special 66092  
assessments levied by the district, proceeds of bonds to the 66093  
extent the use thereof for payment of principal or of premium, if 66094  
any, or interest on the bonds is authorized by the district, 66095  
proceeds from any insurance, condemnation, or guaranty pertaining 66096  
to a project or property mortgaged to secure bonds or pertaining 66097  
to the financing of a project, and income and profit from the 66098  
investment of the proceeds of bonds or of any revenues. 66099

(G) "Street or highway" has the same meaning as in section 66100  
4511.01 of the Revised Code. 66101

(H) "Financing expenses" means all costs and expenses 66102  
relating to the authorization, issuance, sale, delivery, 66103  
authentication, deposit, custody, clearing, registration, 66104  
transfer, exchange, fractionalization, replacement, payment, and 66105  
servicing of bonds including, without limitation, costs and 66106

expenses for or relating to publication and printing, postage, 66107  
delivery, preliminary and final official statements, offering 66108  
circulars, and informational statements, travel and 66109  
transportation, underwriters, placement agents, investment 66110  
bankers, paying agents, registrars, authenticating agents, 66111  
remarketing agents, custodians, clearing agencies or corporations, 66112  
securities depositories, financial advisory services, 66113  
certifications, audits, federal or state regulatory agencies, 66114  
accounting and computation services, legal services and obtaining 66115  
approving legal opinions and other legal opinions, credit ratings, 66116  
redemption premiums, and credit enhancement facilities. 66117

(I) "Bond proceedings" means the resolutions, trust 66118  
agreements, certifications, notices, sale proceedings, leases, 66119  
lease-purchase agreements, assignments, credit enhancement 66120  
facility agreements, and other agreements, instruments, and 66121  
documents, as amended and supplemented, or any one or more of 66122  
combination thereof, authorizing, or authorizing or providing for 66123  
the terms and conditions applicable to, or providing for the 66124  
security or sale or award or liquidity of, bonds, and includes the 66125  
provisions set forth or incorporated in those bonds and bond 66126  
proceedings. 66127

(J) "Bond service charges" means principal, including any 66128  
mandatory sinking fund or mandatory redemption requirements for 66129  
retirement of bonds, and interest and any redemption premium 66130  
payable on bonds, as those payments come due and are payable to 66131  
the bondholder or to a person making payment under a credit 66132  
enhancement facility of those bond service charges to a 66133  
bondholder. 66134

(K) "Bond service fund" means the applicable fund created by 66135  
the bond proceedings for and pledged to the payment of bond 66136  
service charges on bonds provided for by those proceedings, 66137  
including all moneys and investments, and earnings from 66138

investments, credited and to be credited to that fund as provided 66139  
in the bond proceedings. 66140

(L) "Bonds" means bonds, notes, including notes anticipating 66141  
bonds or other notes, commercial paper, certificates of 66142  
participation, or other evidences of obligation, including any 66143  
interest coupons pertaining thereto, issued pursuant to this 66144  
chapter. 66145

(M) "Net revenues" means revenues lawfully available to pay 66146  
both current operating expenses of a district and bond service 66147  
charges in any fiscal year or other specified period, less current 66148  
operating expenses of the district and any amount necessary to 66149  
maintain a working capital reserve for that period. 66150

(N) "Pledged revenues" means net revenues, moneys and 66151  
investments, and earnings on those investments, in the applicable 66152  
bond service fund and any other special funds, and the proceeds of 66153  
any bonds issued for the purpose of refunding prior bonds, all as 66154  
lawfully available and by resolution of the district committed for 66155  
application as pledged revenues to the payment of bond service 66156  
charges on particular issues of bonds. 66157

(O) "Special funds" means the applicable bond service fund 66158  
and any accounts and subaccounts in that fund, any other funds or 66159  
accounts permitted by and established under, and identified as a 66160  
special fund or special account in, the bond proceedings, 66161  
including any special fund or account established for purposes of 66162  
rebate or other requirements under federal income tax laws. 66163

(P) "Credit enhancement facilities" means letters of credit, 66164  
lines of credit, standby, contingent, or firm securities purchase 66165  
agreements, insurance, or surety arrangements, guarantees, and 66166  
other arrangements that provide for direct or contingent payment 66167  
of bond service charges, for security or additional security in 66168  
the event of nonpayment or default in respect of bonds, or for 66169

making payment of bond service charges and at the option and on 66170  
demand of bondholders or at the option of the district or upon 66171  
certain conditions occurring under put or similar arrangements, or 66172  
for otherwise supporting the credit or liquidity of the bonds, and 66173  
includes credit, reimbursement, marketing, remarketing, indexing, 66174  
carrying, interest rate hedge, and subrogation agreements, and 66175  
other agreements and arrangements for payment and reimbursement of 66176  
the person providing the credit enhancement facility and the 66177  
security for that payment and reimbursement. 66178

(Q) "Refund" means to fund and retire outstanding bonds, 66179  
including advance refunding with or without payment or redemption 66180  
prior to stated maturity. 66181

(R) "Property" includes interests in property. 66182

(S) "Administrative agent," "agent," "commercial paper," 66183  
"floating rate interest structure," "indexing agent," "interest 66184  
rate hedge," "interest rate period," "put arrangement," and 66185  
"remarketing agent" have the same meanings as in section 9.98 of 66186  
the Revised Code. 66187

(T) "Outstanding" as applied to bonds means outstanding in 66188  
accordance with the terms of the bonds and the applicable bond 66189  
proceedings. 66190

(U) "Interstate system" has the same meaning as in section 66191  
5516.01 of the Revised Code. 66192

**Sec. 5540.032.** (A) A transportation improvement district and 66193  
any governmental agency may enter into an agreement providing for 66194  
the joint financing, construction, acquisition, or improvement of 66195  
any project benefiting the parties thereto and providing for the 66196  
joint management, maintenance, and repair thereof. Any such 66197  
agreement shall be approved by resolution or ordinance passed by 66198  
the legislative authority of each of the parties to such 66199

agreement, which resolution or ordinance shall authorize the  
execution thereof by a designated official or officials of each of  
such parties, and such agreement, when so approved and executed,  
shall be in full force and effect.

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(B)(1) Subject to division (B)(2) of this section, any party  
to such an agreement may issue and, notwithstanding any other  
provision of the Revised Code, a district may purchase directly  
from the party as an investment, securities to evidence the  
obligations of that party to the district pursuant to the  
agreement for its portion of the cost of the project pursuant to  
Chapter 133. or other applicable provisions of the Revised Code.

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(2) More than half of the property necessary for any project  
undertaken pursuant to an agreement under this section for which a  
district is purchasing securities under division (B)(1) of this  
section shall be located within the territory of the  
transportation improvement district.

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

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(B) All expenses incurred in carrying out this chapter shall  
be payable solely from revenues provided under this chapter. ~~This~~  
Except as provided in section 5540.032 of the Revised Code, this  
chapter does not authorize the board of trustees of a district to  
incur indebtedness or liability on behalf of or payable by the  
state or any political subdivision of the state.

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**Sec. 5552.01.** As used in this chapter:

66229

(A) "Metropolitan planning organization" ~~has the same meaning~~ 66230  
~~as in division (A)(7) of section 3704.14 of the Revised Code~~ means 66231  
a metropolitan planning organization designated under section 9(a) 66232  
of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 66233  
134, as amended. 66234

(B) "Urban township" means a township that has a population 66235  
in the unincorporated area of the township of fifteen thousand or 66236  
more and that has adopted a limited home rule government under 66237  
section 504.02 of the Revised Code. 66238

**Sec. 5703.052.** (A) There is hereby created in the state 66239  
treasury the tax refund fund, from which refunds shall be paid for 66240  
taxes illegally or erroneously assessed or collected, or for any 66241  
other reason overpaid, that are levied by Chapter 4301., 4305., 66242  
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 66243  
5749., or ~~5753-~~ 5751., and sections 3737.71, 3905.35, 3905.36, 66244  
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 66245  
of the Revised Code. Refunds for fees illegally or erroneously 66246  
assessed or collected, or for any other reason overpaid, that are 66247  
levied by sections 3734.90 to 3734.9014 of the Revised Code also 66248  
shall be paid from the fund. However, refunds for taxes levied 66249  
under section 5739.101 of the Revised Code shall not be paid from 66250  
the tax refund fund, but shall be paid as provided in section 66251  
5739.104 of the Revised Code. 66252

(B)(1) Upon certification by the tax commissioner to the 66253  
treasurer of state of a tax refund or fee refund, or by the 66254  
superintendent of insurance of a domestic or foreign insurance tax 66255  
refund, the treasurer of state shall place the amount certified to 66256  
the credit of the fund. The certified amount transferred shall be 66257  
derived from current receipts of the same tax or the fee from 66258  
which the refund arose. If current receipts from the tax or fee 66259  
from which the refund arose are inadequate to make the transfer of 66260

the amount so certified, the treasurer of state shall transfer 66261  
such certified amount from current receipts of the sales tax 66262  
levied by section 5739.02 of the Revised Code. 66263

(2) When the treasurer of state provides for the payment of a 66264  
refund of a tax or fee from the current receipts of the sales tax, 66265  
and the refund is for a tax or fee that is not levied by the 66266  
state, the tax commissioner shall recover the amount of that 66267  
refund from the next distribution of that tax or fee that 66268  
otherwise would be made to the taxing jurisdiction. If the amount 66269  
to be recovered would exceed twenty-five per cent of the next 66270  
distribution of that tax or fee, the commissioner may spread the 66271  
recovery over more than one future distribution, taking into 66272  
account the amount to be recovered and the amount of the 66273  
anticipated future distributions. In no event may the commissioner 66274  
spread the recovery over a period to exceed twenty-four months. 66275

**Sec. 5703.053.** As used in this section, "postal service" 66276  
means the United States postal service. 66277

An application to the tax commissioner for a tax refund under 66278  
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 66279  
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 66280  
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 66281  
or division (B) of section 5703.05 of the Revised Code, or a fee 66282  
refunded under section 3734.905 of the Revised Code, that is 66283  
received after the last day for filing under such section shall be 66284  
considered to have been filed in a timely manner if: 66285

(A) The application is delivered by the postal service and 66286  
the earliest postal service postmark on the cover in which the 66287  
application is enclosed is not later than the last day for filing 66288  
the application; 66289

(B) The application is delivered by the postal service, the 66290

only postmark on the cover in which the application is enclosed 66291  
was affixed by a private postal meter, the date of that postmark 66292  
is not later than the last day for filing the application, and the 66293  
application is received within seven days of such last day; or 66294

(C) The application is delivered by the postal service, no 66295  
postmark date was affixed to the cover in which the application is 66296  
enclosed or the date of the postmark so affixed is not legible, 66297  
and the application is received within seven days of the last day 66298  
for making the application. 66299

Sec. 5703.057. (A) For the efficient administration of the 66300  
taxes and fees administered by the tax commissioner, the 66301  
commissioner may require that any person filing a tax document 66302  
with the department of taxation provide identifying information, 66303  
which may include the person's social security number, federal 66304  
employer identification number, or other identification number 66305  
requested by the commissioner. A person required by the 66306  
commissioner to provide identifying information who has 66307  
experienced any change with respect to that information shall 66308  
notify the commissioner of the change prior to, or upon, filing 66309  
the next tax document requiring such identifying information. 66310

(B) When transmitting or otherwise making use of a tax 66311  
document that contains a person's social security number, the 66312  
commissioner shall take all reasonable measures necessary to 66313  
ensure that the number is not capable of being viewed by the 66314  
general public, including, when necessary, masking the number so 66315  
that it is not readily discernible by the general public. 66316

(C)(1) If the commissioner makes a request for identifying 66317  
information and the commissioner does not receive valid 66318  
identifying information within thirty days of making the request, 66319  
the commissioner may impose a penalty upon the person to whom the 66320  
request was directed of up to one hundred dollars. If, after the 66321



expiration of this thirty day period, the commissioner makes one 66322  
or more subsequent requests for identifying information and the 66323  
person to whom the subsequent request is directed fails to provide 66324  
valid identifying information within thirty days of the 66325  
commissioner's subsequent request, the commissioner may impose an 66326  
additional penalty of up to two hundred dollars for each 66327  
subsequent request not complied with in a timely fashion. 66328

(2) If a person required by the commissioner to provide 66329  
identifying information does not notify the commissioner of a 66330  
change with respect to that information as required under division 66331  
(A) of this section within thirty days after filing the next tax 66332  
document requiring such identifying information, the commissioner 66333  
may impose a penalty of up to fifty dollars. 66334

(3) The penalties provided for under divisions (C)(1) and (2) 66335  
of this section may be billed and assessed in the same manner as 66336  
the tax or fee with respect to which the identifying information 66337  
is sought and are in addition to any applicable criminal penalties 66338  
described in division (D) of this section and any other penalties 66339  
that may be imposed by the commissioner by law. 66340

(D) Section 5703.26 of the Revised Code applies with respect 66341  
to false or fraudulent identifying information provided by a 66342  
person to the commissioner under this section. 66343

**Sec. 5703.26.** No person shall knowingly make, present, aid, 66344  
or assist in the preparation or presentation of a false or 66345  
fraudulent report, return, schedule, statement, claim, or document 66346  
authorized or required by law to be filed with the department of 66347  
taxation, the treasurer of state, a county auditor, a county 66348  
treasurer, or a county clerk of courts, or knowingly procure, 66349  
counsel, or advise the preparation or presentation of such report, 66350  
return, schedule, statement, claim, or document, or knowingly 66351  
change, alter, or amend, or knowingly procure, counsel, or advise 66352

such change, alteration, or amendment of the records upon which 66353  
such report, return, schedule, statement, claim, or document is 66354  
based with intent to defraud the state or any of its subdivisions. 66355

~~With respect to such acts or conduct, no conviction shall be 66356  
had under any other section of the Revised Code. 66357~~

**Sec. 5703.50.** As used in sections 5703.50 to 5703.53 of the 66358  
Revised Code: 66359

(A) "Tax" includes only those taxes imposed on tangible 66360  
personal property listed in accordance with Chapter 5711. of the 66361  
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 66362  
~~and 5747., and 5751.~~ of the Revised Code. 66363

(B) "Taxpayer" means a person subject to or potentially 66364  
subject to a tax including an employer required to deduct and 66365  
withhold any amount under section 5747.06 of the Revised Code. 66366

(C) "Audit" means the examination of a taxpayer or the 66367  
inspection of the books, records, memoranda, or accounts of a 66368  
taxpayer for the purpose of determining liability for a tax. 66369

(D) "Assessment" means a notice of underpayment or nonpayment 66370  
of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 66371  
5739.13, 5741.11, 5741.13, ~~or 5747.13,~~ or 5751.09 of the Revised 66372  
Code. 66373

(E) "County auditor" means the auditor of the county in which 66374  
the tangible personal property subject to a tax is located. 66375

**Sec. 5703.70.** (A) On the filing of an application for refund 66376  
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 66377  
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 66378  
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 66379  
~~or 5749.08,~~ or 5751.08 of the Revised Code, or an application for 66380  
compensation under section 5739.123 of the Revised Code, if the 66381

tax commissioner determines that the amount of the refund or 66382  
compensation to which the applicant is entitled is less than the 66383  
amount claimed in the application, the commissioner shall give the 66384  
applicant written notice by ordinary mail of the amount. The 66385  
notice shall be sent to the address shown on the application 66386  
unless the applicant notifies the commissioner of a different 66387  
address. The applicant shall have sixty days from the date the 66388  
commissioner mails the notice to provide additional information to 66389  
the commissioner or request a hearing, or both. 66390

(B) If the applicant neither requests a hearing nor provides 66391  
additional information to the tax commissioner within the time 66392  
prescribed by division (A) of this section, the commissioner shall 66393  
take no further action, and the refund amount or compensation 66394  
amount denied becomes final. 66395

(C)(1) If the applicant requests a hearing within the time 66396  
prescribed by division (A) of this section, the tax commissioner 66397  
shall assign a time and place for the hearing and notify the 66398  
applicant of such time and place, but the commissioner may 66399  
continue the hearing from time to time as necessary. After the 66400  
hearing, the commissioner may make such adjustments to the refund 66401  
or compensation as the commissioner finds proper, and shall issue 66402  
a final determination thereon. 66403

(2) If the applicant does not request a hearing, but provides 66404  
additional information, within the time prescribed by division (A) 66405  
of this section, the commissioner shall review the information, 66406  
make such adjustments to the refund or compensation as the 66407  
commissioner finds proper, and issue a final determination 66408  
thereon. 66409

(3) The commissioner shall serve a copy of the final 66410  
determination made under division (C)(1) or (2) of this section on 66411  
the applicant in the manner provided in section 5703.37 of the 66412

Revised Code, and the decision is final, subject to appeal under  
section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of  
budget and management and treasurer of state for payment from the  
tax refund fund created by section 5703.052 of the Revised Code,  
the amount of the refund to be refunded under division (B) or (C)  
of this section. The commissioner also shall certify to the  
director and treasurer of state for payment from the general  
revenue fund the amount of compensation to be paid under division  
(B) or (C) of this section.

**Sec. 5703.80.** There is hereby created in the state treasury  
the property tax administration fund. All money to the credit of  
the fund shall be used to defray the costs incurred by the  
department of taxation in administering the taxation of property  
and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of  
July, the tax commissioner shall compute the following amounts for  
the property in each taxing district in each county, and certify  
to the director of budget and management the sum of those amounts  
for all taxing districts in all counties:

(A) ~~Three-tenths~~ For fiscal year 2006, thirty-three  
hundredths of one per cent of the total amount by which taxes  
charged against real property on the general tax list of real and  
public utility property were reduced under section 319.302 of the  
Revised Code for the preceding tax year;

(B) ~~Fifteen-hundredths~~ For fiscal year 2007 and thereafter,  
thirty-five hundredths of one per cent of the total amount by  
which taxes charged against real property on the general tax list  
of real and public utility property were reduced under section  
319.302 of the Revised Code for the preceding tax year;

(C) For fiscal year 2006, one-half of one per cent of the 66443  
total amount of taxes charged and payable against public utility 66444  
personal property on the general tax list of real and public 66445  
utility property for the preceding tax year and of the total 66446  
amount of taxes charged and payable against tangible personal 66447  
property on the general tax list of personal property of the 66448  
preceding tax year and for which returns were filed with the tax 66449  
commissioner under section 5711.13 of the Revised Code; 66450

~~(C) Seventy-five~~ (D) For fiscal year 2007, fifty-six 66451  
hundredths of one per cent of the total amount of taxes charged 66452  
and payable against public utility personal property on the 66453  
general tax list of real and public utility property for the 66454  
preceding tax year and of the total amount of taxes charged and 66455  
payable against tangible personal property on the general tax list 66456  
of personal property of the preceding tax year and for which 66457  
returns were filed with the tax commissioner under section 5711.13 66458  
of the Revised Code; 66459

(E) For fiscal year 2008 and thereafter, six-tenths of one 66460  
per cent of the total amount of taxes charged and payable against 66461  
public utility personal property on the general tax list of real 66462  
and public utility property for the preceding tax year and of the 66463  
total amount of taxes charged and payable against tangible 66464  
personal property on the general tax list of personal property of 66465  
the preceding tax year and for which returns were filed with the 66466  
tax commissioner under section 5711.13 of the Revised Code. 66467

After receiving the tax commissioner's certification, the 66468  
director of budget and management shall transfer from the general 66469  
revenue fund to the property tax administration fund one-fourth of 66470  
the amount certified on or before each of the following days: the 66471  
first days of August, November, February, and May. 66472

On or before the thirtieth day of June of the fiscal year, 66473

the tax commissioner shall certify to the director of budget and  
management the sum of the amounts by which the amounts computed  
for a taxing district under ~~divisions (A), (B), and (C)~~ of this  
section exceeded the distributions to the taxing district under  
division (F) of section 321.24 of the Revised Code, and the  
director shall transfer that sum from the property tax  
administration fund to the general revenue fund.

**Sec. 5703.99.** (A) Whoever violates section 5703.21 of the  
Revised Code shall be fined not less than fifty nor more than one  
hundred dollars.

(B) Whoever violates section 5703.26 of the Revised Code is  
guilty of a felony of the fifth degree, ~~and the court may impose  
upon the offender an additional fine of not more than seven  
thousand five hundred dollars.~~

(C) Whoever violates section 5703.43 of the Revised Code  
~~shall be fined not more than one thousand dollars~~ is guilty of a  
misdemeanor of the first degree.

(D) Whoever violates any law that the department of taxation  
is required to administer, or fails to perform any duty required  
by such law, for which a penalty has not otherwise been provided,  
or fails to obey any lawful requirement or order made by the  
department of taxation, shall be fined not less than ~~twenty-five  
one hundred fifty~~ nor more than one thousand dollars.

**Sec. 5705.091.** The board of county commissioners of each  
county shall establish a county mental retardation and  
developmental disabilities general fund. Notwithstanding sections  
5705.09 and 5705.10 of the Revised Code, proceeds from levies  
under section 5705.222 and division (L) of section 5705.19 of the  
Revised Code shall be deposited to the credit of the county mental  
retardation and developmental disabilities general fund. Accounts

shall be established within the county mental retardation and 66504  
developmental disabilities general fund for each of the several 66505  
particular purposes of the levies as specified in the resolutions 66506  
under which the levies were approved, and proceeds from different 66507  
levies that were approved for the same particular purpose shall be 66508  
credited to accounts for that purpose. Other money received by the 66509  
county for the purposes of Chapters 3323. and 5126. of the Revised 66510  
Code and not required by state or federal law to be deposited to 66511  
the credit of a different fund shall also be deposited to the 66512  
credit of the county mental retardation and developmental 66513  
disabilities general fund, in an account appropriate to the 66514  
particular purpose for which the money was received. Unless 66515  
otherwise provided by law, an unexpended balance at the end of a 66516  
fiscal year in any account in the county mental retardation and 66517  
developmental disabilities general fund shall be appropriated the 66518  
next fiscal year to the same fund. 66519

A county board of mental retardation and developmental 66520  
disabilities may request, by resolution, that the board of county 66521  
commissioners establish a county mental retardation and 66522  
developmental disabilities capital fund for money to be used for 66523  
acquisition, construction, or improvement of capital facilities or 66524  
acquisition of capital equipment used in providing services to 66525  
mentally retarded and developmentally disabled persons. The county 66526  
board of mental retardation and developmental disabilities shall 66527  
transmit a certified copy of the resolution to the board of county 66528  
commissioners. Upon receiving the resolution, the board of county 66529  
commissioners shall establish a county mental retardation and 66530  
developmental disabilities capital fund. 66531

A county board shall request, by resolution, that the board 66532  
of county commissioners establish a county MR/DD medicaid reserve 66533  
fund. On receipt of the resolution, the board of county 66534  
commissioners shall establish a county MR/DD medicaid reserve 66535

fund. The portion of federal revenue funds that the county board 66536  
earns for providing ~~habilitation center services~~, medicaid case 66537  
management services, and home and community-based services that is 66538  
needed for the county board to pay for extraordinary costs, 66539  
including extraordinary costs for services to individuals with 66540  
mental retardation or other developmental disability, and ensure 66541  
the availability of adequate funds in the event a county property 66542  
tax levy for services for individuals with mental retardation or 66543  
other developmental disability fails shall be deposited into the 66544  
fund. The county board shall use money in the fund for those 66545  
purposes in accordance with rules adopted under section 5123.0413 66546  
of the Revised Code. 66547

**Sec. 5705.19.** This section does not apply to school districts 66548  
or county school financing districts. 66549

The taxing authority of any subdivision at any time and in 66550  
any year, by vote of two-thirds of all the members of the taxing 66551  
authority, may declare by resolution and certify the resolution to 66552  
the board of elections not less than seventy-five days before the 66553  
election upon which it will be voted that the amount of taxes that 66554  
may be raised within the ten-mill limitation will be insufficient 66555  
to provide for the necessary requirements of the subdivision and 66556  
that it is necessary to levy a tax in excess of that limitation 66557  
for any of the following purposes: 66558

(A) For current expenses of the subdivision, except that the 66559  
total levy for current expenses of a detention facility district 66560  
or district organized under section 2151.65 of the Revised Code 66561  
shall not exceed two mills and that the total levy for current 66562  
expenses of a combined district organized under sections 2151.65 66563  
and 2152.41 of the Revised Code shall not exceed four mills; 66564

(B) For the payment of debt charges on certain described 66565  
bonds, notes, or certificates of indebtedness of the subdivision 66566



issued subsequent to January 1, 1925;	66567
(C) For the debt charges on all bonds, notes, and	66568
certificates of indebtedness issued and authorized to be issued	66569
prior to January 1, 1925;	66570
(D) For a public library of, or supported by, the subdivision	66571
under whatever law organized or authorized to be supported;	66572
(E) For a municipal university, not to exceed two mills over	66573
the limitation of one mill prescribed in section 3349.13 of the	66574
Revised Code;	66575
(F) For the construction or acquisition of any specific	66576
permanent improvement or class of improvements that the taxing	66577
authority of the subdivision may include in a single bond issue;	66578
(G) For the general construction, reconstruction,	66579
resurfacing, and repair of streets, roads, and bridges in	66580
municipal corporations, counties, or townships;	66581
(H) For parks and recreational purposes;	66582
(I) For the purpose of providing and maintaining fire	66583
apparatus, appliances, buildings, or sites therefor, or sources of	66584
water supply and materials therefor, or the establishment and	66585
maintenance of lines of fire alarm telegraph, or the payment of	66586
permanent, part-time, or volunteer firefighters or firefighting	66587
companies to operate the same, including the payment of the	66588
firefighter employers' contribution required under section 742.34	66589
of the Revised Code, or the purchase of ambulance equipment, or	66590
the provision of ambulance, paramedic, or other emergency medical	66591
services operated by a fire department or firefighting company;	66592
(J) For the purpose of providing and maintaining motor	66593
vehicles, communications, other equipment, buildings, and sites	66594
for such buildings used directly in the operation of a police	66595
department, or the payment of salaries of permanent police	66596

personnel, including the payment of the police officer employers' 66597  
contribution required under section 742.33 of the Revised Code, or 66598  
the payment of the costs incurred by townships as a result of 66599  
contracts made with other political subdivisions in order to 66600  
obtain police protection, or the provision of ambulance or 66601  
emergency medical services operated by a police department; 66602

(K) For the maintenance and operation of a county home or 66603  
detention facility; 66604

(L) For community mental retardation and developmental 66605  
disabilities programs and services pursuant to Chapter 5126. of 66606  
the Revised Code, except that the procedure for such levies shall 66607  
be as provided in section 5705.222 of the Revised Code; 66608

(M) For regional planning; 66609

(N) For a county's share of the cost of maintaining and 66610  
operating schools, district detention facilities, forestry camps, 66611  
or other facilities, or any combination thereof, established under 66612  
section 2151.65 or 2152.41 of the Revised Code or both of those 66613  
sections; 66614

(O) For providing for flood defense, providing and 66615  
maintaining a flood wall or pumps, and other purposes to prevent 66616  
floods; 66617

(P) For maintaining and operating sewage disposal plants and 66618  
facilities; 66619

(Q) For the purpose of purchasing, acquiring, constructing, 66620  
enlarging, improving, equipping, repairing, maintaining, or 66621  
operating, or any combination of the foregoing, a county transit 66622  
system pursuant to sections 306.01 to 306.13 of the Revised Code, 66623  
or of making any payment to a board of county commissioners 66624  
operating a transit system or a county transit board pursuant to 66625  
section 306.06 of the Revised Code; 66626

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	66627 66628 66629 66630
(S) For the prevention, control, and abatement of air pollution;	66631 66632
(T) For maintaining and operating cemeteries;	66633
(U) For providing ambulance service, emergency medical service, or both;	66634 66635
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	66636 66637
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	66638 66639 66640
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	66641 66642
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	66643 66644 66645
(Z) For the provision and maintenance of zoological park services and facilities, <u>or of a facility that encourages the study of and promotes the sciences</u> , as authorized under section 307.76 of the Revised Code;	66646 66647 66648 66649
(AA) For the maintenance and operation of a free public museum of art, science, or history;	66650 66651
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	66652 66653
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this	66654 66655

division, "rail property" and "rail service" have the same 66656  
meanings as in section 4981.01 of the Revised Code. This division 66657  
applies only to a county, township, or municipal corporation. 66658

(DD) For the purpose of acquiring property for, constructing, 66659  
operating, and maintaining community centers as provided for in 66660  
section 755.16 of the Revised Code; 66661

(EE) For the creation and operation of an office or joint 66662  
office of economic development, for any economic development 66663  
purpose of the office, and to otherwise provide for the 66664  
establishment and operation of a program of economic development 66665  
pursuant to sections 307.07 and 307.64 of the Revised Code; 66666

(FF) For the purpose of acquiring, establishing, 66667  
constructing, improving, equipping, maintaining, or operating, or 66668  
any combination of the foregoing, a township airport, landing 66669  
field, or other air navigation facility pursuant to section 505.15 66670  
of the Revised Code; 66671

(GG) For the payment of costs incurred by a township as a 66672  
result of a contract made with a county pursuant to section 66673  
505.263 of the Revised Code in order to pay all or any part of the 66674  
cost of constructing, maintaining, repairing, or operating a water 66675  
supply improvement; 66676

(HH) For a board of township trustees to acquire, other than 66677  
by appropriation, an ownership interest in land, water, or 66678  
wetlands, or to restore or maintain land, water, or wetlands in 66679  
which the board has an ownership interest, not for purposes of 66680  
recreation, but for the purposes of protecting and preserving the 66681  
natural, scenic, open, or wooded condition of the land, water, or 66682  
wetlands against modification or encroachment resulting from 66683  
occupation, development, or other use, which may be styled as 66684  
protecting or preserving "greenspace" in the resolution, notice of 66685  
election, or ballot form; 66686

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code; 66687  
66688  
66689  
66690

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township. 66691  
66692  
66693

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties. 66694  
66695  
66696

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code; 66697  
66698

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code; 66699  
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(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county. 66702  
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(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements; 66705  
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(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. 66709  
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(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 66711  
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(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and 66713  
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to supervise and enforce the easements. 66717

(SS) For both of the purposes set forth in divisions (BB) and 66718  
(KK) of this section. This division applies only to a county. 66719

The resolution shall be confined to the purpose or purposes 66720  
described in one division of this section, to which the revenue 66721  
derived therefrom shall be applied. The existence in any other 66722  
division of this section of authority to levy a tax for any part 66723  
or all of the same purpose or purposes does not preclude the use 66724  
of such revenues for any part of the purpose or purposes of the 66725  
division under which the resolution is adopted. 66726

The resolution shall specify the amount of the increase in 66727  
rate that it is necessary to levy, the purpose of that increase in 66728  
rate, and the number of years during which the increase in rate 66729  
shall be in effect, which may or may not include a levy upon the 66730  
duplicate of the current year. The number of years may be any 66731  
number not exceeding five, except as follows: 66732

(1) When the additional rate is for the payment of debt 66733  
charges, the increased rate shall be for the life of the 66734  
indebtedness. 66735

(2) When the additional rate is for any of the following, the 66736  
increased rate shall be for a continuing period of time: 66737

(a) For the current expenses for a detention facility 66738  
district, a district organized under section 2151.65 of the 66739  
Revised Code, or a combined district organized under sections 66740  
2151.65 and 2152.41 of the Revised Code; 66741

(b) For providing a county's share of the cost of maintaining 66742  
and operating schools, district detention facilities, forestry 66743  
camps, or other facilities, or any combination thereof, 66744  
established under section 2151.65 or 2152.41 of the Revised Code 66745  
or under both of those sections. 66746

(3) When the additional rate is for either of the following, 66747  
the increased rate may be for a continuing period of time: 66748

(a) For the purposes set forth in division (I), (J), (U), or 66749  
(KK) of this section; 66750

(b) For the maintenance and operation of a joint recreation 66751  
district. 66752

(4) When the increase is for the purpose or purposes set 66753  
forth in division (D), (G), (H), (CC), or (PP) of this section, 66754  
the tax levy may be for any specified number of years or for a 66755  
continuing period of time, as set forth in the resolution. 66756

(5) When the additional rate is for the purpose described in 66757  
division (Z) of this section, the increased rate shall be for any 66758  
number of years not exceeding ten. 66759

A levy for one of the purposes set forth in division (G), 66760  
(I), (J), or (U) of this section may be reduced pursuant to 66761  
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 66762  
the purposes set forth in division (G), (I), (J), or (U) of this 66763  
section may also be terminated or permanently reduced by the 66764  
taxing authority if it adopts a resolution stating that the 66765  
continuance of the levy is unnecessary and the levy shall be 66766  
terminated or that the millage is excessive and the levy shall be 66767  
decreased by a designated amount. 66768

A resolution of a detention facility district, a district 66769  
organized under section 2151.65 of the Revised Code, or a combined 66770  
district organized under both sections 2151.65 and 2152.41 of the 66771  
Revised Code may include both current expenses and other purposes, 66772  
provided that the resolution shall apportion the annual rate of 66773  
levy between the current expenses and the other purpose or 66774  
purposes. The apportionment need not be the same for each year of 66775  
the levy, but the respective portions of the rate actually levied 66776  
each year for the current expenses and the other purpose or 66777

purposes shall be limited by the apportionment.

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

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

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

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~~Sec. 5705.391. (A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for~~

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~~appropriation by the district during the fiscal year and their 66809  
sources; the nature and amount of expenses to be incurred by the 66810  
district during such year, the outstanding and unpaid expenses on 66811  
the date the appropriation measure, amendment, or supplement is 66812  
adopted; the date or dates by which such expenses must be paid; 66813  
and such other information as the superintendent requires to 66814  
enable the superintendent to determine whether during such year 66815  
the district will incur any expenses that will impair its ability 66816  
to operate its schools with the revenue available to it from 66817  
existing revenue sources. The plan or amended plan shall be 66818  
presented in such detail and form as the superintendent 66819  
prescribes. 66820~~

~~(B)(A) No later than July 1, 1998, the department of 66821  
education and the auditor of state shall jointly adopt rules 66822  
requiring ~~school districts to include~~ boards of education to 66823  
submit five-year projections of operational revenues and 66824  
expenditures ~~in the spending plan required by this section~~. The 66825  
rules shall provide for the auditor of state or the department to 66826  
examine the five-year projections and to determine whether any 66827  
further fiscal analysis is needed to ascertain whether a district 66828  
has the potential to incur a deficit during the first three years 66829  
of the five-year period. 66830~~

~~The auditor of state or the department may conduct any 66831  
further audits or analyses necessary to assess any district's 66832  
fiscal condition. If further audits or analyses are conducted by 66833  
the auditor of state, the auditor of state shall notify the 66834  
department of the district's fiscal condition, and the department 66835  
shall immediately notify the district of any potential to incur a 66836  
deficit in the current fiscal year or of any strong indications 66837  
that a deficit will be incurred in either of the ensuing two 66838  
years. If such audits or analyses are conducted by the department, 66839  
the department shall immediately notify the district and the 66840~~

auditor of state of such potential deficit or strong indications 66841  
thereof. 66842

A district notified under this section shall take immediate 66843  
steps to eliminate any deficit in the current fiscal year and 66844  
shall begin to plan to avoid the projected future deficits. 66845

~~(C)~~(B) The state board of education, in accordance with 66846  
sections 3319.31 and 3319.311 of the Revised Code, may limit, 66847  
suspend, or revoke a license as defined under section 3319.31 of 66848  
the Revised Code that has been issued to any school employee found 66849  
to have willfully contributed erroneous, inaccurate, or incomplete 66850  
data required for the submission of the ~~appropriation measure and~~ 66851  
~~spending plan~~ five-year projection required by this section. 66852

**Sec. 5707.031.** (A) As used in this section: 66853

(1) "Qualifying dealer in intangibles" has the same meaning 66854  
as in section 5733.45 of the Revised Code; 66855

(2) "Tax otherwise due" means the tax imposed on a qualifying 66856  
dealer in intangibles under section 5707.03 and Chapter 5725. of 66857  
the Revised Code reduced by the total amount of all other 66858  
nonrefundable credits, if any, that the qualifying dealer in 66859  
intangibles is entitled to claim. 66860

(B) Upon the issuance of a tax credit certificate by the Ohio 66861  
venture capital authority under section 150.07 of the Revised 66862  
Code, a credit may be claimed against the tax imposed on a 66863  
qualifying dealer in intangibles under section 5707.03 and Chapter 66864  
5725. of the Revised Code. The credit shall be claimed on a return 66865  
due under section 5725.14 of the Revised Code after the 66866  
certificate is issued by the authority. 66867

(C) If the qualifying dealer in intangibles elected a 66868  
refundable credit under section 150.07 of the Revised Code and if 66869  
the amount of the credit shown on the certificate does not exceed 66870

the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the amount of the credit shown on the certificate. 66871  
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(D) If the qualifying dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the sum of the following: 66874  
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(1) The amount, if any, of the tax otherwise due; 66880

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due. 66881  
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(E) If the qualifying dealer in intangibles elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the qualifying dealer in intangibles would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess nonrefundable credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year. 66884  
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**Sec. 5709.112.** For tax year 2006 and each tax year thereafter, all tangible personal property used in the recovery of oil or gas, when installed and located on the premises or leased premises of the owner, shall be exempt from taxation. Such tangible personal property shall be subject to taxation if it is not installed on the premises or leased premises of the owner, or if it is used for the transmission, transportation, or distribution of oil or gas, as provided in section 5711.22 of the 66893  
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Revised Code. The tax commissioner may adopt rules governing the 66901  
administration of the exemption provided by this section. 66902

This section does not apply to any taxpayer that is required 66903  
to file a report under section 5727.08 of the Revised Code. 66904

**Sec. 5711.16.** (A) As used in this section, ~~manufacturer:~~ 66905

(1) "Manufacturer" means a person who purchases, receives, or 66906  
holds personal property for the purpose of adding to its value by 66907  
manufacturing, refining, rectifying, or combining different 66908  
materials with a view of making a gain or profit by so doing. 66909

(2) "Manufacturing equipment" means machinery and equipment, 66910  
and tools and implements, including any associated patterns, jigs, 66911  
dies, drawings, and business fixtures, used at a manufacturing 66912  
facility by a manufacturer, and includes any such property leased 66913  
to the manufacturer. "Manufacturing equipment" excludes property 66914  
used for general office purposes. Nothing in this division is to 66915  
be construed to change the definition of personal property, as 66916  
defined in section 5701.03 of the Revised Code. 66917

(3) "Manufacturing facility" means a facility or portion of a 66918  
facility used for manufacturing, mining, refining, rectifying, or 66919  
combining different materials with a view of making a gain or 66920  
profit by so doing. "Manufacturing facility" includes that portion 66921  
of a facility used to store or transport raw materials, 66922  
work-in-process, or finished goods inventory, for packaging, for 66923  
research, or to test for quality control, as long as 66924  
manufacturing, mining, refining, rectifying, or combining is also 66925  
performed at the facility. "Manufacturing facility" does not 66926  
include any portion of a facility used primarily for making retail 66927  
sales. 66928

(4) "Manufacturing inventory" means all articles purchased, 66929  
received, or otherwise held for the purpose of being used, in 66930

whole or in part, in manufacturing, mining, combining, rectifying, 66931  
or refining, and of all articles that were at any time 66932  
manufactured or changed in any way by a manufacturer, either by 66933  
mining, combining, rectifying, refining, or adding thereto. 66934

(B) When a manufacturer is required to return a statement of 66935  
the amount of the manufacturer's personal property used in 66936  
business, the manufacturer shall include the average value, 66937  
estimated as provided in this section, of ~~all articles purchased,~~ 66938  
~~received, or otherwise held for the purpose of being used, in~~ 66939  
~~whole or in part, in manufacturing, combining, rectifying, or~~ 66940  
~~refining, and of all articles that were at any time manufactured~~ 66941  
~~or changed in any way by the manufacturer, either by combining,~~ 66942  
~~rectifying, refining, or adding thereto,~~ manufacturing inventory 66943  
that the manufacturer has had on hand during the year ending on 66944  
the day the property is listed for taxation annually, or the part 66945  
of such year during which the manufacturer was engaged in 66946  
business. The manufacturer shall separately list finished products 66947  
not kept or stored at the place of manufacture or at a warehouse 66948  
in the same county. 66949

The average value of such property shall be ascertained by 66950  
taking the value of all property subject to be listed on the 66951  
average basis, owned by the manufacturer on the last business day 66952  
of each month the manufacturer was engaged in business during the 66953  
year, adding the monthly values together, and dividing the result 66954  
by the number of months the manufacturer was engaged in such 66955  
business during the year. The result shall be the average value to 66956  
be listed. 66957

~~(B)(C)~~ A manufacturer also shall list all ~~engines and~~ 66958  
~~machinery, and tools and implements, of every kind used, or~~ 66959  
~~designed to be used, in refining and manufacturing, and~~ equipment 66960  
owned or used by the manufacturer. 66961

Sec. 5711.21. (A) In assessing taxable property the assessor 66962  
shall be governed by the rules of assessment prescribed by 66963  
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 66964  
taxable property is required to be assessed at its true value in 66965  
money or at any percentage of true value, the assessor shall be 66966  
guided by the statements contained in the taxpayer's return and 66967  
such other rules and evidence as will enable the assessor to 66968  
arrive at such true value. Wherever the income yield of taxable 66969  
property is required to be assessed, and the method of determining 66970  
between income and return or distribution of principal, or that of 66971  
allocating expenses in determining net income, or that of 66972  
ascertaining the source from which partial distributions of income 66973  
have been made is not expressly prescribed by sections 5711.01 to 66974  
5711.36 of the Revised Code, the assessor shall be guided by the 66975  
statements contained in the taxpayer's return and such general 66976  
rules as the tax commissioner adopts to enable the assessor to 66977  
make such determination. 66978

(B) ~~The~~ For tax years before tax year 2009, the true value of 66979  
the boilers, machinery, equipment, and any personal property used 66980  
to generate or distribute the electricity shall be the sum of the 66981  
following: 66982

(1) The true value of the property as it would be determined 66983  
under this chapter if none of the electricity were distributed to 66984  
others multiplied by the per cent of the electricity generated in 66985  
the preceding calendar year that was used by the person who 66986  
generated it; plus 66987

(2) The true value of the property that is production 66988  
equipment as it would be determined for an electric company under 66989  
section 5727.11 of the Revised Code multiplied by the per cent of 66990  
the electricity generated in the preceding calendar year that was 66991  
not used by the person who generated it; plus 66992

(3) The true value of the property that is not production 66993  
equipment as it would be determined for an electric company under 66994  
section 5727.11 of the Revised Code multiplied by the per cent of 66995  
the electricity generated in the preceding calendar year that was 66996  
not used by the person who generated it. 66997

(C) The For tax years before tax year 2009, the true value of 66998  
personal property leased to a public utility or interexchange 66999  
telecommunications company as defined in section 5727.01 of the 67000  
Revised Code and used by the utility or interexchange 67001  
telecommunications company directly in the rendition of a public 67002  
utility service as defined in division (P) of section 5739.01 of 67003  
the Revised Code shall be determined in the same manner that the 67004  
true value of such property is determined under section 5727.11 of 67005  
the Revised Code if owned by the public utility or interexchange 67006  
telecommunications company. 67007

**Sec. 5711.22.** (A) Deposits not taxed at the source shall be 67008  
listed and assessed at their amount in dollars on the day they are 67009  
required to be listed. Moneys shall be listed and assessed at the 67010  
amount thereof in dollars on hand on the day that they are 67011  
required to be listed. In listing investments, the amount of the 67012  
income yield of each for the calendar year next preceding the date 67013  
of listing shall, except as otherwise provided in this chapter, be 67014  
stated in dollars and cents and the assessment thereof shall be at 67015  
the amount of such income yield; but any property defined as 67016  
investments in either division (A) or (B) of section 5701.06 of 67017  
the Revised Code that has not been outstanding for the full 67018  
calendar year next preceding the date of listing, except shares of 67019  
stock of like kind as other shares of the same corporation 67020  
outstanding for the full calendar year next preceding the date of 67021  
listing, or which has yielded no income during such calendar year 67022  
shall be listed and assessed as unproductive investments, at their 67023

true value in money on the day that such investments are required 67024  
to be listed. 67025

Credits and other taxable intangibles shall be listed and 67026  
assessed at their true value in money on the day as of which the 67027  
same are required to be listed. 67028

Shares of stock of a bank holding company, as defined in 67029  
Title 12 U.S.C.A., section 1841, that are required to be listed 67030  
for taxation under this division and upon which dividends were 67031  
paid during the year of their issuance, which dividends are 67032  
subject to taxation under the provisions of Chapter 5747. of the 67033  
Revised Code, shall be exempt from the intangibles tax for the 67034  
year immediately succeeding their issuance. If such shares bear 67035  
dividends the first calendar year after their issuance, which 67036  
dividends are subject to taxation under the provisions of Chapter 67037  
5747. of the Revised Code, it shall be deemed that the 67038  
nondelinquent intangible property tax pursuant to division (A) of 67039  
section 5707.04 of the Revised Code was paid on those dividends 67040  
paid that first calendar year after the issuance of the shares. 67041

~~(B)(1) Boilers~~ For tax years before tax year 2009, boilers, 67042  
machinery, equipment, and personal property the true value of 67043  
which is determined under division (B) of section 5711.21 of the 67044  
Revised Code shall be listed and assessed at an amount equal to 67045  
the sum of the products determined under divisions (B)(1)~~(a)~~, 67046  
~~(b)(2)~~, and ~~(c)(3)~~ of this section-: 67047

~~(a)(1)~~ Multiply the portion of the true value determined 67048  
under division (B)(1) of section 5711.21 of the Revised Code by 67049  
the assessment rate for the tax year in division ~~(F)~~(G) of this 67050  
section; 67051

~~(b)(2)~~ Multiply the portion of the true value determined 67052  
under division (B)(2) of section 5711.21 of the Revised Code by 67053  
the assessment rate in section 5727.111 of the Revised Code that 67054



is applicable to the production equipment of an electric company; 67055

~~(e)(3)~~ Multiply the portion of the true value determined 67056  
under division (B)(3) of section 5711.21 of the Revised Code by 67057  
the assessment rate in section 5727.111 of the Revised Code that 67058  
is applicable to the property of an electric company that is not 67059  
production equipment. 67060

~~(2) Personal (C) For tax years before tax year 2009, personal~~ 67061  
property leased to a public utility or interexchange 67062  
telecommunications company as defined in section 5727.01 of the 67063  
Revised Code and used directly in the rendition of a public 67064  
utility service as defined in division (P) of section 5739.01 of 67065  
the Revised Code shall be listed and assessed at the same 67066  
percentage of true value in money that such property is required 67067  
to be assessed by section 5727.111 of the Revised Code if owned by 67068  
the public utility or interexchange telecommunications company. 67069

~~(C)(D)(1)~~ Merchandise or an agricultural product shipped from 67070  
outside this state and held in this state in a warehouse or a 67071  
place of storage without further manufacturing or processing and 67072  
for storage only and for shipment outside this state, but that ~~is~~ 67073  
~~taxable because it~~ does not qualify as "not used in business in 67074  
this state" under division (B)(1) or (2) of section 5701.08 of the 67075  
Revised Code, ~~shall be listed and assessed at a rate of~~ 67076  
~~twenty five one hundredths of its true value in money until~~ 67077  
~~reduced in accordance with the following schedule:~~ 67078

~~(a) For any year, subtract five one hundredths from the rate~~ 67079  
~~at which such property was required to be listed and assessed in~~ 67080  
~~the preceding year, if the total statewide collection of all real~~ 67081  
~~and tangible personal property taxes for the second preceding year~~ 67082  
~~exceeded the total statewide collection of all real and tangible~~ 67083  
~~personal property taxes for the third preceding year by more than~~ 67084  
~~the greater of four per cent or the rate of increase from the~~ 67085  
~~third to the second preceding years in the average consumer price~~ 67086

~~index (all urban consumers, all items) prepared by the bureau of  
labor statistics of the United States department of labor;~~ 67087  
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~~(b) If no reduction in the assessment rate is made for a  
year, the rate is the same as for the preceding year.~~ 67089  
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~~(2) Each year until the year the assessment rate equals zero,  
the tax commissioner shall determine the assessment rate required  
under this division and shall notify all county auditors of that  
rate.~~ 67091  
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~~(3) Notwithstanding provisions to the contrary in division  
(B) of section 5701.08 of the Revised Code, during and after the  
year for which the assessment rate as calculated under this  
division equals zero, any merchandise or agricultural product  
shipped from outside this state and held in this state in any  
warehouse or place of storage, whether public or private, without  
further manufacturing or processing and for storage only and for  
shipment outside this state to any person for any purpose is  
nevertheless not used in business in this state for property tax  
purposes.~~ 67095  
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~~(D)(1)(2) Merchandise or an agricultural product owned by a  
qualified out-of-state person shipped from outside this state and  
held in this state in a public warehouse without further  
manufacturing or processing and for temporary storage only and for  
shipment inside this state, but that is taxable because it does  
not qualify as "not used in business in this state" under division  
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be  
listed and assessed at a rate of twenty five one hundredths of its  
true value in money until reduced in accordance with the following  
schedule:~~ 67105  
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~~(a) For any year, subtract five one hundredths from the rate  
at which such property was required to be listed and assessed in  
the preceding year, if the total statewide collection of all real~~ 67115  
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~~and tangible personal property taxes for the second preceding year~~ 67118  
~~exceeded the total statewide collection of all real and tangible~~ 67119  
~~personal property taxes for the third preceding year by more than~~ 67120  
~~the greater of four per cent or the rate of increase from the~~ 67121  
~~third to the second preceding years in the average consumer price~~ 67122  
~~index (all urban consumers, all items) prepared by the bureau of~~ 67123  
~~labor statistics of the United States department of labor;~~ 67124

~~(b) If no reduction in the assessment rate is made for a~~ 67125  
~~year, the rate is the same as for the preceding year.~~ 67126

~~(2) Each year until the year the assessment rate equals zero,~~ 67127  
~~the tax commissioner shall determine the assessment rate required~~ 67128  
~~under this division and shall notify all county auditors of that~~ 67129  
~~rate.~~ 67130

~~(3) Notwithstanding provisions to the contrary in division~~ 67131  
~~(B) of section 5701.08 of the Revised Code, during and after the~~ 67132  
~~year for which the assessment rate as calculated under this~~ 67133  
~~division equals zero, any merchandise or agricultural product~~ 67134  
~~described in division (D)(1) of this section is nevertheless not~~ 67135  
~~used in business in this state for property tax purposes.~~ 67136

~~(4)~~(3) As used in division (D)(2) of this section: 67137

(a) "Qualified out-of-state person" means a person that does 67138  
not own, lease, or use property, other than merchandise or an 67139  
agricultural product described in this division, in this state, 67140  
and does not have employees, agents, or representatives in this 67141  
state; 67142

(b) "Public warehouse" means a warehouse in this state that 67143  
is not subject to the control of or under the supervision of the 67144  
owner of the merchandise or agricultural product stored in it, or 67145  
staffed by the owner's employees, and from which the property is 67146  
to be shipped inside this state. 67147

(E) Personal property valued pursuant to section 5711.15 of 67148  
the Revised Code and personal property required to be listed on 67149  
the average basis by division (A) of section 5711.16 of the 67150  
Revised Code, except property described in division ~~(C)~~ or (D) of 67151  
this section, business fixtures, and furniture not held for sale 67152  
in the course of business, shall be listed and assessed at the 67153  
rate of ~~twenty five per cent of its true value in money until~~ 67154  
~~reduced to zero in accordance with the following schedule:~~ 67155

~~(1) Beginning in tax year 2002 and for each of tax years 2003 67156  
and 2004, subtract one percentage point from the rate at which the 67157  
property was required to be listed and assessed in the preceding 67158  
year, if the total statewide collection of tangible personal 67159  
property taxes for the second preceding year exceeded the total 67160  
statewide collection of tangible personal property taxes for the 67161  
third preceding year. If no reduction in the assessment rate is 67162  
made for a year, the rate is the same as for the preceding year. 67163~~

~~(2) In tax years 2005 and 2006, the assessment rate shall be 67164  
reduced by two percentage points, if the total statewide 67165  
collection of tangible personal property taxes for the second 67166  
preceding year exceeded the total statewide collection of tangible 67167  
personal property taxes for the third preceding year. If no 67168  
reduction in the assessment rate is made for a year, the rate is 67169  
the same as for the preceding year. 67170~~

~~(3) For tax year 2007 and each tax year thereafter, the 67171  
assessment rate shall be reduced by two percentage points. During 67172  
and after the tax year that the assessment rate equals zero, the 67173  
property described in division (E) of this section shall not be 67174  
listed for taxation. 67175~~

~~Each year until the year the assessment rate equals zero, the 67176  
tax commissioner shall determine the assessment rate required 67177  
under this division and shall notify all county auditors of that 67178~~

rate. 67179

~~For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.~~ 67180  
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(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money: 67188  
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(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, zero per cent of true value; 67191  
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(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter. 67195  
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~~(F)~~(G) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the ~~rate of twenty five per cent~~ following percentages of its true value in money: 67198  
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(1) For tax year 2005, twenty-five per cent of true value; 67204

(2) For tax year 2006, eighteen and three-fourths per cent of true value; 67205  
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(3) For tax year 2007, twelve and one-half per cent of true value; 67207  
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(4) For tax year 2008, six and one-fourth per cent of true value; 67209  
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(5) For tax year 2009 and each tax year thereafter, zero per cent of true value. 67211  
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(H) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), or (G) of this section shall not be listed for taxation. 67213  
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(I) Divisions (E), (F), and (G) of this section apply to the property of a person described in divisions (E)(3) to (11) of section 5751.01 of the Revised Code. Division (I) of this section does not prevent the application of the exemption of property from taxation under section 5725.25 or 5725.26 of the Revised Code. 67216  
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**Sec. 5711.28.** Whenever the assessor imposes a penalty prescribed by section 5711.27 or 5725.17 of the Revised Code, the assessor shall send notice of such penalty assessment to the taxpayer by mail. If the notice also reflects the assessment of any property not listed in or omitted from a return, or the assessment of any item or class of taxable property listed in a return by the taxpayer in excess of the value or amount thereof as so listed, or without allowing a claim duly made for deduction from the net book value of accounts receivable, or depreciated book value of personal property used in business, so listed, and the taxpayer objects to one or more of such corrections in addition to the penalty, the taxpayer shall proceed as prescribed by section 5711.31 of the Revised Code, but if no such correction is reflected in the notice, or if the taxpayer does not object to any such correction made, ~~he~~ the taxpayer shall proceed as prescribed herein. 67221  
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Within sixty days after the mailing of the notice of a penalty assessment prescribed by this section, the taxpayer may 67237  
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file with the tax commissioner, in person or by certified mail, a  
petition for abatement of such penalty assessment. If the petition  
is filed by certified mail, the date of the United States postmark  
placed on the sender's receipt by the postal employee to whom the  
petition is presented shall be treated as the date of filing. The  
petition shall have attached thereto and incorporated therein by  
reference a true copy of the notice of assessment complained of,  
but the failure to attach a copy of such notice and incorporate it  
by reference does not invalidate the petition. The petition shall  
also indicate that the taxpayer's only objection is to the  
assessed penalty and the reason for such objection.

Upon the filing of a petition for abatement of penalty, the  
commissioner shall notify the treasurer of state or the auditor  
and treasurer of each county having any part of the penalty  
assessment entered on the tax list or duplicate. The commissioner  
shall review the petition without the need for hearing. If it  
appears that the failure of the taxpayer to timely return or list  
as required under this chapter, or to file a complying report and  
pay tax under Chapter 5725. of the Revised Code, whichever the  
case may be, was due to reasonable cause and not willful neglect,  
the commissioner may abate in whole or in part the penalty  
assessment. The commissioner shall transmit a certificate of the  
commissioner's determination to the taxpayer, and if no appeal is  
taken therefrom as provided by law, or upon the final  
determination of an appeal which may be taken, the commissioner  
shall notify the treasurer of state or the proper county auditor  
of such final determination. If the final determination orders  
abatement of the penalty assessment, the notification may be in  
the form of an amended assessment certificate. Upon receipt of the  
notification, the treasurer of state or county auditor shall make  
any corrections to the treasurer's or auditor's records and tax  
lists and duplicates required in accordance therewith and proceed

as prescribed by section 5711.32 or 5725.22 of the Revised Code. 67271

The decision of the commissioner shall be final with respect 67272  
to the percentage of penalty, if any, the commissioner finds 67273  
appropriate ~~for the failure to return timely or list the property,~~ 67274  
but neither the commissioner's decision nor a final judgment of 67275  
the board of tax appeals or any court to which such final 67276  
determination may be appealed shall finalize the assessment of 67277  
such property. 67278

**Sec. 5715.01. (A)** The tax commissioner shall direct and 67279  
supervise the assessment for taxation of all real property. The 67280  
commissioner shall adopt, prescribe, and promulgate rules for the 67281  
determination of true value and taxable value of real property by 67282  
uniform rule for such values and for the determination of the 67283  
current agricultural use value of land devoted exclusively to 67284  
agricultural use. The uniform rules shall prescribe methods of 67285  
determining the true value and taxable value of real property and 67286  
shall also prescribe the method for determining the current 67287  
agricultural use value of land devoted exclusively to agricultural 67288  
use, which method shall reflect standard and modern appraisal 67289  
techniques, that take into consideration: the productivity of the 67290  
soil under normal management practices; the average price patterns 67291  
of the crops and products produced to determine the income 67292  
potential to be capitalized; the market value of the land for 67293  
agricultural use; and other pertinent factors. The rules shall 67294  
provide that in determining the true value of lands or 67295  
improvements thereon for tax purposes, all facts and circumstances 67296  
relating to the value of the property, its availability for the 67297  
purposes for which it is constructed or being used, its obsolete 67298  
character, if any, the income capacity of the property, if any, 67299  
and any other factor that tends to prove its true value shall be 67300  
used. The In determining the true value of minerals or rights to 67301  
minerals for the purpose of real property taxation, the tax 67302



commissioner shall not include in the value of the minerals or 67303  
rights to minerals the value of any tangible personal property 67304  
used in the recovery of those minerals. 67305

(B) The taxable value shall be that per cent of true value in 67306  
money, or current agricultural use value in the case of land 67307  
valued in accordance with section 5713.31 of the Revised Code, the 67308  
commissioner by rule establishes, but it shall not exceed 67309  
thirty-five per cent. The uniform rules shall also prescribe 67310  
methods of making the appraisals set forth in section 5713.03 of 67311  
the Revised Code. The taxable value of each tract, lot, or parcel 67312  
of real property and improvements thereon, determined in 67313  
accordance with the uniform rules and methods prescribed thereby, 67314  
shall be the taxable value of the tract, lot, or parcel for all 67315  
purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 67316  
5717.01 to 5717.06 of the Revised Code. County auditors shall, 67317  
under the direction and supervision of the commissioner, be the 67318  
chief assessing officers of their respective counties, and shall 67319  
list and value the real property within their respective counties 67320  
for taxation in accordance with this section and sections 5713.03 67321  
and 5713.31 of the Revised Code and with such rules of the 67322  
commissioner. There shall also be a board in each county, known as 67323  
the county board of revision, which shall hear complaints and 67324  
revise assessments of real property for taxation. 67325

(C) The commissioner shall neither adopt nor enforce any rule 67326  
that requires true value for any tax year to be any value other 67327  
than the true value in money on the tax lien date of such tax year 67328  
or that requires taxable value to be obtained in any way other 67329  
than by reducing the true value, or in the case of land valued in 67330  
accordance with section 5713.31 of the Revised Code, its current 67331  
agricultural use value, by a specified, uniform percentage. 67332

**Sec. 5715.24.** (A) The tax commissioner, annually, shall 67333

determine whether the real property and the various classes 67334  
thereof in the several counties, municipal corporations, and 67335  
taxing districts which have completed a sexennial reappraisal in 67336  
the current year and which will have the new taxable values placed 67337  
on the tax list and duplicate have been assessed as required by 67338  
law, and whether the values set forth in the agricultural land tax 67339  
list in such taxing districts correctly reflect the true and 67340  
agricultural use values of the lands contained therein. The 67341  
determination shall be made prior to the first Monday in August 67342  
unless the commissioner, for good cause, extends the date. If the 67343  
commissioner finds that the real property or any class thereof in 67344  
any such county, municipal corporation, or taxing district, as 67345  
reported to it by the several county auditors of the counties that 67346  
have completed such reappraisal is not listed for taxation or 67347  
recorded on the agricultural land tax list in accordance 67348  
therewith, ~~he~~ the commissioner shall increase or decrease the 67349  
appropriate aggregate value of the real property or any class 67350  
thereof in any such county, township, municipal corporation, 67351  
taxing district, or ward or division of a municipal corporation, 67352  
by a per cent or amount that will cause such property to be 67353  
correctly valued on the agricultural land tax list and to be 67354  
correctly assessed on the tax list at its taxable value so that 67355  
every class of real property shall be listed and valued for 67356  
taxation and valued for purposes of sections 5713.33 to 5713.35 of 67357  
the Revised Code as required by law. In determining whether a 67358  
class of real property has been assessed at its correct taxable 67359  
value and in determining any per cent or amount by which the 67360  
aggregate value of the class from a prior year shall be increased 67361  
or decreased to be correctly assessed, the commissioner shall 67362  
consider only the aggregate values of property that existed in the 67363  
prior year and that is to be taxed in the current year. In 67364  
addition to any other adjustments the commissioner considers 67365  
necessary to comply with this requirement, the value of new 67366

construction shall not be regarded as an increase in such 67367  
aggregate value from the prior year, and the value of property 67368  
destroyed or demolished since the prior year shall be deducted 67369  
from the aggregate value of that class for the prior year. 67370

In implementing any increase or decrease in valuation of real 67371  
property ordered by the commissioner pursuant to this section, the 67372  
county auditor shall, when practicable, increase or decrease the 67373  
taxable valuation of parcels in accordance with actual changes in 67374  
valuation of real property which occur in different subdivisions, 67375  
neighborhoods, or among classes of real property in the county. 67376

(B) Division (A) of this section also applies to a county in 67377  
the third calendar year following the year in which a sexennial 67378  
reappraisal is completed. 67379

**Sec. 5725.01.** As used in sections 5725.01 to 5725.26 of the 67380  
Revised Code: 67381

(A) "Financial institution" means: 67382

(1) A national bank organized and existing as a national bank 67383  
association pursuant to the "National Bank Act," 12 U.S.C. 21; 67384

(2) A federal savings association or federal savings bank 67385  
that is chartered under 12 U.S.C. 1464; 67386

(3) A bank, banking association, trust company, savings and 67387  
loan association, savings bank, or other banking institution that 67388  
is incorporated or organized under the laws of any state; 67389

(4) Any corporation organized under 12 U.S.C. 611 to 631; 67390

(5) Any agency or branch of a foreign depository as defined 67391  
in 12 U.S.C. 3101; 67392

(6) A company licensed as a small business investment company 67393  
under the "Small Business Investment Act of 1958," 72 Stat. 689, 67394  
15 U.S.C. 661, as amended; or 67395

(7) A company chartered under the "Farm Credit Act of 1933," 67396  
48 Stat. 257, 12 U.S.C. 1131(d), as amended. 67397

Corporations or institutions organized under the "Federal 67398  
Farm Loan Act" and amendments thereto, insurance companies, and 67399  
credit unions shall not be considered financial institutions or 67400  
dealers in intangibles within the meaning of such sections. 67401

(B)(1) "Dealer in intangibles" includes every person who 67402  
keeps an office or other place of business in this state and 67403  
engages at such office or other place in ~~the~~ a business that 67404  
consists primarily of lending money, or discounting, buying, or 67405  
selling bills of exchange, drafts, acceptances, notes, mortgages, 67406  
or other evidences of indebtedness, or of buying or selling bonds, 67407  
stocks, or other investment securities, whether on the person's 67408  
own account with a view to profit, or as agent or broker for 67409  
others, with a view to profit or personal earnings. Dealer in 67410  
intangibles excludes institutions used exclusively for charitable 67411  
purposes, insurance companies, and financial institutions. ~~Neither~~ 67412  
~~casual nor isolated transactions of any of the kinds enumerated in~~ 67413  
~~this division of this section, nor the~~ The investment of funds as 67414  
personal accumulations or as business reserves or working capital 67415  
does not constitute engaging in a business within the meaning of 67416  
this division ~~of this section~~; but a person who, having engaged in 67417  
~~the~~ a business that consists primarily of lending money, or 67418  
discounting, buying, or selling bills of exchange, drafts, 67419  
acceptances, notes, mortgages, or other evidences of indebtedness 67420  
on the person's own account, remains in business primarily for the 67421  
purpose of realizing upon the assets of ~~such~~ the business is 67422  
deemed a dealer in intangibles, though not presently engaged in a 67423  
business that consists primarily of lending money or discounting 67424  
or buying such securities. 67425

(2) The tax commissioner shall adopt a rule defining 67426  
"primarily" as that term is used in division (B)(1) of this 67427

section. 67428

(C) "Insurance company" includes every corporation, 67429  
association, and society engaged in the business of insurance of 67430  
any character, or engaged in the business of entering into 67431  
contracts substantially amounting to insurance of any character, 67432  
or of indemnifying or guaranteeing against loss or damage, or 67433  
acting as surety on bonds or undertakings. "Insurance company" 67434  
also includes any health insuring corporation as defined in 67435  
section 1751.01 of the Revised Code. 67436

(D) "Domestic insurance company" includes every insurance 67437  
company organized and existing under the laws of this state, and 67438  
every unincorporated association and society formed under the laws 67439  
of this state for the purpose of engaging in said business, except 67440  
a company, association, or society that is an insurance holding 67441  
company affiliate controlled by a nonresident affiliate and has 67442  
risks in this state formerly written by its foreign affiliates in 67443  
a total amount exceeding the risks outstanding on the taxpayer's 67444  
latest annual report that arise from business initially written by 67445  
it in this state; and excludes every foreign insurance company. As 67446  
used in this division, terms defined in section 3901.32 of the 67447  
Revised Code have the same meanings given to them in that section. 67448

(E) "Foreign insurance company" includes every insurance 67449  
company organized or existing under the laws of any other state, 67450  
territory, country, or the United States and every insurance 67451  
holding company affiliate excepted under division (D) of this 67452  
section. 67453

**Sec. 5725.19.** (A) As used in this section, "tax otherwise 67454  
due" means the tax imposed on a domestic insurance company under 67455  
section 5725.18 of the Revised Code reduced by the total amount of 67456  
all other nonrefundable credits, if any, that the domestic 67457  
insurance company is entitled to claim. 67458

(B) Upon the issuance of a tax credit certificate by the Ohio  
venture capital authority under section 150.07 of the Revised  
Code, a credit may be claimed against the tax imposed on a  
domestic insurance company under section 5725.18 of the Revised  
Code. The credit shall be claimed in the calendar year specified  
in the certificate issued by the authority.

(C) If the company elected a refundable credit under section  
150.07 of the Revised Code and if the amount of the credit shown  
on the certificate does not exceed the tax otherwise due, then for  
the calendar year the company shall claim a refundable credit  
equal to the amount of the credit shown on the certificate.

(D) If the company elected a refundable credit under section  
150.07 of the Revised Code, and the amount of the credit shown on  
the certificate exceeds the tax otherwise due ~~under section  
5725.18 of the Revised Code~~, then for the calendar year the  
company may receive a refund equal to seventy five per cent of  
such excess. If shall claim a refundable credit equal to the sum  
of the following:

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the  
amount of the refundable credit shown on the certificate and the  
tax otherwise due.

(E) If the company elected a nonrefundable credit, the amount  
of the credit shown on the certificate shall not exceed the amount  
of tax otherwise due. If the company elected a nonrefundable  
credit and the credit to which the company would otherwise be  
entitled under this section for any calendar year is greater than  
the tax otherwise due ~~under section 5725.18 of the Revised Code~~,  
the excess shall be allowed as a nonrefundable credit in each of  
the ensuing ten calendar years, but the amount of any excess  
credit allowed in the ensuing calendar year shall be deducted from

the balance carried forward to the next calendar year. 67490

Sec. 5725.32. A refundable credit granted by the tax credit 67491  
authority under section 122.17 of the Revised Code may be claimed 67492  
against the tax imposed by section 5725.18 of the Revised Code. 67493

**Sec. 5727.01.** As used in this chapter: 67494

(A) "Public utility" means each person referred to as a 67495  
telephone company, telegraph company, electric company, natural 67496  
gas company, pipe-line company, water-works company, water 67497  
transportation company, heating company, rural electric company, 67498  
railroad company, or combined company. 67499

(B) "Gross receipts" means the entire receipts for business 67500  
done by any person from operations as a public utility, or 67501  
incidental thereto, or in connection therewith, including any 67502  
receipts received under Chapter 4928. of the Revised Code. The 67503  
gross receipts for business done by an incorporated company 67504  
engaged in operation as a public utility includes the entire 67505  
receipts for business done by such company under the exercise of 67506  
its corporate powers, whether from the operation as a public 67507  
utility or from any other business. 67508

(C) "Rural electric company" means any nonprofit corporation, 67509  
organization, association, or cooperative engaged in the business 67510  
of supplying electricity to its members or persons owning an 67511  
interest therein in an area the major portion of which is rural. 67512

(D) Any person: 67513

(1) Is a telegraph company when engaged in the business of 67514  
transmitting telegraphic messages to, from, through, or in this 67515  
state; 67516

(2) Is a telephone company when primarily engaged in the 67517  
business of providing local exchange telephone service, excluding 67518

cellular radio service, in this state; 67519

(3) Is an electric company when engaged in the business of 67520  
generating, transmitting, or distributing electricity within this 67521  
state for use by others, but excludes a rural electric company; 67522

(4) Is a natural gas company when engaged in the business of 67523  
supplying or distributing natural gas for lighting, power, or 67524  
heating purposes to consumers within this state, excluding a 67525  
person that is a governmental aggregator or retail natural gas 67526  
supplier as defined in section 4929.01 of the Revised Code; 67527

(5) Is a pipe-line company when engaged in the business of 67528  
transporting natural gas, oil, or coal or its derivatives through 67529  
pipes or tubing, either wholly or partially within this state; 67530

(6) Is a water-works company when engaged in the business of 67531  
supplying water through pipes or tubing, or in a similar manner, 67532  
to consumers within this state; 67533

(7) Is a water transportation company when engaged in the 67534  
transportation of passengers or property, by boat or other 67535  
watercraft, over any waterway, whether natural or artificial, from 67536  
one point within this state to another point within this state, or 67537  
between points within this state and points without this state; 67538

(8) Is a heating company when engaged in the business of 67539  
supplying water, steam, or air through pipes or tubing to 67540  
consumers within this state for heating purposes; 67541

(9) Is a railroad company when engaged in the business of 67542  
owning or operating a railroad either wholly or partially within 67543  
this state on rights-of-way acquired and held exclusively by such 67544  
company, or otherwise, and includes a passenger, street, suburban, 67545  
or interurban railroad company. 67546

As used in division (D)(2) of this section, "local exchange 67547  
telephone service" means making available or furnishing access and 67548



a dial tone to all persons within a local calling area for use in  
originating and receiving voice grade communications over a  
switched network operated by the provider of the service within  
the area and for gaining access to other telecommunication  
services.

(E) "Taxable property" means the property required by section  
5727.06 of the Revised Code to be assessed by the tax  
commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period  
subsequent to the effective date of an air, water, or noise  
pollution control certificate and continuing so long as the  
certificate is in force, has been certified as part of the  
pollution control facility with respect to which the certificate  
has been issued;

(2) An item of tangible personal property that during the  
construction of a plant or facility and until the item is first  
capable of operation, whether actually used in operation or not,  
is incorporated in or being held exclusively for incorporation in  
that plant or facility.

Notwithstanding section 5701.03 of the Revised Code, for tax  
year 2006 and thereafter, "taxable property" includes patterns,  
jigs, dies, and drawings of an electric company or a combined  
company for use in the activity of an electric company.

(F) "Taxing district" means a municipal corporation of  
township, or part thereof, in which the aggregate rate of taxation  
is uniform.

(G) "Telecommunications service" has the same meaning as in  
division (AA) of section 5739.01 of the Revised Code.

(H) "Interexchange telecommunications company" means a person  
that is engaged in the business of transmitting telephonic

messages to, from, through, or in this state, but that is not a 67579  
telephone company. 67580

(I) "Sale and leaseback transaction" means a transaction in 67581  
which a public utility or interexchange telecommunications company 67582  
sells any tangible personal property to a person other than a 67583  
public utility or interexchange telecommunications company and 67584  
leases that property back from the buyer. 67585

(J) "Production equipment" means all taxable steam, nuclear, 67586  
hydraulic, and other production plant equipment used to generate 67587  
electricity. For tax years prior to 2001, "production equipment" 67588  
includes taxable station equipment that is located at a production 67589  
plant. 67590

(K) "Tax year" means the year for which property or gross 67591  
receipts are subject to assessment under this chapter. This 67592  
division does not limit the tax commissioner's ability to assess 67593  
and value property or gross receipts outside the tax year. 67594

(L) "Combined company" means any person engaged in the 67595  
activity of an electric company or rural electric company that is 67596  
also engaged in the activity of a heating company or a natural gas 67597  
company, or any combination thereof. 67598

(M) "Public utility property lessor" means any, other than a 67599  
public utility or an interexchange telecommunications company,  
that leases personal property, other than in a sale and leaseback 67600  
transaction, to a public utility, other than a railroad or water 67601  
transportation company, or to an interexchange telecommunications 67602  
company, if the property would be taxable property if owned by the 67603  
public utility or interexchange telecommunications company. A 67604  
public utility property lessor is subject to this chapter only for 67605  
the purposes of reporting and paying tax on taxable property it 67606  
leases to a public utility or interexchange telecommunications 67607  
company. A public utility property lessor that leases property to 67608  
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a public utility or an interexchange telecommunications company is 67610  
not a public utility or interexchange telecommunications company, 67611  
but it shall report its property and be assessed in the same 67612  
manner as the utility or company to which it leases the property. 67613

**Sec. 5727.02.** As used in this chapter, "public utility," 67614  
"electric company," "natural gas company," "pipe-line company," 67615  
"water-works company," "water transportation company" or "heating 67616  
company" does not include any of the following: 67617

(A) Any (1) Except as provided in division (A)(2) of this 67618  
section, any person that is engaged in some other primary business 67619  
to which the supplying of electricity, heat, natural gas, water, 67620  
water transportation, steam, or air to others is incidental. As 67621  
used in this division (A) of this section and in section 5727.031 67622  
of the Revised Code, "supplying of electricity" means generating, 67623  
transmitting, or distributing electricity. 67624

(2) For tax year 2006 and each tax year thereafter, a person 67625  
that is engaged in some other primary business to which the 67626  
supplying of electricity to others is incidental shall be treated 67627  
as an "electric company" and a "public utility" for purposes of 67628  
this chapter solely to the extent required by section 5727.031 of 67629  
the Revised Code. 67630

(B) Any person that supplies electricity, natural gas, water, 67631  
water transportation, steam, or air to its tenants, whether for a 67632  
separate charge or otherwise; 67633

(C) Any person whose primary business in this state consists 67634  
of producing, refining, or marketing petroleum or its products. 67635

(D) Any person whose primary business in this state consists 67636  
of producing or gathering natural gas rather than supplying or 67637  
distributing natural gas to consumers. 67638

**Sec. 5727.031.** (A) For tax year 2006 and each tax year 67639

thereafter, a person that is engaged in some other primary 67640  
business to which the supplying of electricity to others is 67641  
incidental shall file a report under section 5727.08 of the 67642  
Revised Code as an electric company but shall only report therein 67643  
as taxable property the amounts required in divisions (B) and (C) 67644  
of this section. All time limits and other procedural requirements 67645  
of this chapter for the reporting and assessment of property of 67646  
electric companies apply to persons required to file a report 67647  
under this section. 67648

(B) A person subject to this section shall report the true 67649  
value of the boilers, machinery, equipment, and any personal 67650  
property used to supply electricity to others, which shall be the 67651  
sum of the following: 67652

(1) The true value of the property that is production 67653  
equipment as it would be determined for an electric company under 67654  
section 5727.11 of the Revised Code multiplied by the per cent of 67655  
the electricity generated in the preceding calendar year that was 67656  
not used by the person who generated it; plus 67657

(2) The true value of the property that is not production 67658  
equipment as it would be determined for an electric company under 67659  
section 5727.11 of the Revised Code multiplied by the per cent of 67660  
the electricity generated in the preceding calendar year that was 67661  
not used by the person who generated it. 67662

(C) The property reported under division (B) of this section 67663  
shall be listed and assessed at an amount equal to the sum of the 67664  
products determined under divisions (C)(1) and (2) of this 67665  
section. 67666

(1) Multiply the portion of the true value determined under 67667  
division (B)(1) of this section by the assessment rate in section 67668  
5727.111 of the Revised Code that is applicable to the production 67669

equipment of an electric company; 67670

(2) Multiply the portion of the true value determined under 67671  
division (B)(2) of this section by the assessment rate in section 67672  
5727.111 of the Revised Code that is applicable to the property of 67673  
an electric company that is not production equipment. 67674

**Sec. 5727.06.** (A) Except as otherwise provided by law, the 67675  
following constitutes the taxable property of a public utility ~~or,~~ 67676  
interexchange telecommunications company, or public utility 67677  
property lessor that shall be assessed by the tax commissioner: 67678

(1) For tax years before tax year 2006: 67679

(a) In the case of a railroad company, all real property and 67680  
tangible personal property owned or operated by the railroad 67681  
company in this state on the thirty-first day of December of the 67682  
preceding year; 67683

~~(2)~~(b) In the case of a water transportation company, all 67684  
tangible personal property, except watercraft, owned or operated 67685  
by the water transportation company in this state on the 67686  
thirty-first day of December of the preceding year and all 67687  
watercraft owned or operated by the water transportation company 67688  
in this state during the preceding calendar year; 67689

~~(3)~~(c) In the case of all other public utilities and 67690  
interexchange telecommunications companies, all tangible personal 67691  
property that on the thirty-first day of December of the preceding 67692  
year was both located in this state and: 67693

~~(a)~~(i) Owned by the public utility or interexchange 67694  
telecommunications company; or 67695

~~(b)~~(ii) Leased by the public utility or interexchange 67696  
telecommunications company under a sale and leaseback transaction. 67697

(2) For tax years 2006, 2007, and 2008: 67698

(a) In the case of a railroad company, all real property and tangible personal property owned, or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 67699  
67700  
67701  
67702

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned, or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned, or operated by the water transportation company in this state during the preceding calendar year; 67703  
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(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or interexchange telecommunications company or leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction. 67709  
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(3) For tax year 2009 and each tax year thereafter: 67716

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 67717  
67718  
67719  
67720

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year; 67721  
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67723  
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(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding 67727  
67728  
67729

year was both located in this state and either owned by the public utility or interexchange telecommunications company or leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction;

(d) In the case of a public utility property lessor, all personal property that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to an interexchange telecommunications company or a public utility other than a railroad company or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the interexchange telecommunications company or public utility owned the property.

(B) In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies and on the personal property of public utility property lessors shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The tax commissioner may adopt rules governing the 67762  
listing of the taxable property of public utilities and 67763  
interexchange telecommunications companies and the determination 67764  
of true value. 67765

**Sec. 5727.08.** On or before the first day of March, annually, 67766  
each public utility and interexchange telecommunications company, 67767  
and, for tax years 2009 and thereafter, each public utility 67768  
property lessor, shall file a report with the tax commissioner, on 67769  
a form prescribed by the tax commissioner. The report shall 67770  
include such information as the tax commissioner requires to 67771  
enable the tax commissioner to make any assessment or 67772  
apportionment required under this chapter. 67773

The report shall be signed by either the owner of the public 67774  
utility interexchange telecommunications company, or public 67775  
utility property lessor or the president, secretary, treasurer, or 67776  
another duly authorized person. 67777

If such a public utility company, or lessor fails to file the 67778  
report on or before the first day of March, or the date it is due 67779  
under an extension allowed pursuant to section 5727.48 of the 67780  
Revised Code, or fails to accurately report all taxable property, 67781  
the tax commissioner may impose a penalty of up to fifty per cent 67782  
of the taxable value of the property that was not timely or 67783  
accurately reported. However, if the such a public utility, 67784  
company, or lessor files, within sixty days after the first day of 67785  
March or the extended due date, the report or an amended report 67786  
and discloses all items of taxable property that are required by 67787  
this chapter to be reported, the penalty shall not be more than 67788  
five per cent of the taxable value that was not timely or 67789  
accurately reported. The penalty shall be added to and considered 67790  
a part of the total taxable value of the property that was not 67791  
timely or accurately reported, and may be abated in whole or in 67792



part by the tax commissioner pursuant to a petition for 67793  
reassessment filed under section 5727.47 of the Revised Code. 67794

**Sec. 5727.10.** Annually, the tax commissioner shall determine, 67795  
in accordance with section 5727.11 of the Revised Code, the true 67796  
value in money of all taxable property, except property of a 67797  
railroad company, required by ~~division (A)(2) or (3) of~~ section 67798  
5727.06 of the Revised Code to be assessed by the commissioner. 67799  
The commissioner also shall determine the total taxable value of 67800  
such property based on the percentages of true value at which the 67801  
property is required to be assessed by section 5727.111 of the 67802  
Revised Code. 67803

The commissioner shall be guided by the information contained 67804  
in the report filed by the public utility and such other evidence 67805  
and rules as will enable ~~him~~ the commissioner to make these 67806  
determinations. 67807

Before issuing the preliminary assessment under section 67808  
5727.23 of the Revised Code, the commissioner shall notify each 67809  
public utility of the proposed total taxable value of its taxable 67810  
property, including any proposed penalty. After receiving such 67811  
notice, a public utility may, upon written application, within the 67812  
time prescribed by the commissioner, appear before ~~him~~ the 67813  
commissioner and be heard in the matter of the proposal. The 67814  
commissioner may, on the application of a public utility, or on 67815  
~~his~~ the commissioner's own motion, correct the proposal. 67816

**Sec. 5727.11.** (A) Except as otherwise provided in this 67817  
section, the true value of all taxable property, except property 67818  
of a railroad company, required by ~~division (A)(2) or (3) of~~ 67819  
section 5727.06 of the Revised Code to be assessed by the tax 67820  
commissioner shall be determined by a method of valuation using 67821  
cost as capitalized on the public utility's books and records less 67822

composite annual allowances as prescribed by the commissioner. If 67823  
the commissioner finds that application of this method will not 67824  
result in the determination of true value of the public utility's 67825  
taxable property, the commissioner may use another method of 67826  
valuation. 67827

(B)(1) Except as provided in division (B)(2) of this section, 67828  
the true value of current gas stored underground is the cost of 67829  
that gas shown on the books and records of the public utility on 67830  
the thirty-first day of December of the preceding year. 67831

(2) For tax year 2001 and thereafter, the true value of 67832  
current gas stored underground is the quotient obtained by 67833  
dividing (a) the average value of the current gas stored 67834  
underground, which shall be determined by adding the value of the 67835  
gas on hand at the end of each calendar month in the calendar year 67836  
preceding the tax year, or, if applicable, the last day of 67837  
business of each month for a partial month, divided by (b) the 67838  
total number of months the natural gas company was in business 67839  
during the calendar year prior to the beginning of the tax year. 67840  
with the approval of the tax commissioner, a natural gas company 67841  
may use a date other than the end of a calendar month to value its 67842  
current gas stored underground. 67843

(C) The true value of noncurrent gas stored underground is 67844  
thirty-five per cent of the cost of that gas shown on the books 67845  
and records of the public utility on the thirty-first day of 67846  
December of the preceding year. 67847

(D)(1) Except as provided in division (D)(2) of this section, 67848  
the true value of the production equipment of an electric company 67849  
and the true value of all taxable property of a rural electric 67850  
company is the equipment's or property's cost as capitalized on 67851  
the company's books and records less fifty per cent of that cost 67852  
as an allowance for depreciation and obsolescence. 67853

(2) The true value of the production equipment of an electric company or rural electric company purchased, transferred, or placed into service after the effective date of this amendment is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property ~~described in division (A)(2) or (3) of~~, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a

public utility includes amounts capitalized that represent 67885  
regulatory assets, if such amounts previously were included on the 67886  
company's books and records as capitalized costs of taxable 67887  
personal property. 67888

(I) Any change in the composite annual allowances as 67889  
prescribed by the commissioner on a prospective basis shall not be 67890  
admissible in any judicial or administrative action or proceeding 67891  
as evidence of value with regard to prior years' taxes. 67892  
Information about the business, property, or transactions of any 67893  
taxpayer obtained by the commissioner for the purpose of adopting 67894  
or modifying the composite annual allowances shall not be subject 67895  
to discovery or disclosure. 67896

**Sec. 5727.111.** The taxable property of each public utility, 67897  
except a railroad company, and of each interexchange 67898  
telecommunications company shall be assessed at the following 67899  
percentages of true value: 67900

~~(A)(1) Except as provided in division (A)(2) of this section,~~ 67901  
~~fifty per cent in the case of a rural electric company;~~ 67902

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 67903  
the case of the taxable transmission and distribution property of 67904  
a rural electric company, and twenty-five per cent for all its 67905  
other taxable property; 67906

(B) In the case of a telephone or telegraph company, 67907  
twenty-five per cent for taxable property first subject to 67908  
taxation in this state for tax year 1995 or thereafter, and the 67909  
following for all other taxable property: 67910

(1) For tax years prior to 2005, eighty-eight per cent; 67911

(2) For tax year 2005, sixty-seven per cent; 67912

(3) For tax year 2006, forty-six per cent; 67913

(4) For tax year 2007 and thereafter, twenty-five per cent.	67914
(C) Twenty-five per cent in the case of a natural gas company.	67915 67916
(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;	67917 67918
(E)(1) <del>Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty eight per cent for all its other taxable property;</del>	67919 67920 67921 67922
<del>(2) For tax year 2001 and thereafter 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;</del>	67923 67924 67925 67926
<del>(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty eight</del> (2) For tax year 2006 and each tax year thereafter, eighty-five per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-four per cent for all <del>such</del> its other taxable property <del>until January 1, 2002.</del>	67927 67928 67929 67930 67931 67932 67933 67934
(F) Twenty-five per cent in the case of an interexchange telecommunications company;	67935 67936
(G) Twenty-five per cent in the case of a water transportation company.	67937 67938
<b>Sec. 5727.12.</b> As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in	67939 67940 67941 67942 67943

railroad operations, the commissioner shall use the unitary method 67944  
and value all of the property of the company's railroad system as 67945  
a whole, considering the factors generally used in that method, 67946  
and weighing each factor appropriately. The true value of the 67947  
property used in railroad operations shall be apportioned to this 67948  
state as provided in section 5727.14 of the Revised Code. The 67949  
commissioner shall separately determine the true value of property 67950  
owned by the company that the commissioner determines is not used 67951  
in railroad operations. The commissioner may require the advice of 67952  
county auditors concerning such values. 67953

All property of a railroad shall be assessed for taxation at 67954  
the same percentage of true value at which all other real property 67955  
in this state is assessed, in the case of real property, and at 67956  
the percentage of true value provided under divisions (E) ~~and~~, 67957  
(F), and (G) of section 5711.22 of the Revised Code, in the case 67958  
of personal property. 67959

A determination of the value of each tract, lot, or parcel of 67960  
real property or each item of personal property not used in 67961  
railroad operations shall be considered a separate determination 67962  
with respect to which a separate petition for reassessment may be 67963  
filed under section 5727.47 of the Revised Code. 67964

Where a line of railroad is subsidized under the terms of the 67965  
federal regional rail reorganization act or the federal rail 67966  
revitalization and regulatory reform act, the real and other fixed 67967  
property shall be assessed solely in the name of its owner. 67968

**Sec. 5727.23.** On or before the first Monday in October, 67969  
annually, the tax commissioner shall assess the taxable property 67970  
of each public utility. The and interexchange telecommunications 67971  
company, and for tax year 2009 and thereafter of each public 67972  
utility property lessor. If the taxpayer failed to file its annual 67973  
report required by section 5727.08 of the Revised Code at least 67974

sixty days prior to such date, the commissioner may make the 67975  
assessment under this section within sixty days after the taxpayer 67976  
files the report, but this does not preclude the commissioner from 67977  
making an assessment without receiving the report. 67978

The action of the tax commissioner shall be evidenced by a 67979  
preliminary assessment that reflects the taxable value apportioned 67980  
to each county and each taxing district in the county. The 67981  
commissioner may amend the preliminary assessment as provided in 67982  
this section. Each preliminary assessment and amended preliminary 67983  
assessment shall be certified to the public utility, interexchange 67984  
telecommunications company, or public utility property lessor, and 67985  
to, the auditor of each county to which taxable value has been 67986  
apportioned. 67987

The county auditor shall place the apportioned taxable value 67988  
on the general tax list and duplicate of real and public utility 67989  
property, and taxes shall be levied and collected thereon at the 67990  
same rates and in the same manner as taxes are levied and 67991  
collected on real property in the taxing district in question. 67992

Unless a petition for reassessment of an assessment has been 67993  
properly filed pursuant to section 5727.47 of the Revised Code, 67994  
each preliminary assessment and, if amended, each preliminary 67995  
assessment as last amended shall become final ninety days after 67996  
certification of the preliminary assessment or thirty days after 67997  
certification of the amended preliminary assessment, whichever is 67998  
later. If a petition for reassessment is properly filed, the 67999  
assessment shall become final when the tax commissioner issues a 68000  
final determination. 68001

Neither the certification of any preliminary or amended 68002  
assessment nor the expiration of the period of time that makes any 68003  
assessment final constitutes a final determination, assessment, 68004  
reassessment, valuation, finding, computation, or order of the 68005  
commissioner that is appealable under section 5717.02 of the 68006

Revised Code.	68007
<u>Sec. 5727.241. (A) As used in this section:</u>	68008
<u>(1) "Tax otherwise due" means the tax imposed on a taxpayer</u>	68009
<u>under section 5727.24 of the Revised Code reduced by the total</u>	68010
<u>amount of all other nonrefundable credits, if any, that the</u>	68011
<u>taxpayer is entitled to claim.</u>	68012
<u>(2) "Taxpayer" means any person subject to the tax imposed by</u>	68013
<u>section 5727.24 of the Revised Code.</u>	68014
<u>(B) Upon the issuance of a tax credit certificate by the Ohio</u>	68015
<u>venture capital authority under section 150.07 of the Revised</u>	68016
<u>Code, a credit may be claimed against the tax imposed on a</u>	68017
<u>taxpayer under section 5727.24 of the Revised Code. The credit</u>	68018
<u>shall be claimed on a return due under section 5727.25 of the</u>	68019
<u>Revised Code after the certificate is issued by the authority.</u>	68020
<u>(C) If the taxpayer elected a refundable credit under section</u>	68021
<u>150.07 of the Revised Code and if the amount of the credit shown</u>	68022
<u>on the certificate does not exceed the tax otherwise due, then for</u>	68023
<u>the calendar year the taxpayer shall claim a refundable credit</u>	68024
<u>equal to the amount of the credit shown on the certificate.</u>	68025
<u>(D) If the taxpayer elected a refundable credit under section</u>	68026
<u>150.07 of the Revised Code, and if the amount of the refundable</u>	68027
<u>credit shown on the certificate exceeds the tax otherwise due,</u>	68028
<u>then for the calendar year the taxpayer shall claim a refundable</u>	68029
<u>credit equal to the sum of the following:</u>	68030
<u>(1) The amount, if any, of the tax otherwise due;</u>	68031
<u>(2) Seventy-five per cent of the difference between the</u>	68032
<u>amount of the refundable credit shown on the certificate and the</u>	68033
<u>tax otherwise due.</u>	68034
<u>(E) If the taxpayer elected a nonrefundable credit under</u>	68035



section 150.07 of the Revised Code and if the nonrefundable credit 68036  
to which the taxpayer would otherwise be entitled under this 68037  
section for any calendar year is greater than the tax otherwise 68038  
due, the excess shall be allowed as a nonrefundable credit in each 68039  
of the ensuing ten calendar years, but the amount of any excess 68040  
nonrefundable credit allowed in the ensuing calendar year shall be 68041  
deducted from the balance carried forward to the next calendar 68042  
year. 68043

**Sec. 5727.47.** (A) Notice of each assessment certified 68044  
pursuant to section 5727.23 or 5727.38 of the Revised Code shall 68045  
be mailed to the public utility, and its mailing shall be 68046  
prima-facie evidence of its receipt by the public utility to which 68047  
it is addressed. With the notice, the tax commissioner shall 68048  
provide instructions on how to petition for reassessment and 68049  
request a hearing on the petition. If a public utility objects to 68050  
any assessment certified to it pursuant to such sections, it may 68051  
file with the commissioner, either personally or by certified 68052  
mail, within sixty days after the mailing of the notice of 68053  
assessment a written petition for reassessment signed by the 68054  
utility's authorized agent having knowledge of the facts. If the 68055  
petition is filed by certified mail, the date of the United States 68056  
postmark placed on the sender's receipt by the postal employee to 68057  
whom the petition is presented shall be treated as the date of 68058  
filing. The petition shall indicate the utility's objections, but 68059  
additional objections may be raised in writing if received by the 68060  
commissioner prior to the date shown on the final determination. 68061

In the case of a petition seeking a reduction in taxable 68062  
value filed with respect to an assessment issued under section 68063  
5727.23 of the Revised Code, the petitioner shall state in the 68064  
petition the total amount of reduction in taxable value sought by 68065  
the petitioner. If the petitioner objects to the percentage of 68066

true value at which taxable property is assessed by the 68067  
commissioner, the petitioner shall state in the petition the total 68068  
amount of reduction in taxable value sought both with and without 68069  
regard to the objection pertaining to the percentage of true value 68070  
at which its taxable property is assessed. If a petitioner objects 68071  
to the commissioner's apportionment of the taxable value of the 68072  
petitioner's taxable property, the petitioner shall distinctly 68073  
state in the petition that the petitioner objects to the 68074  
commissioner's apportionment, and, within forty-five days after 68075  
filing the petition for reassessment, shall submit the 68076  
petitioner's proposed apportionment of the taxable value of its 68077  
taxable property among taxing districts. If a petitioner that 68078  
objects to the commissioner's apportionment fails to state its 68079  
objections to that apportionment in its petition for reassessment 68080  
or fails to submit its proposed apportionment within forty-five 68081  
days after filing the petition for reassessment, the commissioner 68082  
shall dismiss the petitioner's objection to the commissioner's 68083  
apportionment, and the taxable value of the petitioner's taxable 68084  
property, subject to any adjustment to taxable value pursuant to 68085  
the petition or appeal, shall be apportioned in the manner used by 68086  
the commissioner in the preliminary or amended preliminary 68087  
assessment issued under section 5727.23 of the Revised Code. 68088

If an additional objection seeking a reduction in taxable 68089  
value in excess of the reduction stated in the original petition 68090  
is properly and timely raised with respect to an assessment issued 68091  
under section 5727.23 of the Revised Code, the petitioner shall 68092  
state the total amount of the reduction in taxable value sought in 68093  
the additional objection both with and without regard to any 68094  
reduction in taxable value pertaining to the percentage of true 68095  
value at which taxable property is assessed. If a petitioner fails 68096  
to state the reduction in taxable value sought in the original 68097  
petition or in additional objections properly raised after the 68098

petition is filed, the commissioner shall notify the petitioner of 68099  
the failure by certified mail. If the petitioner fails to notify 68100  
the commissioner in writing of the reduction in taxable value 68101  
sought in the petition or in an additional objection within thirty 68102  
days after receiving the commissioner's notice, the commissioner 68103  
shall dismiss the petition or the additional objection in which 68104  
that reduction is sought. 68105

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 68106  
public utility filing a petition for reassessment regarding an 68107  
assessment issued under section 5727.23 or 5727.38 of the Revised 68108  
Code shall pay the tax with respect to the assessment objected to 68109  
as required by law. The acceptance of any tax payment by the 68110  
treasurer of state or any county treasurer shall not prejudice any 68111  
claim for taxes on final determination by the commissioner or 68112  
final decision by the board of tax appeals or any court. 68113

(2) If a public utility properly and timely files a petition 68114  
for reassessment regarding an assessment issued under section 68115  
5727.23 of the Revised Code, the petitioner shall pay the tax as 68116  
prescribed by divisions (B)(2)(a), (b), and (c) of this section: 68117

(a) If the petitioner does not object to the commissioner's 68118  
apportionment of the taxable value of the petitioner's taxable 68119  
property, the petitioner is not required to pay the part of the 68120  
tax otherwise due on the taxable value that the petitioner seeks 68121  
to have reduced, subject to division (B)(2)(c) of this section. 68122

(b) If the petitioner objects to the commissioner's 68123  
apportionment of the taxable value of the petitioner's taxable 68124  
property, the petitioner is not required to pay the tax otherwise 68125  
due on the part of the taxable value apportioned to any taxing 68126  
district that the petitioner objects to, subject to division 68127  
(B)(2)(c) of this section. If, pursuant to division (A) of this 68128  
section, the petitioner has, in a proper and timely manner, 68129

apportioned taxable value to a taxing district to which the  
commissioner did not apportion the petitioner's taxable value, the  
petitioner shall pay the tax due on the taxable value that the  
petitioner has apportioned to the taxing district, subject to  
division (B)(2)(c) of this section.

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(c) If a petitioner objects to the percentage of true value  
at which taxable property is assessed by the commissioner, the  
petitioner shall pay the tax due on the basis of the percentage of  
true value at which the public utility's taxable property is  
assessed by the commissioner. In any case, the petitioner's  
payment of tax shall not be less than the amount of tax due based  
on the taxable value reflected on the last appeal notice issued by  
the commissioner under division (C) of this section. Until the  
county auditor receives notification under division (E) of this  
section and proceeds under section 5727.471 of the Revised Code to  
issue any refund that is found to be due, the county auditor shall  
not issue a refund for any increase in the reduction in taxable  
value that is sought by a petitioner later than forty-five days  
after the petitioner files the original petition as required under  
division (A) of this section.

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(3) Any part of the tax that, under division (B)(2)(a) or (b)  
of this section, is not paid shall be collected upon receipt of  
the notification as provided in section 5727.471 of the Revised  
Code with interest thereon computed in the same manner as interest  
is computed under division (E) of section 5715.19 of the Revised  
Code, subject to any correction of the assessment by the  
commissioner under division (E) of this section or the final  
judgment of the board of tax appeals or a court to which the  
board's final judgment is appealed. The penalty imposed under  
section 323.121 of the Revised Code shall apply only to the unpaid  
portion of the tax if the petitioner's tax payment is less than  
the amount of tax due based on the taxable value reflected on the

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last appeal notice issued by the commissioner under division (C) 68162  
of this section. 68163

(4) For purposes of divisions (B)(1) and (B)(2)(a) and (b) of 68164  
this section, the petitioner shall make a binding election along 68165  
with the petition for reassessment either to pay the full amount 68166  
of the taxes based on the taxable value shown on the preliminary 68167  
assessment or amended preliminary assessment issued under section 68168  
5727.23 of the Revised Code, or to pay an amount of taxes based on 68169  
the reduced value or apportioned value shown on the appeal notice 68170  
issued under division (C) of this section, subject to division 68171  
(B)(2)(c) of this section. 68172

(C) Upon receipt of a properly filed petition for 68173  
reassessment, the tax commissioner shall notify the treasurer of 68174  
state or the auditor of each county to which the assessment 68175  
objected to has been certified. In the case of a petition with 68176  
respect to an assessment issued under section 5727.23 of the 68177  
Revised Code, the commissioner shall issue an appeal notice within 68178  
thirty days after receiving the amount of the taxable value 68179  
reduction and apportionment changes sought by the petitioner in 68180  
the original petition or in any additional objections properly and 68181  
timely raised by the petitioner. The appeal notice shall indicate 68182  
the amount of the reduction in taxable value sought in the 68183  
petition or in the additional objections and the extent to which 68184  
the reduction in taxable value and any change in apportionment 68185  
requested by the petitioner would affect the commissioner's 68186  
apportionment of the taxable value among taxing districts in the 68187  
county as shown in the assessment. If a petitioner is seeking a 68188  
reduction in taxable value on the basis of a lower percentage of 68189  
true value than the percentage at which the commissioner assessed 68190  
the petitioner's taxable property, the appeal notice shall 68191  
indicate the reduction in taxable value sought by the petitioner 68192  
without regard to the reduction sought on the basis of the lower 68193

percentage and shall indicate that the petitioner is required to  
pay tax on the reduced taxable value determined without regard to  
the reduction sought on the basis of a lower percentage of true  
value, as provided under division (B)(2)(c) of this section. The  
appeal notice shall include a statement that the reduced taxable  
value and the apportionment indicated in the notice are not final  
and are subject to adjustment by the commissioner or by the board  
of tax appeals or a court on appeal. If the commissioner finds an  
error in the appeal notice, the commissioner may amend the notice,  
but the notice is only for informational and tax payment purposes;  
the notice is not subject to appeal by any person. The  
commissioner also shall mail a copy of the appeal notice to the  
petitioner. Upon the request of a taxing authority, the county  
auditor may disclose to the taxing authority the extent to which a  
reduction in taxable value sought by a petitioner would affect the  
apportionment of taxable value to the taxing district or districts  
under the taxing authority's jurisdiction, but such a disclosure  
does not constitute a notice required by law to be given for the  
purpose of section 5717.02 of the Revised Code.

(D) If the petitioner requests a hearing on the petition, the  
tax commissioner shall assign a time and place for the hearing on  
the petition and notify the petitioner of such time and place, but  
the commissioner may continue the hearing from time to time as  
necessary.

(E) The tax commissioner may make corrections to the  
assessment as the commissioner finds proper. The commissioner  
shall serve a copy of the commissioner's final determination on  
the petitioner in the manner provided in section 5703.37 of the  
Revised Code. The commissioner's decision in the matter shall be  
final, subject to appeal under section 5717.02 of the Revised  
Code. The commissioner also shall transmit a copy of the final  
determination to the treasurer of state or applicable county

auditor. In the absence of any further appeal, or when a decision  
of the board of tax appeals or of any court to which the decision  
has been appealed becomes final, the commissioner shall notify the  
public utility and, as appropriate, the treasurer of state who  
shall proceed under section 5727.42 of the Revised Code, or the  
applicable county auditor who shall proceed under section 5727.471  
of the Revised Code.

The notification made under this division is not subject to  
further appeal.

(F) On appeal, no adjustment shall be made in the tax  
commissioner's assessment issued under section 5727.23 of the  
Revised Code that reduces the taxable value of a petitioner's  
taxable property by an amount that exceeds the reduction sought by  
the petitioner in its petition for reassessment or in any  
additional objections properly and timely raised after the  
petition is filed with the commissioner.

**Sec. 5727.81.** (A) For the purpose of raising revenue for  
public education and state and local government operations, an  
excise tax is hereby levied and imposed on an electric  
distribution company for all electricity distributed by such  
company ~~beginning with the measurement period that includes May 1,~~  
~~2001,~~ at the following rates per kilowatt hour of electricity  
distributed in a thirty-day period by the company through a meter  
of an end user in this state:

KILOWATT HOURS DISTRIBUTED	RATE PER	
TO AN END USER	KILOWATT HOUR	
For the first 2,000	<del>\$.00465</del> <u>00605</u>	
For the next 2,001 to 15,000	<del>\$.00419</del> <u>00545</u>	
For 15,001 and above	<del>\$.00363</del> <u>00472</u>	

If no meter is used to measure the kilowatt hours of  
electricity distributed by the company, the rates shall apply to

the estimated kilowatt hours of electricity distributed to an 68257  
unmetered location in this state. 68258

The electric distribution company shall base the monthly tax 68259  
on the kilowatt hours of electricity distributed to an end user 68260  
through the meter of the end user that is not measured for a 68261  
thirty-day period by dividing the days in the measurement period 68262  
into the total kilowatt hours measured during the measurement 68263  
period to obtain a daily average usage. The tax shall be 68264  
determined by obtaining the sum of divisions (A)(1), (2), and (3) 68265  
of this section and multiplying that amount by the number of days 68266  
in the measurement period: 68267

(1) Multiplying ~~\$0.00465~~ .00605 per kilowatt hour for the 68268  
first sixty-seven kilowatt hours distributed using a daily 68269  
average; 68270

(2) Multiplying ~~\$0.00419~~ .00545 for the next sixty-eight to 68271  
five hundred kilowatt hours distributed using a daily average; 68272

(3) Multiplying ~~\$0.00363~~ .00472 for the remaining kilowatt 68273  
hours distributed using a daily average. 68274

~~Until January 1, 2003, except as provided in division (C) of~~ 68275  
~~this section, the electric distribution company shall pay the tax~~ 68276  
~~to the treasurer of state in accordance with section 5727.82 of~~ 68277  
~~the Revised Code. Beginning January 1, 2003, except~~ Except as 68278  
provided in division (C) of this section, the electric 68279  
distribution company shall pay the tax to the tax commissioner in 68280  
accordance with section 5727.82 of the Revised Code, unless 68281  
required to remit each tax payment by electronic funds transfer to 68282  
the treasurer of state in accordance with section 5727.83 of the 68283  
Revised Code. 68284

Only the distribution of electricity through a meter of an 68285  
end user in this state shall be used by the electric distribution 68286  
company to compute the amount or estimated amount of tax due. In 68287



the event a meter is not actually read for a measurement period, 68288  
the estimated kilowatt hours distributed by an electric 68289  
distribution company to bill for its distribution charges shall be 68290  
used. 68291

(B) Except as provided in division (C) of this section, each 68292  
electric distribution company shall pay the tax imposed by this 68293  
section in all of the following circumstances: 68294

(1) The electricity is distributed by the company through a 68295  
meter of an end user in this state; 68296

(2) The company is distributing electricity through a meter 68297  
located in another state, but the electricity is consumed in this 68298  
state in the manner prescribed by the tax commissioner; 68299

(3) The company is distributing electricity in this state 68300  
without the use of a meter, but the electricity is consumed in 68301  
this state as estimated and in the manner prescribed by the tax 68302  
commissioner. 68303

(C)(1) As used in division (C) of this section: 68304

(a) "Total price of electricity" means the aggregate value in 68305  
money of anything paid or transferred, or promised to be paid or 68306  
transferred, to obtain electricity or electric service, including 68307  
but not limited to the value paid or promised to be paid for the 68308  
transmission or distribution of electricity and for transition 68309  
costs as described in Chapter 4928. of the Revised Code. 68310

(b) "Package" means the provision or the acquisition, at a 68311  
combined price, of electricity with other services or products, or 68312  
any combination thereof, such as natural gas or other fuels; 68313  
energy management products, software, and services; machinery and 68314  
equipment acquisition; and financing agreements. 68315

(c) "Single location" means a facility located on contiguous 68316  
property separated only by a roadway, railway, or waterway. 68317

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request ~~by~~ of an applicant for registration as a self-assessing purchaser under this division. Such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and ~~four~~ five per cent of the total price of all electricity distributed to that meter or location. A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location in this state and that consumes, over the course of the previous calendar year, more than forty-five million kilowatt hours in other than its qualifying manufacturing process, may elect to self-assess the tax as allowed by this division with respect to the electricity used in other than its qualifying manufacturing process. ~~Until January 1, 2003, payment of the tax shall be made directly to the treasurer of state in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code. Beginning January 1, 2003, payment~~ The tax due from a self-assessing purchaser under this division shall be the tax as assessed under this division less any credit allowed under section 5727.812 of the Revised Code.

Payment of the tax shall be made directly to the tax

commissioner in accordance with divisions (A)(4) and (5) of 68350  
section 5727.82 of the Revised Code, or the treasurer of state in 68351  
accordance with section 5727.83 of the Revised Code. If the 68352  
electric distribution company serving the self-assessing purchaser 68353  
is a municipal electric utility and the purchaser is within the 68354  
municipal corporation's corporate limits, payment of the portion 68355  
of the tax described in division (A)(3)(a) of section 5727.82 of 68356  
the Revised Code shall be made to such municipal corporation's 68357  
general fund and reports shall be filed in accordance with 68358  
divisions (A)(4) and (5) of section 5727.82 of the Revised Code, 68359  
except that "municipal corporation" shall be substituted for 68360  
"treasurer of state" and "tax commissioner." The remainder of the 68361  
tax shall be paid directly to the tax commissioner in accordance 68362  
with divisions (A)(4) and (5) of section 5727.82 of the Revised 68363  
Code, or the treasurer of state in accordance with section 5727.83 68364  
of the Revised Code. A self-assessing purchaser that pays the 68365  
excise tax as provided in this division shall not be required to 68366  
pay the tax to the electric distribution company from which its 68367  
electricity is distributed. If a self-assessing purchaser's 68368  
receipt of electricity is not subject to the tax as measured under 68369  
this division, the tax on the receipt of such electricity shall be 68370  
measured and paid as provided in division (A) of this section. 68371

(3) In the case of the acquisition of a package, unless the 68372  
elements of the package are separately stated isolating the total 68373  
price of electricity from the price of the remaining elements of 68374  
the package, the tax imposed under this section applies to the 68375  
entire price of the package. If the elements of the package are 68376  
separately stated, the tax imposed under this section applies to 68377  
the total price of the electricity. 68378

(4) Any electric supplier that sells electricity as part of a 68379  
package shall separately state to the purchaser the total price of 68380  
the electricity and, upon request by the tax commissioner, the 68381

total price of each of the other elements of the package. 68382

(5) The tax commissioner may adopt rules relating to the 68383  
computation of the total price of electricity with respect to 68384  
self-assessing purchasers, which may include rules to establish 68385  
the total price of electricity purchased as part of a package. 68386

(6) An annual application for registration as a 68387  
self-assessing purchaser shall be made for each qualifying meter 68388  
or location on a form prescribed by the tax commissioner. The 68389  
registration year begins on the first day of May and ends on the 68390  
following thirtieth day of April. Persons may apply after the 68391  
first day of May for the remainder of the registration year. In 68392  
the case of an applicant applying on the basis of an estimated 68393  
consumption of forty-five million kilowatt hours over the course 68394  
of the succeeding twelve months, the applicant shall provide such 68395  
information as the tax commissioner considers to be necessary to 68396  
estimate such consumption. At the time of making the application 68397  
and by the first day of May of each year, ~~excluding May 1, 2000,~~ a 68398  
self-assessing purchaser shall pay a fee of five hundred dollars 68399  
to the tax commissioner, or to the treasurer of state as provided 68400  
in section 5727.83 of the Revised Code, for each qualifying meter 68401  
or location. The tax commissioner shall immediately pay to the 68402  
treasurer of state all amounts that the tax commissioner receives 68403  
under this section. The treasurer of state shall deposit such 68404  
amounts into the kilowatt hour excise tax administration fund, 68405  
which is hereby created in the state treasury. Money in the fund 68406  
shall be used to defray the tax commissioner's cost in 68407  
administering the tax owed under section 5727.81 of the Revised 68408  
Code by self-assessing purchasers. After the application is 68409  
approved by the tax commissioner, the registration shall remain in 68410  
effect for the current registration year, or until canceled by the 68411  
registrant upon written notification to the commissioner of the 68412  
election to pay the tax in accordance with division (A) of this 68413

section, or until canceled by the tax commissioner for not paying 68414  
the tax or fee under division (C) of this section or for not 68415  
meeting the qualifications in division (C)(2) of this section. The 68416  
tax commissioner shall give written notice to the electric 68417  
distribution company from which electricity is delivered to a 68418  
self-assessing purchaser of the purchaser's self-assessing status, 68419  
and the electric distribution company is relieved of the 68420  
obligation to pay the tax imposed by division (A) of this section 68421  
for electricity distributed to that self-assessing purchaser until 68422  
it is notified by the tax commissioner that the self-assessing 68423  
purchaser's registration is canceled. Within fifteen days of 68424  
notification of the canceled registration, the electric 68425  
distribution company shall be responsible for payment of the tax 68426  
imposed by division (A) of this section on electricity distributed 68427  
to a purchaser that is no longer registered as a self-assessing 68428  
purchaser. A self-assessing purchaser with a canceled registration 68429  
must file a report and remit the tax imposed by division (A) of 68430  
this section on all electricity it receives for any measurement 68431  
period prior to the tax being reported and paid by the electric 68432  
distribution company. A self-assessing purchaser whose 68433  
registration is canceled by the tax commissioner is not eligible 68434  
to register as a self-assessing purchaser for two years after the 68435  
registration is canceled. 68436

(7) If the tax commissioner cancels the self-assessing 68437  
registration of a purchaser registered on the basis of its 68438  
estimated consumption because the purchaser does not consume at 68439  
least forty-five million kilowatt hours of electricity over the 68440  
course of the twelve-month period for which the estimate was made, 68441  
the tax commissioner shall assess and collect from the purchaser 68442  
the difference between (a) the amount of tax that would have been 68443  
payable under division (A) of this section on the electricity 68444  
distributed to the purchaser during that period, and (b) the 68445  
amount of tax paid by the purchaser on such electricity pursuant 68446

to division (C)(2)~~(a)~~ of this section. The assessment shall be 68447  
paid within sixty days after the tax commissioner issues it, 68448  
regardless of whether the purchaser files a petition for 68449  
reassessment under section 5727.89 of the Revised Code covering 68450  
that period. If the purchaser does not pay the assessment within 68451  
the time prescribed, the amount assessed is subject to the 68452  
additional charge and the interest prescribed by divisions (B) and 68453  
(C) of section 5727.82 of the Revised Code, and is subject to 68454  
assessment under section 5727.89 of the Revised Code. If the 68455  
purchaser is a qualified end user, division (C)(7) of this section 68456  
applies only to electricity it consumes in other than its 68457  
qualifying manufacturing process. 68458

(D) The tax imposed by this section does not apply to the 68459  
distribution of any kilowatt hours of electricity to the federal 68460  
government, to an end user located at a federal facility that uses 68461  
electricity for the enrichment of uranium, to a qualified 68462  
regeneration meter, or to an end user for any day the end user is 68463  
a qualified end user. The exemption under this division for a 68464  
qualified end user only applies to the manufacturing location 68465  
where the qualified end user uses more than three million kilowatt 68466  
hours per day in a qualifying manufacturing process. 68467

**Sec. 5727.812.** (A) As used in this section: 68468

(1) "Price-based revenue increase" means one-fifth of the 68469  
total amount of tax imposed on self-assessing purchasers under 68470  
division (C)(2) of section 5727.81 of the Revised Code as computed 68471  
on the basis of the total price of electricity distributed to a 68472  
meter or location during a fiscal year, beginning with fiscal year 68473  
2006. 68474

(2) "Consumer price index" means the consumer price index for 68475  
all urban consumers (United States city average, all items) 68476  
prepared by the United States department of labor, bureau of labor 68477

statistics. 68478

(3) "Allowable price-based revenue increase" means ten million dollars multiplied by (a) the consumer price index for June of the year in which the tax commissioner makes the determination under division (B) of this section divided by (b) the consumer price index for June 2005. 68479  
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(B) On or before the first day of September each year beginning in 2006, the tax commissioner shall: 68484  
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(1) Compute the allowable price-based revenue increase; 68486

(2) Determine the price-based revenue increase for the preceding fiscal year; 68487  
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(3) Compute the amount, if any, by which the price-based revenue increase exceeds the allowable price-based revenue increase; and 68489  
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(4) Compute the percentage that the excess amount, if any, computed under division (B)(3) of this section is of the allowable price-based revenue increase. The computation shall be carried out to the fourth decimal place. 68492  
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(C) A credit shall be applied against the tax due from each self-assessing purchaser under division (C) of section 5727.81 of the Revised Code. The credit shall equal the percentage computed under division (B)(4) of this section multiplied by the portion of the amount of tax due and paid on the basis of the total price of electricity distributed to a meter or location from the self-assessing purchaser for the twelve-month period from July of the preceding year through June of the current year. The credit shall be applied by subtracting one-twelfth of that amount from the amount of tax due from the self-assessing purchaser for each month from the October following the computation through the following September. 68496  
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(D) Upon making the determinations and computations under 68508  
division (B) of this section, the tax commissioner shall notify 68509  
each self-assessing purchaser entitled to the credit of the amount 68510  
of the credit and the amount that may be applied against the tax 68511  
each month, and shall certify the amounts and percentage computed 68512  
or determined under division (B) of this section to the speaker 68513  
and minority leader of the house of representatives, to the 68514  
president and minority leader of the senate, and to the 68515  
chairperson and ranking members of the committees of each chamber 68516  
dealing principally with appropriations and principally with 68517  
taxation. 68518

(E) If a person is entitled to a credit under division (C) of 68519  
this section but the person's registration as a self-assessing 68520  
purchaser is canceled during the registration year or terminates 68521  
at the end of a registration year before the person recovers the 68522  
entire amount of the person's credit, the person shall receive a 68523  
refund of the balance of the credit amount the person does not 68524  
receive because of the cancellation or termination. Within sixty 68525  
days after such cancellation or termination, the tax commissioner 68526  
shall determine the amount of the refund to which such a person is 68527  
entitled. The tax commissioner shall transmit the amount of the 68528  
credit to the treasurer of state, who, within thirty days of such 68529  
transmission, shall issue a warrant on the state treasury to the 68530  
person entitled to the credit. Refunds are payable from the 68531  
general revenue fund. 68532

**Sec. 5727.82.** (A)(1) Except as provided in divisions (A)(3) 68533  
and (D) of this section, by the twentieth day of each month, each 68534  
electric distribution company required to pay the tax imposed by 68535  
section 5727.81 of the Revised Code shall file with the tax 68536  
commissioner a return as prescribed by the tax commissioner and 68537  
shall make payment of the full amount of tax due for the preceding 68538



month. The first payment of this tax shall be made on or before 68539  
June 20, 2001. The electric distribution company shall make 68540  
payment to the tax commissioner unless required to remit each tax 68541  
payment by electronic funds transfer to the treasurer of state as 68542  
provided in section 5727.83 of the Revised Code. 68543

(2) By the twentieth day of May, August, November, and 68544  
February, each natural gas distribution company required to pay 68545  
the tax imposed by section 5727.811 of the Revised Code shall file 68546  
with the tax commissioner a return as prescribed by the tax 68547  
commissioner and shall make payment to the tax commissioner, or to 68548  
the treasurer of state as provided in section 5727.83 of the 68549  
Revised Code, of the full amount of tax due for the preceding 68550  
quarter. The first payment of this tax shall be made on or before 68551  
November 20, 2001, for the quarter ending September 30, 2001. 68552

(3)(a) If the electric distribution company required to pay 68553  
the tax imposed by section 5727.81 of the Revised Code is a 68554  
municipal electric utility, it may retain in its general fund that 68555  
portion of the tax on the kilowatt hours distributed to end users 68556  
located within the boundaries of the municipal corporation, but 68557  
only that portion of the tax that was imposed by division (A) or 68558  
(C)(2) of section 5727.81 of the Revised Code as those divisions 68559  
existed prior to their amendment by H.B. 66 of the 126th general 68560  
assembly. However, the 68561

(b) The municipal electric utility shall make payment in 68562  
accordance with division (A)(1) of this section of the tax due on 68563  
the kilowatt hours distributed to end users located outside the 68564  
boundaries of the municipal corporation, and of the remainder of 68565  
the tax due under division (A)(3)(a) of this section that was not 68566  
retained in the general fund of the municipal electric utility. 68567

(4) By the twentieth day of each month, each self-assessing 68568  
purchaser that under division (C) of section 5727.81 of the 68569

Revised Code pays directly to the tax commissioner or the  
treasurer of state the tax imposed by section 5727.81 of the  
Revised Code shall file with the tax commissioner a return as  
prescribed by the tax commissioner and shall make payment of the  
full amount of the tax due for the preceding month less any credit  
allowed by section 5727.812 of the Revised Code.

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(5) As prescribed by the tax commissioner, a return shall be  
signed by the company or self-assessing purchaser required to file  
it, or an authorized employee, officer, or agent of the company or  
purchaser. The return shall be deemed filed when received by the  
tax commissioner.

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(B) Any natural gas distribution company, electric  
distribution company, or self-assessing purchaser required by this  
section to file a return who fails to file it and pay the tax  
within the period prescribed shall pay an additional charge of  
fifty dollars or ten per cent of the tax required to be paid for  
the reporting period, whichever is greater. The tax commissioner  
may collect the additional charge by assessment pursuant to  
section 5727.89 of the Revised Code. The commissioner may abate  
all or a portion of the additional charge and may adopt rules  
governing such abatements.

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(C) If any tax due is not paid timely in accordance with this  
section, the natural gas distribution company, electric  
distribution company, or self-assessing purchaser liable for the  
tax shall pay interest, calculated at the rate per annum  
prescribed by section 5703.47 of the Revised Code, from the date  
the tax payment was due to the date of payment or to the date an  
assessment is issued, whichever occurs first. Interest shall be  
paid in the same manner as the tax, and the commissioner may  
collect the interest by assessment pursuant to section 5727.89 of  
the Revised Code.

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(D) Not later than the tenth day of each month, a qualified end user not making the election to self-assess under division (C) of section 5727.81 of the Revised Code shall report in writing to the electric distribution company that distributes electricity to the end user the kilowatt hours that were consumed as a qualified end user in a qualifying manufacturing process for the prior month and the number of days, if any, on which the end user was not a qualified end user. For each calendar day during that month, a qualified end user shall report the kilowatt hours that were not used in a qualifying manufacturing process. For each calendar day the end user was not a qualified end user, the end user shall report in writing to the electric distribution company the total number of kilowatt hours used on that day, and the electric distribution company shall pay the tax imposed under section 5727.81 of the Revised Code on each kilowatt hour that was not distributed to a qualified end user in a qualifying manufacturing process. The electric distribution company may rely in good faith on a qualified end user's report filed under this division. If it is determined that the end user was not a qualified end user for any calendar day or the quantity of electricity used by the qualified end user in a qualifying manufacturing process was overstated, the tax commissioner shall assess and collect any tax imposed under section 5727.81 of the Revised Code directly from the qualified end user. As requested by the commissioner, each end user reporting to an electric distribution company that it is a qualified end user shall provide documentation to the commissioner that establishes the volume of electricity consumed daily by the qualified end user and the total number of kilowatt hours consumed in a qualifying manufacturing process.

(E) The tax commissioner shall immediately pay to the treasurer of state all amounts that the tax commissioner receives under this section. The treasurer of state shall credit such

amounts in accordance with this chapter. 68633

**Sec. 5727.84.** (A) As used in this section and sections 68634  
5727.85, 5727.86, and 5727.87 of the Revised Code: 68635

(1) "School district" means a city, local, or exempted 68636  
village school district. 68637

(2) "Joint vocational school district" means a joint 68638  
vocational school district created under section 3311.16 of the 68639  
Revised Code, and includes a cooperative education school district 68640  
created under section 3311.52 or 3311.521 of the Revised Code and 68641  
a county school financing district created under section 3311.50 68642  
of the Revised Code. 68643

(3) "Local taxing unit" means a subdivision or taxing unit, 68644  
as defined in section 5705.01 of the Revised Code, a park district 68645  
created under Chapter 1545. of the Revised Code, or a township 68646  
park district established under section 511.23 of the Revised 68647  
Code, but excludes school districts and joint vocational school 68648  
districts. 68649

(4) "State education aid" means the sum of state aid amounts 68650  
computed for a school district or joint vocational school district 68651  
under Chapter 3317. of the Revised Code. 68652

(5) "State education aid offset" means the amount determined 68653  
for each school district or joint vocational school district under 68654  
division (A)(1) of section 5727.85 of the Revised Code. 68655

(6) "Recognized valuation" has the same meaning as in section 68656  
3317.02 of the Revised Code. 68657

(7) "Electric company tax value loss" means the amount 68658  
determined under division (D) of this section. 68659

(8) "Natural gas company tax value loss" means the amount 68660  
determined under division (E) of this section. 68661

- (9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 68662  
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- (10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 68664  
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- (11) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 68666  
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- (12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code. 68668  
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- (13) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 68673  
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- (14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 68675  
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- (B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All Beginning August 1, 2005, all money in the kilowatt-hour tax receipts fund shall be credited as follows: 68678  
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- (1) ~~Fifty-nine~~ Sixty-nine and ~~nine two~~ hundred ~~seventy-six~~ thirteen one-thousandths per cent, shall be credited to the general revenue fund. 68683  
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- (2) Two and ~~six hundred forty-six~~ thirty-five one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code. 68686  
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- (3) ~~Three~~ Two hundred ~~seventy-eight~~ ninety-one one-thousandths per cent shall be credited to the local government 68690  
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revenue assistance fund, for distribution in accordance with 68692  
section 5747.61 of the Revised Code. 68693

(4) ~~Twenty-five~~ Nineteen and ~~four-tenths~~ five hundred  
thirty-eight one-thousandths per cent shall be credited to the 68694  
school district property tax replacement fund, which is hereby 68695  
created in the state treasury for the purpose of making the 68696  
payments described in section 5727.85 of the Revised Code. 68697  
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(5) ~~Eleven~~ Eight and ~~six-tenths~~ nine hundred twenty-three  
one-thousandths per cent shall be credited to the local government 68699  
property tax replacement fund, which is hereby created in the 68700  
state treasury for the purpose of making the payments described in 68701  
section 5727.86 of the Revised Code. 68702  
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~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the~~ 68704  
~~revenue arising from the tax levied by section 5727.81 of the~~ 68705  
~~Revised Code is less than five hundred fifty two million dollars,~~ 68706  
~~the amount credited to the general revenue fund under division~~ 68707  
~~(B)(1) of this section shall be reduced by the amount necessary to~~ 68708  
~~credit to each of the funds in divisions (B)(2) and (3) of this~~ 68709  
~~section the amount it would have received if the tax did raise~~ 68710  
~~five hundred fifty two million dollars for that fiscal year. The~~ 68711  
~~tax commissioner shall certify to the director of budget and~~ 68712  
~~management the amounts that shall be credited under this division.~~ 68713

~~(7) Beginning in fiscal year 2007, if the revenue arising~~ 68714  
~~from the tax levied by section 5727.81 of the Revised Code is less~~ 68715  
~~than five hundred fifty two million dollars, the amount credited~~ 68716  
~~to the general revenue fund under division (B)(1) of this section~~ 68717  
~~shall be reduced by the amount necessary to credit to each of the~~ 68718  
~~funds in divisions (B)(2), (3), (4), and (5) of this section the~~ 68719  
~~amount that it would have received if the tax did raise five~~ 68720  
~~hundred fifty two million dollars for that fiscal year. The tax~~ 68721  
~~commissioner shall certify to the director of budget and~~ 68722  
~~management the amounts to be credited under division (B)(7) of~~ 68723

~~this section.~~

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(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

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(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

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(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

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~~(3) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, an amount equal to the difference between the amount collected and ninety million dollars shall be transferred from the general revenue fund to each of the funds in divisions (C)(1) and (2) of this section in the same percentages as if that amount had been collected as taxes under section 5727.811 of the Revised Code. The tax commissioner shall certify to the director of budget and management the amounts that shall be transferred under this division.~~

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(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (3) of this section:

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(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

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(a) The value of electric company and rural electric company 68754  
tangible personal property as assessed by the tax commissioner for 68755  
tax year 1998 on a preliminary assessment, or an amended 68756  
preliminary assessment if issued prior to March 1, 1999, and as 68757  
apportioned to the taxing district for tax year 1998; 68758

(b) The value of electric company and rural electric company 68759  
tangible personal property as assessed by the tax commissioner for 68760  
tax year 1998 had the property been apportioned to the taxing 68761  
district for tax year 2001, and assessed at the rates in effect 68762  
for tax year 2001. 68763

(2) The difference obtained by subtracting the amount 68764  
described in division (D)(2)(b) from the amount described in 68765  
division (D)(2)(a) of this section. 68766

(a) The three-year average for tax years 1996, 1997, and 1998 68767  
of the assessed value from nuclear fuel materials and assemblies 68768  
assessed against a person under Chapter 5711. of the Revised Code 68769  
from the leasing of them to an electric company for those 68770  
respective tax years, as reflected in the preliminary assessments; 68771

(b) The three-year average assessed value from nuclear fuel 68772  
materials and assemblies assessed under division (D)(2)(a) of this 68773  
section for tax years 1996, 1997, and 1998, as reflected in the 68774  
preliminary assessments, using an assessment rate of twenty-five 68775  
per cent. 68776

(3) In the case of a taxing district having a nuclear power 68777  
plant within its territory, any amount, resulting in an electric 68778  
company tax value loss, obtained by subtracting the amount 68779  
described in division (D)(1) of this section from the difference 68780  
obtained by subtracting the amount described in division (D)(3)(b) 68781  
of this section from the amount described in division (D)(3)(a) of 68782  
this section. 68783

(a) The value of electric company tangible personal property 68784



as assessed by the tax commissioner for tax year 2000 on a 68785  
preliminary assessment, or an amended preliminary assessment if 68786  
issued prior to March 1, 2001, and as apportioned to the taxing 68787  
district for tax year 2000; 68788

(b) The value of electric company tangible personal property 68789  
as assessed by the tax commissioner for tax year 2001 on a 68790  
preliminary assessment, or an amended preliminary assessment if 68791  
issued prior to March 1, 2002, and as apportioned to the taxing 68792  
district for tax year 2001. 68793

(E) Not later than January 1, 2002, the tax commissioner 68794  
shall determine for each taxing district its natural gas company 68795  
tax value loss, which is the sum of the amounts described in 68796  
divisions (E)(1) and (2) of this section: 68797

(1) The difference obtained by subtracting the amount 68798  
described in division (E)(1)(b) from the amount described in 68799  
division (E)(1)(a) of this section. 68800

(a) The value of all natural gas company tangible personal 68801  
property, other than property described in division (E)(2) of this 68802  
section, as assessed by the tax commissioner for tax year 1999 on 68803  
a preliminary assessment, or an amended preliminary assessment if 68804  
issued prior to March 1, 2000, and apportioned to the taxing 68805  
district for tax year 1999; 68806

(b) The value of all natural gas company tangible personal 68807  
property, other than property described in division (E)(2) of this 68808  
section, as assessed by the tax commissioner for tax year 1999 had 68809  
the property been apportioned to the taxing district for tax year 68810  
2001, and assessed at the rates in effect for tax year 2001. 68811

(2) The difference in the value of current gas obtained by 68812  
subtracting the amount described in division (E)(2)(b) from the 68813  
amount described in division (E)(2)(a) of this section. 68814

(a) The three-year average assessed value of current gas as 68815  
assessed by the tax commissioner for tax years 1997, 1998, and 68816  
1999 on a preliminary assessment, or an amended preliminary 68817  
assessment if issued prior to March 1, 2001, and as apportioned in 68818  
the taxing district for those respective years; 68819

(b) The three-year average assessed value from current gas 68820  
under division (E)(2)(a) of this section for tax years 1997, 1998, 68821  
and 1999, as reflected in the preliminary assessment, using an 68822  
assessment rate of twenty-five per cent. 68823

(F) The tax commissioner may request that natural gas 68824  
companies, electric companies, and rural electric companies file a 68825  
report to help determine the tax value loss under divisions (D) 68826  
and (E) of this section. The report shall be filed within thirty 68827  
days of the commissioner's request. A company that fails to file 68828  
the report or does not timely file the report is subject to the 68829  
penalty in section 5727.60 of the Revised Code. 68830

(G) Not later than January 1, 2002, the tax commissioner 68831  
shall determine for each school district, joint vocational school 68832  
district, and local taxing unit its fixed-rate levy loss, which is 68833  
the sum of its electric company tax value loss multiplied by the 68834  
tax rate in effect in tax year 1998 for fixed-rate levies and its 68835  
natural gas company tax value loss multiplied by the tax rate in 68836  
effect in tax year 1999 for fixed-rate levies. 68837

(H) Not later than January 1, 2002, the tax commissioner 68838  
shall determine for each school district, joint vocational school 68839  
district, and local taxing unit its fixed-sum levy loss, which is 68840  
the amount obtained by subtracting the amount described in 68841  
division (H)(2) of this section from the amount described in 68842  
division (H)(1) of this section: 68843

(1) The sum of the electric company tax value loss multiplied 68844  
by the tax rate in effect in tax year 1998, and the natural gas 68845

company tax value loss multiplied by the tax rate in effect in tax 68846  
year 1999, for fixed-sum levies for all taxing districts within 68847  
each school district, joint vocational school district, and local 68848  
taxing unit. For the years 2002 through 2006, this computation 68849  
shall include school district emergency levies that existed in 68850  
1998 in the case of the electric company tax value loss, and 1999 68851  
in the case of the natural gas company tax value loss, and all 68852  
other fixed-sum levies that existed in 1998 in the case of the 68853  
electric company tax value loss and 1999 in the case of the 68854  
natural gas company tax value loss and continue to be charged in 68855  
the tax year preceding the distribution year. For the years 2007 68856  
through 2016 in the case of school district emergency levies, and 68857  
for all years after 2006 in the case of all other fixed-sum 68858  
levies, this computation shall exclude all fixed-sum levies that 68859  
existed in 1998 in the case of the electric company tax value loss 68860  
and 1999 in the case of the natural gas company tax value loss, 68861  
but are no longer in effect in the tax year preceding the 68862  
distribution year. For the purposes of this section, an emergency 68863  
levy that existed in 1998 in the case of the electric company tax 68864  
value loss, and 1999 in the case of the natural gas company tax 68865  
value loss, continues to exist in a year beginning on or after 68866  
January 1, 2007, but before January 1, 2017, if, in that year, the 68867  
board of education levies a school district emergency levy for an 68868  
annual sum at least equal to the annual sum levied by the board in 68869  
tax year 1998 or 1999, respectively, less the amount of the 68870  
payment certified under this division for 2002. 68871

(2) The total taxable value in tax year 1999 less the tax 68872  
value loss in each school district, joint vocational school 68873  
district, and local taxing unit multiplied by one-fourth of one 68874  
mill. 68875

If the amount computed under division (H) of this section for 68876  
any school district, joint vocational school district, or local 68877

taxing unit is greater than zero, that amount shall equal the 68878  
fixed-sum levy loss reimbursed pursuant to division (E) of section 68879  
5727.85 of the Revised Code or division (A)(2) of section 5727.86 68880  
of the Revised Code, and the one-fourth of one mill that is 68881  
subtracted under division (H)(2) of this section shall be 68882  
apportioned among all contributing fixed-sum levies in the 68883  
proportion of each levy to the sum of all fixed-sum levies within 68884  
each school district, joint vocational school district, or local 68885  
taxing unit. 68886

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 68887  
section, in computing the tax value loss, fixed-rate levy loss, 68888  
and fixed-sum levy loss, the tax commissioner shall use the 68889  
greater of the 1998 tax rate or the 1999 tax rate in the case of 68890  
levy losses associated with the electric company tax value loss, 68891  
but the 1999 tax rate shall not include for this purpose any tax 68892  
levy approved by the voters after June 30, 1999, and the tax 68893  
commissioner shall use the greater of the 1999 or the 2000 tax 68894  
rate in the case of levy losses associated with the natural gas 68895  
company tax value loss. 68896

(J) Not later than January 1, 2002, the tax commissioner 68897  
shall certify to the department of education the tax value loss 68898  
determined under divisions (D) and (E) of this section for each 68899  
taxing district, the fixed-rate levy loss calculated under 68900  
division (G) of this section, and the fixed-sum levy loss 68901  
calculated under division (H) of this section. The calculations 68902  
under divisions (G) and (H) of this section shall separately 68903  
display the levy loss for each levy eligible for reimbursement. 68904

(K) Not later than September 1, 2001, the tax commissioner 68905  
shall certify the amount of the fixed-sum levy loss to the county 68906  
auditor of each county in which a school district with a fixed-sum 68907  
levy loss has territory. 68908

**Sec. 5727.85.** (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state

education aid computed for fiscal year 2002 from the district's 68939  
state education aid computed for the current fiscal year; 68940

(2) The inflation-adjusted property tax loss. The 68941  
inflation-adjusted property tax loss equals the fixed-rate levy 68942  
loss, excluding the tax loss from levies within the ten-mill 68943  
limitation to pay debt charges, determined under division (G) of 68944  
section 5727.84 of the Revised Code for all taxing districts in 68945  
each school district, plus the product obtained by multiplying 68946  
that loss by the cumulative percentage increase in the consumer 68947  
price index from January 1, 2002, to the thirtieth day of June of 68948  
the current year. 68949

(3) The difference obtained by subtracting the amount 68950  
computed under division (B)(1) from the amount of the 68951  
inflation-adjusted property tax loss. If this difference is zero 68952  
or a negative number, no further payments shall be made under 68953  
division (C) of this section to the school district from the 68954  
school district property tax replacement fund. 68955

(C) The department of education shall pay from the school 68956  
district property tax replacement fund to each school district all 68957  
of the following: 68958

(1) In February 2002, one-half of the fixed-rate levy loss 68959  
certified under division (J) of section 5727.84 of the Revised 68960  
Code between the twenty-first and twenty-eighth days of February. 68961

(2) From August 2002 through August 2006, one-half of the 68962  
amount calculated for that fiscal year under division (A)(2) of 68963  
this section between the twenty-first and twenty-eighth days of 68964  
August and of February. 68965

(3) From February 2007 through August 2016, one-half of the 68966  
amount calculated for that calendar year under division (B)(3) of 68967  
this section between the twenty-first and twenty-eighth days of 68968  
August and of February. 68969

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district

one-half of the fixed-sum levy loss so certified for each year 69002  
between the twenty-first and twenty-eighth days of August and of 69003  
February. 69004

(2) Beginning in 2003, by the thirty-first day of January of 69005  
each year, the tax commissioner shall review the certification 69006  
originally made under division (E)(1) of this section. If the 69007  
commissioner determines that a debt levy that had been scheduled 69008  
to be reimbursed in the current year has expired, a revised 69009  
certification for that and all subsequent years shall be made to 69010  
the department of education. 69011

(F) If the balance of the half-mill equalization fund created 69012  
under section 3318.18 of the Revised Code is insufficient to make 69013  
the full amount of payments required under division (D) of that 69014  
section, the department of education, at the end of the third 69015  
quarter of the fiscal year, shall certify to the director of 69016  
budget and management the amount of the deficiency, and the 69017  
director shall transfer an amount equal to the deficiency from the 69018  
school district property tax replacement fund to the half-mill 69019  
equalization fund. 69020

(G) Beginning in August 2002, and ending in ~~February~~ May 69021  
2017, the director of budget and management shall transfer from 69022  
the school district property tax replacement fund to the general 69023  
revenue fund each of the following: 69024

(1) Between the twenty-eighth day of August and the fifth day 69025  
of September, the lesser of one-half of the amount certified for 69026  
that fiscal year under division (A)(2) of this section or the 69027  
balance in the school district property tax replacement fund; 69028

(2) Between the first and fifth days of ~~March~~ May, the lesser 69029  
of one-half of the amount certified for that fiscal year under 69030  
division (A)(2) of this section or the balance in the school 69031  
district property tax replacement fund. 69032



~~(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed rate levies in excess of twenty thousand dollars, or annual losses from any other fixed rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.~~

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~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint~~

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~~vocational school district.~~ 69065

~~If, in the opinion of the department of education, the excess  
remaining in the school district property tax replacement fund in  
any year is not sufficient to warrant distribution under this  
division, the excess shall remain to the credit of the fund.~~ 69066  
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~~Amounts received by a school district or joint vocational  
school district under this division shall be used exclusively for  
capital improvements.~~ 69070  
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(H) On the first day of June each year, the director of  
budget and management shall transfer any balance remaining in the  
school district property tax replacement fund after the payments  
have been made under divisions (C), (D), (E), (F), and (G) of this  
section to the half-mill equalization fund created under section  
3318.18 of the Revised Code. 69073  
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(I) From fiscal year 2002 through fiscal year 2016, if the 69079  
total amount in the school district property tax replacement fund 69080  
is insufficient to make all payments under divisions (C), (D), ~~and~~ 69081  
(E), ~~and~~ (F) of this section at the time the payments are to be 69082  
made, the director of budget and management shall transfer from 69083  
the general revenue fund to the school district property tax 69084  
replacement fund the difference between the total amount to be 69085  
paid and the total amount in the school district property tax 69086  
replacement fund, except that no transfer shall be made by reason 69087  
of a deficiency to the extent that it results from the amendment 69088  
of section 5727.84 of the Revised Code by Amended Substitute House 69089  
Bill No. 95 of the 125th general assembly. 69090

(J) If all ~~or a part~~ of the territory of a school district or 69091  
joint vocational school district is merged with an existing 69092  
district, or if a part of the territory of a school district or 69093  
joint vocational school district is transferred to another an 69094  
existing or new district, the department of education, in 69095

consultation with the tax commissioner, shall adjust the payments 69096  
made under this section ~~to each of the districts in proportion to~~ 69097  
~~the tax value loss apportioned to the merged or transferred~~ 69098  
~~territory as follows:~~ 69099

(1) For the merger of all of the territory of two or more 69100  
districts, the fixed-rate levy loss and the fixed-sum levy loss of 69101  
the successor district shall be equal to the sum of the fixed-rate 69102  
levy losses and the fixed-sum levy losses for each of the 69103  
districts involved in the merger. 69104

(2) For the transfer of a part of one district's territory to 69105  
an existing district, the amount of the fixed-rate levy loss that 69106  
is transferred to the recipient district shall be an amount equal 69107  
to the transferring district's total fixed-rate levy loss times a 69108  
fraction, the numerator of which is the value of electric company 69109  
tangible personal property located in the part of the territory 69110  
that was transferred, and the denominator of which is the total 69111  
value of electric company tangible personal property located in 69112  
the entire district from which the territory was transferred. The 69113  
value of electric company tangible personal property under this 69114  
division shall be determined for the most recent year for which 69115  
data is available. Fixed-sum levy losses for both districts shall 69116  
be determined under division (J)(4) of this section. 69117

(3) For the transfer of a part of the territory of one or 69118  
more districts to create a new district: 69119

(a) If the new district is created on or after January 1, 69120  
2000, but before January 1, 2005, the new district shall be paid 69121  
its current fixed-rate levy loss through August 2006. From 69122  
February 2007 to August 2016, the new district shall be paid the 69123  
lesser of: (i) the amount calculated under division (B) of this 69124  
section or (ii) an amount determined under the schedule in 69125  
division (A)(1) of section 5727.86 of the Revised Code, as if for 69126  
this purpose the new district was a local taxing unit under that 69127

section. Fixed-sum levy losses for the districts shall be 69128  
determined under division (J)(4) of this section. 69129

(b) If the new district is created on or after January 1, 69130  
2005, the new district shall be deemed not to have any fixed-rate 69131  
levy loss or, except as provided in division (J)(4) of this 69132  
section, fixed-sum levy loss. The district or districts from which 69133  
the territory was transferred shall have no reduction in their 69134  
fixed-rate levy loss, or, except as provided in division (J)(4) of 69135  
this section, their fixed-sum levy loss. 69136

(4) If a recipient district under division (J)(2) of this 69137  
section or a new district under division (J)(3)(a) or (b) of this 69138  
section takes on debt from one or more of the districts from which 69139  
territory was transferred, and any of the districts transferring 69140  
the territory had fixed-sum levy losses, the department of 69141  
education, in consultation with the tax commissioner, shall make 69142  
an equitable division of the fixed-sum levy losses. 69143

(K) There is hereby created the public utility property tax 69144  
study committee, effective January 1, 2011. The committee shall 69145  
consist of the following seven members: the tax commissioner, 69146  
three members of the senate appointed by the president of the 69147  
senate, and three members of the house of representatives 69148  
appointed by the speaker of the house of representatives. The 69149  
appointments shall be made not later than January 31, 2011. The 69150  
tax commissioner shall be the chairperson of the committee. 69151

The committee shall study the extent to which each school 69152  
district or joint vocational school district has been compensated, 69153  
under sections 5727.84 and 5727.85 of the Revised Code as enacted 69154  
by Substitute Senate Bill No. 3 of the 123rd general assembly and 69155  
any subsequent acts, for the property tax loss caused by the 69156  
reduction in the assessment rates for natural gas, electric, and 69157  
rural electric company tangible personal property. Not later than 69158

June 30, 2011, the committee shall issue a report of its findings, 69159  
including any recommendations for providing additional 69160  
compensation for the property tax loss or regarding remedial 69161  
legislation, to the president of the senate and the speaker of the 69162  
house of representatives, at which time the committee shall cease 69163  
to exist. 69164

The department of taxation and department of education shall 69165  
provide such information and assistance as is required for the 69166  
committee to carry out its duties. 69167

**Sec. 5727.99.** (A) Whoever violates section 5727.55 of the 69168  
Revised Code ~~shall be fined not less than one hundred nor more~~ 69169  
~~than one thousand dollars~~ is guilty of a misdemeanor of the third 69170  
degree. 69171

(B) Whoever violates section 5727.71 of the Revised Code 69172  
~~shall be fined not more than five hundred dollars and imprisoned~~ 69173  
~~not more than thirty days~~ is guilty of a misdemeanor of the fourth 69174  
degree. 69175

(C) Whoever violates section 5727.72 of the Revised Code 69176  
~~shall be fined not more than five hundred dollars or imprisoned~~ 69177  
~~not more than thirty days, or both~~ is guilty of a misdemeanor of 69178  
the third degree. 69179

(D) Whoever violates sections 5727.80 to 5727.83, or sections 69180  
5727.88 to 5727.95 of the Revised Code or any rule adopted by the 69181  
tax commissioner under those sections, is guilty of a misdemeanor 69182  
of the first degree ~~on the first offense; on each subsequent.~~ 69183  
If the person previously has been convicted of any offense under 69184  
Title LVII of the Revised Code, the person is guilty of a felony 69185  
of the fourth degree. 69186

**Sec. 5728.01.** As used in sections 5728.02 to 5728.14 of the 69187  
Revised Code: 69188

(A) "Motor vehicle" means everything on wheels that is 69189  
self-propelled, other than by muscular power or power collected 69190  
from electric trolley wires and other than vehicles or machinery 69191  
not designed for or employed in general highway transportation, 69192  
used to transport or propel persons or property over a public 69193  
highway. 69194

(B) "Commercial car" means any motor vehicle used for 69195  
transporting persons or property, wholly on its own structure on a 69196  
public highway. 69197

(C) "Commercial tractor" means any motor vehicle designed and 69198  
used to propel or draw a trailer or semi-trailer or both on a 69199  
public highway without having any provision for carrying loads 69200  
independently of such trailer or semi-trailer. 69201

(D) "Trailer" means everything on wheels that is not 69202  
self-propelled, except vehicles or machinery not designed for or 69203  
employed in general highway transportation, used for carrying 69204  
property wholly on its own structure and for being drawn by a 69205  
motor vehicle on a public highway, including any such vehicle when 69206  
formed by or operated as a combination of a semi-trailer and a 69207  
vehicle of the dolly type such as that commonly known as a trailer 69208  
dolly. "Trailer" does not include manufactured homes as defined in 69209  
division (C)(4) of section 3781.06 of the Revised Code or mobile 69210  
homes as defined in division (O) of section 4501.01 of the Revised 69211  
Code. 69212

(E) "Semi-trailer" means everything on wheels that is not 69213  
self-propelled, except vehicles or machinery not designed for or 69214  
employed in general highway transportation, designed and used for 69215  
carrying property on a public highway when being propelled or 69216  
drawn by a commercial tractor when part of its own weight or the 69217  
weight of its load, or both, rest upon and is carried by a 69218  
commercial tractor. 69219

(F) "Commercial tandem" means any commercial car and trailer 69220  
or any commercial tractor, semi-trailer, and trailer when fastened 69221  
together and used as one unit. 69222

(G) "Commercial tractor combination" means any commercial 69223  
tractor and semi-trailer when fastened together and used as one 69224  
unit. 69225

(H) "Axle" means two or more load carrying wheels mounted in 69226  
a single transverse vertical plane. 69227

(I) "Public highway" means any highway, road, or street 69228  
dedicated to public use, including a highway under the control and 69229  
jurisdiction of the Ohio turnpike commission created by the 69230  
provisions of section 5537.02 of the Revised Code and land and 69231  
lots over which the public, either as user or owner, generally has 69232  
a right to pass even though such land or lots are closed 69233  
temporarily by public authorities for the purpose of construction, 69234  
reconstruction, maintenance, or repair. 69235

(J) "Jurisdiction" means a state of the United States, the 69236  
District of Columbia, or a province or territory of Canada. 69237

**Sec. 5728.02.** (A) Except as provided in section 5728.03 of 69238  
the Revised Code, every person who is liable for the tax imposed 69239  
by section 5728.06 of the Revised Code on the operation of a 69240  
commercial car ~~with three or more axles when operated alone or as~~ 69241  
~~part of a commercial tandem, a commercial car with two axles that~~ 69242  
~~is to be operated as part of a commercial tandem with a gross~~ 69243  
~~vehicle weight or a registered gross vehicle weight exceeding~~ 69244  
~~twenty six thousand pounds,~~ or a commercial tractor that is, or is 69245  
to be, operated or driven upon a public highway in two or more 69246  
jurisdictions shall cause to be filed annually with the tax 69247  
commissioner ~~a written~~ an application for a fuel use permit ~~on~~ 69248  
~~blank forms~~ to be furnished by the commissioner for that purpose. 69249

Each application for a fuel use permit for a commercial car 69250  
or a commercial tractor shall contain any information the tax 69251  
commissioner prescribes. 69252

(B) Upon receipt of the application, the tax commissioner 69253  
shall issue to the person making the application a fuel use permit 69254  
and any identification device that the commissioner considers 69255  
necessary for the proper administration of this chapter. The 69256  
permit and the identification device shall be of a design and 69257  
contain any information the commissioner considers necessary. The 69258  
identification device shall be displayed on the commercial car or 69259  
commercial tractor for which it was issued at all times in the 69260  
manner the commissioner prescribes. The fuel use permits and the 69261  
identification device shall not be transferable. In case of the 69262  
loss of a fuel use permit or identification device, the 69263  
commissioner shall issue a duplicate of the permit or device. 69264

The fuel use permit shall be valid until it expires or is 69265  
suspended or surrendered. 69266

**Sec. 5728.03.** (A) In lieu of filing an application for an 69267  
annual fuel use permit under section 5728.02 of the Revised Code 69268  
and in lieu of filing returns under section 5728.08 of the Revised 69269  
Code, a person who is the owner of a commercial car ~~with three or~~ 69270  
~~more axles when operated alone or as part of a commercial tandem,~~ 69271  
~~a commercial car with two axles that is to be operated as part of~~ 69272  
~~a commercial tandem with a gross vehicle weight or a registered~~ 69273  
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 69274  
commercial tractor that would otherwise be liable for the tax 69275  
imposed by section 5728.06 of the Revised Code, that is, or is to 69276  
be, operated or driven upon a public highway, may file an 69277  
application with the tax commissioner for a single-trip fuel use 69278  
permit. The application shall be based on rules adopted by the tax 69279  
commissioner and shall include an amount estimated to be 69280



substantially equivalent to the fuel use tax liability that the 69281  
applicant will incur by driving on the highways of this state 69282  
during the period covered by the single-trip permit. The amount so 69283  
estimated shall be considered to be the fuel use tax liability so 69284  
incurred. 69285

The commissioner may authorize independent permit services or 69286  
other persons to issue single-trip fuel use permits. 69287

(B) The tax commissioner shall adopt rules establishing all 69288  
of the following: 69289

(1) Procedures for the issuance of single-trip permits; 69290

(2) The length of time the permits are effective; 69291

(3) Requirements that independent permit services or other 69292  
persons must meet to be authorized to issue single-trip fuel use 69293  
permits and procedures for obtaining that authorization; 69294

(4) Estimates of the amount substantially equivalent to the 69295  
fuel use tax liability that an applicant will incur by driving on 69296  
the highways of this state during the period covered by the 69297  
permit. 69298

(C) No person whose fuel use permit issued under section 69299  
5728.02 of the Revised Code is currently under suspension in 69300  
accordance with section 5728.11 of the Revised Code shall be 69301  
issued a single-trip fuel use permit under this section. 69302

(D) All moneys collected pursuant to this section shall be 69303  
deposited in the state treasury in accordance with section 5728.08 69304  
of the Revised Code. 69305

**Sec. 5728.04.** (A) It is unlawful for any person to operate a 69306  
commercial car ~~with three or more axles when operated alone or as~~ 69307  
~~part of a commercial tandem, a commercial car with two axles that~~ 69308  
~~is to be operated as part of a commercial tandem with a gross~~ 69309  
~~vehicle weight or a registered gross vehicle weight exceeding~~ 69310

~~twenty six thousand pounds, or a commercial tractor when operated~~ 69311  
~~alone or as part of a commercial tractor combination or commercial~~ 69312  
~~tandem that is subject to the tax imposed by section 5728.06 of~~ 69313  
the Revised Code on a public highway in two or more jurisdictions 69314  
under either of the following circumstances: 69315

(1) Without a fuel use permit or single trip fuel use permit 69316  
for such commercial car or commercial tractor. 69317

(2) With a suspended or surrendered fuel use permit for such 69318  
commercial car or commercial tractor. 69319

(B) The judge or magistrate of any court finding any person 69320  
guilty of unlawfully operating a commercial car or commercial 69321  
tractor as provided for in this section shall immediately notify 69322  
the tax commissioner of such violation and shall transmit to the 69323  
tax commissioner the name and the permanent address of the owner 69324  
of the commercial car or commercial tractor operated in violation 69325  
of this section, the registration number, the state of 69326  
registration, and the certificate of title number of the 69327  
commercial car or commercial tractor. The commercial car or 69328  
commercial tractor involved in a violation of division (A)(1) or 69329  
(2) of this section may be detained until a valid fuel use permit 69330  
is obtained or reinstated. 69331

**Sec. 5728.06.** (A) For the following purposes, an excise tax 69332  
is hereby imposed on the use of motor fuel to operate on the 69333  
public highways of this state a commercial car with three or more 69334  
axles, regardless of weight, operated alone or as part of a 69335  
commercial tandem, a commercial car with two axles ~~operated as~~ 69336  
~~part of a commercial tandem~~ having a gross vehicle weight or 69337  
registered gross vehicle weight exceeding twenty-six thousand 69338  
pounds operated alone or as part of a commercial tandem, or a 69339  
commercial tractor operated alone or as part of a commercial 69340  
tractor combination or commercial tandem: to provide revenue for 69341

maintaining the state highway system, to widen existing surfaces 69342  
on such highways, to resurface such highways, to enable the 69343  
counties of the state properly to plan for, maintain, and repair 69344  
their roads, to enable the municipal corporations to plan, 69345  
construct, reconstruct, repave, widen, maintain, repair, clear, 69346  
and clean public highways, roads, and streets; to pay that portion 69347  
of the construction cost of a highway project that a county, 69348  
township, or municipal corporation normally would be required to 69349  
pay, but that the director of transportation, pursuant to division 69350  
(B) of section 5531.08 of the Revised Code, determines instead 69351  
will be paid from moneys in the highway operating fund; to 69352  
maintain and repair bridges and viaducts; to purchase, erect, and 69353  
maintain street and traffic signs and markers; to purchase, erect, 69354  
and maintain traffic lights and signals; to pay the costs 69355  
apportioned to the public under section 4907.47 of the Revised 69356  
Code; and to supplement revenue already available for such 69357  
purposes, to distribute equitably among those persons using the 69358  
privilege of driving motor vehicles upon such highways and streets 69359  
the cost of maintaining and repairing the same, and to pay the 69360  
interest, principal, and charges on bonds and other obligations 69361  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 69362  
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 69363  
imposed in the same amount as the motor fuel tax imposed under 69364  
Chapter 5735. of the Revised Code plus an additional tax of three 69365  
cents per gallon of motor fuel used before July 1, 2004, provided 69366  
that the additional tax shall be reduced to two cents per gallon 69367  
of motor fuel used from July 1, 2004 through June 30, 2005, as 69368  
determined by the gallons consumed while operated on the public 69369  
highways of this state. Subject to section 5735.292 of the Revised 69370  
Code, on and after July 1, 2005, the tax shall be imposed in the 69371  
same amount as the motor fuel tax imposed under Chapter 5735. of 69372  
the Revised Code. Payment of the fuel use tax shall be made by the 69373  
purchase ~~of motor fuel~~ within Ohio of such gallons of motor fuel, 69374

for which the tax imposed under Chapter 5735. of the Revised Code 69375  
has been paid, as is equivalent to the gallons consumed while 69376  
operating such a motor vehicle on the public highways of this 69377  
state, or by direct remittance to the treasurer of state with the 69378  
fuel use tax return filed pursuant to section 5728.08 of the 69379  
Revised Code. 69380

Any person subject to the tax imposed under this section who 69381  
purchases motor fuel in this state for use in another state in 69382  
excess of the amount consumed while operating such motor vehicle 69383  
on the public highways of this state shall be allowed a credit 69384  
against the tax imposed by this section or a refund equal to the 69385  
motor fuel tax paid to this state on such excess. No such credit 69386  
or refund shall be allowed for taxes paid to any state that 69387  
imposes a tax on motor fuel purchased or obtained in this state 69388  
and used on the highways of such other state but does not allow a 69389  
similar credit or refund for the tax paid to this state on motor 69390  
fuel purchased or acquired in the other state and used on the 69391  
public highways of this state. 69392

The tax commissioner is authorized to determine whether such 69393  
credits or refunds are available and to prescribe such rules as 69394  
are required for the purpose of administering this chapter. 69395

(B) Within sixty days after the last day of each month, the 69396  
tax commissioner shall determine the amount of motor fuel tax 69397  
allowed as a credit against the tax imposed by this section. The 69398  
commissioner shall certify the amount to the director of budget 69399  
and management and the treasurer of state, who shall credit the 69400  
amount in accordance with section 5728.08 of the Revised Code from 69401  
current revenue arising from the tax levied by section 5735.05 of 69402  
the Revised Code. 69403

(C) The owner of each commercial car and commercial tractor 69404  
subject to sections 5728.01 to 5728.14 of the Revised Code is 69405  
liable for the payment of the full amount of the taxes imposed by 69406

this section.

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An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

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**Sec. 5728.08.** Except as provided in section 5728.03 of the Revised Code and except as otherwise provided in ~~this division (A)~~ of section 5728.06 of the Revised Code, whoever is liable for the payment of the tax levied by section 5728.06 of the Revised Code, on or before the last day of each January, April, July, and October, shall file with the tax commissioner, on forms prescribed by the commissioner, a fuel use tax return and make payment of the full amount of the tax due for the operation of each commercial car and commercial tractor for the preceding three calendar months. ~~If the commercial cars or commercial tractors are farm trucks and the amount of motor fuel used to operate the trucks during the preceding twelve calendar months was less than fifteen thousand gallons, the fuel use tax return shall be filed and the full amount of tax due paid on or before the last day of each July for the preceding twelve calendar months. If the commercial cars~~

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~~or commercial tractors are farm trucks and the amount of motor 69438  
fuel used to operate the trucks during the preceding twelve 69439  
calendar months was fifteen thousand gallons or more, the fuel use 69440  
tax return shall be filed and the full amount of the tax due paid 69441  
either on or before the last day of each July for the preceding 69442  
twelve calendar months, or on or before the last day of each 69443  
January, April, July, and October for the preceding three calendar 69444  
months, at the option of the person liable for payment of the tax. 69445  
If the commercial cars or commercial tractors are not farm trucks, 69446  
and if, in the estimation of the commissioner, the amount of the 69447  
tax due does not warrant quarterly filing, the commissioner may 69448  
authorize the filing of the fuel use tax return and payment of the 69449  
full amount due on or before the last day of each July for the 69450  
preceding twelve months. 69451~~

The commissioner shall immediately forward to the treasurer 69452  
of state all money received from the tax levied by section 5728.06 69453  
of the Revised Code. 69454

The treasurer of state shall place to the credit of the tax 69455  
refund fund created by section 5703.052 of the Revised Code, out 69456  
of receipts from the taxes levied by section 5728.06 of the 69457  
Revised Code, amounts equal to the refund certified by the tax 69458  
commissioner pursuant to section 5728.061 of the Revised Code. 69459  
Receipts from the tax shall be used by the commissioner to defray 69460  
expenses incurred by the department of taxation in administering 69461  
sections 5728.01 to 5728.14 of the Revised Code. 69462

All moneys received in the state treasury from taxes levied 69463  
by section 5728.06 of the Revised Code and fees assessed under 69464  
section 5728.03 of the Revised Code that are not required to be 69465  
placed to the credit of the tax refund fund as provided by this 69466  
section shall, during each calendar year, be credited to the 69467  
highway improvement bond retirement fund created by section 69468  
5528.12 of the Revised Code until the commissioners of the sinking 69469

fund certify to the treasurer of state, as required by section 69470  
5528.17 of the Revised Code, that there are sufficient moneys to 69471  
the credit of the highway improvement bond retirement fund to meet 69472  
in full all payments of interest, principal, and charges for the 69473  
retirement of bonds and other obligations issued pursuant to 69474  
Section 2g of Article VIII, Ohio Constitution, and sections 69475  
5528.10 and 5528.11 of the Revised Code due and payable during the 69476  
current calendar year and during the following calendar year. From 69477  
the date of the receipt of the certification required by section 69478  
5528.17 of the Revised Code by the treasurer of state until the 69479  
thirty-first day of December of the calendar year in which the 69480  
certification is made, all moneys received in the state treasury 69481  
from taxes levied under section 5728.06 of the Revised Code and 69482  
fees assessed under section 5728.03 of the Revised Code that are 69483  
not required to be placed to the credit of the tax refund fund as 69484  
provided by this section shall be credited to the highway 69485  
obligations bond retirement fund created by section 5528.32 of the 69486  
Revised Code until the commissioners of the sinking fund certify 69487  
to the treasurer of state, as required by section 5528.38 of the 69488  
Revised Code, that there are sufficient moneys to the credit of 69489  
the highway obligations bond retirement fund to meet in full all 69490  
payments of interest, principal, and charges for the retirement of 69491  
bonds and other obligations issued pursuant to Section 2i of 69492  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 69493  
of the Revised Code due and payable during the current calendar 69494  
year and during the following calendar year. From the date of the 69495  
receipt of the certification required by section 5528.38 of the 69496  
Revised Code by the treasurer of state until the thirty-first day 69497  
of December of the calendar year in which the certification is 69498  
made, all moneys received in the state treasury from taxes levied 69499  
under section 5728.06 of the Revised Code and fees assessed under 69500  
section 5728.03 of the Revised Code that are not required to be 69501  
placed to the credit of the tax refund fund as provided by this 69502

section shall be credited to the highway operating fund created by 69503  
section 5735.291 of the Revised Code, except as provided by the 69504  
following paragraph of this section. 69505

From the date of the receipt by the treasurer of state of 69506  
certifications from the commissioners of the sinking fund, as 69507  
required by sections 5528.18 and 5528.39 of the Revised Code, 69508  
certifying that the moneys to the credit of the highway 69509  
improvement bond retirement fund are sufficient to meet in full 69510  
all payments of interest, principal, and charges for the 69511  
retirement of all bonds and other obligations that may be issued 69512  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 69513  
sections 5528.10 and 5528.11 of the Revised Code, and to the 69514  
credit of the highway obligations bond retirement fund are 69515  
sufficient to meet in full all payments of interest, principal, 69516  
and charges for the retirement of all obligations issued pursuant 69517  
to Section 2i of Article VIII, Ohio Constitution, and sections 69518  
5528.30 and 5528.31 of the Revised Code, all moneys received in 69519  
the state treasury from the taxes levied under section 5728.06 and 69520  
fees assessed under section 5728.03 of the Revised Code that are 69521  
not required to be placed to the credit of the tax refund fund as 69522  
provided by this section, shall be deposited to the credit of the 69523  
highway operating fund. 69524

~~As used in this section, "farm truck" means any commercial 69525  
ear or commercial tractor that is registered as a farm truck under 69526  
Chapter 4503. of the Revised Code. 69527~~

**Sec. 5728.99.** (A)(1) Except as provided in division (A)(2) of 69528  
this section, whoever violates any provision of sections 5728.01 69529  
to 5728.14 of the Revised Code, or any rule promulgated by the tax 69530  
commissioner under the authority of any provision of those 69531  
sections, for the violation of which no penalty is provided 69532  
elsewhere, ~~shall be fined not less than twenty five nor more than 69533~~



one hundred dollars is guilty of a misdemeanor of the fourth degree. 69534  
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(2) Division (A)(1) of this section does not apply to the 69536  
filing of any false or fraudulent return, application, or permit 69537  
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 69538  
The filing of any false or fraudulent return, application, or 69539  
permit under any of those sections is a violation of section 69540  
2921.13 of the Revised Code. 69541

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 69542  
the Revised Code is guilty of a misdemeanor of the ~~fourth~~ third 69543  
degree. 69544

(2) Whoever violates division (A)(2) of section 5728.04 of 69545  
the Revised Code is guilty of a misdemeanor of the first degree. 69546

Sec. 5729.032. A refundable credit granted by the tax credit 69547  
authority under section 122.17 of the Revised Code may be claimed 69548  
against the tax imposed by section 5729.03 of the Revised Code. 69549

Sec. 5729.08. (A) As used in this section, "tax otherwise 69550  
due" means the tax imposed on a foreign insurance company under 69551  
section 5729.03 of the Revised Code reduced by the total amount of 69552  
all other nonrefundable credits, if any, that the foreign 69553  
insurance company is entitled to claim. 69554

(B) Upon the issuance of a tax credit certificate by the Ohio 69555  
venture capital authority under section 150.07 of the Revised 69556  
Code, a credit may be claimed against the tax imposed on a foreign 69557  
insurance company under section 5729.03 of the Revised Code. The 69558  
credit shall be claimed in the calendar year specified in the 69559  
certificate issued by the authority. 69560

(C) If the company elected a refundable credit under section 69561  
150.07 of the Revised Code and if the amount of the credit shown 69562  
on the certificate does not exceed the tax otherwise due, then for 69563

the calendar year the company shall claim a refundable credit 69564  
equal to the amount of the credit shown on the certificate. 69565

(D) If the company elected a refundable credit under section 69566  
150.07 of the Revised Code, and the amount of the credit shown on 69567  
the certificate exceeds the tax otherwise due ~~under section~~ 69568  
~~5729.03 of the Revised Code,~~ than for the calendar year the 69569  
company may receive a refund equal to seventy five per cent of 69570  
such excess. If shall claim a refundable credit equal to the sum 69571  
of the following: 69572

(1) The amount, if any, of the tax otherwise due; 69573

(2) Seventy-five per cent of the difference between the 69574  
amount of the refundable credit shown on the certificate and the 69575  
tax otherwise due. 69576

(E) If the company elected a nonrefundable credit, the amount 69577  
of the credit shown on the certificate shall not exceed the amount 69578  
of tax otherwise due. If the company elected a nonrefundable 69579  
credit and the credit to which the company would otherwise be 69580  
entitled under this section for any calendar year is greater than 69581  
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 69582  
the excess shall be allowed as a nonrefundable credit in each of 69583  
the ensuing ten calendar years, but the amount of any excess 69584  
credit allowed in the ensuing calendar year shall be deducted from 69585  
the balance carried forward to the next calendar year. 69586

**Sec. 5731.01.** As used in this chapter: 69587

(A) The "value of the gross estate" of the decedent shall 69588  
include, to the extent provided in sections 5731.03 to 5731.131 of 69589  
the Revised Code, the value, on the ~~dae~~ date of the decedent's 69590  
death or on an alternate valuation date prescribed by division (D) 69591  
of this section, of all property, real or personal, tangible or 69592  
intangible, wherever situated, except real property situated and 69593

tangible personal property having an actual situs outside of this state. 69594  
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(B) Subject to the provisions of section 5731.011 of the Revised Code that permit a valuation of qualified farm property at its value for its actual qualified use, the value of any property included in the gross estate shall be the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. All relevant facts and elements of value as of the valuation date shall be considered in determining such value. 69596  
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The rulings and regulations of the internal revenue service and decisions of the federal courts defining the principles applicable in determining fair market value for purposes of the federal estate tax imposed by Subchapter A, Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall be applied in determining fair market value for purposes of the estate taxes imposed by this chapter, to the extent that these rulings, regulations, and decisions are not inconsistent with the express provisions of this chapter, but the actual determination of the fair market value by the internal revenue service of any asset included in the gross estate is not controlling for purposes of the estate taxes imposed by this chapter, unless the person filing the estate tax return and the tax commissioner have agreed in writing to be bound by the federal determination, as provided in section 5731.26 of the Revised Code. 69605  
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(C) In the case of stock and securities of a corporation the value of which, by reason of their not being listed on an exchange and by reason of the absence of sales of them, cannot be determined with reference to bid and asked prices, or with reference to sales prices, the value of them shall be determined by taking into consideration, in addition to all other factors, 69620  
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the value of stock or securities of corporations engaged in the 69626  
same or a similar line of business which are listed on an exchange 69627  
or which are traded actively in the over-the-counter market. 69628

If a valuation of securities is undertaken by reference to 69629  
market transactions and if the block of securities to be valued is 69630  
so large in relation to actual sales on existing markets that it 69631  
could not be liquidated in a reasonable time without depressing 69632  
the market, the price at which the block could be sold, as such, 69633  
outside the usual market, as through an underwriter, shall be 69634  
considered in determining the value of such block of securities. 69635

(D) "Alternate valuation date" means the date for valuation 69636  
of a gross estate permitted by filing an election under this 69637  
division. Whether or not an alternate valuation date election is 69638  
available to an estate for federal estate tax purposes or, if 69639  
available, is made for the estate, the value of the gross estate 69640  
may be determined, if the person required to file the estate tax 69641  
return so elects, by valuing all the property included in the 69642  
gross estate on the alternate date, if any, provided in section 69643  
2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a),~~ 69644  
~~as amended~~ as such section generally applies, for federal estate 69645  
tax purposes, to the estates of persons dying on the decedent's 69646  
date of death. 69647

No deduction under this chapter of any item shall be allowed 69648  
if allowance is, in effect, given by use of the alternate 69649  
valuation date. In the determination of any tax liability of any 69650  
estate in which an election is filed under this division, all 69651  
provisions in this chapter ~~which~~ that refer to value at the time 69652  
of the decedent's death shall be construed for all purposes to 69653  
mean the value of such property used in determining the value of 69654  
the gross estate. For the purposes of the charitable deduction 69655  
under section 5731.17 of the Revised Code, any bequest, legacy, 69656  
devise, or transfer enumerated in it shall be valued as of the 69657

date of the decedent's death with adjustment for any difference in 69658  
value, not due to mere lapse of time or the occurrence or 69659  
nonoccurrence of a contingency, of the property as of the date six 69660  
months after the decedent's death, or in case of its earlier 69661  
disposition, on such date of disposition. 69662

An election under this division shall be exercised on the 69663  
estate tax return by the person required to file the return. When 69664  
made, an election under this division is irrevocable. An election 69665  
cannot be exercised under this division if a return is filed more 69666  
than one year after the time prescribed, including any extensions 69667  
of time granted, pursuant to law for filing the return. 69668

(E) Unless otherwise indicated by the context, "county" means 69669  
one of the following: 69670

(1) The county in which the decedent's estate is 69671  
administered; 69672

(2) If no administration of the decedent's estate is being 69673  
had, the county of residence of the decedent at the time of ~~his~~ 69674  
death; 69675

(3) If the decedent dies a resident of another state, any 69676  
county in which any property subject to tax is located. 69677

(F) "Internal Revenue Code" means the "Internal Revenue Code 69678  
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 69679

**Sec. 5731.05.** (A) Except as provided in divisions (B) and (C) 69680  
of this section, the value of the gross estate shall include the 69681  
value of all property, to the extent of any interest in property, 69682  
of which the decedent has at any time made a transfer, by trust or 69683  
otherwise, in contemplation of ~~his~~ death. 69684

(B) Any transfer, except as provided in division (C) of this 69685  
section, by trust or otherwise, made within a period of three 69686  
years ending with the date of the decedent's death shall be deemed 69687

to have been made in contemplation of death, unless the contrary  
is shown. No transfer made before that three-year period shall be  
treated as having been made in contemplation of death.

(C) This section does not apply to any of the following: 69691

(1) A bona fide sale for an adequate and full consideration 69692  
in money or money's worth; 69693

(2) A transfer of property that would not be included in the 69694  
decedent's gross estate if retained by ~~him~~ the decedent until 69695  
death; 69696

(3) The first ten thousand dollars of the transfers that were 69697  
made by the decedent to each transferee, other than the spouse of 69698  
the decedent, in each calendar year, but only to the extent that 69699  
those transfers qualify as present interests under section 2503(b) 69700  
and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as 69701  
~~amended~~. The exclusion provided by division (C)(3) of this section 69702  
does not apply to any portion of a transfer that is treated as 69703  
being made by the spouse of the decedent under section 2513 of the 69704  
"Internal Revenue Code of 1986," 26 U.S.C. 2513, as amended. 69705

(4) A transfer of property made to the spouse of the 69706  
transferor, except as provided in section 5731.131 of the Revised 69707  
Code; 69708

(5) Federal or state gift taxes paid with respect to any 69709  
includible transfer. 69710

~~(D) The amendments made to this section by Amended Substitute 69711  
House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th 69712  
general assembly that are effective on July 1, 1993, shall apply 69713  
only to the estates of decedents who die on or after that date. 69714~~

**Sec. 5731.131.** ~~(A)~~ The value of the gross estate shall 69715  
include the value of any property in which the decedent had an 69716  
income interest for life as follows: 69717

~~(1)(A)~~ If a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2523(f) of the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(2)(B)~~ If the decedent's predeceasing spouse was not a resident of this state at the time of his death and if a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2056(b)(7) of the "Internal Revenue Code of 1986," 26 U.S.C. 2056(b)(7), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(3)(C)~~ If the decedent's predeceasing spouse died prior to July 1, 1993, and if a marital deduction was allowed with respect to the transfer of such property to the decedent under division (A)(1) of section 5731.15 of the Revised Code as it existed prior to July 1, 1993, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(4)(D)~~ If a qualified terminable interest property deduction was allowed with respect to the transfer of such property to the decedent under division (B) of section 5731.15 of the Revised Code, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse.

~~(B) The amendments made to this section by Amended Substitute House Bill No. 111 and substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

**Sec. 5731.14.** For purposes of the tax levied by section 5731.02 of the Revised Code, the value of the taxable estate shall be determined by deducting from the value of the gross estate

deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 69748  
of the Revised Code. 69749

**Sec. 5731.18.** (A) In addition to the tax levied by section 69750  
5731.02 of the Revised Code, a tax is hereby levied upon the 69751  
transfer of the estate of every person dying on or after July 1, 69752  
1968, who, at the time of ~~his~~ death was a resident of this state, 69753  
in an amount equal to the maximum credit allowable by subtitle B, 69754  
~~chapter~~ Chapter 11 of the Internal Revenue Code of ~~1954, 26 U.S.C.~~ 69755  
~~2011, as amended~~, for any taxes paid to any state. 69756

(B) The tax levied on any estate under this section shall be 69757  
credited with the amount of the tax levied under section 5731.02 69758  
of the Revised Code and with the amount of any estate, 69759  
inheritance, legacy, or succession taxes actually paid to any 69760  
state or territory of the United States or to the District of 69761  
Columbia on any property included in the decedent's gross estate 69762  
for federal estate tax purposes. 69763

(C) The additional tax levied under this section shall be 69764  
administered, collected, and paid as provided in section 5731.24 69765  
of the Revised Code. 69766

**Sec. 5731.181.** (A) For purposes of this section, 69767  
"generation-skipping transfer," "taxable distribution," and 69768  
"taxable termination" have the same meaning as in Chapter 13 of 69769  
subtitle B of the Internal Revenue Code of ~~1986, 100 Stat. 2718,~~ 69770  
~~26 U.S.C. 2601-2624, as amended.~~ 69771

(B) A tax is hereby levied upon every generation-skipping 69772  
transfer of property having a situs in this state, that occurs at 69773  
the same time as, and as a result of, the death of an individual, 69774  
in an amount equal to the credit allowed by Chapter 13 of subtitle 69775  
B of the Internal Revenue Code of ~~1986, 100 Stat. 2718, 26 U.S.C.~~ 69776  
~~2601-2624, as amended~~, for any taxes paid to any state in respect 69777



of any property included in the generation-skipping transfer. 69778

For purposes of this division, "property having a situs in 69779  
this state" includes all the following: 69780

(1) Real property situated in this state; 69781

(2) Tangible personal property having an actual situs in this 69782  
state; 69783

(3) Intangible personal property employed in carrying on a 69784  
business in this state; 69785

(4) Intangible personal property owned by a trust, the 69786  
trustee of which resides in or has its principal place of business 69787  
in this state, or, if there is more than one trustee of the trust, 69788  
the principal place of administration of which is in this state. 69789

(C) The return with respect to the generation-skipping tax 69790  
levied by division (B) of this section shall be filed in the form 69791  
that the tax commissioner shall prescribe, on or before the day 69792  
prescribed by law, including extensions, for filing the 69793  
generation-skipping transfer tax return under Chapter 13 of 69794  
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 69795  
~~26 U.S.C. 2601-2624, as amended,~~ for the same generation-skipping 69796  
transfer. The return shall be filed by the distributee in the case 69797  
of a taxable distribution and by the trustee in the case of a 69798  
taxable termination. 69799

(D) The generation-skipping tax levied by division (B) of 69800  
this section shall be paid, without notice or demand by the tax 69801  
commissioner, with the return, and shall be charged, collected, 69802  
and administered in the same manner as estate taxes levied by this 69803  
chapter. This chapter is generally applicable to, except to the 69804  
extent it is inconsistent with the nature of, the 69805  
generation-skipping tax. 69806

(E) If another state levies a generation-skipping tax on a 69807

transfer described in division (B) of this section, the tax 69808  
commissioner may enter into a compromise of the 69809  
generation-skipping tax levied by division (B) of this section in 69810  
the manner provided in section 5731.35 of the Revised Code, except 69811  
that no approval of any probate court is required. If such a 69812  
compromise agreement is made, no interest and penalties shall 69813  
accrue for the period prior to the execution of the agreement and 69814  
for sixty days after its execution. 69815

**Sec. 5731.39.** (A) No corporation organized or existing under 69816  
the laws of this state shall transfer on its books or issue a new 69817  
certificate for any share of its capital stock registered in the 69818  
name of a decedent, or in trust for a decedent, or in the name of 69819  
a decedent and another person or persons, without the written 69820  
consent of the tax commissioner. 69821

(B) No safe deposit company, trust company, financial 69822  
institution as defined in division (A) of section 5725.01 of the 69823  
Revised Code or other corporation or person, having in possession, 69824  
control, or custody a deposit standing in the name of a decedent, 69825  
or in trust for a decedent, or in the name of a decedent and 69826  
another person or persons, shall deliver or transfer an amount in 69827  
excess of three-fourths of the total value of such deposit, 69828  
including accrued interest and dividends, as of the date of 69829  
decedent's death, without the written consent of the tax 69830  
commissioner. The written consent of the tax commissioner need not 69831  
be obtained prior to the delivery or transfer of amounts having a 69832  
value of three-fourths or less of said total value. 69833

(C) No life insurance company shall pay the proceeds of an 69834  
annuity or matured endowment contract, or of a life insurance 69835  
contract payable to the estate of a decedent, or of any other 69836  
insurance contract taxable under Chapter 5731. of the Revised 69837  
Code, without the written consent of the tax commissioner. Any 69838

life insurance company may pay the proceeds of any insurance 69839  
contract not specified in this division (C) without the written 69840  
consent of the tax commissioner. 69841

(D) No trust company or other corporation or person shall pay 69842  
the proceeds of any death benefit, retirement, pension or profit 69843  
sharing plan in excess of two thousand dollars, without the 69844  
written consent of the tax commissioner. Such trust company or 69845  
other corporation or person, however, may pay the proceeds of any 69846  
death benefit, retirement, pension, or profit-sharing plan which 69847  
consists of insurance on the life of the decedent payable to a 69848  
beneficiary other than the estate of the insured without the 69849  
written consent of the tax commissioner. 69850

(E) No safe deposit company, trust company, financial 69851  
institution as defined in division (A) of section 5725.01 of the 69852  
Revised Code, or other corporation or person, having in 69853  
possession, control, or custody securities, assets, or other 69854  
property (including the shares of the capital stock of, or other 69855  
interest in, such safe deposit company, trust company, financial 69856  
institution as defined in division (A) of section 5725.01 of the 69857  
Revised Code, or other corporation), standing in the name of a 69858  
decedent, or in trust for a decedent, or in the name of a decedent 69859  
and another person or persons, and the transfer of which is 69860  
taxable under Chapter 5731. of the Revised Code, shall deliver or 69861  
transfer any such securities, assets, or other property which have 69862  
a value as of the date of decedent's death in excess of 69863  
three-fourths of the total value thereof, without the written 69864  
consent of the tax commissioner. The written consent of the tax 69865  
commissioner need not be obtained prior to the delivery or 69866  
transfer of any such securities, assets, or other property having 69867  
a value of three-fourths or less of said total value. 69868

(F) No safe deposit company, financial institution as defined 69869  
in division (A) of section 5725.01 of the Revised Code, or other 69870

corporation or person having possession or control of a safe 69871  
deposit box or similar receptacle standing in the name of a 69872  
decedent or in the name of the decedent and another person or 69873  
persons, or to which the decedent had a right of access, except 69874  
when such safe deposit box or other receptacle stands in the name 69875  
of a corporation or partnership, or in the name of the decedent as 69876  
guardian or executor, shall deliver any of the contents thereof 69877  
unless the safe deposit box or similar receptacle has been opened 69878  
and inventoried in the presence of the tax commissioner or the 69879  
commissioner's agent, and a written consent to transfer issued; 69880  
provided, however, that a safe deposit company, financial 69881  
institution, or other corporation or person having possession or 69882  
control of a safe deposit box may deliver wills, deeds to burial 69883  
lots, and insurance policies to a representative of the decedent, 69884  
but that a representative of the safe deposit company, financial 69885  
institution, or other corporation or person must supervise the 69886  
opening of the box and make a written record of the wills, deeds, 69887  
and policies removed. Such written record shall be included in the 69888  
tax commissioner's inventory records. 69889

(G) Notwithstanding any provision of this section: 69890

(1) The tax commissioner may authorize any delivery or 69891  
transfer or waive any of the foregoing requirements under such 69892  
terms and conditions as the commissioner may prescribe; 69893

(2) An adult care facility, as defined in section 3722.01 of 69894  
the Revised Code, or a home, as defined in section 3721.10 of the 69895  
Revised Code, may transfer or use the money in a personal needs 69896  
allowance account in accordance with section ~~5111.112~~ 5111.113 of 69897  
the Revised Code without the written consent of the tax 69898  
commissioner, and without the account having been opened and 69899  
inventoried in the presence of the commissioner or the 69900  
commissioner's agent. 69901

Failure to comply with this section shall render such safe 69902  
deposit company, trust company, life insurance company, financial 69903  
institution as defined in division (A) of section 5725.01 of the 69904  
Revised Code, or other corporation or person liable for the amount 69905  
of the taxes and interest due under the provisions of Chapter 69906  
5731. of the Revised Code on the transfer of such stock, deposit, 69907  
proceeds of an annuity or matured endowment contract or of a life 69908  
insurance contract payable to the estate of a decedent, or other 69909  
insurance contract taxable under Chapter 5731. of the Revised 69910  
Code, proceeds of any death benefit, retirement, pension, or 69911  
profit sharing plan in excess of two thousand dollars, or 69912  
securities, assets, or other property of any resident decedent, 69913  
and in addition thereto, to a penalty of not less than five 69914  
hundred or more than five thousand dollars. 69915

**Sec. 5731.41.** To enforce section 5731.39 of the Revised Code, 69916  
and to administer Chapters 5713. and 4503. of the Revised Code the 69917  
tax commissioner may appoint agents in the unclassified civil 69918  
service who shall perform such duties as are prescribed by the 69919  
commissioner. Such agents shall, as compensation, receive annually 69920  
eight cents per capita for each full one thousand of the first 69921  
twenty thousand of the population of the county and two cents per 69922  
capita for each full one thousand over twenty thousand of the 69923  
population of the county, as shown by the last federal census, 69924  
which shall be paid in equal monthly installments from the 69925  
undivided inheritance or estate tax in the county treasury on the 69926  
warrant of the county auditor or from the county real estate 69927  
assessment fund pursuant to division (B)(6) of section 325.31 of 69928  
the Revised Code, any other provision of law to the contrary 69929  
notwithstanding. The amount paid to any agent in the unclassified 69930  
service for all of the duties performed ~~in estate tax matters~~ 69931  
under this section, as directed by the commissioner, shall not 69932  
exceed three thousand nor be less than twelve hundred dollars in 69933

any calendar year. 69934

**Sec. 5731.99.** Whoever violates this chapter, or any lawful 69935  
rule promulgated by the tax commissioner under authority of this 69936  
chapter, for the violation of which no other penalty is provided 69937  
in this chapter, shall be fined not less than ~~one~~ five hundred or 69938  
more than ~~five~~ ten thousand dollars. 69939

**Sec. 5733.01.** (A) The tax provided by this chapter for 69940  
domestic corporations shall be the amount charged against each 69941  
corporation organized for profit under the laws of this state and 69942  
each nonprofit corporation organized pursuant to Chapter 1729. of 69943  
the Revised Code, except as provided in sections 5733.09 and 69944  
5733.10 of the Revised Code, for the privilege of exercising its 69945  
franchise during the calendar year in which that amount is 69946  
payable, and the tax provided by this chapter for foreign 69947  
corporations shall be the amount charged against each corporation 69948  
organized for profit and each nonprofit corporation organized or 69949  
operating in the same or similar manner as nonprofit corporations 69950  
organized under Chapter 1729. of the Revised Code, under the laws 69951  
of any state or country other than this state, except as provided 69952  
in sections 5733.09 and 5733.10 of the Revised Code, for the 69953  
privilege of doing business in this state, owning or using a part 69954  
or all of its capital or property in this state, holding a 69955  
certificate of compliance with the laws of this state authorizing 69956  
it to do business in this state, or otherwise having nexus in or 69957  
with this state under the Constitution of the United States, 69958  
during the calendar year in which that amount is payable. 69959

(B) A corporation is subject to the tax imposed by section 69960  
5733.06 of the Revised Code for each calendar year that it is so 69961  
organized, doing business, owning or using a part or all of its 69962  
capital or property, holding a certificate of compliance, or 69963  
otherwise having nexus in or with this state under the 69964

Constitution of the United States, on the first day of January of  
that calendar year. 69965  
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(C) Any corporation subject to this chapter that is not 69967  
subject to the federal income tax shall file its returns and 69968  
compute its tax liability as required by this chapter in the same 69969  
manner as if that corporation were subject to the federal income 69970  
tax. 69971

(D) For purposes of this chapter, a federally chartered 69972  
financial institution shall be deemed to be organized under the 69973  
laws of the state within which its principal office is located. 69974

(E) ~~Any~~ For purposes of this chapter, any person, as defined 69975  
in section 5701.01 of the Revised Code, shall be treated as a 69976  
corporation for purposes of this chapter if the person is 69977  
classified for federal income tax purposes as an association 69978  
taxable as a corporation, and an equity interest in the person 69979  
shall be treated as capital stock of the person. 69980

(F) For the purposes of this chapter, "disregarded entity" 69981  
has the same meaning as in division (D) of section 5745.01 of the 69982  
Revised Code. 69983

(1) A person's interest in a disregarded entity, whether held 69984  
directly or indirectly, shall be treated as the person's ownership 69985  
of the assets and liabilities of the disregarded entity, and the 69986  
income, including gain or loss, shall be included in the person's 69987  
net income under this chapter. 69988

(2) Any sale, exchange, or other disposition of the person's 69989  
interest in the disregarded entity, whether held directly or 69990  
indirectly, shall be treated as a sale, exchange, or other 69991  
disposition of the person's share of the disregarded entity's 69992  
underlying assets or liabilities, and the gain or loss from such 69993  
sale, exchange, or disposition shall be included in the person's 69994  
net income under this chapter. 69995

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors. 69996  
69997

(G) The tax a corporation is required to pay under this chapter shall be as follows: 69998  
69999

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 70000  
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(b) A corporation satisfying the description in division (E)(5), (6), (7), or (8) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 70006  
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(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section: 70016  
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(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax; 70021  
70022  
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(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code 70025  
70026



or four-fifths of the difference between all taxes charged the 70027  
corporation under this chapter and any credits allowable against 70028  
such tax except the qualifying pass-through entity tax credit 70029  
described in division (A)(1) and the refundable credits described 70030  
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70031  
Revised Code; 70032

(iii) For tax year 2007, the greater of the minimum payment 70033  
required under division (E) of section 5733.06 of the Revised Code 70034  
or three-fifths of the difference between all taxes charged the 70035  
corporation under this chapter and any credits allowable against 70036  
such tax except the qualifying pass-through entity tax credit 70037  
described in division (A)(1) and the refundable credits described 70038  
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70039  
Revised Code; 70040

(iv) For tax year 2008, the greater of the minimum payment 70041  
required under division (E) of section 5733.06 of the Revised Code 70042  
or two-fifths of the difference between all taxes charged the 70043  
corporation under this chapter any any credits allowable against 70044  
such tax except the qualifying pass-through entity tax credit 70045  
described in division (A)(1) and the refundable credits described 70046  
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70047  
Revised Code; 70048

(v) For tax year 2009, the greater of the minimum payment 70049  
required under division (E) of section 5733.06 of the Revised Code 70050  
or one-fifth of the difference between all taxes charged the 70051  
corporation under this chapter and any credits allowable against 70052  
such tax except the qualifying pass-through entity tax credit 70053  
described in division (A)(1) and the refundable credits described 70054  
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70055  
Revised Code; 70056

(vi) For tax year 2010 and each tax year thereafter, no tax. 70057

(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)(1) and any refundable credit described in division (A)(29), (30), or (31) of section 5733.98 of the Revised Code to which the corporation is entitled. Any unused qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then multiplied by the applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

**Sec. 5733.065.** (A) As used in this section, "litter stream products" means:

(1) Intoxicating liquor, beer, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;

(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(5) Packaging materials transferred or intended for transfer 70088  
of use or possession in conjunction with retail sales of products 70089  
enumerated in divisions (A)(1) and (2) of this section; 70090

(6) Packaging materials in the finished form in which they 70091  
are to be used, including sacks, bags, cups, lids, straws, plates, 70092  
wrappings, boxes, or containers of any type used in the packaging 70093  
or serving of food or beverages, when the food or beverages are 70094  
prepared for human consumption by a restaurant or take-out food 70095  
outlet at the premises where sold at retail and are delivered to a 70096  
purchaser for consumption off the premises where the food or 70097  
beverages are sold; 70098

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 70099

(B) For the purpose of providing additional funding for the 70100  
~~division of recycling and litter prevention under Chapter 1502. of~~ 70101  
~~the Revised Code,~~ there is hereby levied an additional tax on 70102  
corporations for the privilege of manufacturing or selling litter 70103  
stream products in this state. The tax imposed by this section is 70104  
in addition to the tax charged under section 5733.06 of the 70105  
Revised Code, computed at the rate prescribed by section 5733.066 70106  
of the Revised Code. ~~This section does not apply for tax year 1981~~ 70107  
~~to a corporation whose taxable year for tax year 1981 ended on or~~ 70108  
~~before June 30, 1980.~~ 70109

(C) The tax shall be imposed upon each corporation subject to 70110  
the tax imposed by section 5733.06 of the Revised Code that 70111  
manufactures or sells litter stream products in this state. The 70112  
tax for each year shall be in an amount equal to the greater of 70113  
either: 70114

(1) Twenty-two hundredths of one per cent upon the value of 70115  
that portion of the taxpayer's issued and outstanding shares of 70116  
stock as determined under division (B) of section 5733.05 of the 70117  
Revised Code that is subject to the rate contained in division (B) 70118

of section 5733.06 of the Revised Code; 70119

(2) Fourteen one-hundredths of a mill times the value of the 70120  
taxpayer's issued and outstanding shares of stock as determined 70121  
under division (C) of section 5733.05 of the Revised Code. 70122

The additional tax charged any taxpayer or group of combined 70123  
taxpayers pursuant to this section for any tax year shall not 70124  
exceed five thousand dollars. 70125

(D)(1) In the case of a corporation engaged in the business 70126  
of manufacturing litter stream products, no tax shall be due under 70127  
this section unless the sale of litter stream products in this 70128  
state during the taxable year exceeds five per cent of the total 70129  
sales in this state of the corporation during that period or 70130  
unless the total sales in this state of litter stream products by 70131  
the corporation during the taxable year exceed ten million 70132  
dollars. 70133

(2) In the case of a corporation engaged in the business of 70134  
selling litter stream products in the form in which the item is or 70135  
is to be received, no tax shall be due under this section unless 70136  
the corporation's sales of litter stream products in this state 70137  
during the taxable year constitute more than five per cent of its 70138  
total sales in this state during that period. 70139

(3) In the case of a corporation transferring possession of 70140  
litter stream products included in division (A)(6) of this 70141  
section, in which food or beverages prepared for human consumption 70142  
are placed, when the food or beverages are prepared for retail 70143  
sale at the premises where sold and are delivered to a purchaser 70144  
for consumption off the premises where the food or beverages are 70145  
sold, no tax shall be due under this section unless such sales for 70146  
off-premises consumption during the taxable year exceed five per 70147  
cent of the corporation's total annual sales during the taxable 70148  
year. 70149

(E)(1) The tax imposed by this section is due in the 70150  
proportions and on the dates on which the tax imposed by section 70151  
5733.06 of the Revised Code may be paid without penalty. 70152

(2) Payment of the tax and any reports or returns required to 70153  
enable the tax commissioner to determine the correct amount of the 70154  
tax shall be submitted with and are due at the same time as 70155  
payments and reports required to be submitted under this chapter. 70156

(3) If the tax is not paid in full on or before the date 70157  
required by division (E)(1) of this section, the unpaid portion of 70158  
the tax due and unpaid shall be subject to all provisions of this 70159  
chapter for the collection of unpaid, delinquent taxes imposed by 70160  
section 5733.06 of the Revised Code, except that all such taxes, 70161  
interest, and penalties, when collected, shall be treated as 70162  
proceeds arising from the tax imposed by this section and shall be 70163  
deposited in the general revenue fund. 70164

The tax levied on corporations under this section does not 70165  
prohibit or otherwise limit the authority of municipal 70166  
corporations to impose an income tax on the income of such 70167  
corporations. 70168

**Sec. 5733.066.** There shall be added to the rates contained in 70169  
section 5733.06 of the Revised Code the following: 70170

(A) To the rate in division (A) of that section upon that 70171  
portion of the value of the taxpayer's issued and outstanding 70172  
shares of stock as determined under division (B) of section 70173  
5733.05 of the Revised Code that is subject to such rate, an 70174  
additional eleven-hundredths per cent upon that value to provide 70175  
funding for ~~the division of recycling and litter prevention under~~ 70176  
~~Chapter 1502. of the Revised Code;~~ 70177

(B) To the rate in division (B) of that section upon that 70178  
portion of the value so determined that is subject to that rate, 70179

an additional twenty-two-hundredths per cent upon that value to 70180  
provide funding for ~~the division~~ recycling and litter prevention 70181  
~~under Chapter 1502. of the Revised Code;~~ 70182

(C) To the rate in division (C) of that section times that 70183  
portion of the value of the taxpayer's issued and outstanding 70184  
shares of stock as determined under division (C) of section 70185  
5733.05 of the Revised Code, an additional fourteen one-hundredths 70186  
mills times that value to provide funding for ~~the division of~~ 70187  
recycling and litter prevention ~~under Chapter 1502. of the Revised~~ 70188  
~~Code.~~ 70189

The additional tax charged any taxpayer or group of combined 70190  
taxpayers pursuant to this section for any tax year shall not 70191  
exceed five thousand dollars. 70192

This section does not apply to any family farm corporation as 70193  
defined in section 4123.01 of the Revised Code. 70194

The tax levied on corporations under this section does not 70195  
prohibit or otherwise limit the authority of municipal 70196  
corporations to impose an income tax on the income of such 70197  
corporations. 70198

**Sec. 5733.33.** (A) As used in this section: 70199

(1) "Manufacturing machinery and equipment" means engines and 70200  
machinery, and tools and implements, of every kind used, or 70201  
designed to be used, in refining and manufacturing. "Manufacturing 70202  
machinery and equipment" does not include property acquired after 70203  
December 31, 1999, that is used: 70204

(a) For the transmission and distribution of electricity; 70205

(b) For the generation of electricity, if fifty per cent or 70206  
more of the electricity that the property generates is consumed, 70207  
during the one-hundred-twenty-month period commencing with the 70208  
date the property is placed in service, by persons that are not 70209

related members to the person who generates the electricity. 70210

(2) "New manufacturing machinery and equipment" means 70211  
manufacturing machinery and equipment, the original use in this 70212  
state of which commences with the taxpayer or with a partnership 70213  
of which the taxpayer is a partner. "New manufacturing machinery 70214  
and equipment" does not include property acquired after December 70215  
31, 1999, that is used: 70216

(a) For the transmission and distribution of electricity; 70217

(b) For the generation of electricity, if fifty per cent or 70218  
more of the electricity that the property generates is consumed, 70219  
during the one-hundred-twenty-month period commencing with the 70220  
date the property is placed in service, by persons that are not 70221  
related members to the person who generates the electricity. 70222

(3)(a) "Purchase" has the same meaning as in section 70223  
179(d)(2) of the Internal Revenue Code. 70224

(b) For purposes of this section, any property that is not 70225  
manufactured or assembled primarily by the taxpayer is considered 70226  
purchased at the time the agreement to acquire the property 70227  
becomes binding. Any property that is manufactured or assembled 70228  
primarily by the taxpayer is considered purchased at the time the 70229  
taxpayer places the property in service in the county for which 70230  
the taxpayer will calculate the county excess amount. 70231

(c) Notwithstanding section 179(d) of the Internal Revenue 70232  
Code, a taxpayer's direct or indirect acquisition of new 70233  
manufacturing machinery and equipment is not purchased on or after 70234  
July 1, 1995, if the taxpayer, or a person whose relationship to 70235  
the taxpayer is described in subparagraphs (A), (B), or (C) of 70236  
section 179(d)(2) of the Internal Revenue Code, had directly or 70237  
indirectly entered into a binding agreement to acquire the 70238  
property at any time prior to July 1, 1995. 70239

- (4) "Qualifying period" means the period that begins July 1, 1995, and ends ~~December 31, 2015~~ June 30, 2005. 70240  
70241
- (5) "County average new manufacturing machinery and equipment investment" means either of the following: 70242  
70243
- (a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years. 70244  
70245  
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70247
- (b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years. 70248  
70249
- (6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. 70250  
70251  
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70254
- (7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. 70255  
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70259
- (8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county: 70260  
70261  
70262  
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70264
- (a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period; 70265  
70266  
70267  
70268
- (b) It has a per capita income equal to or below eighty per 70269



cent of the median county per capita income of the United States 70270  
as determined by the most recently available figures from the 70271  
United States census bureau; 70272

(c)(i) In the case of a municipal corporation, at least 70273  
twenty per cent of the residents have a total income for the most 70274  
recent census year that is below the official poverty line; 70275

(ii) In the case of a county, in intercensal years, the 70276  
county has a ratio of transfer payment income to total county 70277  
income equal to or greater than twenty-five per cent. 70278

(9) "Eligible area" means a distressed area, a labor surplus 70279  
area, an inner city area, or a situational distress area. 70280

(10) "Inner city area" means, in a municipal corporation that 70281  
has a population of at least one hundred thousand and does not 70282  
meet the criteria of a labor surplus area or a distressed area, 70283  
targeted investment areas established by the municipal corporation 70284  
within its boundaries that are comprised of the most recent census 70285  
block tracts that individually have at least twenty per cent of 70286  
their population at or below the state poverty level or other 70287  
census block tracts contiguous to such census block tracts. 70288

(11) "Labor surplus area" means an area designated as a labor 70289  
surplus area by the United States department of labor. 70290

(12) "Official poverty line" has the same meaning as in 70291  
division (A) of section 3923.51 of the Revised Code. 70292

(13) "Situational distress area" means a county or a 70293  
municipal corporation that has experienced or is experiencing a 70294  
closing or downsizing of a major employer, that will adversely 70295  
affect the county's or municipal corporation's economy. In order 70296  
to be designated as a situational distress area for a period not 70297  
to exceed thirty-six months, the county or municipal corporation 70298  
may petition the director of development. The petition shall 70299

include written documentation that demonstrates all of the 70300  
following adverse effects on the local economy: 70301

- (a) The number of jobs lost by the closing or downsizing; 70302
- (b) The impact that the job loss has on the county's or 70303  
municipal corporation's unemployment rate as measured by the state 70304  
director of job and family services; 70305
- (c) The annual payroll associated with the job loss; 70306
- (d) The amount of state and local taxes associated with the 70307  
job loss; 70308
- (e) The impact that the closing or downsizing has on the 70309  
suppliers located in the county or municipal corporation. 70310

(14) "Cost" has the same meaning and limitation as in section 70311  
179(d)(3) of the Internal Revenue Code. 70312

(15) "Baseline years" means: 70313

- (a) Calendar years 1992, 1993, and 1994, with regard to a 70314  
credit claimed for the purchase during calendar year 1995, 1996, 70315  
1997, or 1998 of new manufacturing machinery and equipment; 70316
- (b) Calendar years 1993, 1994, and 1995, with regard to a 70317  
credit claimed for the purchase during calendar year 1999 of new 70318  
manufacturing machinery and equipment; 70319
- (c) Calendar years 1994, 1995, and 1996, with regard to a 70320  
credit claimed for the purchase during calendar year 2000 of new 70321  
manufacturing machinery and equipment; 70322
- (d) Calendar years 1995, 1996, and 1997, with regard to a 70323  
credit claimed for the purchase during calendar year 2001 of new 70324  
manufacturing machinery and equipment; 70325
- (e) Calendar years 1996, 1997, and 1998, with regard to a 70326  
credit claimed for the purchase during calendar year 2002 of new 70327  
manufacturing machinery and equipment; 70328

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	70329 70330 70331
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	70332 70333 70334
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase <del>during calendar year 2005</del> <u>on or after January 1, 2005, and on or before June 30, 2005,</u> of new manufacturing machinery and equipment;	70335 70336 70337 70338
<del>(i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new manufacturing machinery and equipment;</del>	70339 70340 70341
<del>(j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment;</del>	70342 70343 70344
<del>(k) Calendar years 2002, 2003, and 2004, with regard to a credit claimed for the purchase during calendar year 2008 of new manufacturing machinery and equipment;</del>	70345 70346 70347
<del>(l) Calendar years 2003, 2004, and 2005, with regard to a credit claimed for the purchase during calendar year 2009 of new manufacturing machinery and equipment;</del>	70348 70349 70350
<del>(m) Calendar years 2004, 2005, and 2006, with regard to a credit claimed for the purchase during calendar year 2010 of new manufacturing machinery and equipment;</del>	70351 70352 70353
<del>(n) Calendar years 2005, 2006, and 2007, with regard to a credit claimed for the purchase during calendar year 2011 of new manufacturing machinery and equipment;</del>	70354 70355 70356
<del>(o) Calendar years 2006, 2007, and 2008, with regard to a credit claimed for the purchase during calendar year 2012 of new</del>	70357 70358

~~manufacturing machinery and equipment;~~ 70359

~~(p) Calendar years 2007, 2008, and 2009, with regard to a~~ 70360  
~~credit claimed for the purchase during calendar year 2013 of new~~ 70361  
~~manufacturing machinery and equipment;~~ 70362

~~(q) Calendar years 2008, 2009, and 2010, with regard to a~~ 70363  
~~credit claimed for the purchase during calendar year 2014 of new~~ 70364  
~~manufacturing machinery and equipment;~~ 70365

~~(r) Calendar years 2009, 2010, and 2011, with regard to a~~ 70366  
~~credit claimed for the purchase during calendar year 2015 of new~~ 70367  
~~manufacturing machinery and equipment.~~ 70368

(16) "Related member" has the same meaning as in section 70369  
5733.042 of the Revised Code. 70370

(B)(1) Subject to division (I) of this section, a 70371  
nonrefundable credit is allowed against the tax imposed by section 70372  
5733.06 of the Revised Code for a taxpayer that purchases new 70373  
manufacturing machinery and equipment during the qualifying 70374  
period, provided that the new manufacturing machinery and 70375  
equipment are installed in this state no later than ~~December 31,~~ 70376  
2016 June 30, 2006. No credit shall be allowed under this section 70377  
or section 5747.31 of the Revised Code for taxable years ending on 70378  
or after July 1, 2005. The elimination of the credit for those 70379  
taxable years includes the elimination of any remaining 70380  
one-sevenths of credit amounts for which a portion was allowed for 70381  
prior taxable years and the elimination of any credit 70382  
carry-forward, but the purchases on which the credits were based 70383  
remain subject to grants under section 122.173 of the Revised Code 70384  
for those remaining one-seventh amounts or carry-forward amounts. 70385

(2)(a) Except as otherwise provided in division (B)(2)(b) of 70386  
this section, a credit may be claimed under this section in excess 70387  
of one million dollars only if the cost of all manufacturing 70388  
machinery and equipment owned in this state by the taxpayer 70389

claiming the credit on the last day of the calendar year exceeds 70390  
the cost of all manufacturing machinery and equipment owned in 70391  
this state by the taxpayer on the first day of that calendar year. 70392

As used in division (B)(2)(a) of this section, "calendar 70393  
year" means the calendar year in which the machinery and equipment 70394  
for which the credit is claimed was purchased. 70395

(b) Division (B)(2)(a) of this section does not apply if the 70396  
taxpayer claiming the credit applies for and is issued a waiver of 70397  
the requirement of that division. A taxpayer may apply to the 70398  
director of development for such a waiver in the manner prescribed 70399  
by the director, and the director may issue such a waiver if the 70400  
director determines that granting the credit is necessary to 70401  
increase or retain employees in this state, and that the credit 70402  
has not caused relocation of manufacturing machinery and equipment 70403  
among counties within this state for the primary purpose of 70404  
qualifying for the credit. 70405

(C)(1) Except as otherwise provided in division (C)(2) and 70406  
division (I) of this section, the credit amount is equal to seven 70407  
and one-half per cent of the excess of the cost of the new 70408  
manufacturing machinery and equipment purchased during the 70409  
calendar year for use in a county over the county average new 70410  
manufacturing machinery and equipment investment for that county. 70411

(2) Subject to division (I) of this section, as used in 70412  
division (C)(2) of this section "county excess" means the 70413  
taxpayer's excess cost for a county as computed under division 70414  
(C)(1) of this section. 70415

Subject to division (I) of this section, a taxpayer with a 70416  
county excess, whose purchases included purchases for use in any 70417  
eligible area in the county, the credit amount is equal to 70418  
thirteen and one-half per cent of the cost of the new 70419  
manufacturing machinery and equipment purchased during the 70420

calendar year for use in the eligible areas in the county, 70421  
provided that the cost subject to the thirteen and one-half per 70422  
cent rate shall not exceed the county excess. If the county excess 70423  
is greater than the cost of the new manufacturing machinery and 70424  
equipment purchased during the calendar year for use in eligible 70425  
areas in the county, the credit amount also shall include an 70426  
amount equal to seven and one-half per cent of the amount of the 70427  
difference. 70428

(3) If a taxpayer is allowed a credit for purchases of new 70429  
manufacturing machinery and equipment in more than one county or 70430  
eligible area, it shall aggregate the amount of those credits each 70431  
year. 70432

(4) The taxpayer shall claim one-seventh of the credit amount 70433  
for the tax year immediately following the calendar year in which 70434  
the new manufacturing machinery and equipment is purchased for use 70435  
in the county by the taxpayer or partnership. One-seventh of the 70436  
taxpayer credit amount is allowed for each of the six ensuing tax 70437  
years. Except for carried-forward amounts, the taxpayer is not 70438  
allowed any credit amount remaining if the new manufacturing 70439  
machinery and equipment is sold by the taxpayer or partnership or 70440  
is transferred by the taxpayer or partnership out of the county 70441  
before the end of the seven-year period unless, at the time of the 70442  
sale or transfer, the new manufacturing machinery and equipment 70443  
has been fully depreciated for federal income tax purposes. 70444

(5)(a) A taxpayer that acquires manufacturing machinery and 70445  
equipment as a result of a merger with the taxpayer with whom 70446  
commenced the original use in this state of the manufacturing 70447  
machinery and equipment, or with a taxpayer that was a partner in 70448  
a partnership with whom commenced the original use in this state 70449  
of the manufacturing machinery and equipment, is entitled to any 70450  
remaining or carried-forward credit amounts to which the taxpayer 70451  
was entitled. 70452

(b) A taxpayer that enters into an agreement under division 70453  
(C)(3) of section 5709.62 of the Revised Code and that acquires 70454  
manufacturing machinery or equipment as a result of purchasing a 70455  
large manufacturing facility, as defined in section 5709.61 of the 70456  
Revised Code, from another taxpayer with whom commenced the 70457  
original use in this state of the manufacturing machinery or 70458  
equipment, and that operates the large manufacturing facility so 70459  
purchased, is entitled to any remaining or carried-forward credit 70460  
amounts to which the other taxpayer who sold the facility would 70461  
have been entitled under this section had the other taxpayer not 70462  
sold the manufacturing facility or equipment. 70463

(c) New manufacturing machinery and equipment is not 70464  
considered sold if a pass-through entity transfers to another 70465  
pass-through entity substantially all of its assets as part of a 70466  
plan of reorganization under which substantially all gain and loss 70467  
is not recognized by the pass-through entity that is transferring 70468  
the new manufacturing machinery and equipment to the transferee 70469  
and under which the transferee's basis in the new manufacturing 70470  
machinery and equipment is determined, in whole or in part, by 70471  
reference to the basis of the pass-through entity which 70472  
transferred the new manufacturing machinery and equipment to the 70473  
transferee. 70474

(d) Division (C)(5) of this section shall apply only if the 70475  
acquiring taxpayer or transferee does not sell the new 70476  
manufacturing machinery and equipment or transfer the new 70477  
manufacturing machinery and equipment out of the county before the 70478  
end of the seven-year period to which division (C)(4) of this 70479  
section refers. 70480

(e) Division (C)(5)(b) of this section applies only to the 70481  
extent that the taxpayer that sold the manufacturing machinery or 70482  
equipment, upon request, timely provides to the tax commissioner 70483  
any information that the tax commissioner considers to be 70484

necessary to ascertain any remaining or carried-forward amounts to 70485  
which the taxpayer that sold the facility would have been entitled 70486  
under this section had the taxpayer not sold the manufacturing 70487  
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 70488  
this section shall be construed to allow a taxpayer to claim any 70489  
credit amount with respect to the acquired manufacturing machinery 70490  
or equipment that is greater than the amount that would have been 70491  
available to the other taxpayer that sold the manufacturing 70492  
machinery or equipment had the other taxpayer not sold the 70493  
manufacturing machinery or equipment. 70494

(D) The taxpayer shall claim the credit in the order required 70495  
under section 5733.98 of the Revised Code. Each year, any credit 70496  
amount in excess of the tax due under section 5733.06 of the 70497  
Revised Code after allowing for any other credits that precede the 70498  
credit under this section in that order may be carried forward for 70499  
three tax years. 70500

(E) A taxpayer purchasing new manufacturing machinery and 70501  
equipment and intending to claim the credit shall file, with the 70502  
department of development, a notice of intent to claim the credit 70503  
on a form prescribed by the department of development. The 70504  
department of development shall inform the tax commissioner of the 70505  
notice of intent to claim the credit. No credit may be claimed 70506  
under this section for any manufacturing machinery and equipment 70507  
with respect to which a notice was not filed by the date of a 70508  
timely filed return, including extensions, for the taxable year 70509  
that includes September 30, 2005. 70510

(F) The director of development shall annually certify, by 70511  
the first day of January of each year during the qualifying 70512  
period, the eligible areas for the tax credit for the calendar 70513  
year that includes that first day of January. The director shall 70514  
send a copy of the certification to the tax commissioner. 70515



(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the credit available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The credit shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any

credit attributable to such purchases. The qualifying controlled  
group at any time may elect to apply this division to purchases  
made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report,  
but the election may accompany a subsequently filed but timely  
application for refund, a subsequently filed but timely amended  
report, or a subsequently filed but timely petition for  
reassessment.

**Sec. 5733.351.** (A) As used in this section, "qualified  
research expenses" has the same meaning as in section 41 of the  
Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax  
imposed by section 5733.06 of the Revised Code for tax year 2002  
for a taxpayer whose taxable year for tax year 2002 ended before  
July 1, 2001. The credit shall equal seven per cent of the excess  
of qualified research expenses incurred in this state by the  
taxpayer between January 1, 2001, and the end of the taxable year,  
over the taxpayer's average annual qualified research expenses  
incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax  
imposed by section 5733.06 of the Revised Code for each tax year,  
commencing with tax year 2004, and in the case of a corporation  
subject to division (G)(2) of section 5733.01 of the Revised Code  
ending with tax year 2008. The credit shall equal seven per cent  
of the excess of qualified research expenses incurred in this  
state by the taxpayer for the taxable year over the taxpayer's  
average annual qualified research expenses incurred in this state  
for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under

division (B)(1) or (2) of this section in the order required by 70577  
section 5733.98 of the Revised Code. Any credit amount in excess 70578  
of the tax due under section 5733.06 of the Revised Code, after 70579  
allowing for any other credits that precede the credit under this 70580  
section in the order required under section 5733.98 of the Revised 70581  
Code, may be carried forward for seven taxable years, but the 70582  
amount of the excess credit allowed in any such year shall be 70583  
deducted from the balance carried forward to the next year. A 70584  
corporation subject to division (G)(2) of section 5733.01 of the 70585  
Revised Code may carry forward any credit not fully utilized by 70586  
tax year 2008 and apply it against the tax levied by Chapter 5751. 70587  
of the Revised Code to the extent allowed under section 5751.51 of 70588  
the Revised Code, provided that the total number of taxable years 70589  
under this section and calendar years under Chapter 5751. of the 70590  
Revised Code for which the credit is carried forward shall not 70591  
exceed seven. 70592

(C) In the case of a qualifying controlled group, the credit 70593  
allowed under division (B)(1) or (2) of this section to taxpayers 70594  
in the qualifying controlled group shall be computed as if all 70595  
corporations in the qualifying controlled group were a 70596  
consolidated, single taxpayer. The credit shall be allocated to 70597  
such taxpayers in any amount elected for the taxable year by the 70598  
qualifying controlled group. The election shall be revocable and 70599  
amendable during the period prescribed by division (B) of section 70600  
5733.12 of the Revised Code. 70601

**Sec. 5733.352.** (A) As used in this section: 70602

(1) "Borrower" means any person that receives a loan from the 70603  
director of development under section 166.21 of the Revised Code, 70604  
regardless of whether the borrower is subject to the taxes imposed 70605  
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 70606

(2) "Related member" has the same meaning as in section 70607

5733.042 of the Revised Code.

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(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.

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(B) Beginning ~~in~~ with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008, a nonrefundable credit is allowed against the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax year or years until fully used. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.52 of the Revised Code.

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(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

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(1) A related member of that borrower;

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(2) The owner or lessee of the eligible research and development project;

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(3) A related member of the owner or lessee of the eligible research and development project. 70639  
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A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it. 70641  
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(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company. 70648  
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(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars. 70653  
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**Sec. 5733.40.** As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code: 70660  
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(A)(1) "Adjusted qualifying amount" means either of the following: 70662  
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(a) The sum of a each qualifying investor's distributive share of the income, gain, expense, or loss of a qualifying pass-through entity for the qualifying taxable year of the qualifying pass-through entity multiplied by the apportionment fraction defined in division (B) of this section, subject to 70664  
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section 5733.401 of the Revised Code and divisions (A)(2) to (7) 70669  
of this section; 70670

(b) The sum of a each qualifying beneficiary's share of the 70671  
qualifying net income and qualifying net gain distributed by a 70672  
qualifying trust for the qualifying taxable year of the qualifying 70673  
trust multiplied by the apportionment fraction defined in division 70674  
(B) of this section, subject to section 5733.401 of the Revised 70675  
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 70676

(2) The sum shall exclude any amount which, pursuant to the 70677  
Constitution of the United States, the Constitution of Ohio, or 70678  
any federal law is not subject to a tax on or measured by net 70679  
income. 70680

(3) ~~The sum shall be increased by~~ For the purposes of 70681  
Chapters 5733. and 5747. of the Revised Code, the profit or net 70682  
income of the qualifying entity shall be increased by disallowing 70683  
all amounts representing expenses, other than amounts described in 70684  
division (A)(7) of this section, that the qualifying entity paid 70685  
to or incurred with respect to direct or indirect transactions 70686  
with one or more related members, excluding the cost of goods sold 70687  
calculated in accordance with section 263A of the Internal Revenue 70688  
Code and United States department of the treasury regulations 70689  
issued thereunder. Nothing in division (A)(3) of this section 70690  
shall be construed to limit solely to this chapter the application 70691  
of section 263A of the Internal Revenue Code and United States 70692  
department of the treasury regulations issued thereunder. 70693

(4) ~~The sum shall be increased by~~ For the purposes of 70694  
Chapters 5733. and 5747. of the Revised Code, the profit or net 70695  
income of the qualifying entity shall be increased by disallowing 70696  
all recognized losses, other than losses from sales of inventory 70697  
the cost of which is calculated in accordance with section 263A of 70698  
the Internal Revenue Code and United States department of the 70699  
treasury regulations issued thereunder, with respect to all direct 70700

or indirect transactions with one or more related members. ~~Losses~~ 70701  
For the purposes of Chapters 5733. and 5747. of the Revised Code, 70702  
losses from the sales of such inventory shall be allowed only to 70703  
the extent calculated in accordance with section 482 of the 70704  
Internal Revenue Code and United States department of the treasury 70705  
regulations issued thereunder. Nothing in division (A)(4) of this 70706  
section shall be construed to limit solely to this section the 70707  
application of section 263A and section 482 of the Internal 70708  
Revenue Code and United States department of the treasury 70709  
regulations issued thereunder. 70710

(5) The sum shall be increased or decreased by an amount 70711  
equal to the qualifying investor's or qualifying beneficiary's 70712  
distributive or proportionate share of the amount that the 70713  
qualifying entity would be required to add or deduct under 70714  
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 70715  
if the qualifying entity were a taxpayer for the purposes of 70716  
Chapter 5747. of the Revised Code. 70717

(6) The sum shall be computed without regard to section 70718  
5733.051 or division (D) of section 5733.052 of the Revised Code. 70719

(7) For the purposes of Chapters 5733. and 5747. of the 70720  
Revised Code, guaranteed payments or compensation paid to 70721  
investors by a qualifying entity that is not subject to the tax 70722  
imposed by section 5733.06 of the Revised Code shall be considered 70723  
a distributive share of income of the qualifying entity. Division 70724  
(A)(7) of this section applies only to such payments or such 70725  
compensation paid to an investor who at any time during the 70726  
qualifying entity's taxable year holds at least a twenty per cent 70727  
direct or indirect interest in the profits or capital of the 70728  
qualifying entity. 70729

(B) "Apportionment fraction" means: 70730

(1) With respect to a qualifying pass-through entity other 70731

than a financial institution, the fraction calculated pursuant to 70732  
division (B)(2) of section 5733.05 of the Revised Code as if the 70733  
qualifying pass-through entity were a corporation subject to the 70734  
tax imposed by section 5733.06 of the Revised Code; 70735

(2) With respect to a qualifying pass-through entity that is 70736  
a financial institution, the fraction calculated pursuant to 70737  
division (C) of section 5733.056 of the Revised Code as if the 70738  
qualifying pass-through entity were a financial institution 70739  
subject to the tax imposed by section 5733.06 of the Revised Code. 70740

(3) With respect to a qualifying trust, the fraction 70741  
calculated pursuant to division (B)(2) of section 5733.05 of the 70742  
Revised Code as if the qualifying trust were a corporation subject 70743  
to the tax imposed by section 5733.06 of the Revised Code, except 70744  
that the property, payroll, and sales fractions shall be 70745  
calculated by including in the numerator and denominator of the 70746  
fractions only the property, payroll, and sales, respectively, 70747  
directly related to the production of income or gain from 70748  
acquisition, ownership, use, maintenance, management, or 70749  
disposition of tangible personal property located in this state at 70750  
any time during the qualifying trust's qualifying taxable year or 70751  
of real property located in this state. 70752

(C) "Qualifying beneficiary" means any individual that, 70753  
during the qualifying taxable year of a qualifying trust, is a 70754  
beneficiary of that trust, but does not include an individual who 70755  
is a resident taxpayer for the purposes of Chapter 5747. of the 70756  
Revised Code for the entire qualifying taxable year of the 70757  
qualifying trust. 70758

(D) "Fiscal year" means an accounting period ending on any 70759  
day other than the thirty-first day of December. 70760

(E) "Individual" means a natural person. 70761

(F) "Month" means a calendar month. 70762



(G) "Partnership" has the same meaning as in section 5747.01 70763  
of the Revised Code. 70764

(H) "Investor" means any person that, during any portion of a 70765  
taxable year of a qualifying pass-through entity, is a partner, 70766  
member, shareholder, or investor in that qualifying pass-through 70767  
entity. 70768

(I) Except as otherwise provided in section 5733.402 or 70769  
5747.401 of the Revised Code, "qualifying investor" means any 70770  
investor except those described in divisions (I)(1) to (9) of this 70771  
section. 70772

(1) An investor satisfying one of the descriptions under 70773  
section 501(a) or (c) of the Internal Revenue Code, a partnership 70774  
with equity securities registered with the United States 70775  
securities and exchange commission under section 12 of the 70776  
"Securities Exchange Act of 1934," as amended, or an investor 70777  
described in division (F) of section 3334.01, or division (A) or 70778  
(C) of section 5733.09 of the Revised Code for the entire 70779  
qualifying taxable year of the qualifying pass-through entity. 70780

(2) An investor who is either an individual or an estate and 70781  
is a resident taxpayer for the purposes of section 5747.01 of the 70782  
Revised Code for the entire qualifying taxable year of the 70783  
qualifying pass-through entity. 70784

(3) An investor who is an individual for whom the qualifying 70785  
pass-through entity makes a good faith and reasonable effort to 70786  
comply fully and timely with the filing and payment requirements 70787  
set forth in division (D) of section 5747.08 of the Revised Code 70788  
and section 5747.09 of the Revised Code with respect to the 70789  
individual's adjusted qualifying amount for the entire qualifying 70790  
taxable year of the qualifying pass-through entity. 70791

(4) An investor that is another qualifying pass-through 70792  
entity having only investors described in division (I)(1), (2), 70793

(3), or (6) of this section during the three-year period beginning 70794  
twelve months prior to the first day of the qualifying taxable 70795  
year of the qualifying pass-through entity. 70796

(5) An investor that is another pass-through entity having no 70797  
investors other than individuals and estates during the qualifying 70798  
taxable year of the qualifying pass-through entity in which it is 70799  
an investor, and that makes a good faith and reasonable effort to 70800  
comply fully and timely with the filing and payment requirements 70801  
set forth in division (D) of section 5747.08 of the Revised Code 70802  
and section 5747.09 of the Revised Code with respect to investors 70803  
that are not resident taxpayers of this state for the purposes of 70804  
Chapter 5747. of the Revised Code for the entire qualifying 70805  
taxable year of the qualifying pass-through entity in which it is 70806  
an investor. 70807

(6) An investor that is a financial institution required to 70808  
calculate the tax in accordance with division ~~(D)~~(E) of section 70809  
5733.06 of the Revised Code on the first day of January of the 70810  
calendar year immediately following the last day of the financial 70811  
institution's calendar or fiscal year in which ends the taxpayer's 70812  
taxable year. 70813

(7) An investor other than an individual that satisfies all 70814  
the following: 70815

(a) The investor submits a written statement to the 70816  
qualifying pass-through entity stating that the investor 70817  
irrevocably agrees that the investor has nexus with this state 70818  
under the Constitution of the United States and is subject to and 70819  
liable for the tax calculated under division (A) or (B) of section 70820  
5733.06 of the Revised Code with respect to the investor's 70821  
adjusted qualifying amount for the entire qualifying taxable year 70822  
of the qualifying pass-through entity. The statement is subject to 70823  
the penalties of perjury, shall be retained by the qualifying 70824

pass-through entity for no fewer than seven years, and shall be 70825  
delivered to the tax commissioner upon request. 70826

(b) The investor makes a good faith and reasonable effort to 70827  
comply timely and fully with all the reporting and payment 70828  
requirements set forth in Chapter 5733. of the Revised Code with 70829  
respect to the investor's adjusted qualifying amount for the 70830  
entire qualifying taxable year of the qualifying pass-through 70831  
entity. 70832

(c) Neither the investor nor the qualifying pass-through 70833  
entity in which it is an investor, before, during, or after the 70834  
qualifying pass-through entity's qualifying taxable year, carries 70835  
out any transaction or transactions with one or more related 70836  
members of the investor or the qualifying pass-through entity 70837  
resulting in a reduction or deferral of tax imposed by Chapter 70838  
5733. of the Revised Code with respect to all or any portion of 70839  
the investor's adjusted qualifying amount for the qualifying 70840  
pass-through entity's taxable year, or that constitute a sham, 70841  
lack economic reality, or are part of a series of transactions the 70842  
form of which constitutes a step transaction or transactions or 70843  
does not reflect the substance of those transactions. 70844

(8) Any other investor that the tax commissioner may 70845  
designate by rule. The tax commissioner may adopt rules including 70846  
a rule defining "qualifying investor" or "qualifying beneficiary" 70847  
and governing the imposition of the withholding tax imposed by 70848  
section 5747.41 of the Revised Code with respect to an individual 70849  
who is a resident taxpayer for the purposes of Chapter 5747. of 70850  
the Revised Code for only a portion of the qualifying taxable year 70851  
of the qualifying entity. 70852

(9) An investor that is a trust or fund the beneficiaries of 70853  
which, during the qualifying taxable year of the qualifying 70854  
pass-through entity, are limited to the following: 70855

(a) A person that is or may be the beneficiary of a trust 70856  
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 70857  
Revenue Code. 70858

(b) A person that is or may be the beneficiary of or the 70859  
recipient of payments from a trust or fund that is a nuclear 70860  
decommissioning reserve fund, a designated settlement fund, or any 70861  
other trust or fund established to resolve and satisfy claims that 70862  
may otherwise be asserted by the beneficiary or a member of the 70863  
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 70864  
of the Internal Revenue Code apply to the determination of whether 70865  
such a person satisfies division (I)(9) of this section. 70866

(c) A person who is or may be the beneficiary of a trust 70867  
that, under its governing instrument, is not required to 70868  
distribute all of its income currently. Division (I)(9)(c) of this 70869  
section applies only if the trust, prior to the due date for 70870  
filing the qualifying pass-through entity's return for taxes 70871  
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 70872  
Revised Code, irrevocably agrees in writing that for the taxable 70873  
year during or for which the trust distributes any of its income 70874  
to any of its beneficiaries, the trust is a qualifying trust and 70875  
will pay the estimated tax, and will withhold and pay the withheld 70876  
tax, as required under sections 5747.40 to 5747.453 of the Revised 70877  
Code. 70878

For the purposes of division (I)(9) of this section, a trust 70879  
or fund shall be considered to have a beneficiary other than 70880  
persons described under divisions (I)(9)(a) to (c) of this section 70881  
if a beneficiary would not qualify under those divisions under the 70882  
doctrines of "economic reality," "sham transaction," "step 70883  
doctrine," or "substance over form." A trust or fund described in 70884  
division (I)(9) of this section bears the burden of establishing 70885  
by a preponderance of the evidence that any transaction giving 70886  
rise to the tax benefits provided under division (I)(9) of this 70887

section does not have as a principal purpose a claim of those tax 70888  
benefits. Nothing in this section shall be construed to limit 70889  
solely to this section the application of the doctrines referred 70890  
to in this paragraph. 70891

(J) "Qualifying net gain" means any recognized net gain with 70892  
respect to the acquisition, ownership, use, maintenance, 70893  
management, or disposition of tangible personal property located 70894  
in this state at any time during a trust's qualifying taxable year 70895  
or real property located in this state. 70896

(K) "Qualifying net income" means any recognized income, net 70897  
of related deductible expenses, other than distributions 70898  
deductions with respect to the acquisition, ownership, use, 70899  
maintenance, management, or disposition of tangible personal 70900  
property located in this state at any time during the trust's 70901  
qualifying taxable year or real property located in this state. 70902

(L) "Qualifying entity" means a qualifying pass-through 70903  
entity or a qualifying trust. 70904

(M) "Qualifying trust" means a trust subject to subchapter J 70905  
of the Internal Revenue Code that, during any portion of the 70906  
trust's qualifying taxable year, has income or gain from the 70907  
acquisition, management, ownership, use, or disposition of 70908  
tangible personal property located in this state at any time 70909  
during the trust's qualifying taxable year or real property 70910  
located in this state. "Qualifying trust" does not include a 70911  
person described in section 501(c) of the Internal Revenue Code or 70912  
a person described in division (C) of section 5733.09 of the 70913  
Revised Code. 70914

(N) "Qualifying pass-through entity" means a pass-through 70915  
entity as defined in section 5733.04 of the Revised Code, 70916  
excluding: a person described in section 501(c) of the Internal 70917  
Revenue Code; a partnership with equity securities registered 70918

with the United States securities and exchange commission under 70919  
section 12 of the Securities Exchange Act of 1934, as amended<sup>7i</sup> or 70920  
a person described in division (C) of section 5733.09 of the 70921  
Revised Code. 70922

(O) "Quarter" means the first three months, the second three 70923  
months, the third three months, or the last three months of a 70924  
qualifying entity's qualifying taxable year. 70925

(P) "Related member" has the same meaning as in division 70926  
(A)(6) of section 5733.042 of the Revised Code without regard to 70927  
division (B) of that section. However, for the purposes of 70928  
divisions (A)(3) and (4) of this section only, "related member" 70929  
has the same meaning as in division (A)(6) of section 5733.042 of 70930  
the Revised Code without regard to division (B) of that section, 70931  
but shall be applied by substituting "forty per cent" for "twenty 70932  
per cent" wherever "twenty per cent" appears in division (A) of 70933  
that section. 70934

(Q) "Return" or "report" means the notifications and reports 70935  
required to be filed pursuant to sections 5747.42 to 5747.45 of 70936  
the Revised Code for the purpose of reporting the tax imposed 70937  
under section 5733.41 or 5747.41 of the Revised Code, and included 70938  
declarations of estimated tax when so required. 70939

(R) "Qualifying taxable year" means the calendar year or the 70940  
qualifying entity's fiscal year ending during the calendar year, 70941  
or fractional part thereof, for which the adjusted qualifying 70942  
amount is calculated pursuant to sections 5733.40 and 5733.41 or 70943  
sections 5747.40 to 5747.453 of the Revised Code. 70944

(S) "Distributive share" includes the sum of the income, 70945  
gain, expense, or loss of a disregarded entity or qualified 70946  
subchapter S subsidiary. 70947

**Sec. 5733.41.** The purpose of the tax imposed by this section 70948

is to complement and to reinforce the tax imposed under section 70949  
5733.06 of the Revised Code. 70950

For the same purposes for which the tax is levied under 70951  
section 5733.06 of the Revised Code, there is hereby levied a tax 70952  
on every qualifying pass-through entity having at least one 70953  
qualifying investor that is not an individual. The tax imposed by 70954  
this section is imposed on the sum of the adjusted qualifying 70955  
amounts of the qualifying pass-through entity's qualifying 70956  
investors that are not individuals as follows: for qualifying 70957  
investors subject to division (G)(2) of section 5733.01 of the 70958  
Revised Code, at six and eight-tenths per cent for the entity's 70959  
taxable year ending in 2005, at five and one-tenth per cent for 70960  
the entity's taxable year ending in 2006, at three and four-tenths 70961  
per cent for the entity's taxable year ending in 2007, at one and 70962  
seven-tenths per cent for the entity's taxable year ending in 70963  
2008, and at zero per cent for the entity's taxable year ending in 70964  
2009 or in subsequent years; and for all other qualifying 70965  
investors that are not individuals, at the rate specified in 70966  
division (B) of section 5733.06 of the Revised Code that is in 70967  
effect on the last day of the entity's taxable year. 70968

The tax imposed by this section applies only if the 70969  
qualifying entity has nexus with this state under the Constitution 70970  
of the United States for any portion of the qualifying entity's 70971  
qualifying taxable year, and the sum of the qualifying entity's 70972  
adjusted qualifying amounts exceeds one thousand dollars for the 70973  
qualifying entity's qualifying taxable year. This section does not 70974  
apply to a pass-through entity if all of the partners, 70975  
shareholders, members, or investors of the pass-through entity are 70976  
taxpayers for the purposes of section 5733.04 of the Revised Code 70977  
without regard to section 5733.09 of the Revised Code for the 70978  
entire qualifying taxable year of the pass-through entity. 70979

If, prior to the due date of the return, a qualifying 70980

pass-through entity receives from an investor a written 70981  
representation, under penalties of perjury, that the investor is 70982  
described in division (I)(1), (2), (6), (7), (8), or (9) of 70983  
section 5733.40 of the Revised Code for the qualifying 70984  
pass-through entity's entire qualifying taxable year, the 70985  
qualifying pass-through entity is not required to withhold or pay 70986  
the taxes or estimated taxes imposed under this section or 70987  
sections 5747.41 to 5747.453 of the Revised Code with respect to 70988  
that investor for that qualifying taxable year, and is not subject 70989  
to any interest or interest penalties for failure to withhold or 70990  
pay those taxes or estimated taxes with respect to that investor 70991  
for that qualifying taxable year. 70992

If, prior to the due date of the return, a qualifying trust 70993  
receives from a beneficiary of that trust a written 70994  
representation, under penalties of perjury, that the beneficiary 70995  
is a resident taxpayer for the purposes of Chapter 5747. of the 70996  
Revised Code for the qualifying trust's entire qualifying taxable 70997  
year, the qualifying trust is not required to withhold or pay the 70998  
taxes or estimated taxes imposed under this section or sections 70999  
5747.41 to 5747.453 of the Revised Code with respect to that 71000  
beneficiary for that qualifying taxable year, and is not subject 71001  
to any interest or interest penalties for failure to withhold or 71002  
pay those taxes or estimated taxes with respect to that 71003  
beneficiary for that qualifying taxable year. 71004

The tax commissioner may adopt rules for the purpose of the 71005  
tax levied by this section or section 5747.41 of the Revised Code, 71006  
including a rule defining "qualifying investor" or "qualifying 71007  
beneficiary", and a rule requiring or permitting a qualifying 71008  
entity to combine its income with related members and to pay the 71009  
tax and estimated tax on a combined basis. 71010

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 71011  
Revised Code apply to a qualifying entity subject to the tax 71012



imposed under this section.

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The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

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**Sec. 5733.49.** (A) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code.

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(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.

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(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due under those sections after all the taxpayer's credits are deducted in that order. If claim a refundable credit equal to the sum of the following:

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(1) The amount, if any, of the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted; 71044  
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(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted. 71047  
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(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that, under section 5733.98 of the Revised Code, precede the credit allowed under this section, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year. 71051  
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**Sec. 5733.98.** (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code: 71061  
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(1) The For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 71067  
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(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code; 71070  
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(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code; 71072  
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(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	71074 71075
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	71076 71077
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	71078 71079
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	71080 71081
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	71082 71083
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	71084 71085
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	71086 71087
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	71088 71089
(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	71090 71091 71092 71093
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	71094 71095 71096
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	71097 71098
(15) The job training credit under section 5733.42 of the Revised Code;	71099 71100
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	71101 71102

(17) The enterprise zone credit under section 5709.66 of the Revised Code;	71103 71104
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	71105 71106
(19) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	71107 71108
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	71109 71110
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	71111 71112
(22) The export sales credit under section 5733.069 of the Revised Code;	71113 71114
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	71115 71116
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	71117 71118
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	71119 71120
<del>(26) The research and development credit under section 5733.352 of the Revised Code;</del>	71121 71122
<del>(27)</del> The credit for small telephone companies under section 5733.57 of the Revised Code;	71123 71124
<del>(28)</del> <u>(27)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	71125 71126
<del>(29)</del> <u>(28)</u> The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;	71127 71128 71129
<del>(30)</del> <u>(29)</u> <u>The research and development credit under section 5733.352 of the Revised Code;</u>	71130 71131

(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 71132  
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(31) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 71135  
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~~(31)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 71137  
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~~(32)~~(33) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code. 71139  
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(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, (31), ~~and~~ (32), and (33) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 71143  
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**Sec. 5733.99.** Whoever violates section 5733.21 of the Revised Code shall be fined not less than one hundred nor more than ~~one~~ five thousand dollars. 71150  
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**Sec. 5735.99.** (A) Whoever violates division (F) of section 5735.02, division (D) of section 5735.021, division (B) of section 5735.063, division (B) of section 5735.064, or division (A)(2) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree. 71153  
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(B) Whoever violates division (E) of section 5735.06 of the Revised Code is guilty of a felony of the fourth degree. 71158  
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(C) Whoever violates section 5735.025 or division (A)(1) of 71160

section 5735.20 of the Revised Code is guilty of a misdemeanor of 71161  
the first degree, if the tax owed or the fraudulent refund 71162  
received is not greater than five hundred dollars. If the tax owed 71163  
or the fraudulent refund received is greater than five hundred 71164  
dollars but not greater than ten thousand dollars, the ~~offender~~ 71165  
person is guilty of a felony of the fourth degree; ~~for each~~ 71166  
~~subsequent~~. If the person previously has been convicted of any 71167  
~~offense when the tax owed or the fraudulent refund received is~~ 71168  
~~greater than five hundred dollars but not greater than ten~~ 71169  
~~thousand dollars under Title LVII of the Revised Code,~~ the 71170  
~~offender~~ person is guilty of a felony of the third degree. If the 71171  
tax owed or the fraudulent refund received is greater than ten 71172  
thousand dollars, the ~~offender~~ person is guilty of a felony of the 71173  
second degree. 71174

(D) Whoever violates a provision of this chapter for which a 71175  
penalty is not otherwise prescribed under this section is guilty 71176  
of a misdemeanor of the fourth degree. 71177

(E) Whoever violates division (D)(5) of section 5735.19 of 71178  
the Revised Code is guilty of a misdemeanor of the first degree. 71179

**Sec. 5737.03.** An annual excise tax is hereby levied on the 71180  
handling of grain, in lieu of all taxes on grain as property of 71181  
any person engaged in such business, for all the purposes for 71182  
which taxes would otherwise be levied on such grain as property in 71183  
the taxing district in which any such business is carried on, 71184  
measured as follows: 71185

~~One-half~~ (A) For the statement due in 2005, one-half mill per 71186  
bushel upon all wheat and flax handled at one or more places in 71187  
this state in any such business during the taxable year, as 71188  
defined in section 5737.04 of the Revised Code, and one-fourth 71189  
mill per bushel upon all other grain handled. ~~The~~ 71190

(B) For the statement due in 2006, one-fourth mill per bushel upon all wheat and flax handled at one or more places in this state in any such business during the taxable year, as defined in section 5737.04 of the Revised Code, and one-eighth mill per bushel upon all other grain handled.

(C) No statement or tax is due in 2007 or subsequent years thereafter.

The tax imposed by this section shall not be paid by a track buyer, who shall be liable for the personal property taxes only, as levied by sections 5711.01 to 5711.36, ~~inclusive,~~ of the Revised Code.

All grain included in the statements required by section 5737.04 of the Revised Code, upon the handling of which a tax is imposed by this section, is exempt from taxation as personal property. Any grain that would be included in such statements for taxable year 2007 or subsequent years thereafter is exempt from taxation as personal property.

**Sec. 5739.01.** As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to

be granted; 71221

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; 71222  
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(3) All transactions by which: 71224

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; 71225  
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(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service; 71228  
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(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished; 71234  
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(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided; 71236  
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(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the 71239  
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group. In the case of corporations with stock, one corporation  
owns or controls another if it owns more than fifty per cent of  
the other corporation's common stock with voting rights. 71251  
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(f) Telecommunications service, ~~other than mobile~~  
~~telecommunications service after July 31, 2002 including prepaid~~  
~~calling service, prepaid wireless calling service, or ancillary~~  
service, is or is to be provided, but ~~does not include~~  
~~transactions by which local telecommunications service is obtained~~  
~~from a including coin-operated telephone and paid for by using~~  
~~coin service;~~ 71254  
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(g) Landscaping and lawn care service is or is to be  
provided; 71261  
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(h) Private investigation and security service is or is to be  
provided; 71263  
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(i) Information services or tangible personal property is  
provided or ordered by means of a nine hundred telephone call; 71265  
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(j) Building maintenance and janitorial service is or is to  
be provided; 71267  
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(k) Employment service is or is to be provided; 71269

(l) Employment placement service is or is to be provided; 71270

(m) Exterminating service is or is to be provided; 71271

(n) Physical fitness facility service is or is to be  
provided; 71272  
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(o) Recreation and sports club service is or is to be  
provided. 71274  
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(p) ~~After July 31, 2002, mobile telecommunications service is~~  
~~or is to be provided when that service is situated to this state~~  
~~pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L.~~  
~~No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126,~~ 71276  
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~~as amended.~~ 71280

~~(g)~~ On and after August 1, 2003, satellite broadcasting 71281  
service is or is to be provided; 71282

~~(r)~~(q) On and after August 1, 2003, personal care service is 71283  
or is to be provided to an individual. As used in this division, 71284  
"personal care service" includes skin care, the application of 71285  
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 71286  
piercing, tanning, massage, and other similar services. "Personal 71287  
care service" does not include a service provided by or on the 71288  
order of a licensed physician or licensed chiropractor, or the 71289  
cutting, coloring, or styling of an individual's hair. 71290

~~(s)~~(r) On and after August 1, 2003, the transportation of 71291  
persons by motor vehicle or aircraft is or is to be provided, when 71292  
the transportation is entirely within this state, except for 71293  
transportation provided by an ambulance service, by a transit bus, 71294  
as defined in section 5735.01 of the Revised Code, and 71295  
transportation provided by a citizen of the United States holding 71296  
a certificate of public convenience and necessity issued under 49 71297  
U.S.C. 41102; 71298

~~(t)~~(s) On and after August 1, 2003, motor vehicle towing 71299  
service is or is to be provided. As used in this division, "motor 71300  
vehicle towing service" means the towing or conveyance of a 71301  
wrecked, disabled, or illegally parked motor vehicle. 71302

~~(u)~~(t) On and after August 1, 2003, snow removal service is 71303  
or is to be provided. As used in this division, "snow removal 71304  
service" means the removal of snow by any mechanized means, but 71305  
does not include the providing of such service by a person that 71306  
has less than five thousand dollars in sales of such service 71307  
during the calendar year. 71308

(4) All transactions by which printed, imprinted, 71309  
overprinted, lithographic, multilithic, blueprinted, photostatic, 71310

or other productions or reproductions of written or graphic matter 71311  
are or are to be furnished or transferred; 71312

(5) The production or fabrication of tangible personal 71313  
property for a consideration for consumers who furnish either 71314  
directly or indirectly the materials used in the production of 71315  
fabrication work; and include the furnishing, preparing, or 71316  
serving for a consideration of any tangible personal property 71317  
consumed on the premises of the person furnishing, preparing, or 71318  
serving such tangible personal property. Except as provided in 71319  
section 5739.03 of the Revised Code, a construction contract 71320  
pursuant to which tangible personal property is or is to be 71321  
incorporated into a structure or improvement on and becoming a 71322  
part of real property is not a sale of such tangible personal 71323  
property. The construction contractor is the consumer of such 71324  
tangible personal property, provided that the sale and 71325  
installation of carpeting, the sale and installation of 71326  
agricultural land tile, the sale and erection or installation of 71327  
portable grain bins, or the provision of landscaping and lawn care 71328  
service and the transfer of property as part of such service is 71329  
never a construction contract. 71330

As used in division (B)(5) of this section: 71331

(a) "Agricultural land tile" means fired clay or concrete 71332  
tile, or flexible or rigid perforated plastic pipe or tubing, 71333  
incorporated or to be incorporated into a subsurface drainage 71334  
system appurtenant to land used or to be used directly in 71335  
production by farming, agriculture, horticulture, or floriculture. 71336  
The term does not include such materials when they are or are to 71337  
be incorporated into a drainage system appurtenant to a building 71338  
or structure even if the building or structure is used or to be 71339  
used in such production. 71340

(b) "Portable grain bin" means a structure that is used or to 71341

be used by a person engaged in farming or agriculture to shelter 71342  
the person's grain and that is designed to be disassembled without 71343  
significant damage to its component parts. 71344

(6) All transactions in which all of the shares of stock of a 71345  
closely held corporation are transferred, if the corporation is 71346  
not engaging in business and its entire assets consist of boats, 71347  
planes, motor vehicles, or other tangible personal property 71348  
operated primarily for the use and enjoyment of the shareholders; 71349

(7) All transactions in which a warranty, maintenance or 71350  
service contract, or similar agreement by which the vendor of the 71351  
warranty, contract, or agreement agrees to repair or maintain the 71352  
tangible personal property of the consumer is or is to be 71353  
provided; 71354

(8) ~~;(9)~~ The transfer of copyrighted motion picture films 71355  
used solely for advertising purposes, except that the transfer of 71356  
such films for exhibition purposes is not a sale. 71357

(9) On and after August 1, 2003, all transactions by which 71358  
tangible personal property is or is to be stored, except such 71359  
property that the consumer of the storage holds for sale in the 71360  
regular course of business. 71361

Except ~~other than~~ as provided in this section, "sale" and 71362  
"selling" do not include transfers of interest in leased property 71363  
where the original lessee and the terms of the original lease 71364  
agreement remain unchanged, or professional, insurance, or 71365  
personal service transactions that involve the transfer of 71366  
tangible personal property as an inconsequential element, for 71367  
which no separate charges are made. 71368

(C) "Vendor" means the person providing the service or by 71369  
whom the transfer effected or license given by a sale is or is to 71370  
be made or given and, for sales described in division (B)(3)(i) of 71371  
this section, the telecommunications service vendor that provides 71372

the nine hundred telephone service; if two or more persons are  
engaged in business at the same place of business under a single  
trade name in which all collections on account of sales by each  
are made, such persons shall constitute a single vendor.

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

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

(2) Physicians, dentists, hospitals, and blood banks operated  
by nonprofit institutions and persons licensed to practice  
veterinary medicine, surgery, and dentistry are consumers of all  
tangible personal property and services purchased by them in  
connection with the practice of medicine, dentistry, the rendition  
of hospital or blood bank service, or the practice of veterinary  
medicine, surgery, and dentistry. In addition to being consumers  
of drugs administered by them or by their assistants according to  
their direction, veterinarians also are consumers of drugs that  
under federal law may be dispensed only by or upon the order of a  
licensed veterinarian or physician, when transferred by them to  
others for a consideration to provide treatment to animals as  
directed by the veterinarian.

(3) A person who performs a facility management, or similar  
service contract for a contractee is a consumer of all tangible

personal property and services purchased for use in connection 71404  
with the performance of such contract, regardless of whether title 71405  
to any such property vests in the contractee. The purchase of such 71406  
property and services is not subject to the exception for resale 71407  
under division (E)(1) of this section. 71408

(4)(a) In the case of a person who purchases printed matter 71409  
for the purpose of distributing it or having it distributed to the 71410  
public or to a designated segment of the public, free of charge, 71411  
that person is the consumer of that printed matter, and the 71412  
purchase of that printed matter for that purpose is a sale. 71413

(b) In the case of a person who produces, rather than 71414  
purchases, printed matter for the purpose of distributing it or 71415  
having it distributed to the public or to a designated segment of 71416  
the public, free of charge, that person is the consumer of all 71417  
tangible personal property and services purchased for use or 71418  
consumption in the production of that printed matter. That person 71419  
is not entitled to claim exemption under division (B)~~(43)~~(42)(f) 71420  
of section 5739.02 of the Revised Code for any material 71421  
incorporated into the printed matter or any equipment, supplies, 71422  
or services primarily used to produce the printed matter. 71423

(c) The distribution of printed matter to the public or to a 71424  
designated segment of the public, free of charge, is not a sale to 71425  
the members of the public to whom the printed matter is 71426  
distributed or to any persons who purchase space in the printed 71427  
matter for advertising or other purposes. 71428

(5) A person who makes sales of any of the services listed in 71429  
division (B)(3) of this section is the consumer of any tangible 71430  
personal property used in performing the service. The purchase of 71431  
that property is not subject to the resale exception under 71432  
division (E)(1) of this section. 71433

(6) A person who engages in highway transportation for hire 71434

is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

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

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to

complete the sale; 71465

(iv) On and after August 1, 2003, delivery charges. As used 71466  
in this division, "delivery charges" means charges by the vendor 71467  
for preparation and delivery to a location designated by the 71468  
consumer of tangible personal property or a service, including 71469  
transportation, shipping, postage, handling, crating, and packing. 71470

(v) Installation charges; 71471

(vi) ~~The value of exempt tangible personal property given to 71472  
the consumer where taxable and exempt tangible personal property 71473  
have been bundled together and sold by the vendor as a single 71474  
product or piece of merchandise~~ Credit for any trade-in. 71475

(b) "Price" includes consideration received by the vendor 71476  
from a third party, if the vendor actually receives the 71477  
consideration from a party other than the consumer, and the 71478  
consideration is directly related to a price reduction or discount 71479  
on the sale; the vendor has an obligation to pass the price 71480  
reduction or discount through to the consumer; the amount of the 71481  
consideration attributable to the sale is fixed and determinable 71482  
by the vendor at the time of the sale of the item to the consumer; 71483  
and one of the following criteria is met: 71484

(i) The consumer presents a coupon, certificate, or other 71485  
document to the vendor to claim a price reduction or discount 71486  
where the coupon, certificate, or document is authorized, 71487  
distributed, or granted by a third party with the understanding 71488  
that the third party will reimburse any vendor to whom the coupon, 71489  
certificate, or document is presented; 71490

(ii) The consumer identifies the consumer's self to the 71491  
seller as a member of a group or organization entitled to a price 71492  
reduction or discount. A preferred customer card that is available 71493  
to any patron does not constitute membership in such a group or 71494  
organization. 71495



(iii) The price reduction or discount is identified as a 71496  
third party price reduction or discount on the invoice received by 71497  
the consumer, or on a coupon, certificate, or other document 71498  
presented by the consumer. 71499

(c) "Price" does not include any of the following: 71500

(i) Discounts, including cash, term, or coupons that are not 71501  
reimbursed by a third party that are allowed by a vendor and taken 71502  
by a consumer on a sale; 71503

(ii) Interest, financing, and carrying charges from credit 71504  
extended on the sale of tangible personal property or services, if 71505  
the amount is separately stated on the invoice, bill of sale, or 71506  
similar document given to the purchaser; 71507

(iii) Any taxes legally imposed directly on the consumer that 71508  
are separately stated on the invoice, bill of sale, or similar 71509  
document given to the consumer. For the purpose of this division, 71510  
the tax imposed under Chapter 5751. of the Revised Code is not a 71511  
tax directly on the consumer, even if the tax or a portion thereof 71512  
is separately stated. 71513

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 71514  
section, any discount allowed by an automobile manufacturer to its 71515  
employee, or to the employee of a supplier, on the purchase of a 71516  
new motor vehicle from a new motor vehicle dealer in this state. 71517

(2) In the case of a sale of any new motor vehicle by a new 71518  
motor vehicle dealer, as defined in section 4517.01 of the Revised 71519  
Code, in which another motor vehicle is accepted by the dealer as 71520  
part of the consideration received, "price" has the same meaning 71521  
as in division (H)(1) of this section, reduced by the credit 71522  
afforded the consumer by the dealer for the motor vehicle received 71523  
in trade. 71524

(3) In the case of a sale of any watercraft or outboard motor 71525

by a watercraft dealer licensed in accordance with section 71526  
1547.543 of the Revised Code, in which another watercraft, 71527  
watercraft and trailer, or outboard motor is accepted by the 71528  
dealer as part of the consideration received, "price" has the same 71529  
meaning as in division (H)(1) of this section, reduced by the 71530  
credit afforded the consumer by the dealer for the watercraft, 71531  
watercraft and trailer, or outboard motor received in trade. As 71532  
used in this division, "watercraft" includes an outdrive unit 71533  
attached to the watercraft. 71534

(4) In the case of a transaction in which telecommunications 71535  
service, mobile telecommunications service, or cable television 71536  
service is sold in a bundled transaction with other distinct 71537  
services for a single price that is not itemized, the entire price 71538  
is subject to the taxes levied under sections 5739.02, 5739.021, 71539  
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71540  
reasonably identify the nontaxable portion from its books and 71541  
records kept in the regular course of business. Upon the request 71542  
of the consumer, the vendor shall disclose to the consumer the 71543  
selling price for the taxable services included in the selling 71544  
price for the taxable and nontaxable services billed on an 71545  
aggregated basis. The burden of proving any nontaxable charges is 71546  
on the vendor. 71547

(I) "Receipts" means the total amount of the prices of the 71548  
sales of vendors, provided that cash discounts allowed and taken 71549  
on sales at the time they are consummated are not included, minus 71550  
any amount deducted as a bad debt pursuant to section 5739.121 of 71551  
the Revised Code. "Receipts" does not include the sale price of 71552  
property returned or services rejected by consumers when the full 71553  
sale price and tax are refunded either in cash or by credit. 71554

(J) "Place of business" means any location at which a person 71555  
engages in business. 71556

(K) "Premises" includes any real property or portion thereof 71557  
upon which any person engages in selling tangible personal 71558  
property at retail or making retail sales and also includes any 71559  
real property or portion thereof designated for, or devoted to, 71560  
use in conjunction with the business engaged in by such person. 71561

(L) "Casual sale" means a sale of an item of tangible 71562  
personal property that was obtained by the person making the sale, 71563  
through purchase or otherwise, for the person's own use and was 71564  
previously subject to any state's taxing jurisdiction on its sale 71565  
or use, and includes such items acquired for the seller's use that 71566  
are sold by an auctioneer employed directly by the person for such 71567  
purpose, provided the location of such sales is not the 71568  
auctioneer's permanent place of business. As used in this 71569  
division, "permanent place of business" includes any location 71570  
where such auctioneer has conducted more than two auctions during 71571  
the year. 71572

(M) "Hotel" means every establishment kept, used, maintained, 71573  
advertised, or held out to the public to be a place where sleeping 71574  
accommodations are offered to guests, in which five or more rooms 71575  
are used for the accommodation of such guests, whether the rooms 71576  
are in one or several structures. 71577

(N) "Transient guests" means persons occupying a room or 71578  
rooms for sleeping accommodations for less than thirty consecutive 71579  
days. 71580

(O) "Making retail sales" means the effecting of transactions 71581  
wherein one party is obligated to pay the price and the other 71582  
party is obligated to provide a service or to transfer title to or 71583  
possession of the item sold. "Making retail sales" does not 71584  
include the preliminary acts of promoting or soliciting the retail 71585  
sales, other than the distribution of printed matter which 71586  
displays or describes and prices the item offered for sale, nor 71587

does it include delivery of a predetermined quantity of tangible 71588  
personal property or transportation of property or personnel to or 71589  
from a place where a service is performed, regardless of whether 71590  
the vendor is a delivery vendor. 71591

(P) "Used directly in the rendition of a public utility 71592  
service" means that property that is to be incorporated into and 71593  
will become a part of the consumer's production, transmission, 71594  
transportation, or distribution system and that retains its 71595  
classification as tangible personal property after such 71596  
incorporation; fuel or power used in the production, transmission, 71597  
transportation, or distribution system; and tangible personal 71598  
property used in the repair and maintenance of the production, 71599  
transmission, transportation, or distribution system, including 71600  
only such motor vehicles as are specially designed and equipped 71601  
for such use. Tangible personal property and services used 71602  
primarily in providing highway transportation for hire are not 71603  
used directly in the rendition of a public utility service. 71604

(Q) "Refining" means removing or separating a desirable 71605  
product from raw or contaminated materials by distillation or 71606  
physical, mechanical, or chemical processes. 71607

(R) "Assembly" and "assembling" mean attaching or fitting 71608  
together parts to form a product, but do not include packaging a 71609  
product. 71610

(S) "Manufacturing operation" means a process in which 71611  
materials are changed, converted, or transformed into a different 71612  
state or form from which they previously existed and includes 71613  
refining materials, assembling parts, and preparing raw materials 71614  
and parts by mixing, measuring, blending, or otherwise committing 71615  
such materials or parts to the manufacturing process. 71616  
"Manufacturing operation" does not include packaging. 71617

(T) "Fiscal officer" means, with respect to a regional 71618

transit authority, the secretary-treasurer thereof, and with 71619  
respect to a county that is a transit authority, the fiscal 71620  
officer of the county transit board if one is appointed pursuant 71621  
to section 306.03 of the Revised Code or the county auditor if the 71622  
board of county commissioners operates the county transit system. 71623

(U) "Transit authority" means a regional transit authority 71624  
created pursuant to section 306.31 of the Revised Code or a county 71625  
in which a county transit system is created pursuant to section 71626  
306.01 of the Revised Code. For the purposes of this chapter, a 71627  
transit authority must extend to at least the entire area of a 71628  
single county. A transit authority that includes territory in more 71629  
than one county must include all the area of the most populous 71630  
county that is a part of such transit authority. County population 71631  
shall be measured by the most recent census taken by the United 71632  
States census bureau. 71633

(V) "Legislative authority" means, with respect to a regional 71634  
transit authority, the board of trustees thereof, and with respect 71635  
to a county that is a transit authority, the board of county 71636  
commissioners. 71637

(W) "Territory of the transit authority" means all of the 71638  
area included within the territorial boundaries of a transit 71639  
authority as they from time to time exist. Such territorial 71640  
boundaries must at all times include all the area of a single 71641  
county or all the area of the most populous county that is a part 71642  
of such transit authority. County population shall be measured by 71643  
the most recent census taken by the United States census bureau. 71644

(X) "Providing a service" means providing or furnishing 71645  
anything described in division (B)(3) of this section for 71646  
consideration. 71647

(Y)(1)(a) "Automatic data processing" means processing of 71648  
others' data, including keypunching or similar data entry services 71649

together with verification thereof, or providing access to 71650  
computer equipment for the purpose of processing data. 71651

(b) "Computer services" means providing services consisting 71652  
of specifying computer hardware configurations and evaluating 71653  
technical processing characteristics, computer programming, and 71654  
training of computer programmers and operators, provided in 71655  
conjunction with and to support the sale, lease, or operation of 71656  
taxable computer equipment or systems. 71657

(c) "Electronic information services" means providing access 71658  
to computer equipment by means of telecommunications equipment for 71659  
the purpose of either of the following: 71660

(i) Examining or acquiring data stored in or accessible to 71661  
the computer equipment; 71662

(ii) Placing data into the computer equipment to be retrieved 71663  
by designated recipients with access to the computer equipment. 71664

(d) "Automatic data processing, computer services, or 71665  
electronic information services" shall not include personal or 71666  
professional services. 71667

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 71668  
section, "personal and professional services" means all services 71669  
other than automatic data processing, computer services, or 71670  
electronic information services, including but not limited to: 71671

(a) Accounting and legal services such as advice on tax 71672  
matters, asset management, budgetary matters, quality control, 71673  
information security, and auditing and any other situation where 71674  
the service provider receives data or information and studies, 71675  
alters, analyzes, interprets, or adjusts such material; 71676

(b) Analyzing business policies and procedures; 71677

(c) Identifying management information needs; 71678

(d) Feasibility studies, including economic and technical 71679

analysis of existing or potential computer hardware or software 71680  
needs and alternatives; 71681

(e) Designing policies, procedures, and custom software for 71682  
collecting business information, and determining how data should 71683  
be summarized, sequenced, formatted, processed, controlled, and 71684  
reported so that it will be meaningful to management; 71685

(f) Developing policies and procedures that document how 71686  
business events and transactions are to be authorized, executed, 71687  
and controlled; 71688

(g) Testing of business procedures; 71689

(h) Training personnel in business procedure applications; 71690

(i) Providing credit information to users of such information 71691  
by a consumer reporting agency, as defined in the "Fair Credit 71692  
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 71693  
as hereafter amended, including but not limited to gathering, 71694  
organizing, analyzing, recording, and furnishing such information 71695  
by any oral, written, graphic, or electronic medium; 71696

(j) Providing debt collection services by any oral, written, 71697  
graphic, or electronic means. 71698

The services listed in divisions (Y)(2)(a) to (j) of this 71699  
section are not automatic data processing or computer services. 71700

(Z) "Highway transportation for hire" means the 71701  
transportation of personal property belonging to others for 71702  
consideration by any of the following: 71703

(1) The holder of a permit or certificate issued by this 71704  
state or the United States authorizing the holder to engage in 71705  
transportation of personal property belonging to others for 71706  
consideration over or on highways, roadways, streets, or any 71707  
similar public thoroughfare; 71708

(2) A person who engages in the transportation of personal 71709

property belonging to others for consideration over or on 71710  
highways, roadways, streets, or any similar public thoroughfare 71711  
but who could not have engaged in such transportation on December 71712  
11, 1985, unless the person was the holder of a permit or 71713  
certificate of the types described in division (Z)(1) of this 71714  
section; 71715

(3) A person who leases a motor vehicle to and operates it 71716  
for a person described by division (Z)(1) or (2) of this section. 71717

(AA)(1) ~~"Telecommunications service" means the transmission 71718  
of any interactive, two-way electromagnetic communications, 71719  
including voice, image, data, and information, through the use of 71720  
any medium such as wires, cables, microwaves, cellular radio, 71721  
radio waves, light waves, or any combination of those or similar 71722  
media. "Telecommunications service" includes message toll service 71723  
even though the vendor provides the message toll service by means 71724  
of wide area transmission type service or private communications 71725  
service purchased from another telecommunications service 71726  
provider, and other related fees and ancillary services, including 71727  
universal service fees, detailed billing service, directory 71728  
assistance, service initiation, voice mail service, and vertical 71729  
services, such as caller ID and three-way calling electronic 71730  
transmission, conveyance, or routing of voice, data, audio, video,  
or any other information or signals to a point, or between or 71732  
among points. "Telecommunications service" includes such 71733  
transmission, conveyance, or routing in which computer processing 71734  
applications are used to act on the form, code, or protocol of the 71735  
content for purposes of transmission, conveyance, or routing 71736  
without regard to whether the service is referred to as voice-over 71737  
internet protocol service or is classified by the federal 71738  
communications commission as enhanced or value-added. 71739  
"Telecommunications service" does not include any of the 71740  
following: 71741~~



<del>(1) Sales of telecommunications service billed to persons before January 1, 2004, by telephone companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;</del>	71742
	71743
	71744
<del>(2) Sales of telecommunications service to a provider of telecommunications service or of mobile telecommunications service, including access services, for use in providing telecommunications service or mobile telecommunications service;</del>	71745
	71746
	71747
	71748
<del>(3) Value added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;</del>	71749
	71750
	71751
<del>(4) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code;</del>	71752
	71753
	71754
<del>(5) After July 31, 2002, mobile telecommunications service</del>	71755
<u>(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;</u>	71756
	71757
	71758
	71759
	71760
<u>(b) Installation or maintenance of wiring or equipment on a customer's premises;</u>	71761
	71762
<u>(c) Tangible personal property;</u>	71763
<u>(d) Advertising, including directory advertising;</u>	71764
<u>(e) Billing and collection services provided to third parties;</u>	71765
	71766
<u>(f) Internet access service;</u>	71767
<u>(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video</u>	71768
	71769
	71770
	71771

programming services include cable service, as defined in 47 71772  
U.S.C. 522(6), and audio and video programming services delivered 71773  
by commercial mobile radio service providers, as defined in 47 71774  
C.F.R. 20.3; 71775

(h) Ancillary service; 71776

(i) Digital products delivered electronically, including 71777  
software, music, video, reading materials, or ring tones. 71778

(2) "Ancillary service" means a service that is associated 71779  
with or incidental to the provision of telecommunications service, 71780  
including conference bridging service, detailed telecommunications 71781  
billing service, directory assistance, vertical service, and voice 71782  
mail service. As used in this division: 71783

(a) "Conference bridging service" means an ancillary service 71784  
that links two or more participants of an audio or video 71785  
conference call, including providing a telephone number. 71786  
"Conference bridging service" does not include telecommunications 71787  
services used to reach the conference bridge. 71788

(b) "Detailed telecommunications billing service" means an 71789  
ancillary service of separately stating information pertaining to 71790  
individual calls on a customer's billing statement. 71791

(c) "Directory assistance" means an ancillary service of 71792  
providing telephone number or address information. 71793

(d) "Vertical service" means an ancillary service that is 71794  
offered in connection with one or more telecommunications 71795  
services, which offers advanced calling features that allow 71796  
customers to identify callers and manage multiple calls and call 71797  
connections, including conference bridging service. 71798

(e) "Voice mail service" means an ancillary service that 71799  
enables the customer to store, send, or receive recorded messages. 71800  
"Voice mail service" does not include any vertical services that 71801

the customer may be required to have in order to utilize the voice 71802  
mail service. 71803

(3) "900 service" means an inbound toll telecommunications 71804  
service purchased by a subscriber that allows the subscriber's 71805  
customers to call in to the subscriber's prerecorded announcement 71806  
or live service, and which is typically marketed under the name 71807  
"900" service and any subsequent numbers designated by the federal 71808  
communications commission. "900 service" does not include the 71809  
charge for collection services provided by the seller of the 71810  
telecommunications service to the subscriber, or services or 71811  
products sold by the subscriber to the subscriber's customer. 71812

(4) "Prepaid calling service" means the right to access 71813  
exclusively telecommunications services, which must be paid for in 71814  
advance and which enables the origination of calls using an access 71815  
number or authorization code, whether manually or electronically 71816  
dialed, and that is sold in predetermined units of dollars of 71817  
which the number declines with use in a known amount. 71818

(5) "Prepaid wireless calling service" means a 71819  
telecommunications service that provides the right to utilize 71820  
mobile telecommunications service as well as other 71821  
non-telecommunications services, including the download of digital 71822  
products delivered electronically, and content and ancillary 71823  
services, that must be paid for in advance and that is sold in 71824  
predetermined units of dollars of which the number declines with 71825  
use in a known amount. 71826

(6) "Value-added non-voice data service" means a 71827  
telecommunications service in which computer processing 71828  
applications are used to act on the form, content, code, or 71829  
protocol of the information or data primarily for a purpose other 71830  
than transmission, conveyance, or routing. 71831

(7) "Coin-operated telephone service" means a 71832

telecommunications service paid for by inserting money into a 71833  
telephone accepting direct deposits of money to operate. 71834

(8) "Customer" has the same meaning as in section 5739.034 of 71835  
the Revised Code. 71836

(BB) "Laundry and dry cleaning services" means removing soil 71837  
or dirt from towels, linens, articles of clothing, or other fabric 71838  
items that belong to others and supplying towels, linens, articles 71839  
of clothing, or other fabric items. "Laundry and dry cleaning 71840  
services" does not include the provision of self-service 71841  
facilities for use by consumers to remove soil or dirt from 71842  
towels, linens, articles of clothing, or other fabric items. 71843

(CC) "Magazines distributed as controlled circulation 71844  
publications" means magazines containing at least twenty-four 71845  
pages, at least twenty-five per cent editorial content, issued at 71846  
regular intervals four or more times a year, and circulated 71847  
without charge to the recipient, provided that such magazines are 71848  
not owned or controlled by individuals or business concerns which 71849  
conduct such publications as an auxiliary to, and essentially for 71850  
the advancement of the main business or calling of, those who own 71851  
or control them. 71852

(DD) "Landscaping and lawn care service" means the services 71853  
of planting, seeding, sodding, removing, cutting, trimming, 71854  
pruning, mulching, aerating, applying chemicals, watering, 71855  
fertilizing, and providing similar services to establish, promote, 71856  
or control the growth of trees, shrubs, flowers, grass, ground 71857  
cover, and other flora, or otherwise maintaining a lawn or 71858  
landscape grown or maintained by the owner for ornamentation or 71859  
other nonagricultural purpose. However, "landscaping and lawn care 71860  
service" does not include the providing of such services by a 71861  
person who has less than five thousand dollars in sales of such 71862  
services during the calendar year. 71863

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development

equipment unless such property is primarily used by the consumer 71896  
in testing the product, equipment, or manufacturing process being 71897  
created, designed, or formulated by the consumer in the research 71898  
and development activity or in recording or storing such test 71899  
results. 71900

(II) "Building maintenance and janitorial service" means 71901  
cleaning the interior or exterior of a building and any tangible 71902  
personal property located therein or thereon, including any 71903  
services incidental to such cleaning for which no separate charge 71904  
is made. However, "building maintenance and janitorial service" 71905  
does not include the providing of such service by a person who has 71906  
less than five thousand dollars in sales of such service during 71907  
the calendar year. 71908

(JJ) "Employment service" means providing or supplying 71909  
personnel, on a temporary or long-term basis, to perform work or 71910  
labor under the supervision or control of another, when the 71911  
personnel so supplied receive their wages, salary, or other 71912  
compensation from the provider of the service. "Employment 71913  
service" does not include: 71914

(1) Acting as a contractor or subcontractor, where the 71915  
personnel performing the work are not under the direct control of 71916  
the purchaser. 71917

(2) Medical and health care services. 71918

(3) Supplying personnel to a purchaser pursuant to a contract 71919  
of at least one year between the service provider and the 71920  
purchaser that specifies that each employee covered under the 71921  
contract is assigned to the purchaser on a permanent basis. 71922

(4) Transactions between members of an affiliated group, as 71923  
defined in division (B)(3)(e) of this section. 71924

(KK) "Employment placement service" means locating or finding 71925

employment for a person or finding or locating an employee to fill  
an available position. 71926  
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(LL) "Exterminating service" means eradicating or attempting  
to eradicate vermin infestations from a building or structure, or  
the area surrounding a building or structure, and includes  
activities to inspect, detect, or prevent vermin infestation of a  
building or structure. 71928  
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(MM) "Physical fitness facility service" means all  
transactions by which a membership is granted, maintained, or  
renewed, including initiation fees, membership dues, renewal fees,  
monthly minimum fees, and other similar fees and dues, by a  
physical fitness facility such as an athletic club, health spa, or  
gymnasium, which entitles the member to use the facility for  
physical exercise. 71933  
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(NN) "Recreation and sports club service" means all  
transactions by which a membership is granted, maintained, or  
renewed, including initiation fees, membership dues, renewal fees,  
monthly minimum fees, and other similar fees and dues, by a  
recreation and sports club, which entitles the member to use the  
facilities of the organization. "Recreation and sports club" means  
an organization that has ownership of, or controls or leases on a  
continuing, long-term basis, the facilities used by its members  
and includes an aviation club, gun or shooting club, yacht club,  
card club, swimming club, tennis club, golf club, country club,  
riding club, amateur sports club, or similar organization. 71940  
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(OO) "Livestock" means farm animals commonly raised for food  
or food production, and includes but is not limited to cattle,  
sheep, goats, swine, and poultry. "Livestock" does not include  
invertebrates, fish, amphibians, reptiles, horses, domestic pets,  
animals for use in laboratories or for exhibition, or other  
animals not commonly raised for food or food production. 71951  
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(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:



(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before ~~the effective date of this amendment~~ June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible

personal property" includes motor vehicles, electricity, water, 72050  
gas, steam, and prewritten computer software. 72051

(ZZ) "Direct mail" means printed material delivered or 72052  
distributed by United States mail or other delivery service to a 72053  
mass audience or to addressees on a mailing list provided by the 72054  
consumer or at the direction of the consumer when the cost of the 72055  
items are not billed directly to the recipients. "Direct mail" 72056  
includes tangible personal property supplied directly or 72057  
indirectly by the consumer to the direct mail vendor for inclusion 72058  
in the package containing the printed material. "Direct mail" does 72059  
not include multiple items of printed material delivered to a 72060  
single address. 72061

(AAA) "Computer" means an electronic device that accepts 72062  
information in digital or similar form and manipulates it for a 72063  
result based on a sequence of instructions. 72064

(BBB) "Computer software" means a set of coded instructions 72065  
designed to cause a computer or automatic data processing 72066  
equipment to perform a task. 72067

(CCC) "Delivered electronically" means delivery of computer 72068  
software from the seller to the purchaser by means other than 72069  
tangible storage media. 72070

(DDD) "Prewritten computer software" means computer software, 72071  
including prewritten upgrades, that is not designed and developed 72072  
by the author or other creator to the specifications of a specific 72073  
purchaser. The combining of two or more prewritten computer 72074  
software programs or prewritten portions thereof does not cause 72075  
the combination to be other than prewritten computer software. 72076  
"Prewritten computer software" includes software designed and 72077  
developed by the author or other creator to the specifications of 72078  
a specific purchaser when it is sold to a person other than the 72079  
purchaser. If a person modifies or enhances computer software of 72080

which the person is not the author or creator, the person shall be  
deemed to be the author or creator only of such person's  
modifications or enhancements. Prewritten computer software or a  
prewritten portion thereof that is modified or enhanced to any  
degree, where such modification or enhancement is designed and  
developed to the specifications of a specific purchaser, remains  
prewritten computer software; provided, however, that where there  
is a reasonable, separately stated charge or an invoice or other  
statement of the price given to the purchaser for the modification  
or enhancement, the modification or enhancement shall not  
constitute prewritten computer software.

~~(EEE)(1) Prior to July 1, 2004, "food" means cereals and  
cereal products, milk and milk products including ice cream, meat  
and meat products, fish and fish products, eggs and egg products,  
vegetables and vegetable products, fruits, fruit products, and  
pure fruit juices, condiments, sugar and sugar products, coffee  
and coffee substitutes, tea, and cocoa and cocoa products. "Food"  
does not include spirituous liquors, wine, mixed beverages, or  
beer; soft drinks; sodas and beverages that are ordinarily  
dispensed at or in connection with bars and soda fountains, other  
than coffee, tea, and cocoa; root beer and root beer extracts;  
malt and malt extracts; mineral oils, cod liver oils, and halibut  
liver oil; medicines, including tonics, vitamin preparations, and  
other products sold primarily for their medicinal properties; and  
water, including mineral, bottled, and carbonated waters, and ice.~~

~~(2) On and after July 1, 2004, "food "~~"Food" ~~means substances,~~  
whether in liquid, concentrated, solid, frozen, dried, or  
dehydrated form, that are sold for ingestion or chewing by humans  
and are consumed for their taste or nutritional value. "Food" does  
not include alcoholic beverages, dietary supplements, soft drinks,  
or tobacco.

~~(3)~~(2) As used in division (EEE)~~(2)~~(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)~~(3)~~(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than

food, dietary supplements, or alcoholic beverages that is 72143  
recognized in the official United States pharmacopoeia, official 72144  
homeopathic pharmacopoeia of the United States, or official 72145  
national formulary, and supplements to them; is intended for use 72146  
in the diagnosis, cure, mitigation, treatment, or prevention of 72147  
disease; or is intended to affect the structure or any function of 72148  
the body. 72149

(GGG) "Prescription" means an order, formula, or recipe 72150  
issued in any form of oral, written, electronic, or other means of 72151  
transmission by a duly licensed practitioner authorized by the 72152  
laws of this state to issue a prescription. 72153

(HHH) "Durable medical equipment" means equipment, including 72154  
repair and replacement parts for such equipment, that can 72155  
withstand repeated use, is primarily and customarily used to serve 72156  
a medical purpose, generally is not useful to a person in the 72157  
absence of illness or injury, and is not worn in or on the body. 72158  
"Durable medical equipment" does not include mobility enhancing 72159  
equipment. 72160

(III) "Mobility enhancing equipment" means equipment, 72161  
including repair and replacement parts for such equipment, that is 72162  
primarily and customarily used to provide or increase the ability 72163  
to move from one place to another and is appropriate for use 72164  
either in a home or a motor vehicle, that is not generally used by 72165  
persons with normal mobility, and that does not include any motor 72166  
vehicle or equipment on a motor vehicle normally provided by a 72167  
motor vehicle manufacturer. "Mobility enhancing equipment" does 72168  
not include durable medical equipment. 72169

(JJJ) "Prosthetic device" means a replacement, corrective, or 72170  
supportive device, including repair and replacement parts for the 72171  
device, worn on or in the human body to artificially replace a 72172  
missing portion of the body, prevent or correct physical deformity 72173

or malfunction, or support a weak or deformed portion of the body. 72174  
As used in this division, "prosthetic device" does not include 72175  
corrective eyeglasses, contact lenses, or dental prosthesis. 72176

(KKK)(1) "Fractional aircraft ownership program" means a 72177  
program in which persons within an affiliated group sell and 72178  
manage fractional ownership program aircraft, provided that at 72179  
least one hundred airworthy aircraft are operated in the program 72180  
and the program meets all of the following criteria: 72181

(a) Management services are provided by at least one program 72182  
manager within an affiliated group on behalf of the fractional 72183  
owners. 72184

(b) Each program aircraft is owned or possessed by at least 72185  
one fractional owner. 72186

(c) Each fractional owner owns or possesses at least a 72187  
one-sixteenth interest in at least one fixed-wing program 72188  
aircraft. 72189

(d) A dry-lease aircraft interchange arrangement is in effect 72190  
among all of the fractional owners. 72191

(e) Multi-year program agreements are in effect regarding the 72192  
fractional ownership, management services, and dry-lease aircraft 72193  
interchange arrangement aspects of the program. 72194

(2) As used in division (KKK)(1) of this section: 72195

(a) "Affiliated group" has the same meaning as in division 72196  
(B)(3)(e) of this section. 72197

(b) "Fractional owner" means a person that owns or possesses 72198  
at least a one-sixteenth interest in a program aircraft and has 72199  
entered into the agreements described in division (KKK)(1)(e) of 72200  
this section. 72201

(c) "Fractional ownership program aircraft" or "program 72202  
aircraft" means a turbojet aircraft that is owned or possessed by 72203

a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

**Sec. 5739.012.** (A) As used in this section:

(1) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable products and are sold for one non-itemized price. "Bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the consumer of the products included in the transaction.

As used in division (A)(1) of this section:



(a) "Distinct and identifiable products" does not include any 72234  
of the following: 72235

(i) Packaging, including containers, boxes, sacks, bags, and 72236  
bottles, and packaging materials, including wrapping, labels, 72237  
tags, and instruction guides that accompany the retail sale of the 72238  
products and are incidental or immaterial to the retail sale 72239  
thereof; 72240

(ii) A product provided free of charge with the required 72241  
purchase of another product. A product is provided free of charge 72242  
if the sales price of the product purchased does not vary 72243  
depending on the inclusion of the product provided free of charge. 72244

(iii) Items included in the definition of "price" under 72245  
division (H) of section 5739.01 of the Revised Code. 72246

(b) "One non-itemized price" does not include a price that is 72247  
separately identified by product on binding sales or other 72248  
supporting sales-related documents made available to the consumer 72249  
in paper or electronic form, including an invoice, bill of sale, 72250  
receipt, contract, service agreement, lease agreement, periodic 72251  
notice of rates and services, rate card, or price list. 72252

(2) "De minimis" means the vendor's or seller's purchase 72253  
price or sales price of taxable products is ten per cent or less 72254  
of the total purchase price or sales price of bundled products. 72255  
Vendors and sellers shall use either the purchase price or the 72256  
sales price of the products to determine if the taxable products 72257  
are de minimis, and shall use the full term of a service contract 72258  
to determine if the taxable products are de minimis. Vendors and 72259  
sellers shall not use a combination of the purchase price and 72260  
sales price of the products to determine if the taxable products 72261  
are de minimis. 72262

(3) "Over-the-counter drug" means a drug that contains a 72263  
label that identifies the product as a drug as required by 21 72264

C.F.R. 201.66, and the label includes either a "Drug Facts" panel 72265  
or a statement of the active ingredients with a list of those 72266  
ingredients contained in the drug. 72267

(B) A transaction that otherwise meets the definition of a 72268  
bundled transaction is not a bundled transaction if it is any of 72269  
the following: 72270

(1) A retail sale of tangible personal property and a service 72271  
where the tangible personal property is essential to the use of 72272  
the service, and is provided exclusively in connection with the 72273  
service, and the true object of the transaction is the service; 72274

(2) A retail sale of services where one service is provided 72275  
that is essential to the use or receipt of a second service, the 72276  
first service is provided exclusively in connection with the 72277  
second service, and the true object of the transaction is the 72278  
second service; 72279

(3) A transaction that includes taxable products and 72280  
nontaxable products, and the purchase price or sales price of the 72281  
taxable products is de minimis; 72282

(4) A retail sale of exempt tangible personal property and 72283  
taxable tangible personal property where the transaction includes 72284  
food and food ingredients, drugs, durable medical equipment, 72285  
mobility enhancing equipment, over-the-counter drugs, prosthetic 72286  
devices, or medical supplies, and the vendor's or seller's 72287  
purchase price or sales price of the taxable tangible personal 72288  
property is fifty per cent or less of the total purchase price or 72289  
sales price of the bundled tangible personal property. Vendors and 72290  
sellers may not use a combination of the purchase price and sales 72291  
price of the tangible personal property when making the fifty per 72292  
cent determination for a transaction. 72293

(C) In the case of a bundled transaction that includes 72294  
telecommunications service, ancillary service, internet access, or 72295

audio or video programming service: 72296

(1) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider, by reasonable and verifiable standards, can identify the portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes. 72297  
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(2) If the price is attributable to products that are subject to tax at different tax rates, the total price shall be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes. 72304  
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(D) In all other cases of bundled transactions, the taxability of the transaction shall be determined by the true object of the consumer entering into the transaction. 72312  
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**Sec. 5739.02.** For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state. 72315  
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(A)(1) The tax shall be collected as provided in section 72325

5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire

length of the lease period, including any renewal periods, until 72358  
the termination penalty or similar provision no longer applies. 72359  
The taxpayer shall bear the burden, by a preponderance of the 72360  
evidence, that the transaction or series of transactions is not a 72361  
sham transaction. 72362

(3) Except as provided in division (A)(2) of this section, in 72363  
the case of a sale, the price of which consists in whole or in 72364  
part of the lease or rental of tangible personal property, the tax 72365  
shall be measured by the installments of that lease or rental. 72366

(4) In the case of a sale of a physical fitness facility 72367  
service or recreation and sports club service, the price of which 72368  
consists in whole or in part of a membership for the receipt of 72369  
the benefit of the service, the tax applicable to the sale shall 72370  
be measured by the installments thereof. 72371

(B) The tax does not apply to the following: 72372

(1) Sales to the state or any of its political subdivisions, 72373  
or to any other state or its political subdivisions if the laws of 72374  
that state exempt from taxation sales made to this state and its 72375  
political subdivisions; 72376

(2) Sales of food for human consumption off the premises 72377  
where sold; 72378

(3) Sales of food sold to students only in a cafeteria, 72379  
dormitory, fraternity, or sorority maintained in a private, 72380  
public, or parochial school, college, or university; 72381

(4) Sales of newspapers and of magazine subscriptions and 72382  
sales or transfers of magazines distributed as controlled 72383  
circulation publications; 72384

(5) The furnishing, preparing, or serving of meals without 72385  
charge by an employer to an employee provided the employer records 72386  
the meals as part compensation for services performed or work 72387

done; 72388

(6) Sales of motor fuel upon receipt, use, distribution, or 72389  
sale of which in this state a tax is imposed by the law of this 72390  
state, but this exemption shall not apply to the sale of motor 72391  
fuel on which a refund of the tax is allowable under division (A) 72392  
of section 5735.14 of the Revised Code; and the tax commissioner 72393  
may deduct the amount of tax levied by this section applicable to 72394  
the price of motor fuel when granting a refund of motor fuel tax 72395  
pursuant to division (A) of section 5735.14 of the Revised Code 72396  
and shall cause the amount deducted to be paid into the general 72397  
revenue fund of this state; 72398

(7) Sales of natural gas by a natural gas company, of water 72399  
by a water-works company, or of steam by a heating company, if in 72400  
each case the thing sold is delivered to consumers through pipes 72401  
or conduits, and all sales of communications services by a 72402  
telegraph company, all terms as defined in section 5727.01 of the 72403  
Revised Code, and sales of electricity delivered through wires; 72404

(8) Casual sales by a person, or auctioneer employed directly 72405  
by the person to conduct such sales, except as to such sales of 72406  
motor vehicles, watercraft or outboard motors required to be 72407  
titled under section 1548.06 of the Revised Code, watercraft 72408  
documented with the United States coast guard, snowmobiles, and 72409  
all-purpose vehicles as defined in section 4519.01 of the Revised 72410  
Code; 72411

(9) Sales of services or tangible personal property, other 72412  
than motor vehicles, mobile homes, and manufactured homes, by 72413  
churches, organizations exempt from taxation under section 72414  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72415  
organizations operated exclusively for charitable purposes as 72416  
defined in division (B)(12) of this section, provided that the 72417  
number of days on which such tangible personal property or 72418

services, other than items never subject to the tax, are sold does 72419  
not exceed six in any calendar year. If the number of days on 72420  
which such sales are made exceeds six in any calendar year, the 72421  
church or organization shall be considered to be engaged in 72422  
business and all subsequent sales by it shall be subject to the 72423  
tax. In counting the number of days, all sales by groups within a 72424  
church or within an organization shall be considered to be sales 72425  
of that church or organization, except that sales made by separate 72426  
student clubs and other groups of students of a primary or 72427  
secondary school, and sales made by a parent-teacher association, 72428  
booster group, or similar organization that raises money to 72429  
support or fund curricular or extracurricular activities of a 72430  
primary or secondary school, shall not be considered to be sales 72431  
of such school, and sales by each such club, group, association, 72432  
or organization shall be counted separately for purposes of the 72433  
six-day limitation. This division does not apply to sales by a 72434  
noncommercial educational radio or television broadcasting 72435  
station. 72436

(10) Sales not within the taxing power of this state under 72437  
the Constitution of the United States; 72438

(11) Except for transactions that are sales under division 72439  
(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code, the 72440  
transportation of persons or property, unless the transportation 72441  
is by a private investigation and security service; 72442

(12) Sales of tangible personal property or services to 72443  
churches, to organizations exempt from taxation under section 72444  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 72445  
nonprofit organizations operated exclusively for charitable 72446  
purposes in this state, no part of the net income of which inures 72447  
to the benefit of any private shareholder or individual, and no 72448  
substantial part of the activities of which consists of carrying 72449  
on propaganda or otherwise attempting to influence legislation; 72450

sales to offices administering one or more homes for the aged or 72451  
one or more hospital facilities exempt under section 140.08 of the 72452  
Revised Code; and sales to organizations described in division (D) 72453  
of section 5709.12 of the Revised Code. 72454

"Charitable purposes" means the relief of poverty; the 72455  
improvement of health through the alleviation of illness, disease, 72456  
or injury; the operation of an organization exclusively for the 72457  
provision of professional, laundry, printing, and purchasing 72458  
services to hospitals or charitable institutions; the operation of 72459  
a home for the aged, as defined in section 5701.13 of the Revised 72460  
Code; the operation of a radio or television broadcasting station 72461  
that is licensed by the federal communications commission as a 72462  
noncommercial educational radio or television station; the 72463  
operation of a nonprofit animal adoption service or a county 72464  
humane society; the promotion of education by an institution of 72465  
learning that maintains a faculty of qualified instructors, 72466  
teaches regular continuous courses of study, and confers a 72467  
recognized diploma upon completion of a specific curriculum; the 72468  
operation of a parent-teacher association, booster group, or 72469  
similar organization primarily engaged in the promotion and 72470  
support of the curricular or extracurricular activities of a 72471  
primary or secondary school; the operation of a community or area 72472  
center in which presentations in music, dramatics, the arts, and 72473  
related fields are made in order to foster public interest and 72474  
education therein; the production of performances in music, 72475  
dramatics, and the arts; or the promotion of education by an 72476  
organization engaged in carrying on research in, or the 72477  
dissemination of, scientific and technological knowledge and 72478  
information primarily for the public. 72479

Nothing in this division shall be deemed to exempt sales to 72480  
any organization for use in the operation or carrying on of a 72481  
trade or business, or sales to a home for the aged for use in the 72482



operation of independent living facilities as defined in division 72483  
(A) of section 5709.12 of the Revised Code. 72484

(13) Building and construction materials and services sold to 72485  
construction contractors for incorporation into a structure or 72486  
improvement to real property under a construction contract with 72487  
this state or a political subdivision of this state, or with the 72488  
United States government or any of its agencies; building and 72489  
construction materials and services sold to construction 72490  
contractors for incorporation into a structure or improvement to 72491  
real property that are accepted for ownership by this state or any 72492  
of its political subdivisions, or by the United States government 72493  
or any of its agencies at the time of completion of the structures 72494  
or improvements; building and construction materials sold to 72495  
construction contractors for incorporation into a horticulture 72496  
structure or livestock structure for a person engaged in the 72497  
business of horticulture or producing livestock; building 72498  
materials and services sold to a construction contractor for 72499  
incorporation into a house of public worship or religious 72500  
education, or a building used exclusively for charitable purposes 72501  
under a construction contract with an organization whose purpose 72502  
is as described in division (B)(12) of this section; building 72503  
materials and services sold to a construction contractor for 72504  
incorporation into a building under a construction contract with 72505  
an organization exempt from taxation under section 501(c)(3) of 72506  
the Internal Revenue Code of 1986 when the building is to be used 72507  
exclusively for the organization's exempt purposes; building and 72508  
construction materials sold for incorporation into the original 72509  
construction of a sports facility under section 307.696 of the 72510  
Revised Code; and building and construction materials and services 72511  
sold to a construction contractor for incorporation into real 72512  
property outside this state if such materials and services, when 72513  
sold to a construction contractor in the state in which the real 72514

property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; 72515  
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(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock; 72517  
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(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)~~(43)~~(42)(a) or (g) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)~~(14)~~(15) of this section does not apply to persons engaged in highway transportation for hire. 72521  
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(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act. 72540  
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(17) Sales to persons engaged in farming, agriculture, 72545

horticulture, or floriculture, of tangible personal property for 72546  
use or consumption directly in the production by farming, 72547  
agriculture, horticulture, or floriculture of other tangible 72548  
personal property for use or consumption directly in the 72549  
production of tangible personal property for sale by farming, 72550  
agriculture, horticulture, or floriculture; or material and parts 72551  
for incorporation into any such tangible personal property for use 72552  
or consumption in production; and of tangible personal property 72553  
for such use or consumption in the conditioning or holding of 72554  
products produced by and for such use, consumption, or sale by 72555  
persons engaged in farming, agriculture, horticulture, or 72556  
floriculture, except where such property is incorporated into real 72557  
property; 72558

(18) Sales of drugs for a human being, that may be dispensed 72559  
only pursuant to a prescription; insulin as recognized in the 72560  
official United States pharmacopoeia; urine and blood testing 72561  
materials when used by diabetics or persons with hypoglycemia to 72562  
test for glucose or acetone; hypodermic syringes and needles when 72563  
used by diabetics for insulin injections; epoetin alfa when 72564  
purchased for use in the treatment of persons with medical 72565  
disease; hospital beds when purchased ~~for use by persons with~~ 72566  
~~medical problems for medical purposes by hospitals, nursing homes,~~ 72567  
or other medical facilities; and medical oxygen and medical 72568  
oxygen-dispensing equipment when purchased ~~for use by persons with~~ 72569  
~~medical problems for medical purposes by hospitals, nursing homes,~~ 72570  
or other medical facilities; 72571

(19) Sales of prosthetic devices, durable medical equipment 72572  
for home use, or mobility enhancing equipment, when made pursuant 72573  
to a prescription and when such devices or equipment are for use 72574  
by a human being. 72575

(20) Sales of emergency and fire protection vehicles and 72576  
equipment to nonprofit organizations for use solely in providing 72577

fire protection and emergency services, including trauma care and 72578  
emergency medical services, for political subdivisions of the 72579  
state; 72580

(21) Sales of tangible personal property manufactured in this 72581  
state, if sold by the manufacturer in this state to a retailer for 72582  
use in the retail business of the retailer outside of this state 72583  
and if possession is taken from the manufacturer by the purchaser 72584  
within this state for the sole purpose of immediately removing the 72585  
same from this state in a vehicle owned by the purchaser; 72586

(22) Sales of services provided by the state or any of its 72587  
political subdivisions, agencies, instrumentalities, institutions, 72588  
or authorities, or by governmental entities of the state or any of 72589  
its political subdivisions, agencies, instrumentalities, 72590  
institutions, or authorities; 72591

(23) Sales of motor vehicles to nonresidents of this state 72592  
upon the presentation of an affidavit executed in this state by 72593  
the nonresident purchaser affirming that the purchaser is a 72594  
nonresident of this state, that possession of the motor vehicle is 72595  
taken in this state for the sole purpose of immediately removing 72596  
it from this state, that the motor vehicle will be permanently 72597  
titled and registered in another state, and that the motor vehicle 72598  
will not be used in this state; 72599

(24) Sales to persons engaged in the preparation of eggs for 72600  
sale of tangible personal property used or consumed directly in 72601  
such preparation, including such tangible personal property used 72602  
for cleaning, sanitizing, preserving, grading, sorting, and 72603  
classifying by size; packages, including material and parts for 72604  
packages, and machinery, equipment, and material for use in 72605  
packaging eggs for sale; and handling and transportation equipment 72606  
and parts therefor, except motor vehicles licensed to operate on 72607  
public highways, used in intraplant or interplant transfers or 72608

shipment of eggs in the process of preparation for sale, when the  
plant or plants within or between which such transfers or  
shipments occur are operated by the same person. "Packages"  
includes containers, cases, baskets, flats, fillers, filler flats,  
cartons, closure materials, labels, and labeling materials, and  
"packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use,  
except the sale of bottled water, distilled water, mineral water,  
carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged  
exclusively in the treatment, distribution, and sale of water to  
consumers, if such water is delivered to consumers through pipes  
or tubing.

(26) Fees charged for inspection or reinspection of motor  
vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service  
operation pursuant to section 3717.43 of the Revised Code, of  
tangible personal property primarily used directly for the  
following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for  
human consumption for sale by the food service operator, not  
including tangible personal property used to display food for  
selection by the consumer;

(c) To clean tangible personal property used to prepare or  
serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services  
or county humane societies;

(29) Sales of services to a corporation described in division  
(A) of section 5709.72 of the Revised Code, and sales of tangible

personal property that qualifies for exemption from taxation under 72639  
section 5709.72 of the Revised Code; 72640

(30) Sales and installation of agricultural land tile, as 72641  
defined in division (B)(5)(a) of section 5739.01 of the Revised 72642  
Code; 72643

(31) Sales and erection or installation of portable grain 72644  
bins, as defined in division (B)(5)(b) of section 5739.01 of the 72645  
Revised Code; 72646

(32) The sale, lease, repair, and maintenance of, parts for, 72647  
or items attached to or incorporated in, motor vehicles that are 72648  
primarily used for transporting tangible personal property 72649  
belonging to others by a person engaged in highway transportation 72650  
for hire, except for packages and packaging used for the 72651  
transportation of tangible personal property; 72652

(33) Sales to the state headquarters of any veterans' 72653  
organization in this state that is either incorporated and issued 72654  
a charter by the congress of the United States or is recognized by 72655  
the United States veterans administration, for use by the 72656  
headquarters; 72657

(34) Sales to a telecommunications service vendor, mobile 72658  
telecommunications service vendor, or satellite broadcasting 72659  
service vendor of tangible personal property and services used 72660  
directly and primarily in transmitting, receiving, switching, or 72661  
recording any interactive, one- or two-way electromagnetic 72662  
communications, including voice, image, data, and information, 72663  
through the use of any medium, including, but not limited to, 72664  
poles, wires, cables, switching equipment, computers, and record 72665  
storage devices and media, and component parts for the tangible 72666  
personal property. The exemption provided in this division shall 72667  
be in lieu of all other exemptions under division (B)~~(43)~~(42)(a) 72668  
of this section to which the vendor may otherwise be entitled, 72669

based upon the use of the thing purchased in providing the 72670  
telecommunications, mobile telecommunications, or satellite 72671  
broadcasting service. 72672

~~(35) Sales of investment metal bullion and investment coins. 72673~~  
~~"Investment metal bullion" means any elementary precious metal 72674~~  
~~that has been put through a process of smelting or refining, 72675~~  
~~including, but not limited to, gold, silver, platinum, and 72676~~  
~~palladium, and which is in such state or condition that its value 72677~~  
~~depends upon its content and not upon its form. "Investment metal 72678~~  
~~bullion" does not include fabricated precious metal that has been 72679~~  
~~processed or manufactured for one or more specific and customary 72680~~  
~~industrial, professional, or artistic uses. "Investment coins" 72681~~  
~~means numismatic coins or other forms of money and legal tender 72682~~  
~~manufactured of gold, silver, platinum, palladium, or other metal 72683~~  
~~under the laws of the United States or any foreign nation with a 72684~~  
~~fair market value greater than any statutory or nominal value of 72685~~  
~~such coins. 72686~~

~~(36)~~(35)(a) Sales where the purpose of the consumer is to use 72687  
or consume the things transferred in making retail sales and 72688  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72689  
certificates, or other advertising material that prices and 72690  
describes tangible personal property offered for retail sale. 72691

(b) Sales to direct marketing vendors of preliminary 72692  
materials such as photographs, artwork, and typesetting that will 72693  
be used in printing advertising material; of printed matter that 72694  
offers free merchandise or chances to win sweepstake prizes and 72695  
that is mailed to potential customers with advertising material 72696  
described in division (B)~~(36)~~(35)(a) of this section; and of 72697  
equipment such as telephones, computers, facsimile machines, and 72698  
similar tangible personal property primarily used to accept orders 72699  
for direct marketing retail sales. 72700

(c) Sales of automatic food vending machines that preserve 72701

food with a shelf life of forty-five days or less by refrigeration 72702  
and dispense it to the consumer. 72703

For purposes of division (B)~~(36)~~(35) of this section, "direct 72704  
marketing" means the method of selling where consumers order 72705  
tangible personal property by United States mail, delivery 72706  
service, or telecommunication and the vendor delivers or ships the 72707  
tangible personal property sold to the consumer from a warehouse, 72708  
catalogue distribution center, or similar fulfillment facility by 72709  
means of the United States mail, delivery service, or common 72710  
carrier. 72711

~~(37)~~(36) Sales to a person engaged in the business of 72712  
horticulture or producing livestock of materials to be 72713  
incorporated into a horticulture structure or livestock structure; 72714

~~(38)~~(37) Sales of personal computers, computer monitors, 72715  
computer keyboards, modems, and other peripheral computer 72716  
equipment to an individual who is licensed or certified to teach 72717  
in an elementary or a secondary school in this state for use by 72718  
that individual in preparation for teaching elementary or 72719  
secondary school students; 72720

~~(39)~~(38) Sales to a professional racing team of any of the 72721  
following: 72722

(a) Motor racing vehicles; 72723

(b) Repair services for motor racing vehicles; 72724

(c) Items of property that are attached to or incorporated in 72725  
motor racing vehicles, including engines, chassis, and all other 72726  
components of the vehicles, and all spare, replacement, and 72727  
rebuilt parts or components of the vehicles; except not including 72728  
tires, consumable fluids, paint, and accessories consisting of 72729  
instrumentation sensors and related items added to the vehicle to 72730  
collect and transmit data by means of telemetry and other forms of 72731



communication. 72732

~~(40)~~(39) Sales of used manufactured homes and used mobile 72733  
homes, as defined in section 5739.0210 of the Revised Code, made 72734  
on or after January 1, 2000; 72735

~~(41)~~(40) Sales of tangible personal property and services to 72736  
a provider of electricity used or consumed directly and primarily 72737  
in generating, transmitting, or distributing electricity for use 72738  
by others, including property that is or is to be incorporated 72739  
into and will become a part of the consumer's production, 72740  
transmission, or distribution system and that retains its 72741  
classification as tangible personal property after incorporation; 72742  
fuel or power used in the production, transmission, or 72743  
distribution of electricity; and tangible personal property and 72744  
services used in the repair and maintenance of the production, 72745  
transmission, or distribution system, including only those motor 72746  
vehicles as are specially designed and equipped for such use. The 72747  
exemption provided in this division shall be in lieu of all other 72748  
exemptions in division (B)~~(43)~~(42)(a) of this section to which a 72749  
provider of electricity may otherwise be entitled based on the use 72750  
of the tangible personal property or service purchased in 72751  
generating, transmitting, or distributing electricity. 72752

~~(42)~~(41) Sales to a person providing services under division 72753  
(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code of tangible 72754  
personal property and services used directly and primarily in 72755  
providing taxable services under that section. 72756

~~(43)~~(42) Sales where the purpose of the purchaser is to do 72757  
any of the following: 72758

(a) To incorporate the thing transferred as a material or a 72759  
part into tangible personal property to be produced for sale by 72760  
manufacturing, assembling, processing, or refining; or to use or 72761  
consume the thing transferred directly in producing tangible 72762

personal property for sale by mining, including, without 72763  
limitation, the extraction from the earth of all substances that 72764  
are classed geologically as minerals, production of crude oil and 72765  
natural gas, farming, agriculture, horticulture, or floriculture, 72766  
or directly in the rendition of a public utility service, except 72767  
that the sales tax levied by this section shall be collected upon 72768  
all meals, drinks, and food for human consumption sold when 72769  
transporting persons. Persons engaged in rendering farming, 72770  
agricultural, horticultural, or floricultural services, and 72771  
services in the exploration for, and production of, crude oil and 72772  
natural gas, for others are deemed engaged directly in farming, 72773  
agriculture, horticulture, and floriculture, or exploration for, 72774  
and production of, crude oil and natural gas. This paragraph does 72775  
not exempt from "retail sale" or "sales at retail" the sale of 72776  
tangible personal property that is to be incorporated into a 72777  
structure or improvement to real property. 72778

(b) To hold the thing transferred as security for the 72779  
performance of an obligation of the vendor; 72780

(c) To resell, hold, use, or consume the thing transferred as 72781  
evidence of a contract of insurance; 72782

(d) To use or consume the thing directly in commercial 72783  
fishing; 72784

(e) To incorporate the thing transferred as a material or a 72785  
part into, or to use or consume the thing transferred directly in 72786  
the production of, magazines distributed as controlled circulation 72787  
publications; 72788

(f) To use or consume the thing transferred in the production 72789  
and preparation in suitable condition for market and sale of 72790  
printed, imprinted, overprinted, lithographic, multilithic, 72791  
blueprinted, photostatic, or other productions or reproductions of 72792  
written or graphic matter; 72793

(g) To use the thing transferred, as described in section 72794  
5739.011 of the Revised Code, primarily in a manufacturing 72795  
operation to produce tangible personal property for sale; 72796

(h) To use the benefit of a warranty, maintenance or service 72797  
contract, or similar agreement, as described in division (B)(7) of 72798  
section 5739.01 of the Revised Code, to repair or maintain 72799  
tangible personal property, if all of the property that is the 72800  
subject of the warranty, contract, or agreement would not be 72801  
subject to the tax imposed by this section; 72802

(i) To use the thing transferred as qualified research and 72803  
development equipment; 72804

(j) To use or consume the thing transferred primarily in 72805  
storing, transporting, mailing, or otherwise handling purchased 72806  
sales inventory in a warehouse, distribution center, or similar 72807  
facility when the inventory is primarily distributed outside this 72808  
state to retail stores of the person who owns or controls the 72809  
warehouse, distribution center, or similar facility, to retail 72810  
stores of an affiliated group of which that person is a member, or 72811  
by means of direct marketing. This division does not apply to 72812  
motor vehicles registered for operation on the public highways. As 72813  
used in this division, "affiliated group" has the same meaning as 72814  
in division (B)(3)(e) of section 5739.01 of the Revised Code and 72815  
"direct marketing" has the same meaning as in division (B)~~(36)~~(35) 72816  
of this section. 72817

(k) To use or consume the thing transferred to fulfill a 72818  
contractual obligation incurred by a warrantor pursuant to a 72819  
warranty provided as a part of the price of the tangible personal 72820  
property sold or by a vendor of a warranty, maintenance or service 72821  
contract, or similar agreement the provision of which is defined 72822  
as a sale under division (B)(7) of section 5739.01 of the Revised 72823  
Code; 72824

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

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (B)~~(43)~~(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

~~(44)~~(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

~~(45)~~(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

~~(46)~~(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient

individuals to fill fifty full-time equivalent positions. 72856

(46) Sales by a telecommunications service vendor of 900 72857  
service to a subscriber. This division does not apply to 72858  
information services, as defined in division (FF) of section 72859  
5739.01 of the Revised Code. 72860

(47) Sales of value-added non-voice data service. This 72861  
division does not apply to any similar service that is not 72862  
otherwise a telecommunications service. 72863

(C) For the purpose of the proper administration of this 72864  
chapter, and to prevent the evasion of the tax, it is presumed 72865  
that all sales made in this state are subject to the tax until the 72866  
contrary is established. 72867

~~(D)~~~~(E)~~(D) The levy of this tax on retail sales of recreation 72868  
and sports club service shall not prevent a municipal corporation 72869  
from levying any tax on recreation and sports club dues or on any 72870  
income generated by recreation and sports club dues. 72871

(E) The tax collected by the vendor from the consumer under 72872  
this chapter is not part of the price, but is a tax collection for 72873  
the benefit of the state, and of counties levying an additional 72874  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72875  
Code and of transit authorities levying an additional sales tax 72876  
pursuant to section 5739.023 of the Revised Code. Except for the 72877  
discount authorized under section 5739.12 of the Revised Code and 72878  
the effects of any rounding pursuant to section 5703.055 of the 72879  
Revised Code, no person other than the state or such a county or 72880  
transit authority shall derive any benefit from the collection or 72881  
payment of the tax levied by this section or section 5739.021, 72882  
5739.023, or 5739.026 of the Revised Code. 72883

**Sec. 5739.021.** (A) For the purpose of providing additional 72884  
general revenues for the county or supporting criminal and 72885

administrative justice services in the county, or both, and to pay 72886  
the expenses of administering such levy, any county may levy a tax 72887  
at the rate of not more than one per cent at any multiple of 72888  
one-fourth of one per cent upon every retail sale made in the 72889  
county, except sales of watercraft and outboard motors required to 72890  
be titled pursuant to Chapter 1548. of the Revised Code and sales 72891  
of motor vehicles, and may increase the rate of an existing tax to 72892  
not more than one per cent at any multiple of one-fourth of one 72893  
per cent. 72894

The tax shall be levied and the rate increased pursuant to a 72895  
resolution of the board of county commissioners. The resolution 72896  
shall state the purpose for which the tax is to be levied and the 72897  
number of years for which the tax is to be levied, or that it is 72898  
for a continuing period of time. If the tax is to be levied for 72899  
the purpose of providing additional general revenues and for the 72900  
purpose of supporting criminal and administrative justice 72901  
services, the resolution shall state the rate or amount of the tax 72902  
to be apportioned to each such purpose. The rate or amount may be 72903  
different for each year the tax is to be levied, but the rates or 72904  
amounts actually apportioned each year shall not be different from 72905  
that stated in the resolution for that year. Unless the resolution 72906  
is adopted as an emergency measure, or is to be submitted to the 72907  
electors of the county under division (B)(1) of this section, the 72908  
resolution shall be adopted at least one hundred twenty days prior 72909  
to the date on which the tax or the increased rate of tax is to go 72910  
into effect. If the resolution is adopted as an emergency measure 72911  
necessary for the immediate preservation of the public peace, 72912  
health, or safety, it must receive an affirmative vote of all of 72913  
the members of the board of county commissioners and shall state 72914  
the reasons for such necessity. The board shall deliver a 72915  
certified copy of the resolution to the tax commissioner, not 72916  
later than the sixty-fifth day prior to the date on which the tax 72917  
is to become effective, which shall be the first day of the 72918

calendar quarter. 72919

Prior to the adoption of any resolution under this section, 72920  
the board of county commissioners shall conduct two public 72921  
hearings on the resolution, the second hearing to be not less than 72922  
three nor more than ten days after the first. Notice of the date, 72923  
time, and place of the hearings shall be given by publication in a 72924  
newspaper of general circulation in the county once a week on the 72925  
same day of the week for two consecutive weeks, the second 72926  
publication being not less than ten nor more than thirty days 72927  
prior to the first hearing. 72928

Except as provided in division (B)(3) of this section, the 72929  
resolution shall be subject to a referendum as provided in 72930  
sections 305.31 to 305.41 of the Revised Code. 72931

If a petition for a referendum is filed, the county auditor 72932  
with whom the petition was filed shall, within five days, notify 72933  
the board of county commissioners and the tax commissioner of the 72934  
filing of the petition by certified mail. If the board of 72935  
elections with which the petition was filed declares the petition 72936  
invalid, the board of elections, within five days, shall notify 72937  
the board of county commissioners and the tax commissioner of that 72938  
declaration by certified mail. If the petition is declared to be 72939  
invalid, the effective date of the tax or increased rate of tax 72940  
levied by this section shall be the first day of a calendar 72941  
quarter following the expiration of sixty-five days from the date 72942  
the commissioner receives notice from the board of elections that 72943  
the petition is invalid. 72944

(B)(1) A resolution that is not adopted as an emergency 72945  
measure may direct the board of elections to submit the question 72946  
of levying the tax or increasing the rate of tax to the electors 72947  
of the county at a special election held on the date specified by 72948  
the board of county commissioners in the resolution, provided that 72949  
the election occurs not less than seventy-five days after a 72950

certified copy of such resolution is transmitted to the board of  
elections and the election is not held in February or August of  
any year. Upon transmission of the resolution to the board of  
elections, the board of county commissioners shall notify the tax  
commissioner in writing of the levy question to be submitted to  
the electors. No resolution adopted under this division shall go  
into effect unless approved by a majority of those voting upon it,  
and, except as provided in division (B)(3) of this section, shall  
become effective on the first day of a calendar quarter following  
the expiration of sixty-five days from the date the tax  
commissioner receives notice from the board of elections of the  
affirmative vote.

(2) A resolution that is adopted as an emergency measure  
shall go into effect as provided in ~~division~~ divisions (A) and (H)  
of this section, but may direct the board of elections to submit  
the question of repealing the tax or increase in the rate of the  
tax to the electors of the county at the next general election in  
the county occurring not less than seventy-five days after a  
certified copy of the resolution is transmitted to the board of  
elections. Upon transmission of the resolution to the board of  
elections, the board of county commissioners shall notify the tax  
commissioner in writing of the levy question to be submitted to  
the electors. The ballot question shall be the same as that  
prescribed in section 5739.022 of the Revised Code. The board of  
elections shall notify the board of county commissioners and the  
tax commissioner of the result of the election immediately after  
the result has been declared. If a majority of the qualified  
electors voting on the question of repealing the tax or increase  
in the rate of the tax vote for repeal of the tax or repeal of the  
increase, the board of county commissioners, on the first day of a  
calendar quarter following the expiration of sixty-five days after  
the date the board and tax commissioner receive notice of the



result of the election, shall, in the case of a repeal of the tax, 72983  
cease to levy the tax, or, in the case of a repeal of an increase 72984  
in the rate of the tax, cease to levy the increased rate and levy 72985  
the tax at the rate at which it was imposed immediately prior to 72986  
the increase in rate. 72987

(3) If a vendor that is registered with the central 72988  
electronic registration system provided for in section 5740.05 of 72989  
the Revised Code makes a sale in this state by printed catalog and 72990  
the consumer computed the tax on the sale based on local rates 72991  
published in the catalog, any tax levied or repealed or rate 72992  
changed under this section shall not apply to such a sale until 72993  
the first day of a calendar quarter following the expiration of 72994  
one hundred twenty days from the date of notice by the tax 72995  
commissioner pursuant to division (H) of this section. 72996

(C) If a resolution is rejected at a referendum or if a 72997  
resolution adopted after January 1, 1982, as an emergency measure 72998  
is repealed by the electors pursuant to division (B)(2) of this 72999  
section or section 5739.022 of the Revised Code, then for one year 73000  
after the date of the election at which the resolution was 73001  
rejected or repealed the board of county commissioners may not 73002  
adopt any resolution authorized by this section as an emergency 73003  
measure. 73004

(D) The board of county commissioners, at any time while a 73005  
tax levied under this section is in effect, may by resolution 73006  
reduce the rate at which the tax is levied to a lower rate 73007  
authorized by this section. Any reduction in the rate at which the 73008  
tax is levied shall be made effective on the first day of a 73009  
calendar quarter next following the sixty-fifth day after a 73010  
certified copy of the resolution is delivered to the tax 73011  
commissioner. 73012

(E) The tax on every retail sale subject to a tax levied 73013  
pursuant to this section shall be in addition to the tax levied by 73014

section 5739.02 of the Revised Code and any tax levied pursuant to 73015  
section 5739.023 or 5739.026 of the Revised Code. 73016

A county that levies a tax pursuant to this section shall 73017  
levy a tax at the same rate pursuant to section 5741.021 of the 73018  
Revised Code. 73019

The additional tax levied by the county shall be collected 73020  
pursuant to section 5739.025 of the Revised Code. If the 73021  
additional tax or some portion thereof is levied for the purpose 73022  
of criminal and administrative justice services, the revenue from 73023  
the tax, or the amount or rate apportioned to that purpose, shall 73024  
be credited to a special fund created in the county treasury for 73025  
receipt of that revenue. 73026

Any tax levied pursuant to this section is subject to the 73027  
exemptions provided in section 5739.02 of the Revised Code and in 73028  
addition shall not be applicable to sales not within the taxing 73029  
power of a county under the Constitution of the United States or 73030  
the Ohio Constitution. 73031

(F) For purposes of this section, a copy of a resolution is 73032  
"certified" when it contains a written statement attesting that 73033  
the copy is a true and exact reproduction of the original 73034  
resolution. 73035

(G) If a board of commissioners intends to adopt a resolution 73036  
to levy a tax in whole or in part for the purpose of criminal and 73037  
administrative justice services, the board shall prepare and make 73038  
available at the first public hearing at which the resolution is 73039  
considered a statement containing the following information: 73040

(1) For each of the two preceding fiscal years, the amount of 73041  
expenditures made by the county from the county general fund for 73042  
the purpose of criminal and administrative justice services; 73043

(2) For the fiscal year in which the resolution is adopted, 73044

the board's estimate of the amount of expenditures to be made by 73045  
the county from the county general fund for the purpose of 73046  
criminal and administrative justice services; 73047

(3) For each of the two fiscal years after the fiscal year in 73048  
which the resolution is adopted, the board's preliminary plan for 73049  
expenditures to be made from the county general fund for the 73050  
purpose of criminal and administrative justice services, both 73051  
under the assumption that the tax will be imposed for that purpose 73052  
and under the assumption that the tax would not be imposed for 73053  
that purpose, and for expenditures to be made from the special 73054  
fund created under division (E) of this section under the 73055  
assumption that the tax will be imposed for that purpose. 73056

The board shall prepare the statement and the preliminary 73057  
plan using the best information available to the board at the time 73058  
the statement is prepared. Neither the statement nor the 73059  
preliminary plan shall be used as a basis to challenge the 73060  
validity of the tax in any court of competent jurisdiction, nor 73061  
shall the statement or preliminary plan limit the authority of the 73062  
board to appropriate, pursuant to section 5705.38 of the Revised 73063  
Code, an amount different from that specified in the preliminary 73064  
plan. 73065

(H) Upon receipt from a board of county commissioners of a 73066  
certified copy of a resolution required by division (A) or (D) of 73067  
this section, or from the board of elections of a notice of the 73068  
results of an election required by division (A) or (B)(1) or (2) 73069  
of this section, the tax commissioner shall provide notice of a 73070  
tax rate change in a manner that is reasonably accessible to all 73071  
affected vendors. The commissioner shall provide this notice at 73072  
least sixty days prior to the effective date of the rate change. 73073  
The commissioner, by rule, may establish the method by which 73074  
notice will be provided. 73075

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

**Sec. 5739.025.** As used in this section, "local tax" means a tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows:

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule:

If the price	The amount of
--------------	---------------

is at least	But not more than	the tax is	73107
\$ .01	\$ .15	No tax	73108
.16	.16	1¢	73109
.17	.33	2¢	73110
.34	.50	3¢	73111
.51	.66	4¢	73112
.67	.83	5¢	73113
.84	1.00	6¢	73114

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price	But not	The amount	73125
is at least	more than	of the tax is	73126
\$ .01	\$ .15	No tax	73127
.16	<del>.20</del>	1¢	73128
	<u>.18</u>		
<del>.21</del>	<del>.40</del>	2¢	73129
<u>.19</u>	<u>.36</u>		
<del>.41</del>	<del>.60</del>	3¢	73130
<u>.37</u>	<u>.54</u>		
<del>.61</del>	<del>.80</del>	4¢	73131
<u>.55</u>	<u>.72</u>		
<del>.81</del>	<del>1.00</del>	5¢	73132
<u>.73</u>	<u>.90</u>		
<u>.91</u>	<u>1.09</u>	<u>6¢</u>	73133

<u>1.10</u>	<u>1.27</u>	<u>7¢</u>	73134
<u>1.28</u>	<u>1.46</u>	<u>8¢</u>	73135
<u>1.47</u>	<u>1.64</u>	<u>9¢</u>	73136
<u>1.65</u>	<u>1.82</u>	<u>10¢</u>	73137
<u>1.83</u>	<u>2.00</u>	<u>11¢</u>	73138

If the price exceeds ~~one dollar~~ two dollars, the tax is ~~five~~ eleven cents on each ~~one dollar~~ two dollars. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by not more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus one cent. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus the amount of tax for prices ~~twenty-one~~ nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(B) On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

If the price		The amount of	73156
is at least	But not more than	the tax is	73157
\$ .01	\$ .15	No tax	73158
.16	.16	1¢	73159
.17	.32	2¢	73160
.33	.48	3¢	73161
.49	.64	4¢	73162
.65	.80	5¢	73163
.81	.96	6¢	73164
.97	1.12	7¢	73165

1.13	1.28	8¢	73166
1.29	1.44	9¢	73167
1.45	1.60	10¢	73168
1.61	1.76	11¢	73169
1.77	1.92	12¢	73170
1.93	2.08	13¢	73171
2.09	2.24	14¢	73172
2.25	2.40	15¢	73173
2.41	2.56	16¢	73174
2.57	2.72	17¢	73175
2.73	2.88	18¢	73176
2.89	3.04	19¢	73177
3.05	3.20	20¢	73178
3.21	3.36	21¢	73179
3.37	3.52	22¢	73180
3.53	3.68	23¢	73181
3.69	3.84	24¢	73182
3.85	4.00	25¢	73183

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

If the price		The amount of	73195
is at least	But not more than	the tax is	73196
\$ .01	\$ .15	No tax	73197

.16	.30	2¢	73198
.31	.46	3¢	73199
.47	.61	4¢	73200
.62	.76	5¢	73201
.77	.92	6¢	73202
.93	1.07	7¢	73203
1.08	1.23	8¢	73204
1.24	1.38	9¢	73205
1.39	1.53	10¢	73206
1.54	1.69	11¢	73207
1.70	1.84	12¢	73208
1.85	2.00	13¢	73209

If the price exceeds two dollars, the tax is thirteen cents 73210  
on each two dollars. If the price exceeds two dollars or a 73211  
multiple thereof by not more than fifteen cents, the amount of tax 73212  
is thirteen cents for each two dollars plus one cent. If the price 73213  
exceeds two dollars or a multiple thereof by more than fifteen 73214  
cents, the amount of tax is thirteen cents for each two dollars 73215  
plus the amount of tax for prices sixteen cents through one dollar 73216  
and ninety-nine cents in accordance with the schedule above. 73217

(3) When the combined rate of state and local tax is six and 73218  
three-fourths per cent: 73219

If the price		The amount of	73220
is at least	But not more than	the tax is	73221
\$ .01	\$ .15	No tax	73222
.16	.29	2¢	73223
.30	.44	3¢	73224
.45	.59	4¢	73225
.60	.74	5¢	73226
.75	.88	6¢	73227
.89	1.03	7¢	73228
1.04	1.18	8¢	73229



1.19	1.33	9¢	73230
1.34	1.48	10¢	73231
1.49	1.62	11¢	73232
1.63	1.77	12¢	73233
1.78	1.92	13¢	73234
1.93	2.07	14¢	73235
2.08	2.22	15¢	73236
2.23	2.37	16¢	73237
2.38	2.51	17¢	73238
2.52	2.66	18¢	73239
2.67	2.81	19¢	73240
2.82	2.96	20¢	73241
2.97	3.11	21¢	73242
3.12	3.25	22¢	73243
3.26	3.40	23¢	73244
3.41	3.55	24¢	73245
3.56	3.70	25¢	73246
3.71	3.85	26¢	73247
3.86	4.00	27¢	73248

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven

per cent:			73262
If the price		The amount of	73263
is at least	But not more than	the tax is	73264
\$ .01	\$ .15	No tax	73265
.16	.28	2¢	73266
.29	.42	3¢	73267
.43	.57	4¢	73268
.58	.71	5¢	73269
.72	.85	6¢	73270
.86	1.00	7¢	73271
If the price exceeds one dollar, the tax is seven cents on			73272
each one dollar. If the price exceeds one dollar or a multiple			73273
thereof by not more than fifteen cents, the amount of tax is seven			73274
cents for each one dollar plus one cent. If the price exceeds one			73275
dollar or a multiple thereof by more than fifteen cents, the			73276
amount of tax is seven cents for each one dollar plus the amount			73277
of tax for prices sixteen cents through ninety-nine cents in			73278
accordance with the schedule above.			73279
(5) When the combined rate of state and local tax is seven			73280
and one-fourth per cent:			73281
If the price		The amount of	73282
is at least	But not more than	the tax is	73283
\$ .01	\$ .15	No tax	73284
.16	.27	2¢	73285
.28	.41	3¢	73286
.42	.55	4¢	73287
.56	.68	5¢	73288
.69	.82	6¢	73289
.83	.96	7¢	73290
.97	1.10	8¢	73291
1.11	1.24	9¢	73292
1.25	1.37	10¢	73293

1.38	1.51	11¢	73294
1.52	1.65	12¢	73295
1.66	1.79	13¢	73296
1.80	1.93	14¢	73297
1.94	2.06	15¢	73298
2.07	2.20	16¢	73299
2.21	2.34	17¢	73300
2.35	2.48	18¢	73301
2.49	2.62	19¢	73302
2.63	2.75	20¢	73303
2.76	2.89	21¢	73304
2.90	3.03	22¢	73305
3.04	3.17	23¢	73306
3.18	3.31	24¢	73307
3.32	3.44	25¢	73308
3.45	3.58	26¢	73309
3.59	3.72	27¢	73310
3.73	3.86	28¢	73311
3.87	4.00	29¢	73312

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven

and one-half per cent:			73326
If the price		The amount of	73327
is at least	But not more than	the tax is	73328
\$ .01	\$ .15	No tax	73329
.16	.26	2¢	73330
.27	.40	3¢	73331
.41	.53	4¢	73332
.54	.65	5¢	73333
.66	.80	6¢	73334
.81	.93	7¢	73335
.94	1.06	8¢	73336
1.07	1.20	9¢	73337
1.21	1.33	10¢	73338
1.34	1.46	11¢	73339
1.47	1.60	12¢	73340
1.61	1.73	13¢	73341
1.74	1.86	14¢	73342
1.87	2.00	15¢	73343

If the price exceeds two dollars, the tax is fifteen cents on 73344  
each two dollars. If the price exceeds two dollars or a multiple 73345  
thereof by not more than fifteen cents, the amount of tax is 73346  
fifteen cents for each two dollars plus one cent. If the price 73347  
exceeds two dollars or a multiple thereof by more than fifteen 73348  
cents, the amount of tax is fifteen cents for each two dollars 73349  
plus the amount of tax for prices sixteen cents through one dollar 73350  
and ninety-nine cents in accordance with the schedule above. 73351

(7) When the combined rate of state and local tax is seven 73352  
and three-fourths per cent: 73353

If the price		The amount of	73354
is at least	But not more than	the tax is	73355
\$ .01	\$ .15	No tax	73356
.16	.25	2¢	73357

.26	.38	3¢	73358
.39	.51	4¢	73359
.52	.64	5¢	73360
.65	.77	6¢	73361
.78	.90	7¢	73362
.91	1.03	8¢	73363
1.04	1.16	9¢	73364
1.17	1.29	10¢	73365
1.30	1.41	11¢	73366
1.42	1.54	12¢	73367
1.55	1.67	13¢	73368
1.68	1.80	14¢	73369
1.81	1.93	15¢	73370
1.94	2.06	16¢	73371
2.07	2.19	17¢	73372
2.20	2.32	18¢	73373
2.33	2.45	19¢	73374
2.46	2.58	20¢	73375
2.59	2.70	21¢	73376
2.71	2.83	22¢	73377
2.84	2.96	23¢	73378
2.97	3.09	24¢	73379
3.10	3.22	25¢	73380
3.23	3.35	26¢	73381
3.36	3.48	27¢	73382
3.49	3.61	28¢	73383
3.62	3.74	29¢	73384
3.75	3.87	30¢	73385
3.88	4.00	31¢	73386

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the

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price exceeds four dollars or a multiple thereof by more than  
twelve cents but by not more than twenty-five cents, the amount of  
tax is thirty-one cents for each four dollars plus two cents. If  
the price exceeds four dollars or a multiple thereof by more than  
twenty-five cents, the amount of tax is thirty-one cents for each  
four dollars plus the amount of tax for prices twenty-six cents  
through three dollars and ninety-nine cents in accordance with the  
schedule above.

(8) When the combined rate of state and local tax is eight  
per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on  
each one dollar. If the price exceeds one dollar or a multiple  
thereof by not more than twelve cents, the amount of tax is eight  
cents for each one dollar plus one cent. If the price exceeds one  
dollar or a multiple thereof by more than twelve cents but not  
more than twenty-five cents, the amount of tax is eight cents for  
each one dollar plus two cents. If the price exceeds one dollar or  
a multiple thereof by more than twenty-five cents, the amount of  
tax is eight cents for each one dollar plus the amount of tax for  
prices twenty-six cents through ninety-nine cents in accordance  
with the schedule above.

(9) When the combined rate of state and local tax is eight

and one-fourth per cent:			73423
If the price		The amount of	73424
is at least	But not more than	the tax is	73425
\$ .01	\$ .15	No tax	73426
.16	.24	2¢	73427
.25	.36	3¢	73428
.37	.48	4¢	73429
.49	.60	5¢	73430
.61	.72	6¢	73431
.73	.84	7¢	73432
.85	.96	8¢	73433
.97	1.09	9¢	73434
1.10	1.21	10¢	73435
1.22	1.33	11¢	73436
1.34	1.45	12¢	73437
1.46	1.57	13¢	73438
1.58	1.69	14¢	73439
1.70	1.81	15¢	73440
1.82	1.93	16¢	73441
1.94	2.06	17¢	73442
2.07	2.18	18¢	73443
2.19	2.30	19¢	73444
2.31	2.42	20¢	73445
2.43	2.54	21¢	73446
2.55	2.66	22¢	73447
2.67	2.78	23¢	73448
2.79	2.90	24¢	73449
2.91	3.03	25¢	73450
3.04	3.15	26¢	73451
3.16	3.27	27¢	73452
3.28	3.39	28¢	73453
3.40	3.51	29¢	73454
3.52	3.63	30¢	73455

3.64	3.75	31¢	73456
3.76	3.87	32¢	73457
3.88	4.00	33¢	73458

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

If the price	The amount of		
is at least	But not more than	the tax is	
\$ .01	\$ .15	No tax	73475
.16	.23	2¢	73476
.24	.35	3¢	73477
.36	.47	4¢	73478
.48	.58	5¢	73479
.59	.70	6¢	73480
.71	.82	7¢	73481
.83	.94	8¢	73482
.95	1.05	9¢	73483
1.06	1.17	10¢	73484
1.18	1.29	11¢	73485
1.30	1.41	12¢	73486
1.42	1.52	13¢	73487



1.53	1.64	14¢	73488
1.65	1.76	15¢	73489
1.77	1.88	16¢	73490
1.89	2.00	17¢	73491

If the price exceeds two dollars, the tax is seventeen cents 73492  
on each two dollars. If the price exceeds two dollars or a 73493  
multiple thereof by not more than eleven cents, the amount of tax 73494  
is seventeen cents for each two dollars plus one cent. If the 73495  
price exceeds two dollars or a multiple thereof by more than 73496  
eleven cents but by not more than twenty-three cents, the amount 73497  
of tax is seventeen cents for each two dollars plus two cents. If 73498  
the price exceeds two dollars or a multiple thereof by more than 73499  
twenty-three cents, the amount of tax is seventeen cents for each 73500  
two dollars plus the amount of tax for prices twenty-four cents 73501  
through one dollar and ninety-nine cents in accordance with the 73502  
schedule above. 73503

(11) When the combined rate of state and local tax is eight 73504  
and three-fourths per cent: 73505

If the price		The amount of	
is at least	But not more than	the tax is	
\$ .01	\$ .15	No tax	73508
.16	.22	2¢	73509
.23	.34	3¢	73510
.35	.45	4¢	73511
.46	.57	5¢	73512
.58	.68	6¢	73513
.69	.80	7¢	73514
.81	.91	8¢	73515
.92	1.02	9¢	73516
1.03	1.14	10¢	73517
1.15	1.25	11¢	73518
1.26	1.37	12¢	73519

1.38	1.48	13¢	73520
1.49	1.60	14¢	73521
1.61	1.71	15¢	73522
1.72	1.82	16¢	73523
1.83	1.94	17¢	73524
1.95	2.05	18¢	73525
2.06	2.17	19¢	73526
2.18	2.28	20¢	73527
2.29	2.40	21¢	73528
2.41	2.51	22¢	73529
2.52	2.62	23¢	73530
2.63	2.74	24¢	73531
2.75	2.85	25¢	73532
2.86	2.97	26¢	73533
2.98	3.08	27¢	73534
3.09	3.20	28¢	73535
3.21	3.31	29¢	73536
3.32	3.42	30¢	73537
3.43	3.54	31¢	73538
	3.65	32¢	73539
3.66	3.77	33¢	73540
3.78	3.88	34¢	73541
3.89	4.00	35¢	73542

If the price exceeds four dollars, the tax is thirty-five 73543  
cents on each four dollars. If the price exceeds four dollars or a 73544  
multiple thereof by not more than eleven cents, the amount of tax 73545  
is thirty-five cents for each four dollars plus one cent. If the 73546  
price exceeds four dollars or a multiple thereof by more than 73547  
eleven cents but by not more than twenty-two cents, the amount of 73548  
tax is thirty-five cents for each four dollars plus two cents. If 73549  
the price exceeds four dollars or a multiple thereof by more than 73550  
twenty-two cents, the amount of tax is thirty-five cents for each 73551  
four dollars plus the amount of tax for prices twenty-three cents 73552

through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.22	2¢
.23	.33	3¢
.34	.44	4¢
.45	.55	5¢
.56	.66	6¢
.67	.77	7¢
.78	.88	8¢
.89	1.00	9¢

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance with the schedule above.

(C) On and after July 1, 2005, and on and before December 31, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the total rate of local tax is one-fourth per cent:			73584
<del>If the price</del>	<del>But not</del>	<del>The amount</del>	73585
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	73586
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	73587
<del>.16</del>	<del>.19</del>	<del>1¢</del>	73588
<del>.20</del>	<del>.38</del>	<del>2¢</del>	73589
<del>.39</del>	<del>.57</del>	<del>3¢</del>	73590
<del>.58</del>	<del>.76</del>	<del>4¢</del>	73591
<del>.77</del>	<del>.95</del>	<del>5¢</del>	73592
<del>.96</del>	<del>1.14</del>	<del>6¢</del>	73593
<del>1.15</del>	<del>1.33</del>	<del>7¢</del>	73594
<del>1.34</del>	<del>1.52</del>	<del>8¢</del>	73595
<del>1.53</del>	<del>1.71</del>	<del>9¢</del>	73596
<del>1.72</del>	<del>1.90</del>	<del>10¢</del>	73597
<del>1.91</del>	<del>2.09</del>	<del>11¢</del>	73598
<del>2.10</del>	<del>2.28</del>	<del>12¢</del>	73599
<del>2.29</del>	<del>2.47</del>	<del>13¢</del>	73600
<del>2.48</del>	<del>2.66</del>	<del>14¢</del>	73601
<del>2.67</del>	<del>2.85</del>	<del>15¢</del>	73602
<del>2.86</del>	<del>3.04</del>	<del>16¢</del>	73603
<del>3.05</del>	<del>3.23</del>	<del>17¢</del>	73604
<del>3.24</del>	<del>3.42</del>	<del>18¢</del>	73605
<del>3.43</del>	<del>3.61</del>	<del>19¢</del>	73606
<del>3.62</del>	<del>3.80</del>	<del>20¢</del>	73607
<del>3.81</del>	<del>4.00</del>	<del>21¢</del>	73608
<del>If the price exceeds four dollars, the tax is twenty one</del>			73609
<del>cents on each four dollars. If the price exceeds four dollars or a</del>			73610
<del>multiple thereof by not more than nineteen cents, the amount of</del>			73611
<del>tax is twenty one cents for each four dollars plus one cent. If</del>			73612
<del>the price exceeds four dollars or a multiple thereof by more than</del>			73613
<del>nineteen cents, the amount of tax is twenty one cents for each</del>			73614
<del>four dollars plus the amount of tax for prices twenty cents</del>			73615

~~through three dollars and ninety nine cents in accordance with the~~ 73616  
~~schedule above.~~ 73617

~~(2) When the combined rate of local tax is one half per cent:~~ 73618

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	73619
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<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	73620
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<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	73621
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<del>.16</del>	<del>.18</del>	<del>1¢</del>	73622
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<del>.19</del>	<del>.36</del>	<del>2¢</del>	73623
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<del>.37</del>	<del>.54</del>	<del>3¢</del>	73624
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<del>.55</del>	<del>.72</del>	<del>4¢</del>	73625
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<del>.73</del>	<del>.90</del>	<del>5¢</del>	73626
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<del>.91</del>	<del>1.09</del>	<del>6¢</del>	73627
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<del>1.10</del>	<del>1.27</del>	<del>7¢</del>	73628
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<del>1.28</del>	<del>1.46</del>	<del>8¢</del>	73629
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<del>1.47</del>	<del>1.64</del>	<del>9¢</del>	73630
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<del>1.65</del>	<del>1.82</del>	<del>10¢</del>	73631
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<del>1.83</del>	<del>2.00</del>	<del>11¢</del>	73632
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~~If the price exceeds two dollars, the tax is eleven cents on~~ 73633

~~each two dollars. If the price exceeds two dollars or a multiple~~ 73634

~~thereof by not more than eighteen cents, the amount of tax is~~ 73635

~~eleven cents for each two dollars plus one cent. If the price~~ 73636

~~exceeds two dollars or a multiple thereof by more than eighteen~~ 73637

~~cents, the amount of tax is eleven cents for each two dollars plus~~ 73638

~~the amount of tax for prices nineteen cents through one dollar and~~ 73639

~~ninety nine cents in accordance with the schedule above.~~ 73640

~~(3) When the combined rate of local tax is three fourths per~~ 73641

~~cent:~~ 73642

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	73643
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<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	73644
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<del>\$ .01</del>	<del>\$ .15</del>	<del>No tax</del>	73645
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<del>.16</del>	<del>.17</del>	<del>1¢</del>	73646
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<del>.18</del>	<del>.34</del>	<del>2¢</del>	73647
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.35	.52	3¢	73648
.53	.69	4¢	73649
.70	.86	5¢	73650
.87	1.04	6¢	73651
1.05	1.21	7¢	73652
1.22	1.39	8¢	73653
1.40	1.56	9¢	73654
1.57	1.73	10¢	73655
1.74	1.91	11¢	73656
1.92	2.08	12¢	73657
2.09	2.26	13¢	73658
2.27	2.43	14¢	73659
2.44	2.60	15¢	73660
2.61	2.78	16¢	73661
2.79	2.95	17¢	73662
2.96	3.13	18¢	73663
3.14	3.30	19¢	73664
3.31	3.47	20¢	73665
3.48	3.65	21¢	73666
3.66	3.82	22¢	73667
3.83	4.00	23¢	73668

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half per cent:

If the price	But not	The amount	73680
is at least	more than	of the tax is	73681
\$ .01	\$ .15	No tax	73682
.16	.17	1¢	73683
.18	.34	2¢	73684
.35	.50	3¢	73685
.51	.67	4¢	73686
.68	.83	5¢	73687
.84	1.00	6¢	73688

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

~~(5)(3)~~ When the combined rate of local tax is ~~one and one-fourth~~ three-fourths per cent:

If the price	But not	The amount	73699
is at least	more than	of the tax is	73700
\$ .01	\$ .15	No tax	73701
.16	.16	1¢	73702
.17	.32	2¢	73703
.33	.48	3¢	73704
.49	.64	4¢	73705
.65	.80	5¢	73706
.81	.96	6¢	73707
.97	1.12	7¢	73708
1.13	1.28	8¢	73709
1.29	1.44	9¢	73710
1.45	1.60	10¢	73711

1.61	1.76	11¢	73712
1.77	1.92	12¢	73713
1.93	2.08	13¢	73714
2.09	2.24	14¢	73715
2.25	2.40	15¢	73716
2.41	2.56	16¢	73717
2.57	2.72	17¢	73718
2.73	2.88	18¢	73719
2.89	3.04	19¢	73720
3.05	3.20	20¢	73721
3.21	3.36	21¢	73722
3.37	3.52	22¢	73723
3.53	3.68	23¢	73724
3.69	3.84	24¢	73725
3.85	4.00	25¢	73726

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(6)~~(4) When the combined rate of local tax is one ~~and~~ ~~one-half~~ per cent:

If the price is at least	But not more than	The amount of the tax is	
\$ .01	\$ .15	No tax	73738
.16	.30	2¢	73739
.31	.46	3¢	73740
.47	.61	4¢	73741



.62	.76	5¢	73744
.77	.92	6¢	73745
.93	1.07	7¢	73746
1.08	1.23	8¢	73747
1.24	1.38	9¢	73748
1.39	1.53	10¢	73749
1.54	1.69	11¢	73750
1.70	1.84	12¢	73751
1.85	2.00	13¢	73752

If the price exceeds two dollars, the tax is thirteen cents 73753  
on each two dollars. If the price exceeds two dollars or a 73754  
multiple thereof by not more than fifteen cents, the amount of tax 73755  
is thirteen cents for each two dollars plus one cent. If the price 73756  
exceeds two dollars or a multiple thereof by more than fifteen 73757  
cents, the amount of tax is thirteen cents for each two dollars 73758  
plus the amount of tax for prices sixteen cents through one dollar 73759  
and ninety-nine cents in accordance with the schedule above. 73760

~~(7)(5)~~ When the combined rate of local tax is one and 73761  
~~three-fourths~~ one-fourth per cent: 73762

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73763
.16	.29	2¢	73764
.30	.44	3¢	73765
.45	.59	4¢	73766
.60	.74	5¢	73767
.75	.88	6¢	73768
.89	1.03	7¢	73769
1.04	1.18	8¢	73770
1.19	1.33	9¢	73771
1.34	1.48	10¢	73772
1.49	1.62	11¢	73773

1.63	1.77	12¢	73776
1.78	1.92	13¢	73777
1.93	2.07	14¢	73778
2.08	2.22	15¢	73779
2.23	2.37	16¢	73780
2.38	2.51	17¢	73781
2.52	2.66	18¢	73782
2.67	2.81	19¢	73783
2.82	2.96	20¢	73784
2.97	3.11	21¢	73785
3.12	3.25	22¢	73786
3.26	3.40	23¢	73787
3.41	3.55	24¢	73788
3.56	3.70	25¢	73789
3.71	3.85	26¢	73790
3.86	4.00	27¢	73791

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(8)~~(6) When the combined rate of local tax is ~~two~~ one and one-half per cent:

If the price	But not	The amount	73806
is at least	more than	of the tax is	73807

\$ .01	\$ .15	No tax	73808
.16	.28	2¢	73809
.29	.42	3¢	73810
.43	.57	4¢	73811
.58	.71	5¢	73812
.72	.85	6¢	73813
.86	1.00	7¢	73814

If the price exceeds one dollar, the tax is seven cents on 73815  
each one dollar. If the price exceeds one dollar or a multiple 73816  
thereof by not more than fifteen cents, the amount of tax is seven 73817  
cents for each one dollar plus one cent. If the price exceeds one 73818  
dollar or a multiple thereof by more than fifteen cents, the 73819  
amount of tax is seven cents for each one dollar plus the amount 73820  
of tax for prices sixteen cents through ninety-nine cents in 73821  
accordance with the schedule above. 73822

~~(9)~~(7) When the combined rate of local tax is ~~two~~ one and 73823  
~~one-fourth~~ three-fourths per cent: 73824

If the price	But not	The amount	73825
is at least	more than	of the tax is	73826
\$ .01	\$ .15	No tax	73827
.16	.27	2¢	73828
.28	.41	3¢	73829
.42	.55	4¢	73830
.56	.68	5¢	73831
.69	.82	6¢	73832
.83	.96	7¢	73833
.97	1.10	8¢	73834
1.11	1.24	9¢	73835
1.25	1.37	10¢	73836
1.38	1.51	11¢	73837
1.52	1.65	12¢	73838
1.66	1.79	13¢	73839

1.80	1.93	14¢	73840
1.94	2.06	15¢	73841
2.07	2.20	16¢	73842
2.21	2.34	17¢	73843
2.35	2.48	18¢	73844
2.49	2.62	19¢	73845
2.63	2.75	20¢	73846
2.76	2.89	21¢	73847
2.90	3.03	22¢	73848
3.04	3.17	23¢	73849
3.18	3.31	24¢	73850
3.32	3.44	25¢	73851
3.45	3.58	26¢	73852
3.59	3.72	27¢	73853
3.73	3.86	28¢	73854
3.87	4.00	29¢	73855

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(10)~~(8) When the combined rate of local tax is two ~~and~~ one-half per cent:

If the price	But not	The amount	73870
is at least	more than	of the tax is	73871

\$ .01	\$ .15	No tax	73872
.16	.26	2¢	73873
.27	.40	3¢	73874
.41	.53	4¢	73875
.54	.65	5¢	73876
.66	.80	6¢	73877
.81	.93	7¢	73878
.94	1.06	8¢	73879
1.07	1.20	9¢	73880
1.21	1.33	10¢	73881
1.34	1.46	11¢	73882
1.47	1.60	12¢	73883
1.61	1.73	13¢	73884
1.74	1.86	14¢	73885
1.87	2.00	15¢	73886

If the price exceeds two dollars, the tax is fifteen cents on 73887  
each two dollars. If the price exceeds two dollars or a multiple 73888  
thereof by not more than fifteen cents, the amount of tax is 73889  
fifteen cents for each two dollars plus one cent. If the price 73890  
exceeds two dollars or a multiple thereof by more than fifteen 73891  
cents, the amount of tax is fifteen cents for each two dollars 73892  
plus the amount of tax for prices sixteen cents through one dollar 73893  
and ninety-nine cents in accordance with the schedule above. 73894

~~(11)~~(9) When the combined rate of local tax is two and 73895  
~~three-fourths~~ one-fourth per cent: 73896

If the price	But not	The amount	73897
is at least	more than	of the tax is	73898
\$ .01	\$ .15	No tax	73899
.16	.25	2¢	73900
.26	.38	3¢	73901
.39	.51	4¢	73902
.52	.64	5¢	73903

.65	.77	6¢	73904
.78	.90	7¢	73905
.91	1.03	8¢	73906
1.04	1.16	9¢	73907
1.17	1.29	10¢	73908
1.30	1.41	11¢	73909
1.42	1.54	12¢	73910
1.55	1.67	13¢	73911
1.68	1.80	14¢	73912
1.81	1.93	15¢	73913
1.94	2.06	16¢	73914
2.07	2.19	17¢	73915
2.20	2.32	18¢	73916
2.33	2.45	19¢	73917
2.46	2.58	20¢	73918
2.59	2.70	21¢	73919
2.71	2.83	22¢	73920
2.84	2.96	23¢	73921
2.97	3.09	24¢	73922
3.10	3.22	25¢	73923
3.23	3.35	26¢	73924
3.36	3.48	27¢	73925
3.49	3.61	28¢	73926
3.62	3.74	29¢	73927
3.75	3.87	30¢	73928
3.88	4.00	31¢	73929

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If

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the price exceeds four dollars or a multiple thereof by more than 73937  
 twenty-five cents, the amount of tax is thirty-one cents for each 73938  
 four dollars plus the amount of tax for prices twenty-six cents 73939  
 through three dollars and ninety-nine cents in accordance with the 73940  
 schedule above. 73941

~~(12)~~(10) When the combined rate of local tax is ~~three two and~~ 73942  
one-half per cent: 73943

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73944
.16	.25	2¢	73947
.26	.37	3¢	73948
.38	.50	4¢	73949
.51	.62	5¢	73950
.63	.75	6¢	73951
.76	.87	7¢	73952
.88	1.00	8¢	73953

If the price exceeds one dollar, the tax is eight cents on 73954  
 each one dollar. If the price exceeds one dollar or a multiple 73955  
 thereof by not more than twelve cents, the amount of tax is eight 73956  
 cents for each one dollar plus one cent. If the price exceeds one 73957  
 dollar or a multiple thereof by more than twelve cents but not 73958  
 more than twenty-five cents, the amount of tax is eight cents for 73959  
 each one dollar plus two cents. If the price exceeds one dollar or 73960  
 a multiple thereof by more than twenty-five cents, the amount of 73961  
 tax is eight cents for each one dollar plus the amount of tax for 73962  
 prices twenty-six cents through ninety-nine cents in accordance 73963  
 with the schedule above. 73964

(11) When the combined rate of local tax is two and 73965  
three-fourths per cent: 73966

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
			73967
			73968

<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73969
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73970
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73971
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73972
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73973
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73974
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73975
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73976
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73977
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73978
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73979
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73980
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73981
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73982
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73983
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73984
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73985
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73986
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73987
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73988
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73989
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73990
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73991
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73992
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73993
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73994
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73995
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73996
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73997
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73998
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73999
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	74000
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	74001



If the price exceeds four dollars, the tax is thirty-three 74002  
cents on each four dollars. If the price exceeds four dollars or a 74003  
multiple thereof by not more than eleven cents, the amount of tax 74004  
is thirty-three cents for each four dollars plus one cent. If the 74005  
price exceeds four dollars or a multiple thereof by more than 74006  
eleven cents but not more than twenty-four cents, the amount of 74007  
tax is thirty-three cents for each four dollars plus two cents. If 74008  
the price exceeds four dollars or a multiple thereof by more than 74009  
twenty-four cents, the amount of tax is thirty-three cents for 74010  
each four dollars plus the amount of tax for prices twenty-six 74011  
cents through three dollars and ninety-nine cents in accordance 74012  
with the schedule above. 74013

(12) When the combined rate of local tax is three per cent: 74014

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	74017
<u>.16</u>	<u>.23</u>	<u>2¢</u>	74018
<u>.24</u>	<u>.35</u>	<u>3¢</u>	74019
<u>.36</u>	<u>.47</u>	<u>4¢</u>	74020
<u>.48</u>	<u>.58</u>	<u>5¢</u>	74021
<u>.59</u>	<u>.70</u>	<u>6¢</u>	74022
<u>.71</u>	<u>.82</u>	<u>7¢</u>	74023
<u>.83</u>	<u>.94</u>	<u>8¢</u>	74024
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	74025
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	74026
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	74027
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	74028
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	74029
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	74030
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	74031
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	74032
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	74033

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A), (B), and (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method

that rounds up to the next cent whenever the third decimal place  
is greater than four. A vendor may elect to compute the tax due on  
a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider  
the method prescribed by this section that was used by the vendor  
in determining and collecting the tax due under this chapter on  
taxable transactions. If the vendor correctly collects and remits  
the tax due under this chapter in accordance with the schedules in  
divisions (A), (B), and (C) of this section or in accordance with  
the computation prescribed in division (D) or (E) of this section,  
the commissioner shall not assess any additional tax on those  
transactions.

(G)(1) With respect to a sale of a fractional ownership  
program aircraft used primarily in a fractional aircraft ownership  
program, including all accessories attached to such aircraft, the  
tax shall be calculated pursuant to divisions (A) to (E) of this  
section, provided that the tax commissioner shall modify those  
calculations so that the maximum tax on each program aircraft is  
eight hundred dollars. In the case of a sale of a fractional  
interest that is less than one hundred per cent of the program  
aircraft, the tax charged on the transaction shall be eight  
hundred dollars multiplied by a fraction, the numerator of which  
is the percentage of ownership or possession in the aircraft being  
purchased in the transaction, and the denominator of which is one  
hundred per cent.

(2) Notwithstanding any other provision of law to the  
contrary, the tax calculated under division (G)(1) of this section  
and paid with respect to the sale of a fractional ownership  
program aircraft used primarily in a fractional aircraft ownership  
program shall be credited to the general revenue fund.

**Sec. 5739.026.** (A) A board of county commissioners may levy a

tax of one-fourth or one-half of one per cent on every retail sale 74096  
in the county, except sales of watercraft and outboard motors 74097  
required to be titled pursuant to Chapter 1548. of the Revised 74098  
Code and sales of motor vehicles, and may increase an existing 74099  
rate of one-fourth of one per cent to one-half of one per cent, to 74100  
pay the expenses of administering the tax and, except as provided 74101  
in division (A)(6) of this section, for any one or more of the 74102  
following purposes provided that the aggregate levy for all such 74103  
purposes does not exceed one-half of one per cent: 74104

(1) To provide additional revenues for the payment of bonds 74105  
or notes issued in anticipation of bonds issued by a convention 74106  
facilities authority established by the board of county 74107  
commissioners under Chapter 351. of the Revised Code and to 74108  
provide additional operating revenues for the convention 74109  
facilities authority; 74110

(2) To provide additional revenues for a transit authority 74111  
operating in the county; 74112

(3) To provide additional revenue for the county's general 74113  
fund; 74114

(4) To provide additional revenue for permanent improvements 74115  
within the county to be distributed by the community improvements 74116  
board in accordance with section 307.283 and to pay principal, 74117  
interest, and premium on bonds issued under section 307.284 of the 74118  
Revised Code; 74119

(5) To provide additional revenue for the acquisition, 74120  
construction, equipping, or repair of any specific permanent 74121  
improvement or any class or group of permanent improvements, which 74122  
improvement or class or group of improvements shall be enumerated 74123  
in the resolution required by division (D) of this section, and to 74124  
pay principal, interest, premium, and other costs associated with 74125  
the issuance of bonds or notes in anticipation of bonds issued 74126

pursuant to Chapter 133. of the Revised Code for the acquisition, 74127  
construction, equipping, or repair of the specific permanent 74128  
improvement or class or group of permanent improvements; 74129

(6) To provide revenue for the implementation and operation 74130  
of a 9-1-1 system in the county. If the tax is levied or the rate 74131  
increased exclusively for such purpose, the tax shall not be 74132  
levied or the rate increased for more than five years. At the end 74133  
of the last year the tax is levied or the rate increased, any 74134  
balance remaining in the special fund established for such purpose 74135  
shall remain in that fund and be used exclusively for such purpose 74136  
until the fund is completely expended, and, notwithstanding 74137  
section 5705.16 of the Revised Code, the board of county 74138  
commissioners shall not petition for the transfer of money from 74139  
such special fund, and the tax commissioner shall not approve such 74140  
a petition. 74141

If the tax is levied or the rate increased for such purpose 74142  
for more than five years, the board of county commissioners also 74143  
shall levy the tax or increase the rate of the tax for one or more 74144  
of the purposes described in divisions (A)(1) to (5) of this 74145  
section and shall prescribe the method for allocating the revenues 74146  
from the tax each year in the manner required by division (C) of 74147  
this section. 74148

(7) To provide additional revenue for the operation or 74149  
maintenance of a detention facility, as that term is defined under 74150  
division (F) of section 2921.01 of the Revised Code; 74151

(8) To provide revenue to finance the construction or 74152  
renovation of a sports facility, but only if the tax is levied for 74153  
that purpose in the manner prescribed by section 5739.028 of the 74154  
Revised Code. 74155

As used in division (A)(8) of this section: 74156

(a) "Sports facility" means a facility intended to house 74157

major league professional athletic teams. 74158

(b) "Constructing" or "construction" includes providing 74159  
fixtures, furnishings, and equipment. 74160

(9) To provide additional revenue for the acquisition of 74161  
agricultural easements, as defined in section 5301.67 of the 74162  
Revised Code; to pay principal, interest, and premium on bonds 74163  
issued under section 133.60 of the Revised Code; and for the 74164  
supervision and enforcement of agricultural easements held by the 74165  
county. 74166

Pursuant to section 755.171 of the Revised Code, a board of 74167  
county commissioners may pledge and contribute revenue from a tax 74168  
levied for the purpose of division (A)(5) of this section to the 74169  
payment of debt charges on bonds issued under section 755.17 of 74170  
the Revised Code. 74171

The rate of tax shall be a multiple of one-fourth of one per 74172  
cent, unless a portion of the rate of an existing tax levied under 74173  
section 5739.023 of the Revised Code has been reduced, and the 74174  
rate of tax levied under this section has been increased, pursuant 74175  
to section 5739.028 of the Revised Code, in which case the 74176  
aggregate of the rates of tax levied under this section and 74177  
section 5739.023 of the Revised Code shall be a multiple of 74178  
one-fourth of one per cent. The tax shall be levied and the rate 74179  
increased pursuant to a resolution adopted by a majority of the 74180  
members of the board. The board shall deliver a certified copy of 74181  
the resolution to the tax commissioner, not later than the 74182  
sixty-fifth day prior to the date on which the tax is to become 74183  
effective, which shall be the first day of a calendar quarter. 74184

Prior to the adoption of any resolution to levy the tax or to 74185  
increase the rate of tax exclusively for the purpose set forth in 74186  
division (A)(3) of this section, the board of county commissioners 74187  
shall conduct two public hearings on the resolution, the second 74188

hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. Unless the resolution is adopted as an emergency measure, or is to be submitted to the electors of the county under division (D)(2)(a) of this section, the resolution shall be adopted at least one hundred twenty days prior to the date on which the tax or the increased rate of tax is to go into effect. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), or (9) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on



such bonds. 74253

(b) If the additional revenues provided to the county are 74254  
pledged by the county for the payment of bonds or notes described 74255  
in division (A)(4) or (5) of this section, for as long as such 74256  
bonds or notes are outstanding, no reduction of the county's or 74257  
the community improvements board's allocation of the tax shall be 74258  
made for any year, except to the extent that the reduced county or 74259  
community improvements board allocation is sufficient to meet the 74260  
debt service requirements for that year on such bonds or notes. 74261

(c) If the additional revenues provided to the transit 74262  
authority are pledged by the authority for the payment of revenue 74263  
bonds issued under section 306.37 of the Revised Code, for as long 74264  
as such bonds are outstanding, no reduction of the authority's 74265  
allocation of tax shall be made for any year, except to the extent 74266  
that the authority's reduced allocation, when combined with the 74267  
authority's other revenues pledged for that purpose, is sufficient 74268  
to meet the debt service requirements for that year on such bonds. 74269

(d) If the additional revenues provided to the county are 74270  
pledged by the county for the payment of bonds or notes issued 74271  
under section 133.60 of the Revised Code, for so long as the bonds 74272  
or notes are outstanding, no reduction of the county's allocation 74273  
of the tax shall be made for any year, except to the extent that 74274  
the reduced county allocation is sufficient to meet the debt 74275  
service requirements for that year on the bonds or notes. 74276

(D)(1) The resolution levying the tax or increasing the rate 74277  
of tax shall state the rate of the tax or the rate of the 74278  
increase; the purpose or purposes for which it is to be levied; 74279  
the number of years for which it is to be levied or that it is for 74280  
a continuing period of time; the allocation method required by 74281  
division (C) of this section; and if required to be submitted to 74282  
the electors of the county under division (A) of this section, the 74283

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date of the election at which the proposal shall be submitted to  
the electors of the county, which shall be not less than  
seventy-five days after the certification of a copy of the  
resolution to the board of elections and, if the tax is to be  
levied exclusively for the purpose set forth in division (A)(3) of  
this section, shall not occur in February or August of any year.  
Upon certification of the resolution to the board of elections,  
the board of county commissioners shall notify the tax  
commissioner in writing of the levy question to be submitted to  
the electors. If approved by a majority of the electors, the tax  
shall become effective on the first day of a calendar quarter next  
following the sixty-fifth day following the date the board of  
county commissioners and tax commissioner receive from the board  
of elections the certification of the results of the election,  
except as provided in division (E) of this section.

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(2)(a) A resolution specifying that the tax is to be used  
exclusively for the purpose set forth in division (A)(3) of this  
section that is not adopted as an emergency measure may direct the  
board of elections to submit the question of levying the tax or  
increasing the rate of the tax to the electors of the county at a  
special election held on the date specified by the board of county  
commissioners in the resolution, provided that the election occurs  
not less than seventy-five days after the resolution is certified  
to the board of elections and the election is not held in February  
or August of any year. Upon certification of the resolution to the  
board of elections, the board of county commissioners shall notify  
the tax commissioner in writing of the levy question to be  
submitted to the electors. No resolution adopted under division  
(D)(2)(a) of this section shall go into effect unless approved by  
a majority of those voting upon it and, except as provided in  
division (E) of this section, not until the first day of a  
calendar quarter following the expiration of sixty-five days from

the date the tax commissioner receives notice from the board of  
elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used  
exclusively for the purpose set forth in division (A)(3) of this  
section that is adopted as an emergency measure shall become  
effective as provided in division (A) of this section, but may  
direct the board of elections to submit the question of repealing  
the tax or increase in the rate of the tax to the electors of the  
county at the next general election in the county occurring not  
less than seventy-five days after the resolution is certified to  
the board of elections. Upon certification of the resolution to  
the board of elections, the board of county commissioners shall  
notify the tax commissioner in writing of the levy question to be  
submitted to the electors. The ballot question shall be the same  
as that prescribed in section 5739.022 of the Revised Code. The  
board of elections shall notify the board of county commissioners  
and the tax commissioner of the result of the election immediately  
after the result has been declared. If a majority of the qualified  
electors voting on the question of repealing the tax or increase  
in the rate of the tax vote for repeal of the tax or repeal of the  
increase, the board of county commissioners, on the first day of a  
calendar quarter following the expiration of sixty-five days after  
the date the board and tax commissioner received notice of the  
result of the election, shall, in the case of a repeal of the tax,  
cease to levy the tax, or, in the case of a repeal of an increase  
in the rate of the tax, cease to levy the increased rate and levy  
the tax at the rate at which it was imposed immediately prior to  
the increase in rate.

(c) A board of county commissioners, by resolution, may  
reduce the rate of a tax levied exclusively for the purpose set  
forth in division (A)(3) of this section to a lower rate  
authorized by this section. Any such reduction shall be made

effective on the first day of the calendar quarter next following 74348  
the sixty-fifth day after the tax commissioner receives a 74349  
certified copy of the resolution from the board. 74350

(E) If a vendor that is registered with the central 74351  
electronic registration system provided for in section 5740.05 of 74352  
the Revised Code makes a sale in this state by printed catalog and 74353  
the consumer computed the tax on the sale based on local rates 74354  
published in the catalog, any tax levied or repealed or rate 74355  
changed under this section shall not apply to such a sale until 74356  
the first day of a calendar quarter following the expiration of 74357  
one hundred twenty days from the date of notice by the tax 74358  
commissioner pursuant to division (G) of this section. 74359

(F) The tax levied pursuant to this section shall be in 74360  
addition to the tax levied by section 5739.02 of the Revised Code 74361  
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74362  
Revised Code. 74363

A county that levies a tax pursuant to this section shall 74364  
levy a tax at the same rate pursuant to section 5741.023 of the 74365  
Revised Code. 74366

The additional tax levied by the county shall be collected 74367  
pursuant to section 5739.025 of the Revised Code. 74368

Any tax levied pursuant to this section is subject to the 74369  
exemptions provided in section 5739.02 of the Revised Code and in 74370  
addition shall not be applicable to sales not within the taxing 74371  
power of a county under the Constitution of the United States or 74372  
the Ohio Constitution. 74373

(G) Upon receipt from a board of county commissioners of a 74374  
certified copy of a resolution required by division (A) of this 74375  
section, or from the board of elections a notice of the results of 74376  
an election required by division (D)(1), (2)(a), (b), or (c) of 74377  
this section, the tax commissioner shall provide notice of a tax 74378

rate change in a manner that is reasonably accessible to all 74379  
affected vendors. The commissioner shall provide this notice at 74380  
least sixty days prior to the effective date of the rate change. 74381  
The commissioner, by rule, may establish the method by which 74382  
notice will be provided. 74383

**Sec. 5739.03.** (A) Except as provided in section 5739.05 of 74384  
the Revised Code, the tax imposed by or pursuant to section 74385  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 74386  
be paid by the consumer to the vendor, and each vendor shall 74387  
collect from the consumer, as a trustee for the state of Ohio, the 74388  
full and exact amount of the tax payable on each taxable sale, in 74389  
the manner and at the times provided as follows: 74390

(1) If the price is, at or prior to the provision of the 74391  
service or the delivery of possession of the thing sold to the 74392  
consumer, paid in currency passed from hand to hand by the 74393  
consumer or the consumer's agent to the vendor or the vendor's 74394  
agent, the vendor or the vendor's agent shall collect the tax with 74395  
and at the same time as the price; 74396

(2) If the price is otherwise paid or to be paid, the vendor 74397  
or the vendor's agent shall, at or prior to the provision of the 74398  
service or the delivery of possession of the thing sold to the 74399  
consumer, charge the tax imposed by or pursuant to section 74400  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74401  
the account of the consumer, which amount shall be collected by 74402  
the vendor from the consumer in addition to the price. Such sale 74403  
shall be reported on and the amount of the tax applicable thereto 74404  
shall be remitted with the return for the period in which the sale 74405  
is made, and the amount of the tax shall become a legal charge in 74406  
favor of the vendor and against the consumer. 74407

(B)(1)(a) If any sale is claimed to be exempt under division 74408  
(E) of section 5739.01 of the Revised Code or under section 74409

5739.02 of the Revised Code, with the exception of divisions 74410  
(B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the 74411  
consumer must provide to the vendor, and the vendor must obtain 74412  
from the consumer, a certificate specifying the reason that the 74413  
sale is not legally subject to the tax. The certificate shall be 74414  
in such form, and shall be provided either in a hard copy form or 74415  
electronic form, as ~~prescribed by~~ the tax commissioner prescribes. 74416  
~~If the transaction is claimed to be exempt under division (B)(13)~~ 74417  
~~of section 5739.02 of the Revised Code, the exemption certificate~~ 74418  
~~shall be provided by both the contractor and the contractee. Such~~ 74419  
~~contractee shall be deemed to be the consumer of all items~~ 74420  
~~purchased under such claim of exemption, if it is subsequently~~ 74421  
~~determined that the exemption is not properly claimed. The~~ 74422  
~~certificate shall be in such form as the tax commissioner by~~ 74423  
~~regulation prescribes.~~ 74424

(b) A vendor that obtains a fully completed exemption 74425  
certificate from a consumer is relieved of liability for 74426  
collecting and remitting tax on any sale covered by that 74427  
certificate. If it is determined the exemption was improperly 74428  
claimed, the consumer shall be liable for any tax due on that sale 74429  
under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 74430  
5741. of the Revised Code. Relief under this division from 74431  
liability does not apply to any of the following: 74432

(i) A vendor that fraudulently fails to collect tax; 74433

(ii) A vendor that solicits consumers to participate in the 74434  
unlawful claim of an exemption; 74435

(iii) A vendor that accepts an exemption certificate from a 74436  
consumer that claims an exemption based on who purchases or who 74437  
sells property or a service, when the subject of the transaction 74438  
sought to be covered by the exemption certificate is actually 74439  
received by the consumer at a location operated by the vendor in 74440  
this state, and this state has posted to its web site an exemption 74441

certificate form that clearly and affirmatively indicates that the 74442  
claimed exemption is not available in this state; 74443

(iv) A vendor that accepts an exemption certificate from a 74444  
consumer who claims a multiple points of use exemption under 74445  
division (B) of section 5739.033 of the Revised Code, if the item 74446  
purchased is tangible personal property, other than prewritten 74447  
computer software. 74448

(2) The vendor shall maintain records, including exemption 74449  
certificates, of all sales on which a consumer has claimed an 74450  
exemption, and provide them to the tax commissioner on request. 74451

(3) The tax commissioner may establish an identification 74452  
system whereby the commissioner issues an identification number to 74453  
a consumer that is exempt from payment of the tax. The consumer 74454  
must present the number to the vendor, if any sale is claimed to 74455  
be exempt as provided in this section. 74456

(4) If no certificate is provided or obtained within ~~the~~ 74457  
~~period for filing the return for the period in~~ ninety days after 74458  
the date on which such sale is consummated, it shall be presumed 74459  
that the tax applies. Failure to have so provided or obtained a 74460  
certificate shall not ~~prevent~~ preclude a vendor ~~or consumer,~~ 74461  
within one hundred twenty days after the tax commissioner gives 74462  
written notice of intent to levy an assessment, from either 74463  
establishing that the sale is not subject to the tax ~~within one~~ 74464  
~~hundred twenty days of the giving of notice by the commissioner of~~ 74465  
~~intention to levy an assessment, in which event the tax shall not~~ 74466  
~~apply,~~ or obtaining, in good faith, a fully completed exemption 74467  
certificate. 74468

(5) Certificates need not be obtained nor provided where the 74469  
identity of the consumer is such that the transaction is never 74470  
subject to the tax imposed or where the item of tangible personal 74471  
property sold or the service provided is never subject to the tax 74472

imposed, regardless of use, or when the sale is in interstate 74473  
commerce. 74474

(6) If a transaction is claimed to be exempt under division 74475  
(B)(13) of section 5739.02 of the Revised Code, the contractor 74476  
shall obtain certification of the claimed exemption from the 74477  
contractee. This certification shall be in addition to an 74478  
exemption certificate provided by the contractor to the vendor. A 74479  
contractee that provides a certification under this division shall 74480  
be deemed to be the consumer of all items purchased by the 74481  
contractor under the claim of exemption, if it is subsequently 74482  
determined that the exemption is not properly claimed. The 74483  
certification shall be in such form as the tax commissioner 74484  
prescribes. 74485

(C) As used in this division, "contractee" means a person who 74486  
seeks to enter or enters into a contract or agreement with a 74487  
contractor or vendor for the construction of real property or for 74488  
the sale and installation onto real property of tangible personal 74489  
property. 74490

Any contractor or vendor may request from any contractee a 74491  
certification of what portion of the property to be transferred 74492  
under such contract or agreement is to be incorporated into the 74493  
realty and what portion will retain its status as tangible 74494  
personal property after installation is completed. The contractor 74495  
or vendor shall request the certification by certified mail 74496  
delivered to the contractee, return receipt requested. Upon 74497  
receipt of such request and prior to entering into the contract or 74498  
agreement, the contractee shall provide to the contractor or 74499  
vendor a certification sufficiently detailed to enable the 74500  
contractor or vendor to ascertain the resulting classification of 74501  
all materials purchased or fabricated by the contractor or vendor 74502  
and transferred to the contractee. This requirement applies to a 74503  
contractee regardless of whether the contractee holds a direct 74504



payment permit under section 5739.031 of the Revised Code or 74505  
provides to the contractor or vendor an exemption certificate as 74506  
provided under this section. 74507

For the purposes of the taxes levied by this chapter and 74508  
Chapter 5741. of the Revised Code, the contractor or vendor may in 74509  
good faith rely on the contractee's certification. Notwithstanding 74510  
division (B) of section 5739.01 of the Revised Code, if the tax 74511  
commissioner determines that certain property certified by the 74512  
contractee as tangible personal property pursuant to this division 74513  
is, in fact, real property, the contractee shall be considered to 74514  
be the consumer of all materials so incorporated into that real 74515  
property and shall be liable for the applicable tax, and the 74516  
contractor or vendor shall be excused from any liability on those 74517  
materials. 74518

If a contractee fails to provide such certification upon the 74519  
request of the contractor or vendor, the contractor or vendor 74520  
shall comply with the provisions of this chapter and Chapter 5741. 74521  
of the Revised Code without the certification. If the tax 74522  
commissioner determines that such compliance has been performed in 74523  
good faith and that certain property treated as tangible personal 74524  
property by the contractor or vendor is, in fact, real property, 74525  
the contractee shall be considered to be the consumer of all 74526  
materials so incorporated into that real property and shall be 74527  
liable for the applicable tax, and the construction contractor or 74528  
vendor shall be excused from any liability on those materials. 74529

This division does not apply to any contract or agreement 74530  
where the tax commissioner determines as a fact that a 74531  
certification under this division was made solely on the decision 74532  
or advice of the contractor or vendor. 74533

(D) Notwithstanding division (B) of section 5739.01 of the 74534  
Revised Code, whenever the total rate of tax imposed under this 74535

chapter is increased after the date after a construction contract 74536  
is entered into, the contractee shall reimburse the construction 74537  
contractor for any additional tax paid on tangible property 74538  
consumed or services received pursuant to the contract. 74539

(E) A vendor who files a petition for reassessment contesting 74540  
the assessment of tax on sales for which the vendor obtained no 74541  
valid exemption certificates and for which the vendor failed to 74542  
establish that the sales were properly not subject to the tax 74543  
during the one-hundred-twenty-day period allowed under division 74544  
(B) of this section, may present to the tax commissioner 74545  
additional evidence to prove that the sales were properly subject 74546  
to a claim of exception or exemption. The vendor shall file such 74547  
evidence within ninety days of the receipt by the vendor of the 74548  
notice of assessment, except that, upon application and for 74549  
reasonable cause, the period for submitting such evidence shall be 74550  
extended thirty days. 74551

The commissioner shall consider such additional evidence in 74552  
reaching the final determination on the assessment and petition 74553  
for reassessment. 74554

(F) Whenever a vendor refunds to the consumer the full price 74555  
of an item of tangible personal property on which the tax imposed 74556  
under this chapter has been paid, the vendor shall also refund the 74557  
full amount of the tax paid. 74558

**Sec. 5739.033.** This section applies to sales made on and 74559  
after July 1, 2005. Sales made before July 1, 2005, are subject to 74560  
section 5739.035 of the Revised Code. On and after January 1, 74561  
2005, any vendor may irrevocably elect to comply with this section 74562  
for all of the vendor's sales and places of business in this 74563  
state. 74564

The amount of tax due pursuant to sections 5739.02, 5739.021, 74565

5739.023, and 5739.026 of the Revised Code is the sum of the taxes 74566  
imposed pursuant to those sections at the sourcing location of the 74567  
sale as determined under this section or, if applicable, under 74568  
division (C) of section 5739.031 or section 5739.034 or 5739.035 74569  
of the Revised Code. This section applies only to a vendor's or 74570  
seller's obligation to collect and remit sales taxes under section 74571  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or 74572  
use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 74573  
of the Revised Code. This section does not affect the obligation 74574  
of a consumer to remit use taxes on the storage, use, or other 74575  
consumption of tangible personal property or on the benefit 74576  
realized of any service provided, to the jurisdiction of that 74577  
storage, use, or consumption, or benefit realized. 74578

(A) Except for sales, other than leases, of titled motor 74579  
vehicles, titled watercraft, or titled outboard motors as provided 74580  
in section 5741.05 of the Revised Code, or as otherwise provided 74581  
in this section and section 5739.034 or 5740.10 of the Revised 74582  
Code, all sales shall be sourced as follows: 74583

(1) If the consumer or a donee designated by the consumer 74584  
receives tangible personal property or a service at a vendor's 74585  
place of business, the sale shall be sourced to that place of 74586  
business. 74587

(2) When the tangible personal property or service is not 74588  
received at a vendor's place of business, the sale shall be 74589  
sourced to the location known to the vendor where the consumer or 74590  
the donee designated by the consumer receives the tangible 74591  
personal property or service, including the location indicated by 74592  
instructions for delivery to the consumer or the consumer's donee. 74593

(3) If divisions (A)(1) and (2) of this section do not apply, 74594  
the sale shall be sourced to the location indicated by an address 74595  
for the consumer that is available from the vendor's business 74596

records that are maintained in the ordinary course of the vendor's 74597  
business, when use of that address does not constitute bad faith. 74598

(4) If divisions (A)(1), (2), and (3) of this section do not 74599  
apply, the sale shall be sourced to the location indicated by an 74600  
address for the consumer obtained during the consummation of the 74601  
sale, including the address associated with the consumer's payment 74602  
instrument, if no other address is available, when use of that 74603  
address does not constitute bad faith. 74604

(5) If divisions (A)(1), (2), (3), and (4) of this section do 74605  
not apply, including in the circumstance where the vendor is 74606  
without sufficient information to apply any of those divisions, 74607  
the sale shall be sourced to the address from which tangible 74608  
personal property was shipped, or from which the service was 74609  
provided, disregarding any location that merely provided the 74610  
electronic transfer of the property sold or service provided. 74611

(6) As used in division (A) of this section, "receive" means 74612  
taking possession of tangible personal property or making first 74613  
use of a service. "Receive" does not include possession by a 74614  
shipping company on behalf of a consumer. 74615

(B)(1)(a) Notwithstanding divisions (A)(1) to (5) of this 74616  
section, a business consumer that is not a holder of a direct 74617  
payment permit granted under section 5739.031 of the Revised Code, 74618  
that purchases a digital good, computer software ~~delivered~~ 74619  
electronically, except computer software received in person by a 74620  
business consumer at a vendor's place of business, or a service 74621  
~~for use in business~~, and that knows at the time of purchase that 74622  
such digital good, software, or service will be concurrently 74623  
available for use in more than one taxing jurisdiction shall 74624  
deliver to the vendor in conjunction with its purchase a an 74625  
exemption certificate claiming multiple points of use exemption 74626  
~~form prescribed by the tax commissioner disclosing this fact, or~~ 74627

shall meet the requirements of division (B)(2) of this section. On 74628  
receipt of the exemption certificate claiming multiple points of 74629  
use ~~exemption form~~, the vendor is relieved of its obligation to 74630  
collect, pay, or remit the tax due, and the business consumer must 74631  
pay the tax directly to the state. 74632

~~(2)(b)~~ A business consumer that delivers ~~such form the~~ 74633  
exemption certificate claiming multiple points of use to a vendor 74634  
may use any reasonable, consistent, and uniform method of 74635  
apportioning the tax due on the digital good, computer software 74636  
~~delivered electronically~~, or service ~~for use in business~~ that is 74637  
supported by the consumer's business records as they existed at 74638  
the time of the sale. The business consumer shall report and pay 74639  
the appropriate tax to each jurisdiction where concurrent use 74640  
occurs. The tax due shall be calculated as if the apportioned 74641  
amount of the digital good, computer software, or service had been 74642  
delivered to each jurisdiction to which the sale is apportioned 74643  
under this division. 74644

~~(3)(c)~~ The exemption certificate claiming multiple points of 74645  
use ~~exemption form~~ shall remain in effect for all future sales by 74646  
the vendor to the business consumer until it is revoked in writing 74647  
by the business consumer, except as to the business consumer's 74648  
specific apportionment of a subsequent sale under division 74649  
(B)~~(2)(1)(b)~~ of this section and the facts existing at the time of 74650  
the sale. 74651

(2) When the vendor knows that a digital good, computer 74652  
software, or service sold will be concurrently available for use 74653  
by the business consumer in more than one jurisdiction, but the 74654  
business consumer does not provide an exemption certificate 74655  
claiming multiple points of use as required by division (B)(1) of 74656  
this section, the vendor may work with the business consumer to 74657  
produce the correct apportionment. Governed by the principles of 74658  
division (B)(1)(b) of this section, the vendor and business 74659

consumer may use any reasonable, but consistent and uniform, 74660  
method of apportionment that is supported by the vendor's and 74661  
business consumer's books and records as they exist at the time 74662  
the sale is reported for purposes of the taxes levied under this 74663  
chapter. If the business consumer certifies to the accuracy of the 74664  
apportionment and the vendor accepts the certification, the vendor 74665  
shall collect and remit the tax accordingly. In the absence of bad 74666  
faith, the vendor is relieved of any further obligation to collect 74667  
tax on any transaction where the vendor has collected tax pursuant 74668  
to the information certified by the business consumer. 74669

(3) When the vendor knows that the digital good, computer 74670  
software, or service will be concurrently available for use in 74671  
more than one jurisdiction, and the business consumer does not 74672  
have a direct pay permit and does not provide to the vendor an 74673  
exemption certificate claiming multiple points of use as required 74674  
in division (B)(1) of this section, or certification pursuant to 74675  
division (B)(2) of this section, the vendor shall collect and 74676  
remit the tax based on division (A) of this section. 74677

(4) Nothing in this section shall limit a person's obligation 74678  
for sales or use tax to any state in which a digital good, 74679  
computer software, or service is concurrently available for use, 74680  
nor limit a person's ability under local, state, or federal law, 74681  
to claim a credit for sales or use taxes legally due and paid to 74682  
other jurisdictions. 74683

(C) A person who holds a direct payment permit issued under 74684  
section 5739.031 of the Revised Code is not required to deliver a 74685  
an exemption certificate claiming multiple points of use exemption 74686  
form to a vendor. But such permit holder shall comply with 74687  
division (B)(2)(1)(b) of this section in apportioning the tax due 74688  
on a digital good, computer software delivered electronically, or 74689  
a service used for use in business that will be concurrently 74690  
available for use in more than one taxing jurisdiction. 74691

(D)(1) Notwithstanding divisions (A)(1) to (5) of this section, the ~~purchaser~~ consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the ~~purchase~~ sale either a an exemption certificate claiming direct mail ~~form~~ prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of a ~~direct mail form~~ such exemption certificate, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the ~~purchaser~~ consumer is obligated to pay that tax on a direct pay basis. A An exemption certificate claiming direct mail ~~form~~ shall remain in effect for all future sales of direct mail by the vendor to the ~~purchaser~~ consumer until it is revoked in writing.

(3) Upon receipt of information from the ~~purchaser~~ consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the ~~purchaser~~ consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the ~~purchaser~~ consumer.

(4) If the ~~purchaser~~ consumer of direct mail does not have a direct payment permit and does not provide the vendor with either a an exemption certificate claiming direct mail ~~form~~ or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a ~~purchaser's~~ consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a ~~purchaser~~ consumer of direct mail provides the

vendor with documentation of direct payment authority, the 74723  
~~purchaser~~ consumer shall not be required to provide a an exemption 74724  
certificate claiming direct mail ~~form~~ or delivery information to 74725  
the vendor. 74726

(E) If the vendor provides lodging to transient guests as 74727  
specified in division (B)(2) of section 5739.01 of the Revised 74728  
Code, the sale shall be sourced to the location where the lodging 74729  
is located. 74730

(F)(1) As used in this division and division (G) of this 74731  
section, "transportation equipment" means any of the following: 74732

(a) Locomotives and railcars that are utilized for the 74733  
carriage of persons or property in interstate commerce. 74734

(b) Trucks and truck-tractors with a gross vehicle weight 74735  
rating of greater than ten thousand pounds, trailers, 74736  
semi-trailers, or passenger buses that are registered through the 74737  
international registration plan and are operated under authority 74738  
of a carrier authorized and certificated by the United States 74739  
department of transportation or another federal authority to 74740  
engage in the carriage of persons or property in interstate 74741  
commerce. 74742

(c) Aircraft that are operated by air carriers authorized and 74743  
certificated by the United States department of transportation or 74744  
another federal authority to engage in the carriage of persons or 74745  
property in interstate or foreign commerce. 74746

(d) Containers designed for use on and component parts 74747  
attached to or secured on the items set forth in division 74748  
(F)(1)(a), (b), or (c) of this section. 74749

(2) A sale, lease, or rental of transportation equipment 74750  
shall be sourced pursuant to division (A) of this section. 74751

(G)(1) A lease or rental of tangible personal property that 74752



does not require recurring periodic payments shall be sourced  
pursuant to division (A) of this section.

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(2) A lease or rental of tangible personal property that  
requires recurring periodic payments shall be sourced as follows:

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(a) In the case of a motor vehicle, other than a motor  
vehicle that is transportation equipment, or an aircraft, other  
than an aircraft that is transportation equipment, such lease or  
rental shall be sourced ~~to the primary property location~~ as  
follows:

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(i) ~~For~~ An accelerated tax payment on a lease or rental taxed  
pursuant to division (A)(2) of section 5739.02 of the Revised  
Code, shall be sourced to the primary property location ~~is the~~  
~~address of the lessee or renter used for titling the motor vehicle~~  
~~pursuant to section 4505.06 of the Revised Code~~ at the time the  
lease or rental is consummated. Any subsequent taxable charges on  
the lease or rental shall be sourced to the primary property  
location for the period in which the charges are incurred.

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(ii) For a lease or rental taxed pursuant to division (A)(3)  
of section 5739.02 of the Revised Code, ~~the primary property~~  
~~location for~~ each lease or rental installment ~~is~~ shall be sourced  
to the primary property location for the period covered by the  
installment.

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~~(b) In the case of an aircraft, other than an aircraft that~~  
~~is transportation equipment, such lease or rental shall be sourced~~  
~~to the primary property location as follows:~~

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~~(i) For a lease or rental taxed pursuant to division (A)(2)~~  
~~of section 5739.02 of the Revised Code, the primary property~~  
~~location is the primary property location at the time the lease or~~  
~~rental is consummated.~~

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~~(ii) For a lease or rental taxed pursuant to division (A)(3)~~

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~~of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.~~

~~(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or rental shall be sourced to the primary property location as follows:~~

~~(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.~~

~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.~~

~~(d)(b) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:~~

~~(i) For An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the lease or rental shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.~~

~~(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of~~

this section. Each subsequent installment shall be sourced to the 74814  
primary property location for the period covered by the 74815  
installment. 74816

(3) As used in division (G) of this section, "primary 74817  
property location" means an address for tangible personal property 74818  
provided by the lessee or renter that is available to the lessor 74819  
or owner from its records maintained in the ordinary course of 74820  
business, when use of that address does not constitute bad faith. 74821

**Sec. 5739.034.** (A) As used in this section: 74822

(1) "Air-to-ground radiotelephone service" means a radio 74823  
service, as defined in 47 C.F.R. 22.99, in which common carriers 74824  
are authorized to offer and provide radio telecommunications 74825  
service for hire to subscribers in aircraft. 74826

(2) "Call-by-call basis" means any method of charging for 74827  
telecommunications services where the price is measured by 74828  
individual calls. 74829

(3) "Customer" means the person or entity that contracts with 74830  
a seller of telecommunications service. If the end user of 74831  
telecommunications service is not the contracting party, the end 74832  
user of the telecommunications service is the customer of the 74833  
telecommunications service. "Customer" does not include a reseller 74834  
of telecommunications service or of mobile telecommunications 74835  
service of a serving carrier under an agreement to serve the 74836  
customer outside the home service provider's licensed service 74837  
area. 74838

(4) "End user" means the person who utilizes the 74839  
telecommunications service. In the case of a person other than an 74840  
individual, "end user" means the individual who utilizes the 74841  
service on behalf of the person. 74842

(5) "Home service provider" has the same meaning as in the 74843

"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74844  
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(6) "Place of primary use" means the street address 74846  
representative of where the customer's use of the 74847  
telecommunications service primarily occurs, which must be the 74848  
residential street address or the primary business street address 74849  
of the customer. In the case of mobile telecommunications 74850  
services, "place of primary use" must be within the licensed 74851  
service area of the home service provider. 74852

(7) "Post-paid calling service" means the telecommunications 74853  
service obtained by making a payment on a call-by-call basis 74854  
either through the use of a credit card or payment mechanism such 74855  
as a bank card, travel card, credit card, or debit card, or by 74856  
charge made to a telephone number that is not associated with the 74857  
origination or termination of the telecommunications service. 74858  
"Post-paid calling service" includes a telecommunications service, 74859  
except a prepaid wireless calling service, that would be a prepaid 74860  
calling service, but for the fact that it is not exclusively a 74861  
telecommunications service. 74862

(8) "~~Prepaid calling service" means the right to access~~ 74863  
~~exclusively a telecommunications service that must be paid for in~~ 74864  
~~advance, that enables the origination of calls using an access~~ 74865  
~~number or authorization code, whether manually or electronically~~ 74866  
~~dialed, and that is sold in predetermined units or dollars of~~ 74867  
~~which the number declines with use in a known amount and "prepaid~~ 74868  
~~wireless calling service" have the same meanings as in section~~ 74869  
5739.01 of the Revised Code. 74870

(9) "Service address" means: 74871

(a) The location of the telecommunications equipment to which 74872  
a customer's call is charged and from which the call originates or 74873  
terminates, regardless of where the call is billed or paid. 74874

(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.

(10) "Private communication service" means a telecommunications service that entitles a customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.

(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.

(D) Except for the telecommunications services described in

division (E) of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use.

(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows:

(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of ~~mobile telecommunications service that is a~~ prepaid ~~telecommunications~~ calling service or prepaid wireless calling service shall be sourced under division (A) of section 5739.033 of the Revised Code, ~~but~~. But in the case of prepaid wireless calling service, in lieu of sourcing the sale of the service under division (A)(5) of ~~that~~ section 5739.033 of the Revised Code, ~~it may be sourced~~ the service provider may elect to source the sale to the location associated with the mobile telephone number.

(4) A sale of a private communication service shall be sourced as follows:

(a) Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located;

(b) Service where all customer channel termination points are located entirely within one jurisdiction or level of jurisdiction shall be sourced in the jurisdiction in which the customer channel termination points are located; 74936  
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(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged shall be sourced fifty per cent in each level of jurisdiction in which the customer channel termination points are located; 74940  
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(d) Service for segments of a channel located in more than one jurisdiction or level of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points. 74945  
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**Sec. 5739.035.** This section only applies to sales that are required to be sitused under this section pursuant to section 5739.033 of the Revised Code. 74951  
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(A) Except as otherwise provided in this section, the situs of all sales is the vendor's place of business. 74954  
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(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business. 74956  
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(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received. 74960  
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(3) If the vendor provides a service specified in division 74966  
(B)(3)(a), (b), (c), (d), (n), (o), (g), (r), or (s), ~~or (t)~~ of 74967  
section 5739.01 or makes a sale specified in division (B)(8) of 74968  
section 5739.01 of the Revised Code, the situs of the sale is the 74969  
vendor's place of business where the service is performed or the 74970  
contract or agreement for the service was made or the purchase 74971  
order was received. 74972

(B) If the vendor is a transient vendor as specified in 74973  
division (B) of section 5739.17 of the Revised Code, the situs of 74974  
the sale is the vendor's temporary place of business or, if the 74975  
transient vendor is the lessor of titled motor vehicles, titled 74976  
watercraft, or titled outboard motors, at the location where the 74977  
lessee keeps the leased property. 74978

(C) If the vendor makes sales of tangible personal property 74979  
from a stock of goods carried in a motor vehicle, from which the 74980  
purchaser makes selection and takes possession, or from which the 74981  
vendor sells tangible personal property the quantity of which has 74982  
not been determined prior to the time the purchaser takes 74983  
possession, the situs of the sale is the location of the motor 74984  
vehicle when the sale is made. 74985

(D) If the vendor is a delivery vendor as specified in 74986  
division (D) of section 5739.17 of the Revised Code, the situs of 74987  
the sale is the place where the tangible personal property is 74988  
delivered, where the leased property is used, or where the service 74989  
is performed or received. 74990

(E) If the vendor provides a service specified in division 74991  
(B)(3)(e), (g), (h), (j), (k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of 74992  
section 5739.01 of the Revised Code, the situs of the sale is the 74993  
location of the consumer where the service is performed or 74994  
received. 74995

(F) If the vendor provides lodging to transient guests as 74996



specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located. 74997  
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(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling. 75000  
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(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address. 75010  
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**Sec. 5739.09.** (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per 75019  
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cent of the amount of tax due, and the rate at which interest 75028  
accrues does not exceed the rate per annum prescribed pursuant to 75029  
section 5703.47 of the Revised Code. Except as provided in 75030  
divisions (A)(2), (3), (4), and (5) of this section, the 75031  
regulations shall provide, after deducting the real and actual 75032  
costs of administering the tax, for the return to each municipal 75033  
corporation or township that does not levy an excise tax on the 75034  
transactions, a uniform percentage of the tax collected in the 75035  
municipal corporation or in the unincorporated portion of the 75036  
township from each transaction, not to exceed thirty-three and 75037  
one-third per cent. The remainder of the revenue arising from the 75038  
tax shall be deposited in a separate fund and shall be spent 75039  
solely to make contributions to the convention and visitors' 75040  
bureau or community improvement corporation operating within the 75041  
county, including a pledge and contribution of any portion of the 75042  
remainder pursuant to an agreement authorized by section 307.695 75043  
of the Revised Code. Except as provided in division (A)(2), (3), 75044  
(4), or (5) or (H) of this section, on and after May 10, 1994, a 75045  
board of county commissioners may not levy an excise tax pursuant 75046  
to this division in any municipal corporation or township located 75047  
wholly or partly within the county that has in effect an ordinance 75048  
or resolution levying an excise tax pursuant to division (B) of 75049  
this section. The board of a county that has levied a tax under 75050  
division (C) of this section may, by resolution adopted within 75051  
ninety days after July 15, 1985, by a majority of the members of 75052  
the board, amend the resolution levying a tax under this division 75053  
to provide for a portion of that tax to be pledged and contributed 75054  
in accordance with an agreement entered into under section 307.695 75055  
of the Revised Code. A tax, any revenue from which is pledged 75056  
pursuant to such an agreement, shall remain in effect at the rate 75057  
at which it is imposed for the duration of the period for which 75058  
the revenue from the tax has been so pledged. 75059

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and

promoting a facility in the county, including paying bonds, or 75092  
notes issued in anticipation of bonds, as provided by that 75093  
chapter; 75094

(c) That no portion of the revenue arising from the increase 75095  
in rate need be returned to municipal corporations or townships as 75096  
otherwise required under division (A)(1) of this section; 75097

(d) That the increase in rate shall not be subject to 75098  
diminution by initiative or referendum or by law while any bonds, 75099  
or notes in anticipation of bonds, issued by the authority under 75100  
Chapter 351. of the Revised Code to which the revenue is pledged, 75101  
remain outstanding in accordance with their terms, unless 75102  
provision is made by law or by the board of county commissioners 75103  
for an adequate substitute therefor that is satisfactory to the 75104  
trustee if a trust agreement secures the bonds. 75105

Division (A)(3) of this section does not apply to the board 75106  
of county commissioners of any county in which a convention center 75107  
or facility exists or is being constructed on November 15, 1998, 75108  
or of any county in which a convention facilities authority levies 75109  
a tax pursuant to section 351.021 of the Revised Code on that 75110  
date. 75111

As used in division (A)(3) of this section, "cost" and 75112  
"facility" have the same meanings as in section 351.01 of the 75113  
Revised Code, and "convention center" has the same meaning as in 75114  
section 307.695 of the Revised Code. 75115

(4) A board of county commissioners that levies a tax under 75116  
division (A)(1) of this section on June 30, 2002, at a rate of 75117  
three per cent may, by resolution adopted not later than September 75118  
30, 2002, amend the resolution levying the tax to provide for all 75119  
of the following: 75120

(a) That the rate of the tax shall be increased by not more 75121  
than an additional three and one-half per cent on each 75122

transaction; 75123

(b) That all of the revenue from the increase in rate shall 75124  
be pledged and contributed to a convention facilities authority 75125  
established by the board of county commissioners under Chapter 75126  
351. of the Revised Code on or before May 15, 2002, and be used to 75127  
pay costs of constructing, expanding, maintaining, operating, or 75128  
promoting a convention center in the county, including paying 75129  
bonds, or notes issued in anticipation of bonds, as provided by 75130  
that chapter; 75131

(c) That no portion of the revenue arising from the increase 75132  
in rate need be returned to municipal corporations or townships as 75133  
otherwise required under division (A)(1) of this section; 75134

(d) That the increase in rate shall not be subject to 75135  
diminution by initiative or referendum or by law while any bonds, 75136  
or notes in anticipation of bonds, issued by the authority under 75137  
Chapter 351. of the Revised Code to which the revenue is pledged, 75138  
remain outstanding in accordance with their terms, unless 75139  
provision is made by law or by the board of county commissioners 75140  
for an adequate substitute therefor that is satisfactory to the 75141  
trustee if a trust agreement secures the bonds. 75142

As used in division (A)(4) of this section, "cost" has the 75143  
same meaning as in section 351.01 of the Revised Code, and 75144  
"convention center" has the same meaning as in section 307.695 of 75145  
the Revised Code. 75146

(5)(a) As used in division (A)(5) of this section: 75147

(i) "Port authority" means a port authority created under 75148  
Chapter 4582. of the Revised Code. 75149

(ii) "Port authority military-use facility" means port 75150  
authority facilities on which or adjacent to which is located an 75151  
installation of the armed forces of the United States, a reserve 75152

component thereof, or the national guard and at least part of 75153  
which is made available for use, for consideration, by the armed 75154  
forces of the United States, a reserve component thereof, or the 75155  
national guard. 75156

(b) For the purpose of contributing revenue to pay operating 75157  
expenses of a port authority that operates a port authority 75158  
military-use facility, the board of county commissioners of a 75159  
county that created, participated in the creation of, or has 75160  
joined such a port authority may do one or both of the following: 75161

(i) Amend a resolution previously adopted under division 75162  
(A)(1) of this section to designate some or all of the revenue 75163  
from the tax levied under the resolution to be used for that 75164  
purpose, notwithstanding that division; 75165

(ii) Amend a resolution previously adopted under division 75166  
(A)(1) of this section to increase the rate of the tax by not more 75167  
than an additional two per cent and use the revenue from the 75168  
increase exclusively for that purpose. 75169

(c) If a board of county commissioners amends a resolution to 75170  
increase the rate of a tax as authorized in division (A)(5)(b)(ii) 75171  
of this section, the board also may amend the resolution to 75172  
specify that the increase in rate of the tax does not apply to 75173  
"hotels," as otherwise defined in section 5739.01 of the Revised 75174  
Code, having fewer rooms used for the accommodation of guests than 75175  
a number of rooms specified by the board. 75176

(B)(1) The legislative authority of a municipal corporation 75177  
or the board of trustees of a township that is not wholly or 75178  
partly located in a county that has in effect a resolution levying 75179  
an excise tax pursuant to division (A)(1) of this section may, by 75180  
ordinance or resolution, levy an excise tax not to exceed three 75181  
per cent on transactions by which lodging by a hotel is or is to 75182  
be furnished to transient guests. The legislative authority of the 75183

municipal corporation or the board of trustees of the township 75184  
shall deposit at least fifty per cent of the revenue from the tax 75185  
levied pursuant to this division into a separate fund, which shall 75186  
be spent solely to make contributions to convention and visitors' 75187  
bureaus operating within the county in which the municipal 75188  
corporation or township is wholly or partly located, and the 75189  
balance of that revenue shall be deposited in the general fund. 75190  
The municipal corporation or township shall establish all 75191  
regulations necessary to provide for the administration and 75192  
allocation of the tax. The regulations may prescribe the time for 75193  
payment of the tax, and may provide for the imposition of a 75194  
penalty or interest, or both, for late payments, provided that the 75195  
penalty does not exceed ten per cent of the amount of tax due, and 75196  
the rate at which interest accrues does not exceed the rate per 75197  
annum prescribed pursuant to section 5703.47 of the Revised Code. 75198  
The levy of a tax under this division is in addition to any tax 75199  
imposed on the same transaction by a municipal corporation or a 75200  
township as authorized by division (A) of section 5739.08 of the 75201  
Revised Code. 75202

(2) The legislative authority of the most populous municipal 75203  
corporation located wholly or partly in a county in which the 75204  
board of county commissioners has levied a tax under division 75205  
(A)(4) of this section may amend, on or before September 30, 2002, 75206  
that municipal corporation's ordinance or resolution that levies 75207  
an excise tax on transactions by which lodging by a hotel is or is 75208  
to be furnished to transient guests, to provide for all of the 75209  
following: 75210

(a) That the rate of the tax shall be increased by not more 75211  
than an additional one per cent on each transaction; 75212

(b) That all of the revenue from the increase in rate shall 75213  
be pledged and contributed to a convention facilities authority 75214  
established by the board of county commissioners under Chapter 75215

351. of the Revised Code on or before May 15, 2002, and be used to  
pay costs of constructing, expanding, maintaining, operating, or  
promoting a convention center in the county, including paying  
bonds, or notes issued in anticipation of bonds, as provided by  
that chapter;

(c) That the increase in rate shall not be subject to  
diminution by initiative or referendum or by law while any bonds,  
or notes in anticipation of bonds, issued by the authority under  
Chapter 351. of the Revised Code to which the revenue is pledged,  
remain outstanding in accordance with their terms, unless  
provision is made by law, by the board of county commissioners, or  
by the legislative authority, for an adequate substitute therefor  
that is satisfactory to the trustee if a trust agreement secures  
the bonds.

As used in division (B)(2) of this section, "cost" has the  
same meaning as in section 351.01 of the Revised Code, and  
"convention center" has the same meaning as in section 307.695 of  
the Revised Code.

(C) For the purpose of making the payments authorized by  
section 307.695 of the Revised Code to construct and equip a  
convention center in the county and to cover the costs of  
administering the tax, a board of county commissioners of a county  
where a tax imposed under division (A)(1) of this section is in  
effect may, by resolution adopted within ~~ninety~~ one hundred eighty  
days after July ~~15, 1985~~ 1, 2005, by a majority of the members of  
the board, levy an additional excise tax not to exceed three per  
cent on transactions by which lodging by a hotel is or is to be  
furnished to transient guests. The tax authorized by this division  
shall be in addition to any tax that is levied pursuant to  
division (A) of this section, but it shall not apply to  
transactions subject to a tax levied by a municipal corporation or  
township pursuant to the authorization granted by division (A) of



section 5739.08 of the Revised Code. The board shall establish all 75248  
regulations necessary to provide for the administration and 75249  
allocation of the tax. The regulations may prescribe the time for 75250  
payment of the tax, and may provide for the imposition of a 75251  
penalty or interest, or both, for late payments, provided that the 75252  
penalty does not exceed ten per cent of the amount of tax due, and 75253  
the rate at which interest accrues does not exceed the rate per 75254  
annum prescribed pursuant to section 5703.47 of the Revised Code. 75255  
All revenues arising from the tax shall be expended in accordance 75256  
with section 307.695 of the Revised Code. A tax imposed under this 75257  
division shall remain in effect at the rate at which it is imposed 75258  
for the duration of the period for which the revenue from the tax 75259  
has been pledged pursuant to that section. 75260

(D) For the purpose of providing contributions under division 75261  
(B)(1) of section 307.671 of the Revised Code to enable the 75262  
acquisition, construction, and equipping of a port authority 75263  
educational and cultural facility in the county and, to the extent 75264  
provided for in the cooperative agreement authorized by that 75265  
section, for the purpose of paying debt service charges on bonds, 75266  
or notes in anticipation of bonds, described in division (B)(1)(b) 75267  
of that section, a board of county commissioners, by resolution 75268  
adopted within ninety days after December 22, 1992, by a majority 75269  
of the members of the board, may levy an additional excise tax not 75270  
to exceed one and one-half per cent on transactions by which 75271  
lodging by a hotel is or is to be furnished to transient guests. 75272  
The excise tax authorized by this division shall be in addition to 75273  
any tax that is levied pursuant to divisions (A), (B), and (C) of 75274  
this section, to any excise tax levied pursuant to section 5739.08 75275  
of the Revised Code, and to any excise tax levied pursuant to 75276  
section 351.021 of the Revised Code. The board of county 75277  
commissioners shall establish all regulations necessary to provide 75278  
for the administration and allocation of the tax that are not 75279  
inconsistent with this section or section 307.671 of the Revised 75280

Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the

legislative authority of a county, by resolution adopted within  
ninety days after June 30, 1993, by a majority of the members of  
the legislative authority, may levy an additional excise tax not  
to exceed one and one-half per cent on transactions by which  
lodging by a hotel is or is to be furnished to transient guests.  
The excise tax authorized by this division shall be in addition to  
any tax that is levied pursuant to divisions (A), (B), (C), and  
(D) of this section, to any excise tax levied pursuant to section  
5739.08 of the Revised Code, and to any excise tax levied pursuant  
to section 351.021 of the Revised Code. The legislative authority  
of the county shall establish all regulations necessary to provide  
for the administration and allocation of the tax. The regulations  
may prescribe the time for payment of the tax, and may provide for  
the imposition of a penalty or interest, or both, for late  
payments, provided that the penalty does not exceed ten per cent  
of the amount of tax due, and the rate at which interest accrues  
does not exceed the rate per annum prescribed pursuant to section  
5703.47 of the Revised Code. All revenues arising from the tax  
shall be expended in accordance with section 307.672 of the  
Revised Code and this division. The levy of a tax imposed under  
this division shall not commence prior to the first day of the  
month next following the execution of the cooperative agreement  
authorized by section 307.672 of the Revised Code by all parties  
to that agreement. The tax shall remain in effect at the rate at  
which it is imposed for the period of time determined by the  
legislative authority of the county, but not to exceed fifteen  
years.

(F) The legislative authority of a county that has levied a  
tax under division (E) of this section may, by resolution adopted  
within one hundred eighty days after January 4, 2001, by a  
majority of the members of the legislative authority, amend the  
resolution levying a tax under that division to provide for the

use of the proceeds of that tax, to the extent that it is no  
longer needed for its original purpose as determined by the  
parties to a cooperative agreement amendment pursuant to division  
(D) of section 307.672 of the Revised Code, to pay costs of  
acquiring, constructing, renovating, rehabilitating, equipping,  
and improving a port authority educational and cultural performing  
arts facility, including debt service charges on bonds provided  
for in division (B) of section 307.674 of the Revised Code, and to  
pay all obligations under any guaranty agreements, reimbursement  
agreements, or other credit enhancement agreements described in  
division (C) of section 307.674 of the Revised Code. The  
resolution may also provide for the extension of the tax at the  
same rate for the longer of the period of time determined by the  
legislative authority of the county, but not to exceed an  
additional twenty-five years, or the period of time required to  
pay all debt service charges on bonds provided for in division (B)  
of section 307.672 of the Revised Code and on port authority  
revenue bonds provided for in division (B) of section 307.674 of  
the Revised Code. All revenues arising from the amendment and  
extension of the tax shall be expended in accordance with section  
307.674 of the Revised Code, this division, and division (E) of  
this section.

(G) For purposes of a tax levied by a county, township, or  
municipal corporation under this section or section 5739.08 of the  
Revised Code, a board of county commissioners, board of township  
trustees, or the legislative authority of a municipal corporation  
may adopt a resolution or ordinance at any time specifying that  
"hotel," as otherwise defined in section 5739.01 of the Revised  
Code, includes establishments in which fewer than five rooms are  
used for the accommodation of guests. The resolution or ordinance  
may apply to a tax imposed pursuant to this section prior to the  
adoption of the resolution or ordinance if the resolution or

ordinance so states, but the tax shall not apply to transactions 75377  
by which lodging by such an establishment is provided to transient 75378  
guests prior to the adoption of the resolution or ordinance. 75379

(H)(1) As used in this division: 75380

(a) "Convention facilities authority" has the same meaning as 75381  
in section 351.01 of the Revised Code. 75382

(b) "Convention center" has the same meaning as in section 75383  
307.695 of the Revised Code. 75384

(2) Notwithstanding any contrary provision of division (D) of 75385  
this section, the legislative authority of a county with a 75386  
population of one million or more according to the most recent 75387  
federal decennial census that has levied a tax under division (D) 75388  
of this section may, by resolution adopted by a majority of the 75389  
members of the legislative authority, provide for the extension of 75390  
such levy and may provide that the proceeds of that tax, to the 75391  
extent that they are no longer needed for their original purpose 75392  
as defined by a cooperative agreement entered into under section 75393  
307.671 of the Revised Code, shall be deposited into the county 75394  
general revenue fund. The resolution shall provide for the 75395  
extension of the tax at a rate not to exceed the rate specified in 75396  
division (D) of this section for a period of time determined by 75397  
the legislative authority of the county, but not to exceed an 75398  
additional forty years. 75399

(3) The legislative authority of a county with a population 75400  
of one million or more that has levied a tax under division (A)(1) 75401  
of this section may, by resolution adopted by a majority of the 75402  
members of the legislative authority, increase the rate of the tax 75403  
levied by such county under division (A)(1) of this section to a 75404  
rate not to exceed five per cent on transactions by which lodging 75405  
by a hotel is or is to be furnished to transient guests. 75406  
Notwithstanding any contrary provision of division (A)(1) of this 75407

section, the resolution may provide that all collections resulting 75408  
from the rate levied in excess of three per cent, after deducting 75409  
the real and actual costs of administering the tax, shall be 75410  
deposited in the county general fund. 75411

(4) The legislative authority of a county with a population 75412  
of one million or more that has levied a tax under division (A)(1) 75413  
of this section may, by resolution adopted on or before August 30, 75414  
2004, by a majority of the members of the legislative authority, 75415  
provide that all or a portion of the proceeds of the tax levied 75416  
under division (A)(1) of this section, after deducting the real 75417  
and actual costs of administering the tax and the amounts required 75418  
to be returned to townships and municipal corporations with 75419  
respect to the first three per cent levied under division (A)(1) 75420  
of this section, shall be deposited in the county general fund, 75421  
provided that such proceeds shall be used to satisfy any pledges 75422  
made in connection with an agreement entered into under section 75423  
307.695 of the Revised Code. 75424

(5) No amount collected from a tax levied, extended, or 75425  
required to be deposited in the county general fund under division 75426  
(H) of this section shall be contributed to a convention 75427  
facilities authority, corporation, or other entity created after 75428  
July 1, 2003, for the principal purpose of constructing, 75429  
improving, expanding, equipping, financing, or operating a 75430  
convention center unless the mayor of the municipal corporation in 75431  
which the convention center is to be operated by that convention 75432  
facilities authority, corporation, or other entity has consented 75433  
to the creation of that convention facilities authority, 75434  
corporation, or entity. Notwithstanding any contrary provision of 75435  
section 351.04 of the Revised Code, if a tax is levied by a county 75436  
under division (H) of this section, the board of county 75437  
commissioners of that county may determine the manner of 75438  
selection, the qualifications, the number, and terms of office of 75439

the members of the board of directors of any convention facilities 75440  
authority, corporation, or other entity described in division 75441  
(H)(5) of this section. 75442

(6)(a) No amount collected from a tax levied, extended, or 75443  
required to be deposited in the county general fund under division 75444  
(H) of this section may be used for any purpose other than paying 75445  
the direct and indirect costs of constructing, improving, 75446  
expanding, equipping, financing, or operating a convention center 75447  
and for the real and actual costs of administering the tax, 75448  
unless, prior to the adoption of the resolution of the legislative 75449  
authority of the county authorizing the levy, extension, increase, 75450  
or deposit, the county and the mayor of the most populous 75451  
municipal corporation in that county have entered into an 75452  
agreement as to the use of such amounts, provided that such 75453  
agreement has been approved by a majority of the mayors of the 75454  
other municipal corporations in that county. The agreement shall 75455  
provide that the amounts to be used for purposes other than paying 75456  
the convention center or administrative costs described in 75457  
division (H)(6)(a) of this section be used only for the direct and 75458  
indirect costs of capital improvements, including the financing of 75459  
capital improvements. 75460

(b) If the county in which the tax is levied has an 75461  
association of mayors and city managers, the approval of that 75462  
association of an agreement described in division (H)(6)(a) of 75463  
this section shall be considered to be the approval of the 75464  
majority of the mayors of the other municipal corporations for 75465  
purposes of that division. 75466

(7) Each year, the auditor of state shall conduct an audit of 75467  
the uses of any amounts collected from taxes levied, extended, or 75468  
deposited under division (H) of this section and shall prepare a 75469  
report of the auditor of state's findings. The auditor of state 75470  
shall submit the report to the legislative authority of the county 75471

that has levied, extended, or deposited the tax, the speaker of 75472  
the house of representatives, the president of the senate, and the 75473  
leaders of the minority parties of the house of representatives 75474  
and the senate. 75475

**Sec. 5739.10.** (A) In addition to the tax levied by section 75476  
5739.02 of the Revised Code and any tax levied pursuant to section 75477  
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 75478  
the same objectives specified in those sections, there is hereby 75479  
levied upon the privilege of engaging in the business of making 75480  
retail sales, an excise tax ~~of six per cent on and after July 1,~~ 75481  
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 75482  
~~per cent on and after July 1, 2005~~ equal to the tax levied by 75483  
section 5739.02 of the Revised Code, or, in the case of retail 75484  
sales subject to a tax levied pursuant to section 5739.021, 75485  
5739.023, or 5739.026 of the Revised Code, a percentage equal to 75486  
the aggregate rate of such taxes and the tax levied by section 75487  
5739.02 of the Revised Code of the receipts derived from all 75488  
retail sales, except those to which the excise tax imposed by 75489  
section 5739.02 of the Revised Code is made inapplicable by 75490  
division (B) of that section. 75491

(B) For the purpose of this section, no vendor shall be 75492  
required to maintain records of sales of food for human 75493  
consumption off the premises where sold, and no assessment shall 75494  
be made against any vendor for sales of food for human consumption 75495  
off the premises where sold, solely because the vendor has no 75496  
records of, or has inadequate records of, such sales; provided 75497  
that where a vendor does not have adequate records of receipts 75498  
from the vendor's sales of food for human consumption on the 75499  
premises where sold, the tax commissioner may refuse to accept the 75500  
vendor's return and, upon the basis of test checks of the vendor's 75501  
business for a representative period, and other information 75502



relating to the sales made by such vendor, determine the 75503  
proportion that taxable retail sales bear to all of the vendor's 75504  
retail sales. The tax imposed by this section shall be determined 75505  
by deducting from the sum representing five and one-half or six 75506  
per cent, as applicable under division (A) of this section, or, in 75507  
the case of retail sales subject to a tax levied pursuant to 75508  
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a 75509  
percentage equal to the aggregate rate of such taxes and the tax 75510  
levied by section 5739.02 of the Revised Code of the receipts from 75511  
such retail sales, the amount of tax paid to the state or to a 75512  
clerk of a court of common pleas. The section does not affect any 75513  
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 75514  
to 5739.31 of the Revised Code, nor the liability of any consumer 75515  
to pay any tax imposed by or pursuant to section 5739.02, 75516  
5739.021, 5739.023, or 5739.026 of the Revised Code. 75517

**Sec. 5739.12.** (A) Each person who has or is required to have 75518  
a vendor's license, on or before the twenty-third day of each 75519  
month, shall make and file a return for the preceding month, on 75520  
forms prescribed by the tax commissioner, and shall pay the tax 75521  
shown on the return to be due. The commissioner may require a 75522  
vendor that operates from multiple locations or has multiple 75523  
vendor's licenses to report all tax liabilities on one 75524  
consolidated return. The return shall show the amount of tax due 75525  
from the vendor to the state for the period covered by the return 75526  
and such other information as the commissioner deems necessary for 75527  
the proper administration of this chapter. The commissioner may 75528  
extend the time for making and filing returns and paying the tax, 75529  
and may require that the return for the last month of any annual 75530  
or semiannual period, as determined by the commissioner, be a 75531  
reconciliation return detailing the vendor's sales activity for 75532  
the preceding annual or semiannual period. The reconciliation 75533  
return shall be filed by the last day of the month following the 75534

last month of the annual or semiannual period. The commissioner 75535  
may remit all or any part of amounts or penalties that may become 75536  
due under this chapter and may adopt rules relating thereto. Such 75537  
return shall be filed by mailing it to the tax commissioner, 75538  
together with payment of the amount of tax shown to be due thereon 75539  
after deduction of any discount provided for under this section. 75540  
Remittance shall be made payable to the treasurer of state. The 75541  
return shall be considered filed when received by the tax 75542  
commissioner, and the payment shall be considered made when 75543  
received by the tax commissioner or when credited to an account 75544  
designated by the treasurer of state or the tax commissioner. 75545

(B) If the return is filed and the amount of tax shown 75546  
thereon to be due is paid on or before the date such return is 75547  
required to be filed, the vendor shall be entitled to ~~the~~ 75548  
~~following a discount~~ of 75549

~~(1) On and after July 1, 2003, and on and before June 30,~~ 75550  
~~2005,~~ nine-tenths of one per cent of the amount shown to be due on 75551  
the return. 75552

~~(2) On and after July 1, 2005, three fourths of one per cent~~ 75553  
~~of the amount shown to be due on the return.~~ 75554

A vendor that has selected a certified service provider as 75555  
its agent shall not be entitled to the discount. Amounts paid to 75556  
the clerk of courts pursuant to section 4505.06 of the Revised 75557  
Code shall be subject to the applicable discount. The discount 75558  
shall be in consideration for prompt payment to the clerk of 75559  
courts and for other services performed by the vendor in the 75560  
collection of the tax. 75561

(C)(1) Upon application to the commissioner, a vendor who is 75562  
required to file monthly returns may be relieved of the 75563  
requirement to report and pay the actual tax due, provided that 75564  
the vendor agrees to remit to the tax commissioner payment of not 75565

less than an amount determined by the commissioner to be the  
average monthly tax liability of the vendor, based upon a review  
of the returns or other information pertaining to such vendor for  
a period of not less than six months nor more than two years  
immediately preceding the filing of the application. Vendors who  
agree to the above conditions shall make and file an annual or  
semiannual reconciliation return, as prescribed by the  
commissioner. The reconciliation return shall be filed by mailing  
or delivering it to the tax commissioner, together with payment of  
the amount of tax shown to be due thereon after deduction of any  
discount provided in this section. Remittance shall be made  
payable to the treasurer of state. Failure of a vendor to comply  
with any of the above conditions may result in immediate  
reinstatement of the requirement of reporting and paying the  
actual tax liability on each monthly return, and the commissioner  
may at the commissioner's discretion deny the vendor the right to  
report and pay based upon the average monthly liability for a  
period not to exceed two years. The amount ascertained by the  
commissioner to be the average monthly tax liability of a vendor  
may be adjusted, based upon a review of the returns or other  
information pertaining to the vendor for a period of not less than  
six months nor more than two years preceding such adjustment.

(2) The commissioner may authorize vendors whose tax  
liability is not such as to merit monthly returns, as ascertained  
by the commissioner upon the basis of administrative costs to the  
state, to make and file returns at less frequent intervals. When  
returns are filed at less frequent intervals in accordance with  
such authorization, the vendor shall be allowed the discount  
provided in this section in consideration for prompt payment with  
the return, provided the return is filed together with payment of  
the amount of tax shown to be due thereon, at the time specified  
by the commissioner, but a vendor that has selected a certified

service provider as its agent shall not be entitled to the 75598  
discount. 75599

(D) Any vendor who fails to file a return or pay the full 75600  
amount of the tax shown on the return to be due under this section 75601  
and the rules of the commissioner may, for each such return the 75602  
vendor fails to file or each such tax the vendor fails to pay in 75603  
full as shown on the return within the period prescribed by this 75604  
section and the rules of the commissioner, be required to forfeit 75605  
and pay into the state treasury an additional charge not exceeding 75606  
fifty dollars or ten per cent of the tax required to be paid for 75607  
the reporting period, whichever is greater, as revenue arising 75608  
from the tax imposed by this chapter, and such sum may be 75609  
collected by assessment in the manner provided in section 5739.13 75610  
of the Revised Code. The commissioner may remit all or a portion 75611  
of the additional charge and may adopt rules relating to the 75612  
imposition and remission of the additional charge. 75613

(E) If the amount required to be collected by a vendor from 75614  
consumers is in excess of the applicable percentage of the 75615  
vendor's receipts from sales that are taxable under section 75616  
5739.02 of the Revised Code, or in the case of sales subject to a 75617  
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75618  
the Revised Code, in excess of the percentage equal to the 75619  
aggregate rate of such taxes and the tax levied by section 5739.02 75620  
of the Revised Code, such excess shall be remitted along with the 75621  
remittance of the amount of tax due under section 5739.10 of the 75622  
Revised Code. 75623

(F) The commissioner, if the commissioner deems it necessary 75624  
in order to insure the payment of the tax imposed by this chapter, 75625  
may require returns and payments to be made for other than monthly 75626  
periods. The returns shall be signed by the vendor or the vendor's 75627  
authorized agent. 75628

(G) Any vendor required to file a return and pay the tax under this section, whose total payment equals or exceeds the amount shown in division (A) of section 5739.122 of the Revised Code, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

**Sec. 5739.16.** (A) ~~No~~ Except as otherwise provided in this section, no assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period is filed, whichever is later. A consumer who provides a fully completed exemption certificate pursuant to division (B) of section 5739.03 of the Revised Code may be assessed any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code that results from denial of the claimed exemption within the later of a period otherwise allowed by this section or one year after the date the certificate was provided. This division does not bar an assessment:

(1) When the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail

sales, which were not returned to the state; 75660

(2) When the vendor assessed failed to file a return as 75661  
required by section 5739.12 of the Revised Code; 75662

(3) When the vendor or consumer and the commissioner waive in 75663  
writing the time limitation. 75664

(B) No assessment shall be made or issued against a vendor or 75665  
consumer for any tax imposed by or pursuant to section 5739.02, 75666  
5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code for 75667  
any period during which there was in full force and effect a rule 75668  
of the tax commissioner under or by virtue of which the collection 75669  
or payment of any such tax was not required. This division does 75670  
not bar an assessment when the tax commissioner has substantial 75671  
evidence of amounts of taxes collected by a vendor from consumers 75672  
on retail sales which were not returned to the state. 75673

(C) No assessment shall be made or issued against a person 75674  
for any tax imposed pursuant to section 5739.101 of the Revised 75675  
Code more than four years after the return date for the period in 75676  
which the tax is imposed on the person's gross receipts, or more 75677  
than four years after the return for such period is filed, 75678  
whichever is later. This division does not bar an assessment when 75679  
the person assessed failed to file a return as required under 75680  
section 5739.102 of the Revised Code, or when the person and the 75681  
commissioner waive in writing the time limitation. 75682

**Sec. 5739.17.** (A) No person shall engage in making retail 75683  
sales subject to a tax imposed by or pursuant to section 5739.02, 75684  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75685  
without having a license therefor, except as otherwise provided in 75686  
divisions (A)(1), (2), and (3) of this section. 75687

(1) In the dissolution of a partnership by death, the 75688  
surviving partner may operate under the license of the partnership 75689

for a period of sixty days. 75690

(2) The heirs or legal representatives of deceased persons, 75691  
and receivers and trustees in bankruptcy, appointed by any 75692  
competent authority, may operate under the license of the person 75693  
so succeeded in possession. 75694

(3) Two or more persons who are not partners may operate a 75695  
single place of business under one license. In such case neither 75696  
the retirement of any such person from business at that place of 75697  
business, nor the entrance of any person, under an existing 75698  
arrangement, shall affect the license or require the issuance of a 75699  
new license, unless the person retiring from the business is the 75700  
individual named on the vendor's license. 75701

Except as otherwise provided in this section, each applicant 75702  
for a license shall make out and deliver to the county auditor of 75703  
each county in which the applicant desires to engage in business, 75704  
upon a blank to be furnished by such auditor for that purpose, a 75705  
statement showing the name of the applicant, each place of 75706  
business in the county where the applicant will make retail sales, 75707  
the nature of the business, and any other information the tax 75708  
commissioner reasonably prescribes in the form of a statement 75709  
prescribed by the commissioner. 75710

At the time of making the application, the applicant shall 75711  
pay into the county treasury a license fee in the sum of 75712  
twenty-five dollars for each fixed place of business in the county 75713  
that will be the situs of retail sales. Upon receipt of the 75714  
application and exhibition of the county treasurer's receipt, 75715  
showing the payment of the license fee, the county auditor shall 75716  
issue to the applicant a license for each fixed place of business 75717  
designated in the application, authorizing the applicant to engage 75718  
in business at that location. If a vendor's identity changes, the 75719  
vendor shall apply for a new license. If a vendor wishes to move 75720

an existing fixed place of business to a new location within the  
same county, the vendor shall obtain a new vendor's license or  
submit a request to the tax commissioner to transfer the existing  
vendor's license to the new location. When the new location has  
been verified as being within the same county, the commissioner  
shall authorize the transfer and notify the county auditor of the  
change of location. If a vendor wishes to move an existing fixed  
place of business to another county, the vendor's license shall  
not transfer and the vendor shall obtain a new vendor's license  
from the county in which the business is to be located. The form  
of the license shall be prescribed by the commissioner. The fees  
collected shall be credited to the general fund of the county.

The tax commissioner may establish or participate in a  
registration system whereby any vendor may obtain a vendor's  
license by submitting to the commissioner a vendor's license  
application and a license fee of twenty-five dollars for each  
fixed place of business at which the vendor intends to make retail  
sales. Under this registration system, the commissioner shall  
issue a vendor's license to the applicant on behalf of the county  
auditor of the county in which the applicant desires to engage in  
business, and shall forward a copy of the application and license  
fee to that county. All such license fees received by the  
commissioner for the issuance of vendor's licenses shall be  
deposited into the vendor's license application fund, which is  
hereby created in the state treasury. The commissioner shall  
certify to the director of budget and management within ten  
business days after the close of a month the license fees to be  
transmitted to each county from the vendor's license application  
fund for vendor's license applications received by the  
commissioner during that month. License fees transmitted to a  
county for which payment was not received by the commissioner may  
be netted against a future distribution to that county, including



distributions made pursuant to section 5739.21 of the Revised 75753  
Code. 75754

A vendor that makes retail sales subject to tax under Chapter 75755  
5739. of the Revised Code pursuant to a permit issued by the 75756  
division of liquor control shall obtain a vendor's license in the 75757  
identical name and for the identical address as shown on the 75758  
permit. 75759

Except as otherwise provided in this section, if a vendor has 75760  
no fixed place of business and sells from a vehicle, each vehicle 75761  
intended to be used within a county constitutes a place of 75762  
business for the purpose of this section. 75763

(B) As used in this division, "transient vendor" means any 75764  
person who makes sales of tangible personal property from vending 75765  
machines located on land owned by others, who leases titled motor 75766  
vehicles, titled watercraft, or titled outboard motors, who 75767  
effectuates leases that are taxed according to division (A)(2) of 75768  
section 5739.02 of the Revised Code, or who, in the usual course 75769  
of the person's business, transports inventory, stock of goods, or 75770  
similar tangible personal property to a temporary place of 75771  
business or temporary exhibition, show, fair, flea market, or 75772  
similar event in a county in which the person has no fixed place 75773  
of business, for the purpose of making retail sales of such 75774  
property. A "temporary place of business" means any public or 75775  
quasi-public place including, but not limited to, a hotel, rooming 75776  
house, storeroom, building, part of a building, tent, vacant lot, 75777  
railroad car, or motor vehicle that is temporarily occupied for 75778  
the purpose of making retail sales of goods to the public. A place 75779  
of business is not temporary if the same person conducted business 75780  
at the place continuously for more than six months or occupied the 75781  
premises as the person's permanent residence for more than six 75782  
months, or if the person intends it to be a fixed place of 75783  
business. 75784

Any transient vendor, in lieu of obtaining a vendor's license 75785  
under division (A) of this section for counties in which the 75786  
transient vendor has no fixed place of business, may apply to the 75787  
tax commissioner, on a form prescribed by the commissioner, for a 75788  
transient vendor's license. The transient vendor's license 75789  
authorizes the transient vendor to make retail sales in any county 75790  
in which the transient vendor does not maintain a fixed place of 75791  
business. Any holder of a transient vendor's license shall not be 75792  
required to obtain a separate vendor's license from the county 75793  
auditor in that county. Upon the commissioner's determination that 75794  
an applicant is a transient vendor, the applicant shall pay a 75795  
license fee in the amount of twenty-five dollars, at which time 75796  
the tax commissioner shall issue the license. The tax commissioner 75797  
may require a vendor to be licensed as a transient vendor if, in 75798  
the opinion of the commissioner, such licensing is necessary for 75799  
the efficient administration of the tax. 75800

Any holder of a valid transient vendor's license may make 75801  
retail sales at a temporary place of business or temporary 75802  
exhibition, show, fair, flea market, or similar event, held 75803  
anywhere in the state without complying with any provision of 75804  
section 311.37 of the Revised Code. Any holder of a valid vendor's 75805  
license may make retail sales as a transient vendor at a temporary 75806  
place of business or temporary exhibition, show, fair, flea 75807  
market, or similar event held in any county in which the vendor 75808  
maintains a fixed place of business for which the vendor holds a 75809  
vendor's license without obtaining a transient vendor's license. 75810

(C) As used in this division, "service vendor" means any 75811  
person who, in the usual course of the person's business, sells 75812  
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75813  
(k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised 75814  
Code. 75815

Every service vendor shall make application to the tax 75816

commissioner for a service vendor's license. Each applicant shall  
pay a license fee in the amount of twenty-five dollars. Upon the  
commissioner's determination that an applicant is a service vendor  
and payment of the fee, the commissioner shall issue the applicant  
a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h),  
(i), (j), (k), (l), (m), ~~(p)~~, or ~~(t)~~ of section 5739.01 of  
the Revised Code may be made under authority of a service vendor's  
license, and that license authorizes sales to be made at any place  
in this state. Any service vendor who makes sales of other  
services or tangible personal property subject to the sales tax  
also shall be licensed under division (A), (B), or (D) of this  
section.

(D) As used in this division, "delivery vendor" means any  
vendor who engages in one or more of the activities described in  
divisions (D)(1) to (4) of this section, and who maintains no  
store, showroom, or similar fixed place of business or other  
location where merchandise regularly is offered for sale or  
displayed or shown in catalogs for selection or pick-up by  
consumers, or where consumers bring goods for repair or other  
service.

(1) The vendor makes retail sales of tangible personal  
property;

(2) The vendor rents or leases, at retail, tangible personal  
property, except titled motor vehicles, titled watercraft, or  
titled outboard motors;

(3) The vendor provides a service, at retail, described in  
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the  
Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or  
service contracts, or similar agreements as described in division

(B)(7) of section 5739.01 of the Revised Code.

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A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

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Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

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(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

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Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report summarizing the amount of tax revenue collected during each calendar quarter by

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vendors in the travel and tourism industry from the tax levied 75879  
under section 5739.02 of the Revised Code; the taxes levied by 75880  
counties under sections 5739.021, 5739.026, and 5739.09 of the 75881  
Revised Code; and the tax levied by transit authorities under 75882  
section 5739.023 of the Revised Code. 75883

(B) The quarterly reports required under this section shall 75884  
summarize sales tax collections associated with the travel and 75885  
tourism industry, which includes, but is not limited to: 75886

(1) Sales made by bars and restaurants; 75887

(2) Transactions by which lodging by a hotel, motel, or bed 75888  
and breakfast is provided; 75889

(3) Transactions by which campground facilities are provided; 75890

(4) Sales made by truck rental and leasing businesses; 75891

(5) Sales made by passenger car rental and leasing 75892  
businesses; 75893

(6) Sales made by utility trailer or recreational vehicle 75894  
rental and leasing businesses; 75895

(7) Transactions by which transportation services are 75896  
provided; 75897

(8) Sales associated with sporting events; 75898

(9) Sales associated with amusement and theme parks; 75899

(10) Sales associated with museums, concerts, and the 75900  
performing arts; 75901

(11) Transactions by which boats or canoes are rented; 75902

(12) Transactions by which scenic and sightseeing tours are 75903  
provided; 75904

(13) Transactions by which travel planning services are 75905  
provided; 75906

(14) Transactions by which physical fitness facility services 75907  
or recreation and sports club services are provided; 75908

(15) Sales associated with zoos and botanical gardens; 75909

(16) Sales associated with historical sites; 75910

(17) Sales associated with nature parks and conservatories; 75911  
and 75912

(18) Transactions by which motor vehicle parking services are 75913  
provided. 75914

(C) In preparing the quarterly reports, the commissioner 75915  
shall place sales associated with the travel and tourism industry 75916  
into categories, which shall be similar to those set forth in 75917  
division (B) of this section and which shall be based upon 75918  
industry codes established under the North American industry 75919  
classification system. Each report shall itemize the amount of 75920  
revenue collected during the quarter with respect to each category 75921  
of sales. For each category of sales, the report shall itemize the 75922  
amount of revenue attributable to taxes levied by counties under 75923  
sections 5739.021, 5739.026, and 5739.09 of the Revised Code and 75924  
the amount attributable to the tax levied by transit authorities 75925  
under section 5739.023 of the Revised Code. The report also shall 75926  
provide cumulative totals across all categories of sales and 75927  
across all taxing jurisdictions. The report shall include a 75928  
narrative description of how sales tax collections during the 75929  
calendar quarter covered by the report differ from sales tax 75930  
collections during the immediately preceding calendar quarter. 75931

(D) Beginning January 1, 2006, and on the first day of each 75932  
calendar quarter thereafter, the commissioner shall file the 75933  
report required under this section summarizing sales tax 75934  
collections for the second preceding calendar quarter. The 75935  
commissioner shall file a copy of the report with the governor, 75936  
the president of the senate, the speaker of the house of 75937

representatives, and the legislative service commission. A copy of 75938  
the commissioner's most recent quarterly report shall be made 75939  
available to the public through the department of taxation's 75940  
official internet web site. 75941

(E) The commissioner shall adopt rules necessary to 75942  
administer this section, including rules establishing: 75943

(1) The types of sales that, in addition to those specified 75944  
in division (B) of this section, are sufficiently related to the 75945  
travel and tourism industry to warrant inclusion in the 75946  
commissioner's quarterly reports; and 75947

(2) Categories of sales under division (C) of this section. 75948

**Sec. 5739.99.** (A) ~~Whoever violates section 5739.26 or 5739.29~~ 75949  
~~of the Revised Code shall be fined not less than twenty five nor~~ 75950  
~~more than one hundred dollars for a first offense; for each~~ 75951  
~~subsequent~~ is guilty of a minor misdemeanor. If the person 75952  
previously has been convicted of any offense such under Title LVII 75953  
of the Revised Code, the person shall, if a corporation, be fined 75954  
not less than one hundred nor more than five hundred dollars, or 75955  
if an individual, or a member of a partnership, firm, or 75956  
association, be fined not less than twenty five nor more than one 75957  
hundred dollars, or imprisoned not more than sixty days, or both 75958  
is guilty of a misdemeanor of the third degree. 75959

(B) ~~Whoever violates division (A) of section 5739.30 of the~~ 75961  
~~Revised Code shall be fined not less than one hundred nor more~~ 75962  
~~than one thousand dollars, or imprisoned not more than sixty days,~~ 75963  
~~or both~~ is guilty of a misdemeanor of the third degree. 75964

(C)(1) ~~Whoever violates division (A)(1) of section 5739.31 of~~ 75965  
~~the Revised Code shall be fined not less than twenty five nor more~~ 75966  
~~than one hundred dollars~~ is guilty of a minor misdemeanor. If the 75967

~~offender person~~ previously has been convicted once of a ~~violation~~ 75968  
~~of division (A)(1) of section 5739.31 of any offense under Title~~ 75969  
LVII of the Revised Code, the offender person is guilty of a 75970  
misdemeanor of the first degree. If the person previously has been 75971  
convicted more than once of any offense under Title LVII of the 75972  
Revised Code, the person is guilty of a felony of the ~~fourth~~ fifth 75973  
degree. 75974

(2) Whoever violates division (A)(2) of section 5739.31 of 75975  
the Revised Code ~~shall be fined not less than one hundred dollars~~ 75976  
~~nor more than five hundred dollars, or imprisoned for not more~~ 75977  
~~than ten days, or both, for the first offense; for each subsequent~~ 75978  
is guilty of a minor misdemeanor. If the person previously has 75979  
been convicted once of any offense under Title LVII of the Revised 75980  
Code, each such the person shall be fined not less than one 75981  
thousand dollars nor more than twenty five hundred dollars, or 75982  
imprisoned not more than thirty days, or both is guilty of a 75983  
misdemeanor of the first degree. If the person previously has been 75984  
convicted more than once of any offense under Title LVII of the 75985  
Revised Code, the person is guilty of a felony of the fourth 75986  
degree. The motor vehicles and goods of any person charged with 75987  
violating division (A)(2) of section 5739.31 of the Revised Code 75988  
may be impounded and held pending the disposition of the charge, 75989  
and may be sold at auction by the county sheriff in the manner 75990  
prescribed by law to satisfy any fine imposed by this division. 75991

(3) Whoever violates division (B) of section 5739.31 of the 75992  
Revised Code is guilty of a misdemeanor of the first degree. If 75993  
the person previously has been convicted of any offense under 75994  
Title LVII of the Revised Code, the person is guilty of a felony 75995  
of the fourth degree. Each day that business is conducted while a 75996  
vendor's license is suspended constitutes a separate offense. 75997

(D) Except as otherwise provided in this section, whoever 75998  
violates sections 5739.01 to 5739.31 of the Revised Code, or any 75999



lawful rule promulgated by the department of taxation under 76000  
authority of such sections, ~~shall be fined not less than~~ 76001  
~~twenty five nor more than one hundred dollars~~ is guilty of a minor 76002  
misdemeanor. If the person previously has been convicted of any 76003  
offense under Title LVII of the Revised Code, the person is guilty 76004  
of a misdemeanor of the first degree. 76005

(E) Whoever violates section 5739.12 of the Revised Code by 76006  
failing to remit to the state the tax collected under section 76007  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code is 76008  
guilty of a misdemeanor of the first degree if the amount of 76009  
collected tax the offender failed to remit is less than five 76010  
hundred dollars and is guilty of a felony of the fourth degree ~~and~~ 76011  
~~shall~~ if the amount of collected tax the offender failed to remit 76012  
is five hundred dollars or more. In either case, the person may 76013  
suffer the loss of the person's vendor's license as required by 76014  
section 5739.17 of the Revised Code. A person who suffers the loss 76015  
of a vendor's license as the result of a conviction under division 76016  
(E) of this section shall not be eligible for a vendor's license 76017  
for two years following the conviction. 76018

(F) Whoever violates division (E) of section 5739.17 of the 76019  
Revised Code is guilty of failure to display a transient vendor's 76020  
license, a minor misdemeanor. A sheriff or police officer in a 76021  
municipal corporation may enforce this division. The prosecuting 76022  
attorney of a county shall inform the tax commissioner of any 76023  
instance when a complaint is brought against a transient vendor 76024  
pursuant to this division. 76025

(G) Whoever violates section 5739.103 of the Revised Code 76026  
~~shall be fined not less than twenty five nor more than one hundred~~ 76027  
~~dollars~~ is guilty of a minor misdemeanor. If the ~~offender~~ person 76028  
previously has been convicted once of ~~violating that section~~ any 76029  
offense under Title LVII of the Revised Code, the offender person 76030  
is guilty of a misdemeanor of the first degree. If the person 76031

previously has been convicted more than once of any offense under 76032  
Title LVII of the Revised Code, the person is guilty of a felony 76033  
of the ~~fourth~~ fifth degree. 76034

(H) The penalties provided in this section are in addition to 76035  
any penalties imposed by the tax commissioner under section 76036  
5739.133 of the Revised Code. 76037

**Sec. 5741.02.** (A)(1) For the use of the general revenue fund 76038  
of the state, an excise tax is hereby levied on the storage, use, 76039  
or other consumption in this state of tangible personal property 76040  
or the benefit realized in this state of any service provided. The 76041  
tax shall be collected as provided in section 5739.025 of the 76042  
Revised Code, provided that on and after July 1, 2003, and on or 76043  
before June 30, 2005, the rate of the tax shall be six per cent. 76044  
On and after July 1, 2005, the rate of the tax shall be five and 76045  
one-half per cent. 76046

(2) In the case of the lease or rental, with a fixed term of 76047  
more than thirty days or an indefinite term with a minimum period 76048  
of more than thirty days, of any motor vehicles designed by the 76049  
manufacturer to carry a load of not more than one ton, watercraft, 76050  
outboard motor, or aircraft, or of any tangible personal property, 76051  
other than motor vehicles designed by the manufacturer to carry a 76052  
load of more than one ton, to be used by the lessee or renter 76053  
primarily for business purposes, the tax shall be collected by the 76054  
seller at the time the lease or rental is consummated and shall be 76055  
calculated by the seller on the basis of the total amount to be 76056  
paid by the lessee or renter under the lease or rental agreement. 76057  
If the total amount of the consideration for the lease or rental 76058  
includes amounts that are not calculated at the time the lease or 76059  
rental is executed, the tax shall be calculated and collected by 76060  
the seller at the time such amounts are billed to the lessee or 76061  
renter. In the case of an open-end lease or rental, the tax shall 76062

be calculated by the seller on the basis of the total amount to be  
paid during the initial fixed term of the lease or rental, and for  
each subsequent renewal period as it comes due. As used in this  
division, "motor vehicle" has the same meaning as in section  
4501.01 of the Revised Code, and "watercraft" includes an outdrive  
unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in  
the case of a transaction, the price of which consists in whole or  
part of the lease or rental of tangible personal property, the tax  
shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in  
this state tangible personal property or realizing in this state  
the benefit of any service provided, shall be liable for the tax,  
and such liability shall not be extinguished until the tax has  
been paid to this state; provided, that the consumer shall be  
relieved from further liability for the tax if the tax has been  
paid to a seller in accordance with section 5741.04 of the Revised  
Code or prepaid by the seller in accordance with section 5741.06  
of the Revised Code.

(C) The tax does not apply to the storage, use, or  
consumption in this state of the following described tangible  
personal property or services, nor to the storage, use, or  
consumption or benefit in this state of tangible personal property  
or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is  
subject to the excise tax imposed by sections 5739.01 to 5739.31  
of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section,  
tangible personal property or services, the acquisition of which,  
if made in Ohio, would be a sale not subject to the tax imposed by  
sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other 76094  
consumption of or benefit from which this state is prohibited from 76095  
taxing by the Constitution of the United States, laws of the 76096  
United States, or the Constitution of this state. This exemption 76097  
shall not exempt from the application of the tax imposed by this 76098  
section the storage, use, or consumption of tangible personal 76099  
property that was purchased in interstate commerce, but that has 76100  
come to rest in this state, provided that fuel to be used or 76101  
transported in carrying on interstate commerce that is stopped 76102  
within this state pending transfer from one conveyance to another 76103  
is exempt from the excise tax imposed by this section and section 76104  
5739.02 of the Revised Code; 76105

(4) Transient use of tangible personal property in this state 76106  
by a nonresident tourist or vacationer, or a non-business use 76107  
within this state by a nonresident of this state, if the property 76108  
so used was purchased outside this state for use outside this 76109  
state and is not required to be registered or licensed under the 76110  
laws of this state; 76111

(5) Tangible personal property or services rendered, upon 76112  
which taxes have been paid to another jurisdiction to the extent 76113  
of the amount of the tax paid to such other jurisdiction. Where 76114  
the amount of the tax imposed by this section and imposed pursuant 76115  
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 76116  
exceeds the amount paid to another jurisdiction, the difference 76117  
shall be allocated between the tax imposed by this section and any 76118  
tax imposed by a county or a transit authority pursuant to section 76119  
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 76120  
to the respective rates of such taxes. 76121

As used in this subdivision, "taxes paid to another 76122  
jurisdiction" means the total amount of retail sales or use tax or 76123  
similar tax based upon the sale, purchase, or use of tangible 76124  
personal property or services rendered legally, levied by and paid 76125

to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment. 76126  
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(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000; 76129  
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(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner. 76132  
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(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer. 76137  
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(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner. 76147  
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(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of 76154  
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divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner prescribes. ~~If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.~~

(2)(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following:

(i) A seller that fraudulently fails to collect tax;

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in

this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state; 76189  
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(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software. 76192  
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(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request. 76197  
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(3) If no certificate is provided or obtained within ~~the~~ period for filing the return for the period in ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. ~~The failure~~ Failure to have so provided or obtained a certificate shall not preclude a seller ~~or~~ consumer ~~from establishing~~, within one hundred twenty days ~~of the giving of~~ after the tax commissioner gives written notice by the commissioner of intention intent to levy an assessment, ~~that from either establishing that~~ the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate. 76200  
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(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The 76211  
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certification shall be in such form as the tax commissioner 76220  
prescribes. 76221

(F) A seller who files a petition for reassessment contesting 76222  
the assessment of tax on transactions for which the seller 76223  
obtained no valid exemption certificates, and for which the seller 76224  
failed to establish that the transactions were not subject to the 76225  
tax during the one-hundred-twenty-day period allowed under 76226  
division (E) of this section, may present to the tax commissioner 76227  
additional evidence to prove that the transactions were exempt. 76228  
The seller shall file such evidence within ninety days of the 76229  
receipt by the seller of the notice of assessment, except that, 76230  
upon application and for reasonable cause, the tax commissioner 76231  
may extend the period for submitting such evidence thirty days. 76232

(G) For the purpose of the proper administration of sections 76233  
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 76234  
of the tax hereby levied, it shall be presumed that any use, 76235  
storage, or other consumption of tangible personal property in 76236  
this state is subject to the tax until the contrary is 76237  
established. 76238

(H) The tax collected by the seller from the consumer under 76239  
this chapter is not part of the price, but is a tax collection for 76240  
the benefit of the state, and of counties levying an additional 76241  
use tax pursuant to section 5741.021 or 5741.023 of the Revised 76242  
Code and of transit authorities levying an additional use tax 76243  
pursuant to section 5741.022 of the Revised Code. Except for the 76244  
discount authorized under section 5741.12 of the Revised Code and 76245  
the effects of any rounding pursuant to section 5703.055 of the 76246  
Revised Code, no person other than the state or such a county or 76247  
transit authority shall derive any benefit from the collection of 76248  
such tax. 76249

**Sec. 5741.16.** ~~Ne~~ (A) Except as provided in division (B) or 76250



(C) of this section, no assessment shall be made or issued against 76251  
a seller or consumer for any tax imposed by or pursuant to section 76252  
5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code more 76253  
than four years after the return date for the period in which the 76254  
sale or purchase was made, or more than four years after the 76255  
return for such period was filed, whichever date is later. ~~This~~ 76256

(B) A consumer who provides a fully completed exemption 76257  
certificate pursuant to division (B) of section 5739.03 or 76258  
division (E) of section 5741.02 of the Revised Code may be 76259  
assessed any tax imposed by or pursuant to section 5741.02, 76260  
5741.021, 5741.022, or 5741.023 of the Revised Code that results 76261  
from denial of the claimed exemption within the later of a period 76262  
allowed by division (A) of this section or one year after the date 76263  
the certificate was provided. 76264

(C) This section does not bar an assessment: 76265

~~(A)(1)~~ When the tax commissioner has substantial evidence of 76266  
amounts of taxes collected by a seller from consumers on 76267  
purchases, which were not returned to the state by direct 76268  
remittance; 76269

~~(B)(2)~~ When the person assessed failed to file a return as 76270  
required by section 5741.12 of the Revised Code; 76271

~~(C)(3)~~ When the seller or consumer and the commissioner 76272  
~~waives~~ waive in writing the time limitation. 76273

**Sec. 5741.99.** (A) Whoever violates section 5741.19 or 5741.21 76274  
of the Revised Code ~~shall be fined not less than twenty five nor~~ 76275  
~~more than one hundred dollars for a first offense; for each~~ 76276  
~~subsequent~~ is guilty of a minor misdemeanor. If the person 76277  
previously has been convicted once of any offense such under Title 76278  
LVII of the Revised Code, the person shall, if a corporation, be 76279  
~~fined not less than one hundred nor more than five hundred~~ 76280

dollars, or if an individual, or a member of a partnership, firm, 76281  
or association, be fined not less than twenty five nor more than 76282  
one hundred dollars, or imprisoned not more than sixty days, or 76283  
~~both~~ is guilty of a misdemeanor of the first degree. If the person 76284  
previously has been convicted more than once of any offense under 76285  
Title LVII of the Revised Code, the person is guilty of a felony 76286  
of the fourth degree. 76287

(B) Whoever violates section 5741.22 of the Revised Code 76288  
~~shall be fined not more than five hundred dollars~~ is guilty of a 76289  
misdemeanor of the third degree. 76290

(C) Whoever violates any provision of sections 5741.01 to 76291  
5741.22, ~~inclusive,~~ of the Revised Code, or any lawful rule or 76292  
regulation promulgated by the department of taxation under 76293  
authority of said sections, for the violation of which no penalty 76294  
is provided elsewhere, ~~shall be fined not less than twenty five~~ 76295  
~~nor more than one hundred dollars~~ is guilty of a minor 76296  
misdemeanor. If the person previously has been convicted of any 76297  
offense under Title LVII of the Revised Code, the person is guilty 76298  
of a misdemeanor of the first degree. 76299

**Sec. 5743.01.** As used in this chapter: 76300

(A) "Person" includes individuals, firms, partnerships, 76301  
associations, joint-stock companies, corporations, combinations of 76302  
individuals of any form, and the state and any of its political 76303  
subdivisions. 76304

(B) "Wholesale dealer" includes only those persons: 76305

(1) Who bring in or cause to be brought into this state 76306  
unstamped cigarettes purchased directly from the manufacturer, 76307  
producer, or importer of cigarettes for sale in this state but 76308  
does not include persons who bring in or cause to be brought into 76309  
this state cigarettes with respect to which no evidence of tax 76310

payment is required thereon as provided in section 5743.04 of the Revised Code; or

(2) Who are engaged in the business of selling cigarettes or tobacco products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, ~~irrespective~~ regardless of whether the person is located in this state or elsewhere, and regardless of quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person in this state engaged in the business of selling tobacco products to ultimate consumers in this state, regardless of quantity, amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale, and distribution, and ~~excludes~~ includes transactions in interstate or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

(F) "Package" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made. 76341  
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(G) "Stamp" includes an impression made by a metering device as provided for in section 5743.04 of the Revised Code. 76344  
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(H) "Storage" includes any keeping or retention of cigarettes or tobacco products for use or consumption in this state. 76346  
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(I) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes or tobacco products. 76348  
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(J) "Tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff. 76350  
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(K) "Wholesale price" means the invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys from other than a manufacturer, "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. 76353  
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(L) "Distributor" means: 76362

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code; 76363  
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(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been 76368  
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paid; 76371

(3) Any wholesale dealer located outside the state who sells, 76372  
barters, exchanges, or distributes tobacco products to a wholesale 76373  
or retail dealer in the state; or 76374

(4) Any retail dealer who receives tobacco products on which 76375  
the tax has not or will not be paid by another distributor, 76376  
including a retail dealer that has filed a signed statement with a 76377  
manufacturer in which the retail dealer agrees to pay and be 76378  
liable for the tax that would otherwise be imposed on the 76379  
manufacturer by section 5743.51 of the Revised Code. 76380

(M) "Taxpayer" means any person liable for the tax imposed by 76381  
section 5743.51, 5743.62, or 5743.63 of the Revised Code. 76382

(N) "Seller" means any person located outside this state 76383  
engaged in the business of selling tobacco products to consumers 76384  
for storage, use, or other consumption in this state. 76385

(O) "Manufacturer" means any person who manufactures and 76386  
sells cigarettes or tobacco products. 76387

(P) "Importer" means any person that imports is authorized, 76388  
under a valid permit issued under Section 5713 of the Internal 76389  
Revenue Code, to import finished cigarettes into the United 76390  
States, either directly or indirectly. 76391

**Sec. 5743.02.** To provide revenues for the general revenue 76392  
fund, an excise tax on sales of cigarettes is hereby levied at the 76393  
rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on 76394  
each cigarette. 76395

Only one sale of the same article shall be used in computing 76396  
the amount of tax due. 76397

The treasurer of state shall place to the credit of the tax 76398  
refund fund created by section 5703.052 of the Revised Code, out 76399

of receipts from the tax levied by this section, amounts equal to 76400  
the refunds certified by the tax commissioner pursuant to section 76401  
5743.05 of the Revised Code. The balance of taxes collected under 76402  
such section, after the credits to the tax refund fund, shall be 76403  
paid into the general revenue fund. 76404

**Sec. 5743.03.** (A) Except as provided in section 5743.04 of 76405  
the Revised Code, the taxes imposed under sections 5743.02, 76406  
5743.024, and 5743.026 of the Revised Code shall be paid by the 76407  
purchase of stamps. A stamp shall be affixed to each package of an 76408  
aggregate denomination not less than the amount of the tax upon 76409  
the contents thereof. The stamp, so affixed, shall be prima-facie 76410  
evidence of payment of the tax. ~~Except~~ 76411

Except as is provided in the rules prescribed by the tax 76412  
commissioner under authority of sections 5743.01 to 5743.20 of the 76413  
Revised Code, and unless ~~such~~ tax stamps have been previously 76414  
affixed, they shall be so affixed by each wholesale dealer, and 76415  
canceled by writing or stamping across the face thereof the number 76416  
assigned to such wholesale dealer by the tax commissioner for that 76417  
purpose, prior to the delivery of any cigarettes to any person in 76418  
this state, or in the case of a tax levied pursuant to section 76419  
5743.024 or 5743.026 of the Revised Code, prior to the delivery of 76420  
cigarettes to any person in the county in which the tax is levied. 76421

(B) Except as provided in the rules prescribed by the 76422  
commissioner under authority of sections 5743.01 to 5743.20 of the 76423  
Revised Code, ~~and unless such stamps have been previously affixed,~~ 76424  
each retail dealer ~~shall,~~ within twenty-four hours after the 76425  
receipt of any cigarettes at the retail dealer's place of business 76426  
~~and prior to the delivery thereof, shall inspect the cigarettes to~~ 76427  
ensure that tax stamps are affixed. The inspection shall be 76428  
completed before the cigarettes are delivered to any person in 76429  
this state, or, in the case of a tax levied pursuant to section 76430

5743.024 or 5743.026 of the Revised Code ~~prior to the delivery~~ 76431  
~~thereof, before the cigarettes are delivered~~ to any person in the 76432  
county in which the tax is levied, ~~so affix such stamps and cancel~~ 76433  
~~same by writing or stamping across the face thereof the number~~ 76434  
~~assigned to such retail dealer by the commissioner for that~~ 76435  
~~purpose.~~ 76436

(C) Whenever any cigarettes are found in the place of 76437  
business of any retail dealer without proper tax stamps affixed 76438  
thereto and canceled, it is presumed that such cigarettes are kept 76439  
therein in violation of sections 5743.01 to 5743.20 of the Revised 76440  
Code. 76441

(D) Each wholesale dealer ~~and each retail dealer~~ who 76442  
purchases cigarettes without proper tax stamps affixed thereto 76443  
shall, on or before the thirty-first day of the month following 76444  
the close of each semiannual period, which period shall end on the 76445  
thirtieth day of June and the thirty-first day of December of each 76446  
year, make and file a return of the preceding semiannual period, 76447  
on such form as is prescribed by the tax commissioner, showing the 76448  
dealer's entire purchases and sales of cigarettes and stamps or 76449  
impressions for such semiannual period and accurate inventories as 76450  
of the beginning and end of each semiannual period of cigarettes, 76451  
stamped or unstamped; cigarette tax stamps affixed or unaffixed 76452  
and unused meter impressions; and such other information as the 76453  
commissioner finds necessary to the proper administration of 76454  
sections 5743.01 to 5743.20 of the Revised Code. The commissioner 76455  
may extend the time for making and filing returns and may remit 76456  
all or any part of amounts of penalties that may become due under 76457  
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 76458  
~~retail~~ dealer shall deliver the return together with a remittance 76459  
of the tax deficiency reported thereon to the treasurer of state. 76460  
The treasurer of state shall stamp or otherwise mark on the return 76461  
the date it was received and shall also show thereon by stamp or 76462

otherwise a payment or nonpayment of the deficiency shown by the 76463  
return. Thereafter, the treasurer of state shall immediately 76464  
transmit all returns filed under this section to the commissioner. 76465

(E) Any wholesale ~~or retail~~ dealer who fails to file a return 76466  
under this section and the rules of the commissioner, other than a 76467  
report required pursuant to division (F) of this section, may be 76468  
required, for each day the dealer so fails, to forfeit and pay 76469  
into the state treasury the sum of one dollar as revenue arising 76470  
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 76471  
Code and such sum may be collected by assessment in the manner 76472  
provided in section 5743.081 of the Revised Code. If the 76473  
commissioner finds it necessary in order to insure the payment of 76474  
the tax imposed by sections 5743.01 to 5743.20 of the Revised 76475  
Code, the commissioner may require returns and payments to be made 76476  
other than semiannually. The returns shall be signed by the 76477  
wholesale ~~or retail~~ dealer or an authorized agent thereof. 76478

(F) Each person required to file a tax return under section 76479  
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 76480  
the commissioner the quantity of all cigarettes and roll-your-own 76481  
cigarette tobacco sold in Ohio for each brand not covered by the 76482  
tobacco master settlement agreement for which the person is liable 76483  
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 76484  
the Revised Code. 76485

As used in this division, "tobacco master settlement 76486  
agreement" has the same meaning as in section 183.01 of the 76487  
Revised Code. 76488

(G) The report required by division (F) of this section shall 76489  
be made on a form prescribed by the commissioner and shall be 76490  
filed not later than the last day of each month for the previous 76491  
month, except that if the commissioner determines that the 76492  
quantity reported by a person does not warrant monthly reporting, 76493  
the commissioner may authorize reporting at less frequent 76494



intervals. The commissioner may assess a penalty of not more than two hundred fifty dollars for each month or portion thereof that a person fails to timely file a required report, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. All money collected under this division shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.031. (A) A wholesale dealer may affix stamps only to packages of cigarettes that the dealer received directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code, or to packages of cigarettes that the dealer received from another wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code, provided that the tax commissioner has authorized the sale of the cigarettes between those wholesale dealers and that the wholesale dealer that sells the cigarettes received them directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code.

(B) Only a wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code may purchase or obtain tax stamps. A wholesale dealer may not sell or provide such stamps to any other wholesale dealer or any other person.

(C) Any person shipping unstamped packages of cigarettes into this state to a person other than a wholesale dealer licensed under section 5743.15 of the Revised Code shall, before such shipment, file notice of the shipment with the tax commissioner. Any person that transports unstamped packages of cigarettes into or within this state shall carry in the vehicle used to convey the shipment invoices or equivalent documentation of the shipment for

all cigarettes in the shipment. The invoices or other 76526  
documentation shall show the true name and address of the 76527  
consignor or seller, the true name and address of the consignee or 76528  
purchaser, and the quantity of the cigarettes being transported. 76529  
This division does not apply to any common or contract carrier 76530  
transporting cigarettes through this state to another location 76531  
under a proper bill of lading or freight bill that states the 76532  
quantity, source, and destination of the cigarettes. 76533

**Sec. 5743.05.** All stamps provided for by section 5743.03 of 76534  
the Revised Code, when procured by the tax commissioner, shall be 76535  
immediately delivered to the treasurer of state, who shall execute 76536  
a receipt therefor showing the number and aggregate face value of 76537  
each denomination received by the treasurer of state and any other 76538  
information that the commissioner requires to enforce the 76539  
collection and distribution of all taxes imposed under section 76540  
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76541  
to the commissioner. The treasurer of state shall sell the stamps 76542  
and, on the fifth day of each month, make a report showing all 76543  
sales made during the preceding month, with the names of 76544  
purchasers, the number of each denomination, the aggregate face 76545  
value purchased by each, and any other information as the 76546  
commissioner requires to enforce the collection and distribution 76547  
of all taxes imposed under section 5743.024 of the Revised Code, 76548  
and deliver it to the commissioner. The treasurer of state shall 76549  
be accountable for all stamps received and unsold. The stamps 76550  
shall be sold and accounted for at their face value, except the 76551  
commissioner shall, by rule certified to the treasurer of state, 76552  
authorize the sale of stamps and meter impressions to wholesale or 76553  
retail dealers in this state, or to wholesale dealers outside this 76554  
state, at a discount of not less than one and eight-tenths per 76555  
cent or more than ten per cent of their face value, as a 76556  
commission for affixing and canceling the stamps or meter 76557

impressions. 76558

The commissioner, by rule certified to the treasurer of 76559  
state, shall authorize the delivery of stamps and meter 76560  
impressions to wholesale ~~and retail~~ dealers in this state and to 76561  
wholesale dealers outside this state on credit. If such a dealer 76562  
has not been in good credit standing with this state for five 76563  
consecutive years preceding the purchase, the tax commissioner 76564  
shall require the dealer to file with the commissioner a bond to 76565  
the state in the amount and in the form prescribed by the 76566  
commissioner, with surety to the satisfaction of the commissioner, 76567  
conditioned on payment to the treasurer of state within thirty 76568  
days for stamps or meter impressions delivered within that time. 76569  
If such a dealer has been in good credit standing with this state 76570  
for five consecutive years preceding the purchase, the tax 76571  
commissioner shall not require that the dealer file such a bond 76572  
but shall require payment for the stamps and meter impressions 76573  
within thirty days after purchase of the stamps and meter 76574  
impressions. Stamps and meter impressions sold to a dealer not 76575  
required to file a bond shall be sold at face value. The maximum 76576  
amount that may be sold on credit to a dealer not required to file 76577  
a bond shall equal one hundred ten per cent of the dealer's 76578  
average monthly purchases over the preceding calendar year. The 76579  
maximum amount shall be adjusted to reflect any changes in the tax 76580  
rate and may be adjusted, upon application to the tax commissioner 76581  
by the dealer, to reflect changes in the business operations of 76582  
the dealer. The maximum amount shall be applicable to the period 76583  
of July through April. Payment by a dealer not required to file a 76584  
bond shall be remitted by electronic funds transfer as prescribed 76585  
by section 5743.051 of the Revised Code. If a dealer not required 76586  
to file a bond fails to make the payment in full within the 76587  
thirty-day period, the treasurer of state shall not thereafter 76588  
sell stamps or meter impressions to that dealer until the dealer 76589  
pays the outstanding amount, including penalty and interest on 76590

that amount as prescribed in this chapter, and the commissioner 76591  
thereafter may require the dealer to file a bond until the dealer 76592  
is restored to good standing. The commissioner shall limit 76593  
delivery of stamps and meter impressions on credit to the period 76594  
running from the first day of July of the fiscal year until the 76595  
first day of the following May. Any discount allowed as a 76596  
commission for affixing and canceling stamps or meter impressions 76597  
shall be allowed with respect to sales of stamps and meter 76598  
impressions on credit. 76599

The treasurer of state shall redeem and pay for any 76600  
destroyed, unused, or spoiled tax stamps and any unused meter 76601  
impressions at their net value, and shall refund to wholesale 76602  
dealers the net amount of state and county taxes paid erroneously 76603  
or paid on cigarettes that have been sold in interstate or foreign 76604  
commerce or that have become unsalable, and the net amount of 76605  
county taxes that were paid on cigarettes that have been sold at 76606  
retail or for retail sale outside a taxing county. 76607

An application for a refund of tax shall be filed with the 76608  
tax commissioner, on the form prescribed by the commissioner for 76609  
that purpose, within three years from the date the tax stamps are 76610  
destroyed or spoiled, from the date of the erroneous payment, or 76611  
from the date that cigarettes on which taxes have been paid have 76612  
been sold in interstate or foreign commerce or have become 76613  
unsalable. 76614

On the filing of the application, the commissioner shall 76615  
determine the amount of refund to which the applicant is entitled, 76616  
payable from receipts of the state tax, and, if applicable, 76617  
payable from receipts of a county tax. If the amount is less than 76618  
that claimed, the commissioner shall certify the amount to the 76619  
director of budget and management and treasurer of state for 76620  
payment from the tax refund fund created by section 5703.052 of 76621  
the Revised Code. If the amount is less than that claimed, the 76622

commissioner shall proceed in accordance with section 5703.70 of 76623  
the Revised Code. 76624

If a refund is granted for payment of an illegal or erroneous 76625  
assessment issued by the department, the refund shall include 76626  
interest on the amount of the refund from the date of the 76627  
overpayment. The interest shall be computed at the rate per annum 76628  
prescribed by section 5703.47 of the Revised Code. 76629

**Sec. 5743.071.** ~~Each wholesale dealer and each retail dealer~~ 76630  
Every person shall maintain complete and accurate records of all 76631  
purchases and sales of cigarettes, and shall procure and retain 76632  
all invoices, bills of lading, and other documents relating to the 76633  
purchases and sales of cigarettes, except that no retail dealer 76634  
shall be required to issue or maintain invoices relating to ~~his~~ 76635  
the retail dealer's sales of cigarettes. The invoices or documents 76636  
shall be maintained for each place of business and shall show the 76637  
name and address of the other party to the purchase or sale and 76638  
shall show the quantity of the cigarettes so sold or purchased. 76639

The records and documents shall be open during business hours 76640  
to the inspection of the tax commissioner, and shall be preserved 76641  
for a period of three years, unless the commissioner, in writing, 76642  
consents to their destruction within that period, or by order 76643  
requires that they be kept for a longer period. With the tax 76644  
commissioner's consent, a person with multiple places of business 76645  
may keep centralized records but shall transmit duplicates of the 76646  
invoices or documents to each place of business within seventy-two 76647  
hours after the tax commissioner or the tax commissioner's 76648  
designee requests access to the records. 76649

**Sec. 5743.072.** Each manufacturer and each importer shipping 76650  
cigarettes into or within this state shall file a monthly report 76651  
with the tax commissioner in accordance with rules adopted by the 76652

tax commissioner under Chapter 119. of the Revised Code.

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**Sec. 5743.08.** Whenever the tax commissioner discovers any  
cigarettes which are being shipped, or which have been shipped, or  
transported in violation of section 2927.023 of the Revised Code,  
or discovers cigarettes, subject to the taxes levied under section  
5743.02, 5743.024, or 5743.026 of the Revised Code, and upon which  
the taxes have not been paid or that are held for sale or  
distribution in violation of any other provision of this chapter,  
the commissioner may seize and take possession of such cigarettes,  
which shall thereupon be forfeited to the state, and the  
commissioner ~~may,~~ within a reasonable time thereafter sell or  
destroy the forfeited cigarettes. ~~From the proceeds of the sale,~~  
~~the tax commissioner shall pay the costs incurred in such~~  
~~proceedings, and any proceeds remaining after the costs are paid~~  
~~shall be considered as revenue arising from the tax; provided that~~  
~~the seizure and sale shall not be deemed to~~ If the commissioner  
sells cigarettes under this section, the commissioner shall use  
proceeds from the sale to pay the costs incurred in the  
proceedings. Any proceeds remaining after all costs have been paid  
shall be considered revenue arising from the taxes levied under  
this chapter. Seizure and sale shall not be deemed to relieve any  
person from the fine or imprisonment provided for violation of  
sections 5743.01 to 5743.20 of the Revised Code. ~~The~~ A sale shall  
be made where it is most convenient and economical. The tax  
commissioner may order the destruction of the forfeited cigarettes  
if the quantity or quality of the cigarettes is not sufficient to  
warrant their sale.

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**Sec. 5743.10.** No ~~retail dealer~~ person shall have in ~~his~~ the  
person's possession ~~packages~~ packs of cigarettes not bearing the  
stamps required to be affixed thereto as required by Chapter 5743.

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of the Revised Code. 76683

**Sec. 5743.111.** No person shall possess ~~packages~~ packs of 76684  
cigarettes not bearing the stamps required by Chapter 5743. of the 76685  
Revised Code, or bearing stamps that have been affixed in 76686  
violation of section 5743.21 of the Revised Code, when the 76687  
~~wholesale value~~ total number of the cigarettes exceeds ~~sixty~~ 76688  
~~dollars~~ one thousand two hundred. 76689

**Sec. 5743.112.** (A) No person shall prepare for shipment, 76690  
ship, transport, deliver, prepare for distribution, or distribute 76691  
cigarettes, or otherwise engage or participate in the wholesale or 76692  
retail business of trafficking in cigarettes, with the intent to 76693  
avoid payment of the tax imposed by this chapter, when the 76694  
~~wholesale value~~ total number of ~~such~~ cigarettes in the aggregate 76695  
exceeds ~~sixty dollars~~ one thousand two hundred during any 76696  
twelve-month period. 76697

(B) Any vending machine containing cigarettes which do not 76698  
have affixed the stamps or impressions provided for by sections 76699  
5743.03 and 5743.04 of the Revised Code shall be seized and 76700  
forfeited to the state in accordance with section 2933.43 of the 76701  
Revised Code. Forfeiture shall not affect the rights of a holder 76702  
of a valid lien. 76703

(C) A vehicle that is seized as contraband under section 76704  
2933.43 of the Revised Code because of its use in violation of 76705  
this chapter is subject to the procedures set forth in section 76706  
2933.43 of the Revised Code. 76707

**Sec. 5743.14.** (A) The tax commissioner ~~may inspect any place~~ 76708  
~~where cigarettes subject to the tax levied under section 5743.02,~~ 76709  
~~5743.024, or 5743.026 of the Revised Code are sold or stored.~~ 76710

~~(B) or an agent of the tax commissioner may enter and inspect~~ 76711

the facilities and records of a person selling cigarettes or other 76712  
tobacco products. Such entrance and inspection requires a properly 76713  
issued search warrant if conducted outside the normal business 76714  
hours of the person, but does not require a search warrant if 76715  
conducted during the normal business hours of the person. No 76716  
person shall prevent or hinder the tax commissioner or an agent of 76717  
the tax commissioner from ~~making a full inspection of any place~~ 76718  
~~where cigarettes subject to the tax levied under section 5743.02,~~ 76719  
~~5743.024, or 5743.026 of the Revised Code are sold or stored, or~~ 76720  
~~prevent or hinder the full inspection of invoices, books, records,~~ 76721  
~~or papers required to be kept by sections 5743.01 to 5743.20 of~~ 76722  
~~the Revised Code~~ carrying out the authority granted under this 76723  
division. 76724

(B) If a peace officer as defined in section 2935.01 of the 76725  
Revised Code knows or has reasonable cause to believe that a motor 76726  
vehicle is transporting cigarettes or other tobacco products in 76727  
violation of this chapter or section 2927.023 of the Revised Code, 76728  
the peace officer may stop the vehicle and inspect the vehicle to 76729  
determine the presence of such cigarettes or other tobacco 76730  
products. 76731

**Sec. 5743.15.** (A) No person shall engage in this state in the 76732  
wholesale or retail business of trafficking in cigarettes ~~within~~ 76733  
~~this state~~ or in the business of a manufacturer or importer of 76734  
cigarettes without having a license to ~~do so~~ conduct each such 76735  
activity issued by a county auditor under division (B) of this 76736  
section or the tax commissioner under division (E) of this 76737  
section, except that on dissolution of a partnership by death, the 76738  
surviving partner may operate under the license of the partnership 76739  
until expiration of the license, and the heirs or legal 76740  
representatives of deceased persons, and receivers and trustees in 76741  
bankruptcy appointed by any competent authority, may operate under 76742  
the license of the person succeeded in possession by such heir, 76743



representative, receiver, or trustee in bankruptcy. 76744

(B) Each applicant for a license to engage in the wholesale 76745  
or retail business of trafficking in cigarettes under this 76746  
section, annually, on or before the fourth Monday of May, shall 76747  
make and deliver to the county auditor of the county in which ~~he~~ 76748  
the applicant desires to engage in the wholesale or retail 76749  
business of trafficking in cigarettes, upon a blank furnished by 76750  
such auditor for that purpose, a statement showing the name of the 76751  
applicant, each place in the county where the applicant's business 76752  
is conducted, the nature of the business, and any other 76753  
information the tax commissioner requires in the form of statement 76754  
prescribed by ~~him~~ the commissioner. If the applicant is a firm, 76755  
partnership, or association other than a corporation, the 76756  
application shall state the name and address of each of its 76757  
members. If the applicant is a corporation, the application shall 76758  
state the name and address of each of its officers. At the time of 76759  
making the application required by this section, every person 76760  
desiring to engage in the wholesale business of trafficking in 76761  
cigarettes shall pay into the county treasury a license tax in the 76762  
sum of two hundred dollars, or if desiring to engage in the retail 76763  
business of trafficking in cigarettes, a license tax in the sum of 76764  
thirty dollars for each of the first five places where ~~he~~ the 76765  
person proposes to carry on such business and twenty-five dollars 76766  
for each additional place. Each place of business shall be deemed 76767  
such space, under lease or license to, or under the control of, or 76768  
under the supervision of the applicant, as is contained in one or 76769  
more contiguous, adjacent, or adjoining buildings constituting an 76770  
industrial plant or a place of business operated by, or under the 76771  
control of, one person, or under one roof and connected by doors, 76772  
halls, stairways, or elevators, which space may contain any number 76773  
of points at which cigarettes are offered for sale, provided that 76774  
each additional point at which cigarettes are offered for sale 76775  
shall be listed in the application. 76776

Upon receipt of the application ~~required by this section~~ and 76777  
exhibition of the county treasurer's receipt showing the payment 76778  
of the tax, the county auditor shall issue to the applicant a 76779  
license for each place of business designated in the application, 76780  
authorizing the applicant to engage in such business at such place 76781  
for one year commencing on the fourth Monday of May. Companies 76782  
operating club or dining cars or other cars upon which cigarettes 76783  
are sold shall obtain licenses at railroad terminals within the 76784  
state, under such rules as are prescribed by the commissioner. The 76785  
form of the license shall be prescribed by the commissioner. A 76786  
duplicate license may be obtained from the county auditor upon 76787  
payment of a fifty cent fee if the original license is lost, 76788  
destroyed, or defaced. When an application is filed after the 76789  
fourth Monday of May, the license tax required to be paid shall be 76790  
proportioned in amount to the remainder of the license year, 76791  
except that it shall not be less than one fifth of the whole 76792  
amount in any one year. 76793

The holder of a wholesale or retail dealer's cigarette 76794  
license may transfer the license to a place of business within the 76795  
same county other than that designated on the license or may 76796  
assign the license to another person for use in the same county on 76797  
condition that the licensee or assignee, whichever is applicable, 76798  
make application to the county auditor therefor, upon forms 76799  
approved by the commissioner and the payment of a fee of one 76800  
dollar into the county treasury. 76801

~~(B)~~(C)(1) The wholesale cigarette license tax revenue 76802  
collected under this section shall be distributed as follows: 76803

(a) Thirty-seven and one-half per cent shall be paid upon the 76804  
warrant of the county auditor into the treasury of the municipal 76805  
corporation or township in which the place of business for which 76806  
the tax revenue was received is located; 76807

(b) Fifteen per cent shall be credited to the general fund of the county; 76808  
76809

(c) Forty-seven and one-half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 76810  
76811  
76812

(2) The revenue collected from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes shall be distributed as follows: 76813  
76814  
76815  
76816

(a) Sixty-two and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located; 76817  
76818  
76819  
76820

(b) Twenty-two and one-half per cent shall be credited to the general fund of the county; 76821  
76822

(c) Fifteen per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 76823  
76824

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows: 76825  
76826  
76827

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located; 76828  
76829  
76830  
76831

(b) One-fourth shall be credited to the general fund of the county. 76832  
76833

~~(C)~~(D) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 76834  
76835  
76836  
76837

The portion of cigarette license tax revenues received by a county auditor during the annual application period that ends before the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year. The portion of license tax money received by each county auditor after the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirty-first day of December.

(E)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

Upon receipt of the application, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the fourth Monday of May.

(2) The issuing of a license under division (E) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A license issued under division (E) of this section to a manufacturer who is not listed on the directory required under section 1346.05 of the Revised Code shall cease to be valid and shall be revoked by the commissioner as provided in section 5743.18 of the Revised Code.

(3) The tax commissioner may adopt rules necessary to 76870  
administer division (E) of this section. 76871

**Sec. 5743.16.** On or before the first Monday of June, 76872  
annually, each county auditor shall certify to the tax 76873  
commissioner a list showing the names of all persons licensed in 76874  
~~his~~ the auditor's county to engage in the business of trafficking 76875  
in cigarettes, and such other information as to each, available 76876  
from the records in the office of the auditor, as the commissioner 76877  
prescribes. As such licenses are issued during the year, the 76878  
auditor shall certify like lists and additions thereto to the 76879  
commissioner. The commissioner shall keep an alphabetical index of 76880  
such licenses certified to ~~him~~ the commissioner, and shall update 76881  
the index of valid license holders on a regular basis. 76882

**Sec. 5743.18.** Upon notice and hearing in accordance with 76883  
sections 119.01 to 119.13 of the Revised Code, the tax 76884  
commissioner may revoke any manufacturer, importer, wholesale, or 76885  
retail cigarette license for violation of sections 5743.01 to 76886  
5743.21 of the Revised Code. A In the case of a wholesale or 76887  
retail cigarette license, a certified copy of the order revoking 76888  
such license shall be transmitted to the county auditor of the 76889  
county in which the license was issued. In the case of a license 76890  
issued to a manufacturer, the commissioner shall immediately 76891  
revoke any such license upon the manufacturer's removal from the 76892  
directory under section 1346.05 of the Revised Code. 76893

**Sec. 5743.19.** No person shall engage in business as a 76894  
manufacturer or importer, or in the wholesale or retail business 76895  
of trafficking in cigarettes, without having a license therefor, 76896  
as required by section 5743.15 of the Revised Code. 76897

**Sec. 5743.20.** No person shall sell any cigarettes both as a 76898

retail dealer and as a wholesale dealer at the same place of 76899  
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 76900  
~~in this state other than to a licensed retail dealer; and no~~ No 76901  
person other than a licensed wholesale dealer shall sell 76902  
cigarettes to a licensed retail dealer. No retail dealer shall 76903  
purchase cigarettes from any person other than a licensed 76904  
wholesale dealer. 76905

Subject to section 5743.031 of the Revised Code, a licensed 76906  
wholesale dealer may not sell cigarettes to any person in this 76907  
state other than a licensed retail dealer, except a licensed 76908  
wholesale dealer may sell cigarettes to another licensed wholesale 76909  
dealer if the tax commissioner has authorized the sale of the 76910  
cigarettes between those wholesale dealers and the wholesale 76911  
dealer that sells the cigarettes received them directly from a 76912  
licensed manufacturer or licensed importer. 76913

The tax commissioner shall adopt rules governing sales of 76914  
cigarettes between licensed wholesale dealers, including rules 76915  
establishing criteria for authorizing such sales. 76916

No manufacturer or importer shall sell cigarettes to any 76917  
person in this state other than to a licensed wholesale dealer or 76918  
licensed importer. No importer shall purchase cigarettes from any 76919  
person other than a licensed manufacturer or licensed importer. 76920

A retail dealer may purchase tobacco products only from a 76921  
licensed distributor. A licensed distributor may sell tobacco 76922  
products only to a retail dealer, except a licensed distributor 76923  
may sell tobacco products to another licensed distributor if the 76924  
tax commissioner has authorized the sale of the tobacco products 76925  
between those distributors and the distributor that sells the 76926  
tobacco products received them directly from a manufacturer or 76927  
importer of tobacco products 76928

The tax commissioner may adopt rules governing sales of 76929

tobacco products between licensed distributors, including rules 76930  
establishing criteria for authorizing such sales. 76931

The identities of licensed distributors are subject to public 76932  
disclosure. The tax commissioner shall maintain an alphabetical 76933  
list of all such distributors, shall post the list on a web site 76934  
accessible to the public through the internet, and shall 76935  
periodically update the web site posting. 76936

As used in this section, "licensed" means the manufacturer, 76937  
importer, wholesale dealer, retail dealer, or distributor holds a 76938  
current and valid license issued under section 5743.15 or 5743.61 76939  
of the Revised Code. 76940

**Sec. 5743.32.** To provide revenue for the general revenue fund 76941  
of the state, an excise tax is hereby levied on the use, 76942  
consumption, or storage for consumption of cigarettes by consumers 76943  
in this state at the rate of ~~twenty seven and one half~~ sixty-two 76944  
and one-half mills on each cigarette. The tax shall not apply if 76945  
the tax levied by section 5743.02 of the Revised Code has been 76946  
paid. 76947

The money received into the state treasury from the excise 76948  
tax levied by this section shall be credited to the general 76949  
revenue fund. 76950

**Sec. 5743.33.** Every person who has acquired cigarettes for 76951  
use, storage, or other consumption subject to the tax levied under 76952  
section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, 76953  
on or before the fifteenth day of the month following receipt of 76954  
such cigarettes, file with the tax commissioner a return showing 76955  
the amount of cigarettes acquired, together with remittance of the 76956  
tax thereon. No such person shall transport within this state, 76957  
~~cigarettes that have a wholesale value in excess of sixty dollars~~ 76958  
more than one thousand two hundred cigarettes, unless that person 76959

has obtained consent to transport the cigarettes from the 76960  
department of taxation prior to such transportation. Such consent 76961  
shall not be required if the applicable taxes levied under 76962  
sections 5743.02, 5743.024, and 5743.026 of the Revised Code have 76963  
been paid. Application for the consent shall be in the form 76964  
prescribed by the tax commissioner. 76965

Every person transporting such cigarettes shall possess the 76966  
consent while transporting or possessing the cigarettes within 76967  
this state and shall produce the consent upon request of any law 76968  
enforcement officer or authorized agent of the tax commissioner. 76969

Any person transporting such cigarettes without the consent 76970  
required by this section, shall be subject to the provisions of 76971  
this chapter, including the applicable taxes imposed by sections 76972  
5743.02, 5743.024, and 5743.026 of the Revised Code. 76973

Sec. 5743.71. If a person seeks to obtain cigarettes that are 76974  
legal for sale in this state under section 1346.05 of the Revised 76975  
Code or other tobacco products, and such cigarettes or other 76976  
tobacco products are not reasonably available to that person at a 76977  
retail location in this state, the person may apply to the tax 76978  
commissioner for consent for consumer shipment. The consent for 76979  
consumer shipment must be obtained prior to the purchase of the 76980  
cigarettes or other tobacco products. 76981

The consent for consumer shipment shall be filed with the 76982  
commissioner on a form prescribed by the commissioner showing 76983  
purchase of the cigarettes or other tobacco products as consented 76984  
to, and shall be accompanied by the purchaser's proof of age and 76985  
any other information required by the commissioner. 76986

**Sec. 5743.99.** (A) Whoever violates section 5743.10, 5743.11, 76987  
or 5743.12 or division (C) of section 5743.54 of the Revised Code 76988  
is guilty of a misdemeanor of the first degree. If the offender 76989



person previously has been ~~previously~~ convicted of ~~an~~ any offense 76990  
under ~~this division, violation~~ Title LVII of the Revised Code, the 76991  
person is guilty of a felony of the fourth degree. 76992

(B) Whoever violates section 5743.111, 5743.112, 5743.13, 76993  
5743.14, 5743.59, or 5743.60 of the Revised Code is guilty of a 76994  
felony of the fourth degree. If the ~~offender~~ person previously has 76995  
been ~~previously~~ convicted of ~~an~~ any offense under ~~this division,~~ 76996  
~~violation~~ Title LVII of the Revised Code, the person is guilty of 76997  
a felony of the second degree. 76998

(C) Whoever violates section 5743.19 of the Revised Code is 76999  
guilty of a misdemeanor of the fourth degree. If the person 77000  
previously has been convicted once of any offense under Title LVII 77001  
of the Revised Code, the person is guilty of a misdemeanor of the 77002  
first degree. If the person previously has been convicted more 77003  
than once of any offense under Title LVII of the Revised Code, the 77004  
person is guilty of a felony of the fourth degree. 77005

(D) Whoever violates section 5743.41 or 5743.42 of the 77006  
Revised Code is guilty of a misdemeanor of the fourth degree. If 77007  
the ~~offender~~ person previously has been ~~previously~~ convicted of ~~an~~ 77008  
any offense under ~~this division, violation~~ Title LVII of the 77009  
Revised Code, the person is guilty of a misdemeanor of the third 77010  
degree. 77011

~~(D)~~(E) Whoever violates section 5743.21 of the Revised Code 77012  
is guilty of a misdemeanor of the first degree. If the ~~offender~~ 77013  
person previously has been ~~previously~~ convicted of ~~an~~ any offense 77014  
under ~~this division, violation~~ Title LVII of the Revised Code, the 77015  
person is guilty of a felony of the fifth degree. 77016

~~(E)~~(F) Whoever violates division (F) of section 5743.03 of 77017  
the Revised Code is guilty of a misdemeanor of the fourth degree. 77018

~~(F)~~(G) Whoever violates any provision of this chapter, or any 77019

rule promulgated by the tax commissioner under authority of this 77020  
chapter, for the violation of which no penalty is provided 77021  
elsewhere, is guilty of a minor misdemeanor. If the person 77022  
previously has been convicted of any offense under Title LVII of 77023  
the Revised Code, the person is guilty of a misdemeanor of the 77024  
fourth first degree. 77025

~~(G)~~(H) In addition to any other penalty imposed upon a person 77026  
convicted of a violation of section 5743.112 or 5743.60 of the 77027  
Revised Code who was the operator of a motor vehicle used in the 77028  
violation, the court shall suspend for not less than thirty days 77029  
or more than three years the offender's driver's license, 77030  
commercial driver's license, temporary instruction permit, 77031  
probationary license, or nonresident operating privilege. The 77032  
court shall send a copy of its suspension order and determination 77033  
to the registrar of motor vehicles, and the registrar, pursuant to 77034  
the order and determination, shall impose a suspension of the same 77035  
duration. No judge shall suspend the first thirty days of 77036  
suspension of an offender's license, permit, or privilege required 77037  
by this division. 77038

**Sec. 5747.01.** Except as otherwise expressly provided or 77039  
clearly appearing from the context, any term used in this chapter 77040  
that is not otherwise defined in this section has the same meaning 77041  
as when used in a comparable context in the laws of the United 77042  
States relating to federal income taxes or if not used in a 77043  
comparable context in those laws, has the same meaning as in 77044  
section 5733.40 of the Revised Code. Any reference in this chapter 77045  
to the Internal Revenue Code includes other laws of the United 77046  
States relating to federal income taxes. 77047

As used in this chapter: 77048

(A) "Adjusted gross income" or "Ohio adjusted gross income" 77049  
means federal adjusted gross income, as defined and used in the 77050

Internal Revenue Code, adjusted as provided in this section: 77051

(1) Add interest or dividends on obligations or securities of 77052  
any state or of any political subdivision or authority of any 77053  
state, other than this state and its subdivisions and authorities. 77054

(2) Add interest or dividends on obligations of any 77055  
authority, commission, instrumentality, territory, or possession 77056  
of the United States to the extent that the interest or dividends 77057  
are exempt from federal income taxes but not from state income 77058  
taxes. 77059

(3) Deduct interest or dividends on obligations of the United 77060  
States and its territories and possessions or of any authority, 77061  
commission, or instrumentality of the United States to the extent 77062  
that the interest or dividends are included in federal adjusted 77063  
gross income but exempt from state income taxes under the laws of 77064  
the United States. 77065

(4) Deduct disability and survivor's benefits to the extent 77066  
included in federal adjusted gross income. 77067

(5) Deduct benefits under Title II of the Social Security Act 77068  
and tier 1 railroad retirement benefits to the extent included in 77069  
federal adjusted gross income under section 86 of the Internal 77070  
Revenue Code. 77071

(6) In the case of a taxpayer who is a beneficiary of a trust 77072  
that makes an accumulation distribution as defined in section 665 77073  
of the Internal Revenue Code, add, for the beneficiary's taxable 77074  
years beginning before 2002 ~~or after 2004~~, the portion, if any, of 77075  
such distribution that does not exceed the undistributed net 77076  
income of the trust for the three taxable years preceding the 77077  
taxable year in which the distribution is made to the extent that 77078  
the portion was not included in the trust's taxable income for any 77079  
of the trust's taxable years beginning in 2002, ~~2003~~, or 2004 77080  
thereafter. "Undistributed net income of a trust" means the 77081

taxable income of the trust increased by (a)(i) the additions to 77082  
adjusted gross income required under division (A) of this section 77083  
and (ii) the personal exemptions allowed to the trust pursuant to 77084  
section 642(b) of the Internal Revenue Code, and decreased by 77085  
(b)(i) the deductions to adjusted gross income required under 77086  
division (A) of this section, (ii) the amount of federal income 77087  
taxes attributable to such income, and (iii) the amount of taxable 77088  
income that has been included in the adjusted gross income of a 77089  
beneficiary by reason of a prior accumulation distribution. Any 77090  
undistributed net income included in the adjusted gross income of 77091  
a beneficiary shall reduce the undistributed net income of the 77092  
trust commencing with the earliest years of the accumulation 77093  
period. 77094

(7) Deduct the amount of wages and salaries, if any, not 77095  
otherwise allowable as a deduction but that would have been 77096  
allowable as a deduction in computing federal adjusted gross 77097  
income for the taxable year, had the targeted jobs credit allowed 77098  
and determined under sections 38, 51, and 52 of the Internal 77099  
Revenue Code not been in effect. 77100

(8) Deduct any interest or interest equivalent on public 77101  
obligations and purchase obligations to the extent that the 77102  
interest or interest equivalent is included in federal adjusted 77103  
gross income. 77104

(9) Add any loss or deduct any gain resulting from the sale, 77105  
exchange, or other disposition of public obligations to the extent 77106  
that the loss has been deducted or the gain has been included in 77107  
computing federal adjusted gross income. 77108

(10) Deduct or add amounts, as provided under section 5747.70 77109  
of the Revised Code, related to contributions to variable college 77110  
savings program accounts made or tuition ~~credits~~ units purchased 77111  
pursuant to Chapter 3334. of the Revised Code. 77112

(11)(a) Deduct, to the extent not otherwise allowable as a 77113  
deduction or exclusion in computing federal or Ohio adjusted gross 77114  
income for the taxable year, the amount the taxpayer paid during 77115  
the taxable year for medical care insurance and qualified 77116  
long-term care insurance for the taxpayer, the taxpayer's spouse, 77117  
and dependents. No deduction for medical care insurance under 77118  
division (A)(11) of this section shall be allowed either to any 77119  
taxpayer who is eligible to participate in any subsidized health 77120  
plan maintained by any employer of the taxpayer or of the 77121  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 77122  
application would be entitled to, benefits under part A of Title 77123  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 77124  
301, as amended. For the purposes of division (A)(11)(a) of this 77125  
section, "subsidized health plan" means a health plan for which 77126  
the employer pays any portion of the plan's cost. The deduction 77127  
allowed under division (A)(11)(a) of this section shall be the net 77128  
of any related premium refunds, related premium reimbursements, or 77129  
related insurance premium dividends received during the taxable 77130  
year. 77131

(b) Deduct, to the extent not otherwise deducted or excluded 77132  
in computing federal or Ohio adjusted gross income during the 77133  
taxable year, the amount the taxpayer paid during the taxable 77134  
year, not compensated for by any insurance or otherwise, for 77135  
medical care of the taxpayer, the taxpayer's spouse, and 77136  
dependents, to the extent the expenses exceed seven and one-half 77137  
per cent of the taxpayer's federal adjusted gross income. 77138

(c) For purposes of division (A)(11) of this section, 77139  
"medical care" has the meaning given in section 213 of the 77140  
Internal Revenue Code, subject to the special rules, limitations, 77141  
and exclusions set forth therein, and "qualified long-term care" 77142  
has the same meaning given in section 7702(B)(b) of the Internal 77143  
Revenue Code. 77144

(12)(a) Deduct any amount included in federal adjusted gross 77145  
income solely because the amount represents a reimbursement or 77146  
refund of expenses that in any year the taxpayer had deducted as 77147  
an itemized deduction pursuant to section 63 of the Internal 77148  
Revenue Code and applicable United States department of the 77149  
treasury regulations. The deduction otherwise allowed under 77150  
division (A)(12)(a) of this section shall be reduced to the extent 77151  
the reimbursement is attributable to an amount the taxpayer 77152  
deducted under this section in any taxable year. 77153

(b) Add any amount not otherwise included in Ohio adjusted 77154  
gross income for any taxable year to the extent that the amount is 77155  
attributable to the recovery during the taxable year of any amount 77156  
deducted or excluded in computing federal or Ohio adjusted gross 77157  
income in any taxable year. 77158

(13) Deduct any portion of the deduction described in section 77159  
1341(a)(2) of the Internal Revenue Code, for repaying previously 77160  
reported income received under a claim of right, that meets both 77161  
of the following requirements: 77162

(a) It is allowable for repayment of an item that was 77163  
included in the taxpayer's adjusted gross income for a prior 77164  
taxable year and did not qualify for a credit under division (A) 77165  
or (B) of section 5747.05 of the Revised Code for that year; 77166

(b) It does not otherwise reduce the taxpayer's adjusted 77167  
gross income for the current or any other taxable year. 77168

(14) Deduct an amount equal to the deposits made to, and net 77169  
investment earnings of, a medical savings account during the 77170  
taxable year, in accordance with section 3924.66 of the Revised 77171  
Code. The deduction allowed by division (A)(14) of this section 77172  
does not apply to medical savings account deposits and earnings 77173  
otherwise deducted or excluded for the current or any other 77174  
taxable year from the taxpayer's federal adjusted gross income. 77175

(15)(a) Add an amount equal to the funds withdrawn from a 77176  
medical savings account during the taxable year, and the net 77177  
investment earnings on those funds, when the funds withdrawn were 77178  
used for any purpose other than to reimburse an account holder 77179  
for, or to pay, eligible medical expenses, in accordance with 77180  
section 3924.66 of the Revised Code; 77181

(b) Add the amounts distributed from a medical savings 77182  
account under division (A)(2) of section 3924.68 of the Revised 77183  
Code during the taxable year. 77184

(16) Add any amount claimed as a credit under section 77185  
5747.059 of the Revised Code to the extent that such amount 77186  
satisfies either of the following: 77187

(a) The amount was deducted or excluded from the computation 77188  
of the taxpayer's federal adjusted gross income as required to be 77189  
reported for the taxpayer's taxable year under the Internal 77190  
Revenue Code; 77191

(b) The amount resulted in a reduction of the taxpayer's 77192  
federal adjusted gross income as required to be reported for any 77193  
of the taxpayer's taxable years under the Internal Revenue Code. 77194

(17) Deduct the amount contributed by the taxpayer to an 77195  
individual development account program established by a county 77196  
department of job and family services pursuant to sections 329.11 77197  
to 329.14 of the Revised Code for the purpose of matching funds 77198  
deposited by program participants. On request of the tax 77199  
commissioner, the taxpayer shall provide any information that, in 77200  
the tax commissioner's opinion, is necessary to establish the 77201  
amount deducted under division (A)(17) of this section. 77202

(18) Beginning in taxable year 2001 but not for any taxable 77203  
year beginning after December 31, 2005, if the taxpayer is married 77204  
and files a joint return and the combined federal adjusted gross 77205  
income of the taxpayer and the taxpayer's spouse for the taxable 77206

year does not exceed one hundred thousand dollars, or if the 77207  
taxpayer is single and has a federal adjusted gross income for the 77208  
taxable year not exceeding fifty thousand dollars, deduct amounts 77209  
paid during the taxable year for qualified tuition and fees paid 77210  
to an eligible institution for the taxpayer, the taxpayer's 77211  
spouse, or any dependent of the taxpayer, who is a resident of 77212  
this state and is enrolled in or attending a program that 77213  
culminates in a degree or diploma at an eligible institution. The 77214  
deduction may be claimed only to the extent that qualified tuition 77215  
and fees are not otherwise deducted or excluded for any taxable 77216  
year from federal or Ohio adjusted gross income. The deduction may 77217  
not be claimed for educational expenses for which the taxpayer 77218  
claims a credit under section 5747.27 of the Revised Code. 77219

(19) Add any reimbursement received during the taxable year 77220  
of any amount the taxpayer deducted under division (A)(18) of this 77221  
section in any previous taxable year to the extent the amount is 77222  
not otherwise included in Ohio adjusted gross income. 77223

(20)(a)(i) Add five-sixths of the amount of depreciation 77224  
expense allowed by subsection (k) of section 168 of the Internal 77225  
Revenue Code, including the taxpayer's proportionate or 77226  
distributive share of the amount of depreciation expense allowed 77227  
by that subsection to a pass-through entity in which the taxpayer 77228  
has a direct or indirect ownership interest. 77229

(ii) Add five-sixths of the amount of qualifying section 179 77230  
depreciation expense, including a person's proportionate or 77231  
distributive share of the amount of qualifying section 179 77232  
depreciation expense allowed to any pass-through entity in which 77233  
the person has a direct or indirect ownership. For the purposes of 77234  
this division, "qualifying section 179 depreciation expense" means 77235  
the difference between (I) the amount of depreciation expense 77236  
directly or indirectly allowed to the taxpayer under section 179 77237  
of the Internal Revenue Code, and (II) the amount of depreciation 77238



expense directly or indirectly allowed to the taxpayer under 77239  
section 179 of the Internal Revenue Code as that section existed 77240  
on December 31, 2002. 77241

The tax commissioner, under procedures established by the 77242  
commissioner, may waive the add-backs related to a pass-through 77243  
entity if the taxpayer owns, directly or indirectly, less than 77244  
five per cent of the pass-through entity. 77245

(b) Nothing in division (A)(20) of this section shall be 77246  
construed to adjust or modify the adjusted basis of any asset. 77247

(c) To the extent the add-back required under division 77248  
(A)(20)(a) of this section is attributable to property generating 77249  
nonbusiness income or loss allocated under section 5747.20 of the 77250  
Revised Code, the add-back shall be situated to the same location 77251  
as the nonbusiness income or loss generated by the property for 77252  
the purpose of determining the credit under division (A) of 77253  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 77254  
be apportioned, subject to one or more of the four alternative 77255  
methods of apportionment enumerated in section 5747.21 of the 77256  
Revised Code. 77257

(d) For the purposes of division (A) of this section, net 77258  
operating loss carryback and carryforward shall not include 77259  
five-sixths of the allowance of any net operating loss deduction 77260  
carryback or carryforward to the taxable year to the extent such 77261  
loss resulted from depreciation allowed by section 168(k) of the 77262  
Internal Revenue Code and by the qualifying section 179 77263  
depreciation expense amount. 77264

(21)(a) If the taxpayer was required to add an amount under 77265  
division (A)(20)(a) of this section for a taxable year, deduct 77266  
one-fifth of the amount so added for each of the five succeeding 77267  
taxable years. 77268

(b) If the amount deducted under division (A)(21)(a) of this 77269

section is attributable to an add-back allocated under division 77270  
(A)(20)(c) of this section, the amount deducted shall be situated 77271  
to the same location. Otherwise, the add-back shall be apportioned 77272  
using the apportionment factors for the taxable year in which the 77273  
deduction is taken, subject to one or more of the four alternative 77274  
methods of apportionment enumerated in section 5747.21 of the 77275  
Revised Code. 77276

(c) No deduction is available under division (A)(21)(a) of 77277  
this section with regard to any depreciation allowed by section 77278  
168(k) of the Internal Revenue Code and by the qualifying section 77279  
179 depreciation expense amount to the extent that such 77280  
depreciation resulted in or increased a federal net operating loss 77281  
carryback or carryforward to a taxable year to which division 77282  
(A)(20)(d) of this section does not apply. 77283

(B) "Business income" means income, including gain or loss, 77284  
arising from transactions, activities, and sources in the regular 77285  
course of a trade or business and includes income, gain, or loss 77286  
from real property, tangible property, and intangible property if 77287  
the acquisition, rental, management, and disposition of the 77288  
property constitute integral parts of the regular course of a 77289  
trade or business operation. "Business income" includes income, 77290  
including gain or loss, from a partial or complete liquidation of 77291  
a business, including, but not limited to, gain or loss from the 77292  
sale or other disposition of goodwill. 77293

(C) "Nonbusiness income" means all income other than business 77294  
income and may include, but is not limited to, compensation, rents 77295  
and royalties from real or tangible personal property, capital 77296  
gains, interest, dividends and distributions, patent or copyright 77297  
royalties, or lottery winnings, prizes, and awards. 77298

(D) "Compensation" means any form of remuneration paid to an 77299  
employee for personal services. 77300

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if

the trust is described in division (I)(3)(e)(i) or (ii) of this section; 77331  
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(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; 77333  
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(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section. 77339  
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 77349  
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 77352  
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(d) For the purposes of division (I)(3)(a) of this section, 77362  
the extent to which a trust consists directly or indirectly, in 77363  
whole or in part, of assets, net of any related liabilities, that 77364  
were transferred directly or indirectly, in whole or part, to the 77365  
trust by any of the sources enumerated in that division shall be 77366  
ascertained by multiplying the fair market value of the trust's 77367  
assets, net of related liabilities, by the qualifying ratio, which 77368  
shall be computed as follows: 77369

(i) The first time the trust receives assets, the numerator 77370  
of the qualifying ratio is the fair market value of those assets 77371  
at that time, net of any related liabilities, from sources 77372  
enumerated in division (I)(3)(a) of this section. The denominator 77373  
of the qualifying ratio is the fair market value of all the 77374  
trust's assets at that time, net of any related liabilities. 77375

(ii) Each subsequent time the trust receives assets, a 77376  
revised qualifying ratio shall be computed. The numerator of the 77377  
revised qualifying ratio is the sum of (1) the fair market value 77378  
of the trust's assets immediately prior to the subsequent 77379  
transfer, net of any related liabilities, multiplied by the 77380  
qualifying ratio last computed without regard to the subsequent 77381  
transfer, and (2) the fair market value of the subsequently 77382  
transferred assets at the time transferred, net of any related 77383  
liabilities, from sources enumerated in division (I)(3)(a) of this 77384  
section. The denominator of the revised qualifying ratio is the 77385  
fair market value of all the trust's assets immediately after the 77386  
subsequent transfer, net of any related liabilities. 77387

(iii) Whether a transfer to the trust is by or from any of 77388  
the sources enumerated in division (I)(3)(a) of this section shall 77389  
be ascertained without regard to the domicile of the trust's 77390  
beneficiaries. 77391

(e) For the purposes of division (I)(3)(a)(i) of this 77392

section: 77393

(i) A trust is described in division (I)(3)(e)(i) of this 77394  
section if the trust is a testamentary trust and the testator of 77395  
that testamentary trust was domiciled in this state at the time of 77396  
the testator's death for purposes of the taxes levied under 77397  
Chapter 5731. of the Revised Code. 77398

(ii) A trust is described in division (I)(3)(e)(ii) of this 77399  
section if the transfer is a qualifying transfer described in any 77400  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 77401  
irrevocable inter vivos trust, and at least one of the trust's 77402  
qualifying beneficiaries is domiciled in this state for purposes 77403  
of this chapter during all or some portion of the trust's current 77404  
taxable year. 77405

(f) For the purposes of division (I)(3)(e)(ii) of this 77406  
section, a "qualifying transfer" is a transfer of assets, net of 77407  
any related liabilities, directly or indirectly to a trust, if the 77408  
transfer is described in any of the following: 77409

(i) The transfer is made to a trust, created by the decedent 77410  
before the decedent's death and while the decedent was domiciled 77411  
in this state for the purposes of this chapter, and, prior to the 77412  
death of the decedent, the trust became irrevocable while the 77413  
decedent was domiciled in this state for the purposes of this 77414  
chapter. 77415

(ii) The transfer is made to a trust to which the decedent, 77416  
prior to the decedent's death, had directly or indirectly 77417  
transferred assets, net of any related liabilities, while the 77418  
decedent was domiciled in this state for the purposes of this 77419  
chapter, and prior to the death of the decedent the trust became 77420  
irrevocable while the decedent was domiciled in this state for the 77421  
purposes of this chapter. 77422

(iii) The transfer is made on account of a contractual 77423

relationship existing directly or indirectly between the 77424  
transferor and either the decedent or the estate of the decedent 77425  
at any time prior to the date of the decedent's death, and the 77426  
decedent was domiciled in this state at the time of death for 77427  
purposes of the taxes levied under Chapter 5731. of the Revised 77428  
Code. 77429

(iv) The transfer is made to a trust on account of a 77430  
contractual relationship existing directly or indirectly between 77431  
the transferor and another person who at the time of the 77432  
decedent's death was domiciled in this state for purposes of this 77433  
chapter. 77434

(v) The transfer is made to a trust on account of the will of 77435  
a testator. 77436

(vi) The transfer is made to a trust created by or caused to 77437  
be created by a court, and the trust was directly or indirectly 77438  
created in connection with or as a result of the death of an 77439  
individual who, for purposes of the taxes levied under Chapter 77440  
5731. of the Revised Code, was domiciled in this state at the time 77441  
of the individual's death. 77442

(g) The tax commissioner may adopt rules to ascertain the 77443  
part of a trust residing in this state. 77444

(J) "Nonresident" means an individual or estate that is not a 77445  
resident. An individual who is a resident for only part of a 77446  
taxable year is a nonresident for the remainder of that taxable 77447  
year. 77448

(K) "Pass-through entity" has the same meaning as in section 77449  
5733.04 of the Revised Code. 77450

(L) "Return" means the notifications and reports required to 77451  
be filed pursuant to this chapter for the purpose of reporting the 77452  
tax due and includes declarations of estimated tax when so 77453

required. 77454

(M) "Taxable year" means the calendar year or the taxpayer's 77455  
fiscal year ending during the calendar year, or fractional part 77456  
thereof, upon which the adjusted gross income is calculated 77457  
pursuant to this chapter. 77458

(N) "Taxpayer" means any person subject to the tax imposed by 77459  
section 5747.02 of the Revised Code or any pass-through entity 77460  
that makes the election under division (D) of section 5747.08 of 77461  
the Revised Code. 77462

(O) "Dependents" means dependents as defined in the Internal 77463  
Revenue Code and as claimed in the taxpayer's federal income tax 77464  
return for the taxable year or which the taxpayer would have been 77465  
permitted to claim had the taxpayer filed a federal income tax 77466  
return. 77467

(P) "Principal county of employment" means, in the case of a 77468  
nonresident, the county within the state in which a taxpayer 77469  
performs services for an employer or, if those services are 77470  
performed in more than one county, the county in which the major 77471  
portion of the services are performed. 77472

(Q) As used in sections 5747.50 to 5747.55 of the Revised 77473  
Code: 77474

(1) "Subdivision" means any county, municipal corporation, 77475  
park district, or township. 77476

(2) "Essential local government purposes" includes all 77477  
functions that any subdivision is required by general law to 77478  
exercise, including like functions that are exercised under a 77479  
charter adopted pursuant to the Ohio Constitution. 77480

(R) "Overpayment" means any amount already paid that exceeds 77481  
the figure determined to be the correct amount of the tax. 77482

(S) "Taxable income" or "Ohio taxable income" applies only to 77483



estates and trusts, and means federal taxable income, as defined 77484  
and used in the Internal Revenue Code, adjusted as follows: 77485

(1) Add interest or dividends, net of ordinary, necessary, 77486  
and reasonable expenses not deducted in computing federal taxable 77487  
income, on obligations or securities of any state or of any 77488  
political subdivision or authority of any state, other than this 77489  
state and its subdivisions and authorities, but only to the extent 77490  
that such net amount is not otherwise includible in Ohio taxable 77491  
income and is described in either division (S)(1)(a) or (b) of 77492  
this section: 77493

(a) The net amount is not attributable to the S portion of an 77494  
electing small business trust and has not been distributed to 77495  
beneficiaries for the taxable year; 77496

(b) The net amount is attributable to the S portion of an 77497  
electing small business trust for the taxable year. 77498

(2) Add interest or dividends, net of ordinary, necessary, 77499  
and reasonable expenses not deducted in computing federal taxable 77500  
income, on obligations of any authority, commission, 77501  
instrumentality, territory, or possession of the United States to 77502  
the extent that the interest or dividends are exempt from federal 77503  
income taxes but not from state income taxes, but only to the 77504  
extent that such net amount is not otherwise includible in Ohio 77505  
taxable income and is described in either division (S)(1)(a) or 77506  
(b) of this section; 77507

(3) Add the amount of personal exemption allowed to the 77508  
estate pursuant to section 642(b) of the Internal Revenue Code; 77509

(4) Deduct interest or dividends, net of related expenses 77510  
deducted in computing federal taxable income, on obligations of 77511  
the United States and its territories and possessions or of any 77512  
authority, commission, or instrumentality of the United States to 77513  
the extent that the interest or dividends are exempt from state 77514

taxes under the laws of the United States, but only to the extent 77515  
that such amount is included in federal taxable income and is 77516  
described in either division (S)(1)(a) or (b) of this section; 77517

(5) Deduct the amount of wages and salaries, if any, not 77518  
otherwise allowable as a deduction but that would have been 77519  
allowable as a deduction in computing federal taxable income for 77520  
the taxable year, had the targeted jobs credit allowed under 77521  
sections 38, 51, and 52 of the Internal Revenue Code not been in 77522  
effect, but only to the extent such amount relates either to 77523  
income included in federal taxable income for the taxable year or 77524  
to income of the S portion of an electing small business trust for 77525  
the taxable year; 77526

(6) Deduct any interest or interest equivalent, net of 77527  
related expenses deducted in computing federal taxable income, on 77528  
public obligations and purchase obligations, but only to the 77529  
extent that such net amount relates either to income included in 77530  
federal taxable income for the taxable year or to income of the S 77531  
portion of an electing small business trust for the taxable year; 77532

(7) Add any loss or deduct any gain resulting from sale, 77533  
exchange, or other disposition of public obligations to the extent 77534  
that such loss has been deducted or such gain has been included in 77535  
computing either federal taxable income or income of the S portion 77536  
of an electing small business trust for the taxable year; 77537

(8) Except in the case of the final return of an estate, add 77538  
any amount deducted by the taxpayer on both its Ohio estate tax 77539  
return pursuant to section 5731.14 of the Revised Code, and on its 77540  
federal income tax return in determining federal taxable income; 77541

(9)(a) Deduct any amount included in federal taxable income 77542  
solely because the amount represents a reimbursement or refund of 77543  
expenses that in a previous year the decedent had deducted as an 77544  
itemized deduction pursuant to section 63 of the Internal Revenue 77545

Code and applicable treasury regulations. The deduction otherwise  
allowed under division (S)(9)(a) of this section shall be reduced  
to the extent the reimbursement is attributable to an amount the  
taxpayer or decedent deducted under this section in any taxable  
year.

(b) Add any amount not otherwise included in Ohio taxable  
income for any taxable year to the extent that the amount is  
attributable to the recovery during the taxable year of any amount  
deducted or excluded in computing federal or Ohio taxable income  
in any taxable year, but only to the extent such amount has not  
been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section  
1341(a)(2) of the Internal Revenue Code, for repaying previously  
reported income received under a claim of right, that meets both  
of the following requirements:

(a) It is allowable for repayment of an item that was  
included in the taxpayer's taxable income or the decedent's  
adjusted gross income for a prior taxable year and did not qualify  
for a credit under division (A) or (B) of section 5747.05 of the  
Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable  
income or the decedent's adjusted gross income for the current or  
any other taxable year.

(11) Add any amount claimed as a credit under section  
5747.059 of the Revised Code to the extent that the amount  
satisfies either of the following:

(a) The amount was deducted or excluded from the computation  
of the taxpayer's federal taxable income as required to be  
reported for the taxpayer's taxable year under the Internal  
Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's 77576  
federal taxable income as required to be reported for any of the 77577  
taxpayer's taxable years under the Internal Revenue Code. 77578

(12) Deduct any amount, net of related expenses deducted in 77579  
computing federal taxable income, that a trust is required to 77580  
report as farm income on its federal income tax return, but only 77581  
if the assets of the trust include at least ten acres of land 77582  
satisfying the definition of "land devoted exclusively to 77583  
agricultural use" under section 5713.30 of the Revised Code, 77584  
regardless of whether the land is valued for tax purposes as such 77585  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 77586  
trust is a pass-through entity investor, section 5747.231 of the 77587  
Revised Code applies in ascertaining if the trust is eligible to 77588  
claim the deduction provided by division (S)(12) of this section 77589  
in connection with the pass-through entity's farm income. 77590

Except for farm income attributable to the S portion of an 77591  
electing small business trust, the deduction provided by division 77592  
(S)(12) of this section is allowed only to the extent that the 77593  
trust has not distributed such farm income. Division (S)(12) of 77594  
this section applies only to taxable years of a trust beginning in 77595  
2002,~~2003~~, or ~~2004~~ thereafter. 77596

(13) Add the net amount of income described in section 641(c) 77597  
of the Internal Revenue Code to the extent that amount is not 77598  
included in federal taxable income. 77599

(14) Add or deduct the amount the taxpayer would be required 77600  
to add or deduct under division (A)(20) or (21) of this section if 77601  
the taxpayer's Ohio taxable income were computed in the same 77602  
manner as an individual's Ohio adjusted gross income is computed 77603  
under this section. In the case of a trust, division (S)(14) of 77604  
this section applies only to any of the trust's taxable years 77605  
beginning in 2002,~~2003~~, or ~~2004~~ thereafter. 77606

(T) "School district income" and "school district income tax" 77607  
have the same meanings as in section 5748.01 of the Revised Code. 77608

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 77609  
of this section, "public obligations," "purchase obligations," and 77610  
"interest or interest equivalent" have the same meanings as in 77611  
section 5709.76 of the Revised Code. 77612

(V) "Limited liability company" means any limited liability 77613  
company formed under Chapter 1705. of the Revised Code or under 77614  
the laws of any other state. 77615

(W) "Pass-through entity investor" means any person who, 77616  
during any portion of a taxable year of a pass-through entity, is 77617  
a partner, member, shareholder, or equity investor in that 77618  
pass-through entity. 77619

(X) "Banking day" has the same meaning as in section 1304.01 77620  
of the Revised Code. 77621

(Y) "Month" means a calendar month. 77622

(Z) "Quarter" means the first three months, the second three 77623  
months, the third three months, or the last three months of the 77624  
taxpayer's taxable year. 77625

(AA)(1) "Eligible institution" means a state university or 77626  
state institution of higher education as defined in section 77627  
3345.011 of the Revised Code, or a private, nonprofit college, 77628  
university, or other post-secondary institution located in this 77629  
state that possesses a certificate of authorization issued by the 77630  
Ohio board of regents pursuant to Chapter 1713. of the Revised 77631  
Code or a certificate of registration issued by the state board of 77632  
career colleges and schools under Chapter 3332. of the Revised 77633  
Code. 77634

(2) "Qualified tuition and fees" means tuition and fees 77635  
imposed by an eligible institution as a condition of enrollment or 77636

attendance, not exceeding two thousand five hundred dollars in 77637  
each of the individual's first two years of post-secondary 77638  
education. If the individual is a part-time student, "qualified 77639  
tuition and fees" includes tuition and fees paid for the academic 77640  
equivalent of the first two years of post-secondary education 77641  
during a maximum of five taxable years, not exceeding a total of 77642  
five thousand dollars. "Qualified tuition and fees" does not 77643  
include: 77644

(a) Expenses for any course or activity involving sports, 77645  
games, or hobbies unless the course or activity is part of the 77646  
individual's degree or diploma program; 77647

(b) The cost of books, room and board, student activity fees, 77648  
athletic fees, insurance expenses, or other expenses unrelated to 77649  
the individual's academic course of instruction; 77650

(c) Tuition, fees, or other expenses paid or reimbursed 77651  
through an employer, scholarship, grant in aid, or other 77652  
educational benefit program. 77653

(BB)(1) "Modified business income" means the business income 77654  
included in a trust's Ohio taxable income after such taxable 77655  
income is first reduced by the qualifying trust amount, if any. 77656

(2) "Qualifying trust amount" of a trust means capital gains 77657  
and losses from the sale, exchange, or other disposition of equity 77658  
or ownership interests in, or debt obligations of, a qualifying 77659  
investee to the extent included in the trust's Ohio taxable 77660  
income, but only if the following requirements are satisfied: 77661

(a) The book value of the qualifying investee's physical 77662  
assets in this state and everywhere, as of the last day of the 77663  
qualifying investee's fiscal or calendar year ending immediately 77664  
prior to the date on which the trust recognizes the gain or loss, 77665  
is available to the trust. 77666

(b) The requirements of section 5747.011 of the Revised Code 77667  
are satisfied for the trust's taxable year in which the trust 77668  
recognizes the gain or loss. 77669

Any gain or loss that is not a qualifying trust amount is 77670  
modified business income, qualifying investment income, or 77671  
modified nonbusiness income, as the case may be. 77672

(3) "Modified nonbusiness income" means a trust's Ohio 77673  
taxable income other than modified business income, other than the 77674  
qualifying trust amount, and other than qualifying investment 77675  
income, as defined in section 5747.012 of the Revised Code, to the 77676  
extent such qualifying investment income is not otherwise part of 77677  
modified business income. 77678

(4) "Modified Ohio taxable income" applies only to trusts, 77679  
and means the sum of the amounts described in divisions (BB)(4)(a) 77680  
to (c) of this section: 77681

(a) The fraction, calculated under section 5747.013, and 77682  
applying section 5747.231 of the Revised Code, multiplied by the 77683  
sum of the following amounts: 77684

(i) The trust's modified business income; 77685

(ii) The trust's qualifying investment income, as defined in 77686  
section 5747.012 of the Revised Code, but only to the extent the 77687  
qualifying investment income does not otherwise constitute 77688  
modified business income and does not otherwise constitute a 77689  
qualifying trust amount. 77690

(b) The qualifying trust amount multiplied by a fraction, the 77691  
numerator of which is the sum of the book value of the qualifying 77692  
investee's physical assets in this state on the last day of the 77693  
qualifying investee's fiscal or calendar year ending immediately 77694  
prior to the day on which the trust recognizes the qualifying 77695  
trust amount, and the denominator of which is the sum of the book 77696

value of the qualifying investee's total physical assets 77697  
everywhere on the last day of the qualifying investee's fiscal or 77698  
calendar year ending immediately prior to the day on which the 77699  
trust recognizes the qualifying trust amount. If, for a taxable 77700  
year, the trust recognizes a qualifying trust amount with respect 77701  
to more than one qualifying investee, the amount described in 77702  
division (BB)(4)(b) of this section shall equal the sum of the 77703  
products so computed for each such qualifying investee. 77704

(c)(i) With respect to a trust or portion of a trust that is 77705  
a resident as ascertained in accordance with division (I)(3)(d) of 77706  
this section, its modified nonbusiness income. 77707

(ii) With respect to a trust or portion of a trust that is 77708  
not a resident as ascertained in accordance with division 77709  
(I)(3)(d) of this section, the amount of its modified nonbusiness 77710  
income satisfying the descriptions in divisions (B)(2) to (5) of 77711  
section 5747.20 of the Revised Code. 77712

If the allocation and apportionment of a trust's income under 77713  
divisions (BB)(4)(a) and (c) of this section do not fairly 77714  
represent the modified Ohio taxable income of the trust in this 77715  
state, the alternative methods described in division (C) of 77716  
section 5747.21 of the Revised Code may be applied in the manner 77717  
and to the same extent provided in that section. 77718

(5)(a) Except as set forth in division (BB)(5)(b) of this 77719  
section, "qualifying investee" means a person in which a trust has 77720  
an equity or ownership interest, or a person or unit of government 77721  
the debt obligations of either of which are owned by a trust. For 77722  
the purposes of division (BB)(2)(a) of this section and for the 77723  
purpose of computing the fraction described in division (BB)(4)(b) 77724  
of this section, all of the following apply: 77725

(i) If the qualifying investee is a member of a qualifying 77726  
controlled group on the last day of the qualifying investee's 77727



fiscal or calendar year ending immediately prior to the date on 77728  
which the trust recognizes the gain or loss, then "qualifying 77729  
investee" includes all persons in the qualifying controlled group 77730  
on such last day. 77731

(ii) If the qualifying investee, or if the qualifying 77732  
investee and any members of the qualifying controlled group of 77733  
which the qualifying investee is a member on the last day of the 77734  
qualifying investee's fiscal or calendar year ending immediately 77735  
prior to the date on which the trust recognizes the gain or loss, 77736  
separately or cumulatively own, directly or indirectly, on the 77737  
last day of the qualifying investee's fiscal or calendar year 77738  
ending immediately prior to the date on which the trust recognizes 77739  
the qualifying trust amount, more than fifty per cent of the 77740  
equity of a pass-through entity, then the qualifying investee and 77741  
the other members are deemed to own the proportionate share of the 77742  
pass-through entity's physical assets which the pass-through 77743  
entity directly or indirectly owns on the last day of the 77744  
pass-through entity's calendar or fiscal year ending within or 77745  
with the last day of the qualifying investee's fiscal or calendar 77746  
year ending immediately prior to the date on which the trust 77747  
recognizes the qualifying trust amount. 77748

(iii) For the purposes of division (BB)(5)(a)(iii) of this 77749  
section, "upper level pass-through entity" means a pass-through 77750  
entity directly or indirectly owning any equity of another 77751  
pass-through entity, and "lower level pass-through entity" means 77752  
that other pass-through entity. 77753

An upper level pass-through entity, whether or not it is also 77754  
a qualifying investee, is deemed to own, on the last day of the 77755  
upper level pass-through entity's calendar or fiscal year, the 77756  
proportionate share of the lower level pass-through entity's 77757  
physical assets that the lower level pass-through entity directly 77758  
or indirectly owns on the last day of the lower level pass-through 77759

entity's calendar or fiscal year ending within or with the last 77760  
day of the upper level pass-through entity's fiscal or calendar 77761  
year. If the upper level pass-through entity directly and 77762  
indirectly owns less than fifty per cent of the equity of the 77763  
lower level pass-through entity on each day of the upper level 77764  
pass-through entity's calendar or fiscal year in which or with 77765  
which ends the calendar or fiscal year of the lower level 77766  
pass-through entity and if, based upon clear and convincing 77767  
evidence, complete information about the location and cost of the 77768  
physical assets of the lower pass-through entity is not available 77769  
to the upper level pass-through entity, then solely for purposes 77770  
of ascertaining if a gain or loss constitutes a qualifying trust 77771  
amount, the upper level pass-through entity shall be deemed as 77772  
owning no equity of the lower level pass-through entity for each 77773  
day during the upper level pass-through entity's calendar or 77774  
fiscal year in which or with which ends the lower level 77775  
pass-through entity's calendar or fiscal year. Nothing in division 77776  
(BB)(5)(a)(iii) of this section shall be construed to provide for 77777  
any deduction or exclusion in computing any trust's Ohio taxable 77778  
income. 77779

(b) With respect to a trust that is not a resident for the 77780  
taxable year and with respect to a part of a trust that is not a 77781  
resident for the taxable year, "qualifying investee" for that 77782  
taxable year does not include a C corporation if both of the 77783  
following apply: 77784

(i) During the taxable year the trust or part of the trust 77785  
recognizes a gain or loss from the sale, exchange, or other 77786  
disposition of equity or ownership interests in, or debt 77787  
obligations of, the C corporation. 77788

(ii) Such gain or loss constitutes nonbusiness income. 77789

(6) "Available" means information is such that a person is 77790

able to learn of the information by the due date plus extensions,  
if any, for filing the return for the taxable year in which the  
trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in  
section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section  
5733.042 of the Revised Code.

~~(EE) Any term used in this chapter that is not otherwise  
defined in this section and that is not used in a comparable  
context in the Internal Revenue Code and other statutes of the  
United States relating to federal income taxes has the same  
meaning as in section 5733.40 of the Revised Code (1) For the  
purposes of division (EE) of this section:~~

~~(a) "Qualifying person" means any person other than a  
qualifying corporation.~~

~~(b) "Qualifying corporation" means any person classified for  
federal income tax purposes as an association taxable as a  
corporation, except either of the following:~~

~~(i) A corporation that has made an election under subchapter  
S, chapter one, subtitle A, of the Internal Revenue Code for its  
taxable year ending within, or on the last day of, the investor's  
taxable year;~~

~~(ii) A subsidiary that is wholly owned by any corporation  
that has made an election under subchapter S, chapter one,  
subtitle A of the Internal Revenue Code for its taxable year  
ending within, or on the last day of, the investor's taxable year.~~

~~(2) For the purposes of this chapter, unless expressly stated  
otherwise, no qualifying person indirectly owns any asset directly  
or indirectly owned by any qualifying corporation.~~

Sec. 5747.012. This section applies for the purposes of 77820  
divisions (BB)(3) and (BB)(4)(a)(ii) of section 5747.01 of the 77821  
Revised Code. 77822

(A) As used in this section: 77823

(1)(a) Except as set forth in division (A)(1)(b) of this 77824  
section, "qualifying investment income" means the portion of a 77825  
qualifying investment pass-through entity's net income 77826  
attributable to transaction fees in connection with the 77827  
acquisition, ownership, or disposition of intangible property; 77828  
loan fees; financing fees; consent fees; waiver fees; application 77829  
fees; net management fees; dividend income; interest income; net 77830  
capital gains from the sale or exchange or other disposition of 77831  
intangible property; and all types and classifications of income 77832  
attributable to distributive shares of income from other 77833  
pass-through entities. 77834

(b)(i) Notwithstanding division (A)(1)(a) of this section, 77835  
"qualifying investment income" does not include any part of the 77836  
qualifying investment pass-through entity's net capital gain 77837  
which, after the application of section 5747.231 of the Revised 77838  
Code with respect to a trust, would also constitute a qualifying 77839  
trust amount. 77840

(ii) Notwithstanding division (A)(1)(a) of this section, 77841  
"qualifying investment income" does not include any part of the 77842  
qualifying investment pass-through entity's net income 77843  
attributable to the portion of a distributive share of income 77844  
directly or indirectly from another pass-through entity to the 77845  
extent such portion constitutes the other pass-through entity's 77846  
net capital gain which, after the application of section 5747.231 77847  
of the Revised Code with respect to a trust, would also constitute 77848  
a qualifying trust amount. 77849

(2) "Qualifying investment pass-through entity" means an investment pass-through entity, as defined in section 5733.401 of the Revised Code, subject to the following qualifications:

(a) "Forty per cent" shall be substituted for "ninety per cent" wherever "ninety per cent" appears in section 5733.401 of the Revised Code.

(b) The pass-through entity must have been formed or organized as an entity prior to June 5, 2002, and must exist as a pass-through entity for all of the taxable year of the trust.

(c) The qualifying section 5747.012 trust or related persons to the qualifying section 5747.012 trust must directly or indirectly own at least five per cent of the equity of the investment pass-through entity each day of the entity's fiscal or calendar year ending within or with the last day of the qualifying section 5747.012 trust's taxable year;

(d) During the investment pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying section 5747.012 trust's taxable year, related persons of or to the qualifying section 5747.012 trust must, on each day of the investment pass-through entity's year, own directly, or own through equity investments in other pass-through entities, more than sixty per cent of the equity of the investment pass-through entity.

(B) "Qualifying section 5747.012 trust" means a trust satisfying one of the following:

(1) The trust was created prior to, and was irrevocable on, June 5, 2002; or

(2) If the trust was created after June 4, 2002, or if the trust became irrevocable after June 4, 2002, then at least eighty per cent of the assets transferred to the trust must have been

previously owned by related persons to the trust or by a trust  
created prior to June 5, 2002, under which the creator did not  
retain the power to change beneficiaries, amend the trust, or  
revoke the trust. For purposes of division (B)(2) of this section,  
the power to substitute property of equal value shall not be  
considered to be a power to change beneficiaries, amend the trust,  
or revoke the trust.

(C) For the purposes of this section, "related persons" means  
the family of a qualifying individual beneficiary, as defined in  
division (A)(5) of section 5747.011 of the Revised Code. For the  
purposes of this division, "family" has the same meaning as in  
division (A)(6) of section 5747.011 of the Revised Code.

(D) For the purposes of applying divisions (A)(2)(c),  
(A)(2)(d), and (B)(2) of this section, the related persons or the  
qualifying section 5747.012 trust, as the case may be, shall be  
deemed to own the equity of the investment pass-through entity  
after the application of division (B) of section 5747.011 of the  
Revised Code.

(E) "Irrevocable" has the same meaning as in division  
(I)(3)(b) of section 5747.01 of the Revised Code.

(F) Nothing in this section requires any item of income,  
gain, or loss not satisfying the definition of qualifying  
investment income to be treated as modified nonbusiness income.  
Any item of income, gain, or loss that is not qualifying  
investment income is modified business income, modified  
nonbusiness income, or a qualifying trust amount, as the case may  
be.

**Sec. 5747.02.** (A) For the purpose of providing revenue for  
the support of schools and local government functions, to provide  
relief to property taxpayers, to provide revenue for the general

revenue fund, and to meet the expenses of administering the tax 77910  
levied by this chapter, there is hereby levied on every 77911  
individual, trust, and estate residing in or earning or receiving 77912  
income in this state, on every individual, trust, and estate 77913  
earning or receiving lottery winnings, prizes, or awards pursuant 77914  
to Chapter 3770. of the Revised Code, and on every individual, 77915  
trust, and estate otherwise having nexus with or in this state 77916  
under the Constitution of the United States, an annual tax 77917  
measured in the case of individuals by Ohio adjusted gross income 77918  
less an exemption for the taxpayer, the taxpayer's spouse, and 77919  
each dependent as provided in section 5747.025 of the Revised 77920  
Code; measured in the case of trusts by modified Ohio taxable 77921  
income under division (D) of this section; and measured in the 77922  
case of estates by Ohio taxable income. The tax imposed by this 77923  
section on the balance thus obtained is hereby levied as follows: 77924

(1) For taxable years beginning in 2004: 77925

OHIO ADJUSTED GROSS INCOME LESS 77926

EXEMPTIONS (INDIVIDUALS)

OR 77927

MODIFIED OHIO 77928

TAXABLE INCOME (TRUSTS) 77929

OR 77930

OHIO TAXABLE INCOME (ESTATES) TAX 77931

\$5,000 or less .743% 77932

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 77933  
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 77934  
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 77935  
than \$20,000 amount in excess of \$15,000

More than \$20,000 but not more \$445.80 plus 4.457% of the 77936  
than \$40,000 amount in excess of \$20,000

More than \$40,000 but not more \$1,337.20 plus 5.201% of the 77937

than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	77938
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	77939
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	77940
<u>(2) For taxable years beginning in 2005:</u>		77941
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77942
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77943
<u>MODIFIED OHIO</u>		77944
<u>TAXABLE INCOME (TRUSTS)</u>		77945
<u>OR</u>		77946
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77947
<u>\$5,000 or less</u>	<u>.712%</u>	77948
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$35.60 plus 1.424% of the amount in excess of \$5,000</u>	77949
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$106.80 plus 2.847% of the amount in excess of \$10,000</u>	77950
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$249.15 plus 3.559% of the amount in excess of \$15,000</u>	77951
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$427.10 plus 4.27% of the amount in excess of \$20,000</u>	77952
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,281.10 plus 4.983% of the amount in excess of \$40,000</u>	77953
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,274.30 plus 5.693% of the amount in excess of \$80,000</u>	77954
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,412.90 plus 6.61% of the amount in excess of \$100,000</u>	77955
<u>More than \$200,000</u>	<u>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</u>	77956



<u>(3) For taxable years beginning in 2006:</u>		77957
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77958
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77959
<u>MODIFIED OHIO</u>		77960
<u>TAXABLE INCOME (TRUSTS)</u>		77961
<u>OR</u>		77962
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77963
<u>\$5,000 or less</u>	<u>.681%</u>	77964
<u>More than \$5,000 but not more</u>	<u>\$34.05 plus 1.361% of the amount</u>	77965
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$102.10 plus 2.722% of the</u>	77966
<u>than \$15,000</u>	<u>amount in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$238.20 plus 3.403% of the</u>	77967
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$408.35 plus 4.083% of the</u>	77968
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,224.95 plus 4.764% of the</u>	77969
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$3,130.55 plus 5.444% of the</u>	77970
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$4,219.35 plus 6.32% of the</u>	77971
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the</u>	77972
	<u>amount in excess of \$200,000</u>	
<u>(4) For taxable years beginning in 2007:</u>		77973
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77974
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77975
<u>MODIFIED OHIO</u>		77976
<u>TAXABLE INCOME (TRUSTS)</u>		77977
<u>OR</u>		77978

<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77979
<u>\$5,000 or less</u>	<u>.649%</u>	77980
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$32.45 plus 1.299% of the amount in excess of \$5,000</u>	77981
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$97.40 plus 2.598% of the amount in excess of \$10,000</u>	77982
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$227.30 plus 3.247% of the amount in excess of \$15,000</u>	77983
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$389.65 plus 3.895% of the amount in excess of \$20,000</u>	77984
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</u>	77985
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</u>	77986
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</u>	77987
<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u>	77988
<u>(5) For taxable years beginning in 2008:</u>		77989
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77990
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77991
<u>MODIFIED OHIO</u>		77992
<u>TAXABLE INCOME (TRUSTS)</u>		77993
<u>OR</u>		77994
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77995
<u>\$5,000 or less</u>	<u>.618%</u>	77996
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$30.90 plus 1.236% of the amount in excess of \$5,000</u>	77997
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$92.70 plus 2.473% of the amount in excess of \$10,000</u>	77998
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$216.35 plus 3.091% of the amount in excess of \$15,000</u>	77999

<u>More than \$20,000 but not more than \$40,000</u>	<u>\$370.90 plus 3.708% of the amount in excess of \$20,000</u>	78000
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,112.50 plus 4.327% of the amount in excess of \$40,000</u>	78001
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,843.30 plus 4.945% of the amount in excess of \$80,000</u>	78002
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,832.30 plus 5.741% of the amount in excess of \$100,000</u>	78003
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u>	78004
<u>(6) For taxable years beginning in 2009 or thereafter:</u>		78005
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		78006
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		78007
<u>MODIFIED OHIO</u>		78008
<u>TAXABLE INCOME (TRUSTS)</u>		78009
<u>OR</u>		78010
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	78011
<u>\$5,000 or less</u>	<u>.587%</u>	78012
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$29.35 plus 1.174% of the amount in excess of \$5,000</u>	78013
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$88.05 plus 2.348% of the amount in excess of \$10,000</u>	78014
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$205.45 plus 2.935% of the amount in excess of \$15,000</u>	78015
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$352.20 plus 3.521% of the amount in excess of \$20,000</u>	78016
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,056.40 plus 4.109% of the amount in excess of \$40,000</u>	78017
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,700.00 plus 4.695% of the amount in excess of \$80,000</u>	78018
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,639.00 plus 5.451% of the amount in excess of \$100,000</u>	78019

More than \$200,000 \$9,090.00 plus 5.925% of the 78020  
amount in excess of \$200,000

In July of each year, beginning in ~~2005~~ 2010, the tax 78021  
commissioner shall adjust the income amounts prescribed in this 78022  
division by multiplying the percentage increase in the gross 78023  
domestic product deflator computed that year under section 78024  
5747.025 of the Revised Code by each of the income amounts 78025  
resulting from the adjustment under this division in the preceding 78026  
year, adding the resulting product to the corresponding income 78027  
amount resulting from the adjustment in the preceding year, and 78028  
rounding the resulting sum to the nearest multiple of fifty 78029  
dollars. The tax commissioner also shall recompute each of the tax 78030  
dollar amounts to the extent necessary to reflect the adjustment 78031  
of the income amounts. The rates of taxation shall not be 78032  
adjusted. 78033

The adjusted amounts apply to taxable years beginning in the 78034  
calendar year in which the adjustments are made. The tax 78035  
commissioner shall not make such adjustments in any year in which 78036  
the amount resulting from the adjustment would be less than the 78037  
amount resulting from the adjustment in the preceding year. 78038

(B) If the director of budget and management makes a 78039  
certification to the tax commissioner under division (B) of 78040  
section 131.44 of the Revised Code, the amount of tax as 78041  
determined under division (A) of this section shall be reduced by 78042  
the percentage prescribed in that certification for taxable years 78043  
beginning in the calendar year in which that certification is 78044  
made. 78045

(C) The levy of this tax on income does not prevent a 78046  
municipal corporation, a joint economic development zone created 78047  
under section 715.691, or a joint economic development district 78048  
created under section 715.70 or 715.71 or sections 715.72 to 78049  
715.81 of the Revised Code from levying a tax on income. 78050

(D) This division applies only to taxable years of a trust 78051  
beginning in 2002,~~2003~~, or 2004 thereafter. 78052

(1) The tax imposed by this section on a trust shall be 78053  
computed by multiplying the Ohio modified taxable income of the 78054  
trust by the rates prescribed by division (A) of this section. 78055

(2) A credit is allowed against the tax computed under 78056  
division (D) of this section equal to the lesser of (1) the tax 78057  
paid to another state or the District of Columbia on the trust's 78058  
modified nonbusiness income, other than the portion of the trust's 78059  
nonbusiness income that is qualifying investment income as defined 78060  
in section 5747.012 of the Revised Code, or (2) the effective tax 78061  
rate, based on modified Ohio taxable income, multiplied by the 78062  
trust's modified nonbusiness income other than the portion of 78063  
trust's nonbusiness income that is qualifying investment income. 78064  
The credit applies before any other applicable credits. 78065

(3) The credits enumerated in divisions (A)(1) to (13) of 78066  
section 5747.98 of the Revised Code do not apply to a trust 78067  
subject to this division. Any credits enumerated in other 78068  
divisions of section 5747.98 of the Revised Code apply to a trust 78069  
subject to this division. To the extent that the trust distributes 78070  
income for the taxable year for which a credit is available to the 78071  
trust, the credit shall be shared by the trust and its 78072  
beneficiaries. The tax commissioner and the trust shall be guided 78073  
by applicable regulations of the United States treasury regarding 78074  
the sharing of credits. 78075

(E) For the purposes of this section, "trust" means any trust 78076  
described in Subchapter J of Chapter 1 of the Internal Revenue 78077  
Code, excluding trusts that are not irrevocable as defined in 78078  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 78079  
have no modified Ohio taxable income for the taxable year, 78080  
charitable remainder trusts, qualified funeral trusts and preneed 78081

funeral contract trusts established pursuant to section 1111.19 of 78082  
the Revised Code that are not qualified funeral trusts, endowment 78083  
and perpetual care trusts, qualified settlement trusts and funds, 78084  
designated settlement trusts and funds, and trusts exempted from 78085  
taxation under section 501(a) of the Internal Revenue Code. 78086

**Sec. 5747.05.** As used in this section, "income tax" includes 78087  
both a tax on net income and a tax measured by net income. 78088

The following credits shall be allowed against the income tax 78089  
imposed by section 5747.02 of the Revised Code on individuals and 78090  
estates: 78091

(A)(1) The amount of tax otherwise due under section 5747.02 78092  
of the Revised Code on such portion of the adjusted gross income 78093  
of any nonresident taxpayer that is not allocable to this state 78094  
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 78095

(2) The credit provided under this division shall not exceed 78096  
the portion of the total tax due under section 5747.02 of the 78097  
Revised Code that the amount of the nonresident taxpayer's 78098  
adjusted gross income not allocated to this state pursuant to 78099  
sections 5747.20 to 5747.23 of the Revised Code bears to the total 78100  
adjusted gross income of the nonresident taxpayer derived from all 78101  
sources everywhere. 78102

(3) The tax commissioner may enter into an agreement with the 78103  
taxing authorities of any state or of the District of Columbia 78104  
that imposes an income tax to provide that compensation paid in 78105  
this state to a nonresident taxpayer shall not be subject to the 78106  
tax levied in section 5747.02 of the Revised Code so long as 78107  
compensation paid in such other state or in the District of 78108  
Columbia to a resident taxpayer shall likewise not be subject to 78109  
the income tax of such other state or of the District of Columbia. 78110

(B) The lesser of division (B)(1) or (2) of this section: 78111

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the resident taxpayer's adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the

computation of the taxpayer's tax liability under this chapter 78144  
from a previously filed return no longer subject to assessment 78145  
except to the extent that such liability is affected by an 78146  
adjustment to the credit allowed by division (B) of this section. 78147

(b) In the case of an overpayment, an application for refund 78148  
may be filed under this division within the sixty day period 78149  
prescribed for filing the report even if it is beyond the period 78150  
prescribed in section 5747.11 of the Revised Code if it otherwise 78151  
conforms to the requirements of such section. An application filed 78152  
under this division shall only claim refund of overpayments 78153  
resulting from an adjustment to the credit allowed by division (B) 78154  
of this section unless it is also filed within the time prescribed 78155  
in section 5747.11 of the Revised Code. It shall not reopen the 78156  
computation of the taxpayer's tax liability except to the extent 78157  
that such liability is affected by an adjustment to the credit 78158  
allowed by division (B) of this section. 78159

(4) No credit shall be allowed under division (B) of this 78160  
section to the extent that for any taxable year the taxpayer has 78161  
directly or indirectly deducted, or was required to directly or 78162  
indirectly deduct, the amount of income tax liability to another 78163  
state or the District of Columbia in computing federal adjusted 78164  
gross income. 78165

(C) For a taxpayer sixty-five years of age or older during 78166  
the taxable year, a credit for such year equal to fifty dollars 78167  
for each return required to be filed under section 5747.08 of the 78168  
Revised Code. 78169

(D) A taxpayer sixty-five years of age or older during the 78170  
taxable year who has received a lump-sum distribution from a 78171  
pension, retirement, or profit-sharing plan in the taxable year 78172  
may elect to receive a credit under this division in lieu of the 78173  
credit to which the taxpayer is entitled under division (C) of 78174



this section. A taxpayer making such election shall receive a  
credit for the taxable year equal to fifty dollars times the  
taxpayer's expected remaining life as shown by annuity tables  
issued under the provisions of the Internal Revenue Code and in  
effect for the calendar year which includes the last day of the  
taxable year. A taxpayer making an election under this division is  
not entitled to the credit authorized under division (C) of this  
section in subsequent taxable years except that if such election  
was made prior to July 1, 1983, the taxpayer is entitled to  
one-half the credit authorized under such division in subsequent  
taxable years but may not make another election under this  
division.

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(E) A taxpayer who is not sixty-five years of age or older  
during the taxable year who has received a lump-sum distribution  
from a pension, retirement, or profit-sharing plan in a taxable  
year ending on or before July 31, 1991, may elect to take a credit  
against the tax otherwise due under this chapter for such year  
equal to fifty dollars times the expected remaining life of a  
taxpayer sixty-five years of age as shown by annuity tables issued  
under the provisions of the Internal Revenue Code and in effect  
for the calendar year which includes the last day of the taxable  
year. A taxpayer making an election under this division is not  
entitled to a credit under division (C) or (D) of this section in  
any subsequent year except that if such election was made prior to  
July 1, 1983, the taxpayer is entitled to one-half the credit  
authorized under division (C) of this section in subsequent years  
but may not make another election under this division. No taxpayer  
may make an election under this division for a taxable year ending  
on or after August 1, 1991.

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(F) A taxpayer making an election under either division (D)  
or (E) of this section may make only one such election in the  
taxpayer's lifetime.

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(G)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.	B.	
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:	
\$25,000 or less	20%	78221
More than \$25,000 but not more than \$50,000	15%	78222
More than \$50,000 but not more than \$75,000	10%	78223
More than \$75,000	5%	78224

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is

allowed the credits under divisions (A) and (B) of this section in 78234  
accordance with rules prescribed by the tax commissioner. In no 78235  
event shall the same income be subject to both credits. 78236

(J) The credit allowed under division (A) of this section 78237  
shall be calculated based upon the amount of tax due under section 78238  
5747.02 of the Revised Code after subtracting any other credits 78239  
that precede the credit under that division in the order required 78240  
under section 5747.98 of the Revised Code. The credit allowed 78241  
under division (B) of this section shall be calculated based upon 78242  
the amount of tax due under section 5747.02 of the Revised Code 78243  
after subtracting any other credits that precede the credit under 78244  
that division in the order required under section 5747.98 of the 78245  
Revised Code. 78246

(K) No credit shall be allowed under division (B) of this 78247  
section unless the taxpayer furnishes such proof as the tax 78248  
commissioner shall require that the income tax liability has been 78249  
paid to another state or the District of Columbia. 78250

(L) No credit shall be allowed under division (B) of this 78251  
section for compensation that is not subject to the income tax of 78252  
another state or the District of Columbia as the result of an 78253  
agreement entered into by the tax commissioner under division 78254  
(A)(3) of this section. 78255

Sec. 5747.056. For taxable years beginning in 2005 or 78256  
thereafter, a credit shall be allowed against the tax imposed by 78257  
section 5747.02 of the Revised Code for an individual whose Ohio 78258  
adjusted gross income less exemptions is ten thousand dollars or 78259  
less. For taxable years beginning in 2005, the credit shall equal 78260  
one hundred seven dollars. For taxable years beginning in 2006, 78261  
the credit shall equal one hundred two dollars. For taxable years 78262  
beginning in 2007, the credit shall equal ninety-eight dollars. 78263  
For taxable years beginning in 2008, the credit shall equal 78264

ninety-three dollars. For taxable years beginning in 2009 or 78265  
thereafter, the credit shall equal eighty-eight dollars. The 78266  
credit shall be claimed in the order required under section 78267  
5747.98 of the Revised Code. 78268

**Sec. 5747.08.** An annual return with respect to the tax 78269  
imposed by section 5747.02 of the Revised Code and each tax 78270  
imposed under Chapter 5748. of the Revised Code shall be made by 78271  
every taxpayer for any taxable year for which the taxpayer is 78272  
liable for the tax imposed by that section or under that chapter, 78273  
unless the total credits allowed under divisions (E), (F), and (G) 78274  
of section 5747.05 of the Revised Code for the year are equal to 78275  
or exceed the tax imposed by section 5747.02 of the Revised Code, 78276  
in which case no return shall be required unless the taxpayer is 78277  
liable for a tax imposed pursuant to Chapter 5748. of the Revised 78278  
Code. 78279

(A) If an individual is deceased, any return or notice 78280  
required of that individual under this chapter shall be made and 78281  
filed by that decedent's executor, administrator, or other person 78282  
charged with the property of that decedent. 78283

(B) If an individual is unable to make a return or notice 78284  
required by this chapter, the return or notice required of that 78285  
individual shall be made and filed by the individual's duly 78286  
authorized agent, guardian, conservator, fiduciary, or other 78287  
person charged with the care of the person or property of that 78288  
individual. 78289

(C) Returns or notices required of an estate or a trust shall 78290  
be made and filed by the fiduciary of the estate or trust. 78291

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 78292  
of this section, any pass-through entity may file a single return 78293  
on behalf of one or more of the entity's investors other than an 78294

investor that is a person subject to the tax imposed under section 78295  
5733.06 of the Revised Code. The single return shall set forth the 78296  
name, address, and social security number or other identifying 78297  
number of each of those pass-through entity investors and shall 78298  
indicate the distributive share of each of those pass-through 78299  
entity investor's income taxable in this state in accordance with 78300  
sections 5747.20 to 5747.231 of the Revised Code. Such 78301  
pass-through entity investors for whom the pass-through entity 78302  
elects to file a single return are not entitled to the exemption 78303  
or credit provided for by sections 5747.02 and 5747.022 of the 78304  
Revised Code; shall calculate the tax before business credits at 78305  
the highest rate of tax set forth in section 5747.02 of the 78306  
Revised Code for the taxable year for which the return is filed; 78307  
and are entitled to only their distributive share of the business 78308  
credits as defined in division (D)(2) of this section. A single 78309  
check drawn by the pass-through entity shall accompany the return 78310  
in full payment of the tax due, as shown on the single return, for 78311  
such investors, other than investors who are persons subject to 78312  
the tax imposed under section 5733.06 of the Revised Code. 78313

(b)(i) A pass-through entity shall not include in such a 78314  
single return any investor that is a trust to the extent that any 78315  
direct or indirect current, future, or contingent beneficiary of 78316  
the trust is a person subject to the tax imposed under section 78317  
5733.06 of the Revised Code. 78318

(ii) A pass-through entity shall not include in such a single 78319  
return any investor that is itself a pass-through entity to the 78320  
extent that any direct or indirect investor in the second 78321  
pass-through entity is a person subject to the tax imposed under 78322  
section 5733.06 of the Revised Code. 78323

(c) Nothing in division (D) of this section precludes the tax 78324  
commissioner from requiring such investors to file the return and 78325  
make the payment of taxes and related interest, penalty, and 78326

interest penalty required by this section or section 5747.02, 78327  
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 78328  
of this section shall be construed to provide to such an investor 78329  
or pass-through entity any additional deduction or credit, other 78330  
than the credit provided by division (J) of this section, solely 78331  
on account of the entity's filing a return in accordance with this 78332  
section. Such a pass-through entity also shall make the filing and 78333  
payment of estimated taxes on behalf of the pass-through entity 78334  
investors other than an investor that is a person subject to the 78335  
tax imposed under section 5733.06 of the Revised Code. 78336

(2) For the purposes of this section, "business credits" 78337  
means the credits listed in section 5747.98 of the Revised Code 78338  
excluding the following credits: 78339

(a) The retirement credit under division (B) of section 78340  
5747.055 of the Revised Code; 78341

(b) The senior citizen credit under division (C) of section 78342  
5747.05 of the Revised Code; 78343

(c) The lump sum distribution credit under division (D) of 78344  
section 5747.05 of the Revised Code; 78345

(d) The dependent care credit under section 5747.054 of the 78346  
Revised Code; 78347

(e) The lump sum retirement income credit under division (C) 78348  
of section 5747.055 of the Revised Code; 78349

(f) The lump sum retirement income credit under division (D) 78350  
of section 5747.055 of the Revised Code; 78351

(g) The lump sum retirement income credit under division (E) 78352  
of section 5747.055 of the Revised Code; 78353

(h) The credit for displaced workers who pay for job training 78354  
under section 5747.27 of the Revised Code; 78355

(i) The twenty-dollar personal exemption credit under section 78356

5747.022 of the Revised Code; 78357

(j) The joint filing credit under division (G) of section 78358  
5747.05 of the Revised Code; 78359

(k) The nonresident credit under division (A) of section 78360  
5747.05 of the Revised Code; 78361

(l) The credit for a resident's out-of-state income under 78362  
division (B) of section 5747.05 of the Revised Code; 78363

(m) The low-income credit under section 5747.056 of the 78364  
Revised Code. 78365

(3) The election provided for under division (D) of this 78366  
section applies only to the taxable year for which the election is 78367  
made by the pass-through entity. Unless the tax commissioner 78368  
provides otherwise, this election, once made, is binding and 78369  
irrevocable for the taxable year for which the election is made. 78370  
Nothing in this division shall be construed to provide for any 78371  
deduction or credit that would not be allowable if a nonresident 78372  
pass-through entity investor were to file an annual return. 78373

(4) If a pass-through entity makes the election provided for 78374  
under division (D) of this section, the pass-through entity shall 78375  
be liable for any additional taxes, interest, interest penalty, or 78376  
penalties imposed by this chapter if the commissioner finds that 78377  
the single return does not reflect the correct tax due by the 78378  
pass-through entity investors covered by that return. Nothing in 78379  
this division shall be construed to limit or alter the liability, 78380  
if any, imposed on pass-through entity investors for unpaid or 78381  
underpaid taxes, interest, interest penalty, or penalties as a 78382  
result of the pass-through entity's making the election provided 78383  
for under division (D) of this section. For the purposes of 78384  
division (D) of this section, "correct tax due" means the tax that 78385  
would have been paid by the pass-through entity had the single 78386  
return been filed in a manner reflecting the commissioner's 78387

findings. Nothing in division (D) of this section shall be  
construed to make or hold a pass-through entity liable for tax  
attributable to a pass-through entity investor's income from a  
source other than the pass-through entity electing to file the  
single return.

(E) If a husband and wife file a joint federal income tax  
return for a taxable year, they shall file a joint return under  
this section for that taxable year, and their liabilities are  
joint and several, but, if the federal income tax liability of  
either spouse is determined on a separate federal income tax  
return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax  
return and either or both are required to file a return pursuant  
to this chapter, they may elect to file separate or joint returns,  
and, pursuant to that election, their liabilities are separate or  
joint and several. If a husband and wife file separate returns  
pursuant to this chapter, each must claim the taxpayer's own  
exemption, but not both, as authorized under section 5747.02 of  
the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this  
section shall contain the signature of the taxpayer or the  
taxpayer's duly authorized agent and of the person who prepared  
the return for the taxpayer, and shall include the taxpayer's  
social security number. Each return shall be verified by a  
declaration under the penalties of perjury. The tax commissioner  
shall prescribe the form that the signature and declaration shall  
take.

(G) Each return or notice required to be filed under this  
section shall be made and filed as required by section 5747.04 of  
the Revised Code, on or before the fifteenth day of April of each  
year, on forms that the tax commissioner shall prescribe, together



with remittance made payable to the treasurer of state in the 78419  
combined amount of the state and all school district income taxes 78420  
shown to be due on the form, unless the combined amount shown to 78421  
be due is one dollar or less, in which case that amount need not 78422  
be remitted. 78423

Upon good cause shown, the commissioner may extend the period 78424  
for filing any notice or return required to be filed under this 78425  
section and may adopt rules relating to extensions. If the 78426  
extension results in an extension of time for the payment of any 78427  
state or school district income tax liability with respect to 78428  
which the return is filed, the taxpayer shall pay at the time the 78429  
tax liability is paid an amount of interest computed at the rate 78430  
per annum prescribed by section 5703.47 of the Revised Code on 78431  
that liability from the time that payment is due without extension 78432  
to the time of actual payment. Except as provided in section 78433  
5747.132 of the Revised Code, in addition to all other interest 78434  
charges and penalties, all taxes imposed under this chapter or 78435  
Chapter 5748. of the Revised Code and remaining unpaid after they 78436  
become due, except combined amounts due of one dollar or less, 78437  
bear interest at the rate per annum prescribed by section 5703.47 78438  
of the Revised Code until paid or until the day an assessment is 78439  
issued under section 5747.13 of the Revised Code, whichever occurs 78440  
first. 78441

If the commissioner considers it necessary in order to ensure 78442  
the payment of the tax imposed by section 5747.02 of the Revised 78443  
Code or any tax imposed under Chapter 5748. of the Revised Code, 78444  
the commissioner may require returns and payments to be made 78445  
otherwise than as provided in this section. 78446

(H) If any report, claim, statement, or other document 78447  
required to be filed, or any payment required to be made, within a 78448  
prescribed period or on or before a prescribed date under this 78449  
chapter is delivered after that period or that date by United 78450

States mail to the agency, officer, or office with which the  
report, claim, statement, or other document is required to be  
filed, or to which the payment is required to be made, the date of  
the postmark stamped on the cover in which the report, claim,  
statement, or other document, or payment is mailed shall be deemed  
to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds  
transfer pursuant to section 5747.072 of the Revised Code, the  
payment is considered to be made when the payment is received by  
the treasurer of state or credited to an account designated by the  
treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more  
than one date on the cover, the earliest date imprinted on the  
cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section  
5747.06 of the Revised Code shall be allowed to the recipient of  
the compensation as credits against payment of the appropriate  
taxes imposed on the recipient by section 5747.02 and under  
Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a  
pass-through entity elects to file a single return and if any  
investor is required to file the return and make the payment of  
taxes required by this chapter on account of the investor's other  
income that is not included in a single return filed by a  
pass-through entity, the investor is entitled to a refundable  
credit equal to the investor's proportionate share of the tax paid  
by the pass-through entity on behalf of the investor. The investor  
shall claim the credit for the investor's taxable year in which or  
with which ends the taxable year of the pass-through entity.  
Nothing in this chapter shall be construed to allow any credit  
provided in this chapter to be claimed more than once. For the

purposes of computing any interest, penalty, or interest penalty, 78482  
the investor shall be deemed to have paid the refundable credit 78483  
provided by this division on the day that the pass-through entity 78484  
paid the estimated tax or the tax giving rise to the credit. 78485

**Sec. 5747.212.** (A) This section applies solely for the 78486  
purpose of computing the credit allowed under division (A) of 78487  
section 5747.05 of the Revised Code, computing income taxable in 78488  
this state under division (D) of section 5747.08 of the Revised 78489  
Code, and computing the credit allowed under section 5747.057 of 78490  
the Revised Code. 78491

(B) A ~~pass-through entity investor that owns taxpayer,~~ 78492  
directly or indirectly, owning at any time during the three-year 78493  
period ending on the last day of the taxpayer's taxable year at 78494  
least twenty per cent of the ~~pass-through~~ equity voting rights of 78495  
a section 5747.212 entity at any time during the current taxable 78496  
year or either of the two preceding taxable years shall apportion 78497  
any income, including gain or loss, realized from ~~the~~ each sale, 78498  
exchange, or other disposition of a debt or equity interest in ~~the~~ 78499  
that entity as prescribed in this section. For such purposes, in 78500  
lieu of using the method prescribed by sections 5747.20 and 78501  
5747.21 of the Revised Code, the investor shall apportion the 78502  
income using the average of the ~~pass-through~~ section 5747.212 78503  
entity's apportionment fractions otherwise applicable under 78504  
section 5733.05, 5733.056, or 5747.21 of the Revised Code for the 78505  
current and two preceding taxable years. If the ~~pass-through~~ 78506  
section 5747.212 entity was not in business for one or more of 78507  
those years, each year that the entity was not in business shall 78508  
be excluded in determining the average. 78509

(C) For the purposes of this section: 78510

(1) A "section 5747.212 entity" is any qualifying person if, 78511  
on at least one day of the three-year period ending on the last 78512

<u>day of the taxpayer's taxable year, any of the following apply:</u>	78513
<u>(a) The qualifying person is a pass-through entity;</u>	78514
<u>(b) Five or fewer persons directly or indirectly own all the equity interests, with voting rights, of the qualifying person;</u>	78515
<u>(c) One person directly or indirectly owns at least fifty per cent of the qualifying person's equity interests with voting rights.</u>	78517
<u>(2) A "qualifying person" is any person other than an individual, estate, or trust.</u>	78519
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78520
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78521
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78522
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78523
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78524
<b>Sec. 5747.331.</b> (A) As used in this section:	78525
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78526
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78527
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78528
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78529
(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	78530
(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	78531
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78532
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78533
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78534
(B) Beginning <del>in</del> <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78535
(B) Beginning <del>in</del> <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78536
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thousand dollars. No taxpayer is entitled to claim a credit under 78542  
this section unless it has obtained a certificate issued by the 78543  
director of development under division (D) of section 166.21 of 78544  
the Revised Code. The credit shall be claimed in the order 78545  
required under section 5747.98 of the Revised Code. The credit, to 78546  
the extent it exceeds the taxpayer's tax liability for the taxable 78547  
year after allowance for any other credits that precede the credit 78548  
under this section in that order, shall be carried forward to the 78549  
next succeeding taxable year or years until fully used. Any credit 78550  
not fully utilized by the taxable year beginning in 2007 may be 78551  
carried forward and applied against the tax levied by Chapter 78552  
5751. of the Revised Code to the extent allowed by section 5751.52 78553  
of the Revised Code. 78554

(C) A borrower entitled to a credit under this section may 78555  
assign the credit, or a portion thereof, to any of the following: 78556

(1) A related member of that borrower; 78557

(2) The owner or lessee of the eligible research and 78558  
development project; 78559

(3) A related member of the owner or lessee of the eligible 78560  
research and development project. 78561

A borrower making an assignment under this division shall 78562  
provide written notice of the assignment to the tax commissioner 78563  
and the director of development, in such form as the tax 78564  
commissioner prescribes, before the credit that was assigned is 78565  
used. The assignor may not claim the credit to the extent it was 78566  
assigned to an assignee. The assignee may claim the credit only to 78567  
the extent the assignor has not claimed it. 78568

(D) If any taxpayer is a shareholder in an S corporation, a 78569  
partner in a partnership, or a member in a limited liability 78570  
company treated as a partnership for federal income tax purposes, 78571  
the taxpayer shall be allowed the taxpayer's distributive or 78572

proportionate share of the credit available through the S 78573  
corporation, partnership, or limited liability company. 78574

(E) The aggregate credit against the taxes imposed by 78575  
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 78576  
Code that may be claimed under this section and section 5733.352 78577  
of the Revised Code by a borrower as a result of qualified 78578  
research and development loan payments attributable during a 78579  
calendar year to any one loan shall not exceed one hundred fifty 78580  
thousand dollars. 78581

**Sec. 5747.70.** (A) In computing Ohio adjusted gross income, a 78582  
deduction from federal adjusted gross income is allowed to a 78583  
contributor for the amount contributed during the taxable year to 78584  
a variable college savings program account and to a purchaser of 78585  
tuition ~~credits~~ units under the Ohio college savings program 78586  
created by Chapter 3334. of the Revised Code to the extent that 78587  
the amounts of such contributions and purchases were not deducted 78588  
in determining the contributor's or purchaser's federal adjusted 78589  
gross income for the taxable year. The combined amount of 78590  
contributions and purchases deducted in any taxable year by a 78591  
taxpayer or the taxpayer and the taxpayer's spouse, regardless of 78592  
whether the taxpayer and the taxpayer's spouse file separate 78593  
returns or a joint return, is limited to two thousand dollars for 78594  
each beneficiary for whom contributions or purchases are made. If 78595  
the combined annual contributions and purchases for a beneficiary 78596  
exceed two thousand dollars, the excess may be carried forward and 78597  
deducted in future taxable years until the contributions and 78598  
purchases have been fully deducted. 78599

(B) In computing Ohio adjusted gross income, a deduction from 78600  
federal adjusted gross income is allowed for: 78601

(1) Income related to tuition ~~credits~~ units and contributions 78602  
that as of the end of the taxable year have not been refunded 78603

pursuant to the termination of a tuition payment contract or 78604  
variable college savings program account under section 3334.10 of 78605  
the Revised Code, to the extent that such income is included in 78606  
federal adjusted gross income. 78607

(2) The excess of the total purchase price of tuition ~~credits~~ 78608  
units refunded during the taxable year pursuant to the termination 78609  
of a tuition payment contract under section 3334.10 of the Revised 78610  
Code over the amount of the refund, to the extent the amount of 78611  
the excess was not deducted in determining federal adjusted gross 78612  
income. Division (B)(2) of this section applies only to ~~credits~~ 78613  
units for which no deduction was allowable under division (A) of 78614  
this section. 78615

(C) In computing Ohio adjusted gross income, there shall be 78616  
added to federal adjusted gross income the amount of loss related 78617  
to tuition ~~credits~~ units and contributions that as of the end of 78618  
the taxable year have not been refunded pursuant to the 78619  
termination of a tuition payment contract or variable college 78620  
savings program account under section 3334.10 of the Revised Code, 78621  
to the extent that such loss was deducted in determining federal 78622  
adjusted gross income. 78623

(D) For taxable years in which distributions or refunds are 78624  
made under a tuition payment or variable college savings program 78625  
contract for any reason other than payment of tuition or other 78626  
higher education expenses, or the beneficiary's death, disability, 78627  
or receipt of a scholarship as described in section 3334.10 of the 78628  
Revised Code: 78629

(1) If the distribution or refund is paid to the purchaser or 78630  
contributor or beneficiary, any portion of the distribution or 78631  
refund not included in the recipient's federal adjusted gross 78632  
income shall be added to the recipient's federal adjusted gross 78633  
income in determining the recipient's Ohio adjusted gross income, 78634  
except that the amount added shall not exceed amounts previously 78635

deducted under division (A) of this section less any amounts added 78636  
under division (D)(1) of this section in a prior taxable year. 78637

(2) If amounts paid by a purchaser or contributor on or after 78638  
January 1, 2000, are distributed or refunded to someone other than 78639  
the purchaser or contributor or beneficiary, the amount of the 78640  
payment not included in the recipient's federal adjusted gross 78641  
income, less any amounts added under division (D) of this section 78642  
in a prior taxable year, shall be added to the recipient's federal 78643  
adjusted gross income in determining the recipient's Ohio adjusted 78644  
gross income. 78645

**Sec. 5747.80.** (A) Upon the issuance of a tax credit 78646  
certificate by the Ohio venture capital authority under section 78647  
150.07 of the Revised Code, a credit may be claimed against the 78648  
tax imposed by section 5747.02 of the Revised Code. The credit 78649  
shall be claimed for the taxable year specified in the certificate 78650  
issued by the authority and in the order required under section 78651  
5747.98 of the Revised Code. 78652

(B) If the taxpayer elected a refundable credit under section 78653  
150.07 of the Revised Code and the amount of the credit shown on 78654  
the certificate does not exceed the tax otherwise due under 78655  
section 5747.02 of the Revised Code after all nonrefundable 78656  
credits are deducted, then the taxpayer shall claim a refundable 78657  
credit equal to the amount of the credit shown on the certificate. 78658

(C) If the taxpayer elected a refundable credit under section 78659  
150.07 of the Revised Code, and the amount of the credit shown on 78660  
the certificate exceeds the tax otherwise due under section 78661  
5747.02 of the Revised Code after all nonrefundable credits, 78662  
~~including the credit allowed under this section,~~ are deducted ~~in~~ 78663  
~~that order,~~ the taxpayer shall ~~receive a refund equal to~~ 78664  
~~seventy five per cent of that excess. If the taxpayer elected a~~ 78665  
~~nonrefundable credit, the amount of the credit, claimed in that~~ 78666



~~order, shall not exceed the tax otherwise due after all the~~ 78667  
~~taxpayer's credits are deducted in that order. If claim a~~ 78668  
~~refundable credit equal to the sum of the following:~~ 78669

(1) The amount, if any, of the tax otherwise due under 78670  
section 5747.02 of the Revised Code after all nonrefundable 78671  
credits are deducted; 78672

(2) Seventy-five per cent of the difference between the 78673  
amount of the refundable credit shown on the certificate and the 78674  
tax otherwise due under section 5747.02 of the Revised Code after 78675  
all nonrefundable credits are deducted. 78676

(D) If the taxpayer elected a nonrefundable credit and the 78677  
credit to which the taxpayer would otherwise be entitled under 78678  
this section for any taxable year is greater than the tax 78679  
otherwise due under section 5747.02 of the Revised Code, after 78680  
allowing for any other credits that, under section 5747.98 of the 78681  
Revised Code, precede the credit allowed under this section, the 78682  
excess shall be allowed as a nonrefundable credit in each of the 78683  
ensuing ten taxable years, but the amount of any excess credit 78684  
allowed in the ensuing taxable year shall be deducted from the 78685  
balance carried forward to the next taxable year. 78686

**Sec. 5747.98.** (A) To provide a uniform procedure for 78687  
calculating the amount of tax due under section 5747.02 of the 78688  
Revised Code, a taxpayer shall claim any credits to which the 78689  
taxpayer is entitled in the following order: 78690

(1) The retirement income credit under division (B) of 78691  
section 5747.055 of the Revised Code; 78692

(2) The senior citizen credit under division (C) of section 78693  
5747.05 of the Revised Code; 78694

(3) The lump sum distribution credit under division (D) of 78695  
section 5747.05 of the Revised Code; 78696

(4) The dependent care credit under section 5747.054 of the Revised Code;	78697 78698
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	78699 78700
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	78701 78702
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	78703 78704
(8) <u>The low-income credit under section 5747.056 of the Revised Code;</u>	78705 78706
<u>(9)</u> The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	78707 78708
<del>(9)</del> <u>(10)</u> The campaign contribution credit under section 5747.29 of the Revised Code;	78709 78710
<del>(10)</del> <u>(11)</u> The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	78711 78712
<del>(11)</del> <u>(12)</u> The joint filing credit under division (G) of section 5747.05 of the Revised Code;	78713 78714
<del>(12)</del> <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	78715 78716
<del>(13)</del> <u>(14)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	78717 78718
<del>(14)</del> <u>(15)</u> The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	78719 78720 78721
<del>(15)</del> <u>(16)</u> The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	78722 78723
<del>(16)</del> <u>(17)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	78724 78725

<del>(17)</del> <u>(18)</u> The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	78726 78727
<del>(18)</del> <u>(19)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	78728 78729
<del>(19)</del> <u>(20)</u> The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	78730 78731 78732 78733
<del>(20)</del> <u>(21)</u> The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	78734 78735 78736
<del>(21)</del> <u>(22)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	78737 78738 78739
<del>(22)</del> <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	78740 78741
<del>(23)</del> <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	78742 78743
<del>(24)</del> <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	78744 78745
<del>(25)</del> <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	78746 78747
<del>(26)</del> <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	78748 78749
<del>(27)</del> <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	78750 78751
<del>(28)</del> <u>(29)</u> The export sales credit under section 5747.057 of the Revised Code;	78752 78753
<del>(29)</del> <u>(30)</u> The credit for research and development and	78754

technology transfer investors under section 5747.33 of the Revised Code; 78755  
78756

~~(30)~~(31) The enterprise zone credits under section 5709.65 of the Revised Code; 78757  
78758

~~(31)~~(32) The research and development credit under section 5747.331 of the Revised Code; 78759  
78760

~~(32)~~(33) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code; 78761  
78762

~~(33)~~(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; 78763  
78764

~~(34)~~(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code; 78765  
78766  
78767

~~(35)~~(36) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code; 78768  
78769

~~(36)~~(37) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code. 78770  
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(B) For any credit, except the credits enumerated in divisions (A)~~(32)~~(33) to ~~(36)~~(37) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 78774  
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**Sec. 5747.99.** (A) Whoever violates section 5747.19 of the 78784

Revised Code, ~~or whoever violates section 5747.06 or 5747.07 of~~ 78785  
~~the Revised Code by failing to remit state income taxes withheld~~ 78786  
~~from an employee, is guilty of a misdemeanor of the first degree.~~ 78787  
If the person previously has been convicted of any offense under 78788  
Title LVII of the Revised Code, the person is guilty of a felony 78789  
of the ~~fifth~~ fourth degree. 78790

(B) Whoever violates section 5747.06 or 5747.07 of the 78791  
Revised Code by failing to remit to the state the tax collected 78792  
under section 5747.06 or 5747.07 of the Revised Code is guilty of 78793  
a misdemeanor of the first degree if the amount of collected tax 78794  
the person failed to remit is less than five hundred dollars and 78795  
is guilty of a felony of the fourth degree if the amount of 78796  
collected tax the person failed to remit is five hundred dollars 78797  
or more. 78798

(C) Whoever violates any provision of sections 5747.01 to 78799  
5747.19 of the Revised Code, or any lawful rule promulgated by the 78800  
tax commissioner under authority of any provision of those 78801  
sections, for the violation of which no other penalty is provided 78802  
in this section, shall be fined not less than one hundred nor more 78803  
than five thousand dollars is guilty of a minor misdemeanor. If 78804  
the person previously has been convicted of any offense under 78805  
Title LVII of the Revised Code, the person is guilty of a 78806  
misdemeanor of the first degree. 78807

~~(C)~~(D) Whoever violates section 5747.49 of the Revised Code 78808  
shall be fined not more than five dollars for each day that 78809  
elapses between the date specified by law for performance and the 78810  
date when the duty is actually performed. 78811

**Sec. 5749.02.** (A) For the purpose of providing revenue to 78812  
administer the state's coal mining and reclamation regulatory 78813  
program, to meet the environmental and resource management needs 78814  
of this state, and to reclaim land affected by mining, an excise 78815

tax is hereby levied on the privilege of engaging in the severance 78816  
of natural resources from the soil or water of this state. The tax 78817  
shall be imposed upon the severer and shall be: 78818

(1) Seven cents per ton of coal; 78819

(2) Four cents per ton of salt; 78820

(3) Two cents per ton of limestone or dolomite; 78821

(4) Two cents per ton of sand and gravel; 78822

(5) Ten cents per barrel of oil; 78823

(6) Two and one-half cents per thousand cubic feet of natural 78824  
gas; 78825

(7) One cent per ton of clay, sandstone or conglomerate, 78826  
shale, gypsum, or quartzite. 78827

(B) Of the moneys received by the treasurer of state from the 78828  
tax levied in division (A)(1) of this section, six and 78829  
three-tenths per cent shall be credited to the geological mapping 78830  
fund created in section 1505.09 of the Revised Code, fourteen and 78831  
two-tenths per cent shall be credited to the reclamation 78832  
forfeiture fund created in section 1513.18 of the Revised Code, 78833  
fifty-seven and nine-tenths per cent shall be credited to the coal 78834  
mining administration and reclamation reserve fund created in 78835  
section 1513.181 of the Revised Code, and the remainder shall be 78836  
credited to the unreclaimed lands fund created in section 1513.30 78837  
of the Revised Code. When, at any time during a fiscal year, the 78838  
chief of the division of mineral resources management finds that 78839  
the balance of the coal mining administration and reclamation 78840  
reserve fund is below two million dollars, the chief shall certify 78841  
that fact to the director of budget and management. Upon receipt 78842  
of the chief's certification, the director shall direct the 78843  
~~treasurer of state~~ tax commissioner to instead credit to the coal 78844  
mining administration and reclamation reserve fund during the 78845

remainder of the fiscal year for which the certification is made 78846  
the fourteen and two-tenths per cent of the moneys collected from 78847  
the tax levied in division (A)(1) of this section and otherwise 78848  
required by this division to be credited to the reclamation 78849  
forfeiture fund. 78850

Fifteen per cent of the moneys received by the treasurer of 78851  
state from the tax levied in division (A)(2) of this section shall 78852  
be credited to the geological mapping fund and the remainder shall 78853  
be credited to the unreclaimed lands fund. 78854

Of the moneys received by the treasurer of state from the tax 78855  
levied in divisions (A)(3) and (4) of this section, seven and 78856  
five-tenths per cent shall be credited to the geological mapping 78857  
fund, forty-two and five-tenths per cent shall be credited to the 78858  
unreclaimed lands fund, and the remainder shall be credited to the 78859  
surface mining fund created in section 1514.06 of the Revised 78860  
Code. 78861

Of the moneys received by the treasurer of state from the tax 78862  
levied in divisions (A)(5) and (6) of this section, ninety per 78863  
cent shall be credited to the oil and gas well fund created in 78864  
section 1509.02 of the Revised Code and ten per cent shall be 78865  
credited to the geological mapping fund. All of the moneys 78866  
received by the treasurer of state from the tax levied in division 78867  
(A)(7) of this section shall be credited to the surface mining 78868  
fund. 78869

(C) For the purpose of paying the state's expenses for 78870  
reclaiming mined lands that the operator failed to reclaim under a 78871  
coal mining and reclamation permit issued under Chapter 1513. of 78872  
the Revised Code, or under a surface mining permit issued under 78873  
Chapter 1514. of the Revised Code, for which the operator's bond 78874  
is not sufficient to pay the state's expense for reclamation, 78875  
there is hereby levied an excise tax on the privilege of engaging 78876  
in the severance of coal from the soil or water of this state in 78877

addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this division. Moneys received by the treasurer of state from the tax levied by this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of such lands, the purposes for which the tax under this division is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax shall cease to be imposed after the last day of that calendar year.



(E) On the day fixed for the payment of the severance taxes 78910  
required to be paid by this section, the taxes with any penalties 78911  
or interest on them shall become a lien on all property of the 78912  
taxpayer in this state whether the property is employed by the 78913  
taxpayer in the prosecution of its business or is in the hands of 78914  
an assignee, trustee, or receiver for the benefit of creditors or 78915  
stockholders. The lien shall continue until the taxes and any 78916  
penalties or interest thereon are paid. 78917

Upon failure of the taxpayer to pay a tax on the day fixed 78918  
for payment, the tax commissioner may file, for which no filing 78919  
fee shall be charged, in the office of the county recorder in each 78920  
county in this state in which the taxpayer owns or has a 78921  
beneficial interest in real estate, notice of the lien containing 78922  
a brief description of the real estate. The lien shall not be 78923  
valid as against any mortgagee, purchaser, or judgment creditor 78924  
whose rights have attached prior to the time the notice is filed 78925  
in the county in which the real estate that is the subject of the 78926  
mortgage, purchase, or judgment lien is located. The notice shall 78927  
be recorded in a book kept by the recorder called the "severance 78928  
tax lien record" and indexed under the name of the taxpayer 78929  
charged with the tax. When the tax has been paid, the tax 78930  
commissioner shall furnish to the taxpayer an acknowledgement of 78931  
payment, which the taxpayer may record with the recorder of each 78932  
county in which notice of the lien has been filed. 78933

Sec. 5751.01. As used in this chapter: 78934

(A) "Person" means, but is not limited to, individuals, 78935  
combinations of individuals of any form, receivers, assignees, 78936  
trustees in bankruptcy, firms, companies, joint-stock companies, 78937  
business trusts, estates, partnerships, limited liability 78938  
partnerships, limited liability companies, associations, joint 78939  
ventures, clubs, societies, for-profit and nonprofit corporations, 78940

S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. "Person" does not include the state, its agencies, its instrumentalities, and its political subdivisions. 78941  
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(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code. 78946  
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(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code. 78950  
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(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons. 78953  
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(E) "Excluded person" means any of the following: 78957

(1) Any person with not more than two hundred thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a group that is a consolidated elected taxpayer or a combined taxpayer; 78958  
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(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts: 78963  
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(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 78968  
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of the Revised Code; 78971

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity; 78972  
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(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code. 78977  
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As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code. 78985  
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(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter; 78988  
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(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter; 78993  
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(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p); 78998  
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(6) A bank holding company as defined in the "Bank Holding 79000

Company Act," 12 U.S.C. 1841(a); 79001

(7) A savings and loan holding company as defined in the 79002  
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 79003  
only in activities or investments permissible for a financial 79004  
holding company under 12 U.S.C. 1843(k); 79005

(8) A person directly or indirectly owned by one or more 79006  
financial institutions, financial holding companies, bank holding 79007  
companies, or savings and loan holding companies described in 79008  
division (E)(3), (5), (6), or (7) of this section that is engaged 79009  
in activities permissible for a financial holding company under 12 79010  
U.S.C. 1843(k), except that any such person held pursuant to 79011  
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 79012  
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 79013  
directly or indirectly owned by one or more insurance companies 79014  
described in division (E)(9) of this section that is authorized to 79015  
do the business of insurance in this state. 79016

For the purposes of division (E)(8) of this section, a person 79017  
owns another person under the following circumstances: 79018

(a) In the case of corporations issuing capital stock, one 79019  
corporation owns another corporation if it owns fifty per cent or 79020  
more of the other corporation's capital stock with current voting 79021  
rights; 79022

(b) In the case of a limited liability company, one person 79023  
owns the company if that person's membership interest, as defined 79024  
in section 1705.01 of the Revised Code, is fifty per cent or more 79025  
of the combined membership interests of all persons owning such 79026  
interests in the company; 79027

(c) In the case of a partnership, trust, or other 79028  
unincorporated business organization other than a limited 79029  
liability company, one person owns the organization if, under the 79030  
articles of organization or other instrument governing the affairs 79031

of the organization, that person has a beneficial interest in the 79032  
organization's profits, surpluses, losses, or distributions of 79033  
fifty per cent or more of the combined beneficial interests of all 79034  
persons having such an interest in the organization; 79035

(d) In the case of multiple ownership, the ownership 79036  
interests of more than one person may be aggregated to meet the 79037  
fifty per cent ownership tests in this division only when each 79038  
such owner is described in division (E)(3), (5), (6), (7), or (9) 79039  
of this section and is engaged in activities permissible for a 79040  
financial holding company under 12 U.S.C. 1843(k); 79041

(9) A domestic insurance company or foreign insurance 79042  
company, as defined in section 5725.01 of the Revised Code, that 79043  
paid the insurance company premiums tax imposed by section 5725.18 79044  
or Chapter 5729. of the Revised Code based on one or more 79045  
measurement periods that include the entire tax period under this 79046  
chapter; 79047

(10) A person that solely facilitates or services one or more 79048  
securitizations or similar transactions for any person described 79049  
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 79050  
For purposes of this division, "securitization" means transferring 79051  
one or more assets to one or more persons and then issuing 79052  
securities backed by the right to receive payment from the asset 79053  
or assets so transferred. 79054

(F) Except as otherwise provided in divisions (F)(2), (3), 79055  
(4), and (5) of this section, "gross receipts" means the total 79056  
amount realized by a person, without deduction for the cost of 79057  
goods sold or other expenses incurred, in a transaction or 79058  
transactions that contribute to the production of gross income of 79059  
the person, including the fair market value of any property and 79060  
any services received, and any debt transferred or forgiven as 79061  
consideration, and including the total amount realized with regard 79062

<u>to unrelated business taxable income of tax-exempt organizations</u>	79063
<u>under the Internal Revenue Code.</u>	79064
<u>(1) The following are examples of gross receipts:</u>	79065
<u>(a) Amounts realized from the sale, exchange, or other</u>	79066
<u>disposition of the taxpayer's property to or with another;</u>	79067
<u>(b) Amounts realized from the taxpayer's performance of</u>	79068
<u>services for another;</u>	79069
<u>(c) Amounts realized from another's use or possession of the</u>	79070
<u>taxpayer's property or capital;</u>	79071
<u>(d) Amounts realized with regard to the taxpayer's unrelated</u>	79072
<u>business taxable income;</u>	79073
<u>(e) Any combination of the foregoing amounts.</u>	79074
<u>(2) "Gross receipts" excludes the following amounts:</u>	79075
<u>(a) Interest income not generated in the ordinary course of</u>	79076
<u>business except interest on credit sales;</u>	79077
<u>(b) Dividend income, distributions from corporations</u>	79078
<u>received, and distributive or proportionate shares of receipts and</u>	79079
<u>income from a pass-through entity as defined under section 5733.04</u>	79080
<u>of the Revised Code, except when generated in the ordinary course</u>	79081
<u>of business;</u>	79082
<u>(c) Receipts from the sale, exchange, or other disposition of</u>	79083
<u>an asset described in section 1221 or 1231 of the Internal Revenue</u>	79084
<u>Code, without regard to the length of time the person held the</u>	79085
<u>asset, except when generated in ordinary course of business;</u>	79086
<u>(d) Proceeds received attributable to the repayment,</u>	79087
<u>maturity, or redemption of the principal of a loan, bond, mutual</u>	79088
<u>fund, certificate of deposit, or marketable instrument;</u>	79089
<u>(e) The principal amount received under a repurchase</u>	79090
<u>agreement or on account of any transaction properly characterized</u>	79091

<u>as a loan to the person;</u>	79092
<u>(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;</u>	79093 79094 79095 79096
<u>(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;</u>	79097 79098 79099 79100 79101 79102 79103 79104 79105
<u>(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;</u>	79106 79107 79108
<u>(i) Proceeds received on the account of payments from life insurance policies;</u>	79109 79110
<u>(j) Gifts or charitable contributions received, membership dues received, and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; and proceeds received by a nonprofit organization except those proceeds realized with regard to its unrelated business taxable income;</u>	79111 79112 79113 79114 79115 79116 79117 79118
<u>(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;</u>	79119 79120 79121

<u>(l) Property, money, and other amounts received or acquired</u>	79122
<u>by an agent on behalf of another in excess of the agent's</u>	79123
<u>commission, fee, or other remuneration;</u>	79124
<u>(m) Tax refunds and other tax benefit recoveries;</u>	79125
<u>(n) Pension reversions;</u>	79126
<u>(o) Contributions to capital;</u>	79127
<u>(p) Sales or use taxes collected as a vendor or an</u>	79128
<u>out-of-state seller on behalf of the taxing jurisdiction from a</u>	79129
<u>consumer;</u>	79130
<u>(q) In the case of receipts from the sale of cigarettes or</u>	79131
<u>tobacco products by a wholesale dealer, retail dealer,</u>	79132
<u>distributor, manufacturer, or seller, all as defined in section</u>	79133
<u>5743.01 of the Revised Code, an amount equal to the federal and</u>	79134
<u>state excise taxes paid by any person on or for such cigarettes or</u>	79135
<u>tobacco products under subtitle E of the Internal Revenue Code or</u>	79136
<u>Chapter 5743. of the Revised Code;</u>	79137
<u>(r) In the case of receipts from the sale of motor fuel by a</u>	79138
<u>licensed motor fuel dealer, licensed retail dealer, or licensed</u>	79139
<u>permissive motor fuel dealer, all as defined in section 5735.01 of</u>	79140
<u>the Revised Code, an amount equal to federal and state excise</u>	79141
<u>taxes paid by any person on such motor fuel under section 4081 of</u>	79142
<u>the Internal Revenue Code or Chapter 5735. of the Revised Code;</u>	79143
<u>(s) In the case of receipts from the sale of beer or</u>	79144
<u>intoxicating liquor, as defined in section 4301.01 of the Revised</u>	79145
<u>Code, by a person holding a permit issued under Chapter 4301. or</u>	79146
<u>4303. of the Revised Code, an amount equal to federal and state</u>	79147
<u>excise taxes paid by any person on or for such beer or</u>	79148
<u>intoxicating liquor under subtitle E of the Internal Revenue Code</u>	79149
<u>or Chapter 4301. or 4305. of the Revised Code;</u>	79150
<u>(t) Receipts realized by a person engaged in selling</u>	79151



securities in excess of the gain on the sale of those securities; 79152

(u) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle; 79153  
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(v) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners; 79160  
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(w) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer; 79168  
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(x) Funds received by a mortgage broker from a lender, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(x) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans. 79172  
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(y) Property, money, and other amounts received by a professional employer organization, as defined in 4125.01 of the 79181  
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Revised Code, from a client employer, as defined in that section, 79183  
in excess of the administrative fee charged by the professional 79184  
employer organization to the client employer; 79185

(z) In the case of amounts retained as commissions by a 79186  
permit holder under Chapter 3769. of the Revised Code, an amount 79187  
equal to the amounts specified under that chapter that must be 79188  
paid to or collected by the tax commissioner as a tax and the 79189  
amounts specified under that chapter to be used as purse money; 79190

(aa) Any receipts for which the tax imposed by this chapter 79191  
is prohibited by the constitution or laws of the United States or 79192  
the constitution of this state. 79193

For the purposes of divisions (F)(2)(a), (b), and (c) of this 79194  
section, an amount described in any of those divisions arising 79195  
from the investment of a taxpayer's capital shall be considered to 79196  
be not generated in the ordinary course of business. 79197

(3) "Gross receipts" excludes amounts received from the sale 79198  
of tangible personal property that is delivered into or shipped 79199  
from a qualified foreign trade zone area that includes a qualified 79200  
intermodal facility. 79201

As used in division (F)(3) of this section: 79202

(a) "Qualified foreign trade zone area" means a warehouse or 79203  
other place of delivery or shipment that is: 79204

(i) Located within one mile of the nearest boundary of an 79205  
international airport; and 79206

(ii) Located, in whole or in part, within a foreign trade 79207  
zone as defined in division (A)(2) of section 5709.44 of the 79208  
Revised Code. 79209

(b) "Qualified intermodal facility" means a transshipment 79210  
station that is capable of receiving and shipping freight through 79211  
rail transportation, highway transportation, and air 79212

transportation. A transshipment station is "capable of receiving and shipping freight" after the commencement of the construction of each of the rail, highway, and air transportation components of the facility. 79213  
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(4) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 79217  
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(5) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 79225  
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In calculating gross receipts, the following shall be deducted: 79232  
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(a) Cash discounts allowed and taken; 79234

(b) Returns and allowances; 79235

(c) Bad debts from receipts upon which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the 79236  
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taxpayer kept its accounts on the accrual basis. "Bad debts" does 79244  
not include uncollectible amounts on property that remains in the 79245  
possession of the taxpayer until the full purchase price is paid, 79246  
expenses in attempting to collect any account receivable or for 79247  
any portion of the debt recovered, and repossessed property; 79248

(d) Any amount realized from the sale of an account 79249  
receivable but only to the extent the receipts from the underlying 79250  
transaction giving rise to the account receivable were included in 79251  
the gross receipts of the taxpayer. 79252

(G) "Taxable gross receipts" means gross receipts sitused to 79253  
this state under section 5751.033 of the Revised Code. 79254

(H) A person has "substantial nexus with this state" if any 79255  
of the following applies. The person: 79256

(1) Owns or uses a part or all of its capital in this state; 79257

(2) Holds a certificate of compliance with the laws of this 79258  
state authorizing the person to do business in this state; 79259

(3) Has bright-line presence in this state; 79260

(4) Otherwise has nexus with this state to an extent that the 79261  
person can be required to remit the tax imposed under this chapter 79262  
under the constitution of the United States. 79263

(I) A person has "bright-line presence" in this state for a 79264  
reporting period and for the remaining portion of the calendar 79265  
year if any of the following applies. The person: 79266

(1) Has at any time during the calendar year property in this 79267  
state with an aggregate value of at least fifty thousand dollars. 79268  
For the purpose of division (I)(1) of this section, owned property 79269  
is valued at original cost and rented property is valued at eight 79270  
times the net annual rental charge. 79271

(2) Has during the calendar year payroll in this state of at 79272  
least fifty thousand dollars. Payroll in this state includes all 79273

<u>of the following:</u>	79274
<u>(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;</u>	79275 79276
<u>(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and</u>	79277 79278 79279
<u>(c) Any amount the person pays for services performed in this state on its behalf by another.</u>	79280 79281
<u>(3) Has during the calendar year taxable gross receipts in this state of at least five hundred thousand dollars.</u>	79282 79283
<u>(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total sales.</u>	79284 79285 79286
<u>(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.</u>	79287 79288
<u>(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.</u>	79289 79290
<u>(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.</u>	79291 79292 79293 79294 79295 79296 79297 79298
<u>(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.</u>	79299 79300 79301
<u>(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax</u>	79302 79303

<u>imposed under this chapter.</u>	79304
<u>(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.</u>	79305
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<u>(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.</u>	79307
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<u>(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including, but not limited to, any of the following:</u>	79309
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<u>(1) A person receiving a fee to sell financial instruments;</u>	79312
<u>(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;</u>	79313
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<u>(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;</u>	79316
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<u>(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;</u>	79318
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<u>(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.</u>	79320
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<u>(O) "Received" includes amounts accrued under the accrual method of accounting.</u>	79322
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<b><u>Sec. 5751.011.</u></b> <u>(A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:</u>	79324
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<u>(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or all persons having more than fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during</u>	79327
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all or any portion of the tax period, together with the common 79333  
owners. At the election of the group, all foreign corporations 79334  
meeting the elected ownership test shall either be included in the 79335  
group or all shall be excluded from the group. The group shall 79336  
notify the tax commissioner of the foregoing elections at the time 79337  
of filing the initial registration required under section 5751.04 79338  
of the Revised Code. Division (A)(3) of this section applies with 79339  
respect to the elections described in this division. 79340

(2) The group applies to the tax commissioner for approval to 79341  
be treated as a consolidated elected taxpayer pursuant to division 79342  
(D) of this section. 79343

(3) The group agrees that if the commissioner approves the 79344  
election, all of the following apply: 79345

(a) The group shall file reports as a single taxpayer for at 79346  
least the next eight calendar quarters following the election so 79347  
long as at least two or more of the members of the group meet the 79348  
requirements of division (A)(1) of this section. 79349

(b) Before the expiration of the eighth such calendar 79350  
quarter, the group shall notify the commissioner if it elects to 79351  
cancel its designation as a consolidated elected taxpayer. If the 79352  
group does not so notify the tax commissioner, the election 79353  
remains in effect for another eight calendar quarters. 79354

(c) If, at any time during any of those eight calendar 79355  
quarters following the election, a former member of the group no 79356  
longer meets the requirements under division (A)(1) of this 79357  
section, that member shall report and pay the tax imposed under 79358  
this chapter separately, as a member of a combined taxpayer, or, 79359  
if the former member satisfies such requirements with respect to 79360  
another consolidated elected group, as a member of that 79361  
consolidated elected group. 79362

(d) The group agrees to the application of division (B) of 79363

this section. 79364

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group. 79365  
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(C)(1) A consolidated elected taxpayer shall exclude taxable gross receipts between its members except for taxable gross receipts received by a member described in division (E)(4) of section 5751.01 of the Revised Code that is not a qualifying dealer in intangibles as defined in section 5725.24 of the Revised Code. Except as provided in division (C)(2) of this section, nothing in this section shall have the effect of excluding taxable gross receipts received from persons that are not members of the group. 79369  
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(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group. 79378  
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(D) To make the election to be a consolidated elected taxpayer, a group of persons shall apply to the tax commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The application shall be filed and the fee paid before the later of the beginning of the first calendar quarter to which the election applies or November 15, 2005. The fee shall be collected and used in the same manner as 79385  
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provided in section 5751.04 of the Revised Code.

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The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group. The tax commissioner shall approve a group's election if the group satisfies the requirements of division (A) of this section.

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Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

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(E) Each member of a consolidated elected taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code.

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**Sec. 5751.012.** (A) All persons, other than persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code.

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(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer.

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(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members. 79425  
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(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code. 79427  
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Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the tax commissioner of any additions with the next quarterly tax return it files with the commissioner. 79436  
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(E) Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code. 79441  
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**Sec. 5751.013.** (A) Except as provided in division (B) of this section: 79448  
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(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and 79450  
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(2) In the case of an elected consolidated taxpayer or a 79454

combined taxpayer, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state. 79455  
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(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter. 79460  
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(C) The tax commissioner may adopt rules necessary to administer this section. 79468  
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**Sec. 5751.02.** (A) For the purpose of funding the needs of this state and its local governments beginning with the tax period that commences July 1, 2005, and continuing for every tax period thereafter, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of engaging in this state in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during the calendar year. Such persons include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. 79470  
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(B) The tax imposed by this section is a tax on the taxpayer 79485

and shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits a person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section.

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Sec. 5751.03. (A) Except as provided in division (B) of this section and in section 5751.031 of the Revised Code, the tax levied under this section for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

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(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be one hundred seventy-five dollars. For calendar year 2006, the tax imposed under this division shall be paid not later than May 10, 2006, by both calendar year taxpayers and calendar quarter taxpayers. For calendar year 2007 and thereafter, the tax imposed under this division shall be paid with the fourth-quarter tax return or annual tax return for the prior calendar year by both calendar year taxpayers and calendar quarter taxpayers.

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(C)(1) Each calendar quarter taxpayer may exclude the first two hundred fifty thousand dollars of taxable gross receipts for a calendar quarter and may carry forward and apply any unused exclusion amount to the three subsequent calendar quarters. Each calendar year taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year.

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(2) A taxpayer switching from a calendar year tax period to a

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calendar quarter tax period may, for the first quarter of the 79517  
change, apply the prior calendar quarter exclusion amounts to the 79518  
first calendar quarter return the taxpayer files that calendar 79519  
year. The tax rate shall be based on the rate imposed that 79520  
calendar quarter when the taxpayer switches from a calendar year 79521  
to a calendar quarter tax period. 79522

Sec. 5751.031. This section applies only to calendar quarter 79523  
taxpayers. The tax imposed per calendar quarter under division (A) 79524  
of section 5751.03 of the Revised Code shall be computed as 79525  
follows: 79526

(A) From January 1, 2006, to March 31, 2006, by multiplying 79527  
the tax otherwise due under that division by twenty-three per 79528  
cent; 79529

(B) From April 1, 2006, to March 31, 2007, by multiplying the 79530  
tax otherwise due under that division by forty per cent; 79531

(C) From April 1, 2007, to March 31, 2008, by multiplying the 79532  
tax otherwise due under that division by sixty per cent; 79533

(D) From April 1, 2008, to March 31, 2009, by multiplying the 79534  
tax otherwise due under that division by eighty per cent; 79535

(E) After March 31, 2009, one hundred per cent of the tax due 79536  
under that division. 79537

Sec. 5751.032. (A) From its inception through February 28, 79538  
2007, the commercial activity tax levied under this chapter is 79539  
intended to generate six hundred seventy-seven million dollars. 79540  
Not later than March 15, 2007, the tax commissioner shall provide 79541  
a report to the general assembly reporting the total amount of tax 79542  
paid under this chapter that was collected from the inception of 79543  
the tax through February 28, 2007, and the adjustment in the rate 79544  
of tax imposed under this chapter that would have been required to 79545

generate six hundred seventy-seven million dollars of tax from the 79546  
inception of the tax through February 28, 2007. If the total 79547  
amount of tax paid during that period exceeds six hundred 79548  
seventy-seven million dollars, the tax commissioner, not later 79549  
than March 15, 2007, shall certify the excess amount to the 79550  
director of budget and management, who shall transfer the excess 79551  
amount from the general revenue fund to the commercial activity 79552  
tax reduction fund, which is hereby created in the state treasury. 79553

(B) From March 1, 2008, through February 28, 2009, the 79554  
commercial activity tax levied under this chapter is intended to 79555  
generate one billion one hundred seven million dollars. Not later 79556  
than March 15, 2009, the tax commissioner shall provide a report 79557  
to the general assembly reporting the total amount of tax paid 79558  
under this chapter that was collected during that period, the 79559  
amount by which taxes were reduced during that period under 79560  
division (E) of this section, and the adjustment in the rate of 79561  
tax imposed under this chapter that would have been required to 79562  
generate the sum of those amounts. If the sum of such amounts 79563  
exceeds one billion one hundred seven million dollars, the tax 79564  
commissioner, not later than March 31, 2009, shall certify the 79565  
excess amount to the director of budget and management, who shall 79566  
transfer the excess amount from the general revenue fund to the 79567  
commercial activity tax reduction fund between the first and 79568  
fifteenth day of October. 79569

(C) During fiscal year 2010, the commercial activity tax 79570  
levied under this chapter is intended to generate one billion five 79571  
hundred forty-eight million dollars. Not later than September 30, 79572  
2010, the tax commissioner shall provide a report to the general 79573  
assembly reporting the total amount of tax paid under this chapter 79574  
that was collected during fiscal year 2010, the amount by which 79575  
taxes were reduced during that period under division (E) of this 79576

section, and the adjustment in the rate of tax imposed under this 79577  
chapter that would have been required to generate the sum of those 79578  
amounts. If the sum of such amounts exceeds one billion five 79579  
hundred forty-eight million dollars, the tax commissioner, not 79580  
later than September 30, 2010, shall certify the excess amount to 79581  
the director of budget and management, who shall transfer the 79582  
excess amount from the general revenue fund to the commercial 79583  
activity tax reduction fund between the first and fifteenth day of 79584  
October. 79585

(D) During fiscal year 2011 and each succeeding fiscal year, 79586  
the commercial activity tax levied under this chapter is intended 79587  
to generate one billion five hundred ninety-four million dollars. 79588  
Not later than the thirtieth day of September each fiscal year 79589  
beginning in fiscal year 2012, the tax commissioner shall provide 79590  
a report to the general assembly reporting the total amount of tax 79591  
paid under this chapter that was collected during the preceding 79592  
fiscal year, the amount by which taxes were reduced during that 79593  
period under division (E) of this section, and the adjustment in 79594  
the rate of tax imposed under this chapter that would have been 79595  
required to generate the sum of those amounts. If the sum of such 79596  
amounts exceeds one billion five hundred ninety-four million 79597  
dollars, the tax commissioner, not later than the thirtieth day of 79598  
September of the current fiscal year, shall certify the excess 79599  
amount to the director of budget and management, who shall 79600  
transfer the excess amount from the general revenue fund to the 79601  
commercial activity tax reduction fund between the first and 79602  
fifteenth day of October. 79603

(E) All money credited to the commercial activity tax 79604  
reduction fund in any year, including all investment earnings on 79605  
balances in the fund, shall be applied to reduce the rate of tax 79606  
imposed under section 5751.03 of the Revised Code as provided in 79607  
this division. Each year after making the transfer under division 79608

(A), (B), (C), or (D) of this section, the director of budget and management shall compute the percentage that the excess amount transferred under that division is of the intended revenue amount for the fiscal year in which the transfer is made, and certify that amount to the tax commissioner. The tax rate imposed under section 5751.03 of the Revised Code for the tax year beginning on the first day of January in the fiscal year in which the transfer is made shall be reduced by the percentage certified by the director. The tax commissioner shall certify the adjusted tax rate to the governor, the president of the senate, the speaker of the house of representatives, and all members of the general assembly. The commissioner shall publish the revised rate by journal entry and provide notice to taxpayers of the revised rate.

(F) Before the last day of March, June, September, and December of each tax year in which the rate of tax imposed by section 5751.03 of the Revised Code is reduced under division (E) of this section, the director of budget and management shall transfer from the commercial activity tax reduction fund to the general revenue fund one-fourth of the excess amount transferred under division (A), (B), (C), or (D) of this section, as applicable, in October of the preceding calendar year.

(G) It is the intent of the General Assembly to conduct a review of the dollar revenue limitations and rate reductions provided for under divisions (A) to (E) of this section every two years in conjunction with its biennial budget deliberations, and to establish lower dollar revenue limitations or reduce the rate of tax levied under section 5751.023 of the Revised Code on the basis of the following three factors:

(1) The revenue yield of the tax;

(2) The condition of the Ohio economy;

(3) Savings realized by ongoing reform to medicaid and other



policy initiatives. 79640

Sec. 5751.033. For the purposes of this chapter, gross 79641  
receipts shall be sitused to this state as follows: 79642

(A) Gross rents and royalties from real property located in 79643  
this state shall be sitused to this state. 79644

(B) Gross rents and royalties from tangible personal property 79645  
shall be sitused to this state to the extent the tangible personal 79646  
property is located or used in this state. 79647

(C) Gross receipts from the sale of electricity and electric 79648  
transmission and distribution services shall be sitused to this 79649  
state in the manner provided under section 5733.059 of the Revised 79650  
Code. 79651

(D) Gross receipts from the sale of real property located in 79652  
this state shall be sitused to this state. 79653

(E) Gross receipts from the sale of tangible personal 79654  
property shall be sitused to this state if the property is 79655  
received in this state by the purchaser. In the case of delivery 79656  
of tangible personal property by common carrier or by other means 79657  
of transportation, the place at which such property is ultimately 79658  
received after all transportation has been completed shall be 79659  
considered the place where the purchaser receives the property. 79660  
For purposes of this section, the phrase "delivery of tangible 79661  
personal property by common carrier or by other means of 79662  
transportation" includes the situation in which a purchaser 79663  
accepts the property in this state and then transports the 79664  
property directly or by other means to a location outside this 79665  
state. Direct delivery in this state, other than for purposes of 79666  
transportation, to a person or firm designated by a purchaser 79667  
constitutes delivery to the purchaser in this state, and direct 79668  
delivery outside this state to a person or firm designated by a 79669

purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 79670  
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(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be sitused to this state to the extent the receipts are based on the right to use the property in this state. 79673  
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(G) Gross receipts from the sale of transportation services by a common or contract carrier shall be sitused to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a common or contract carrier may use an alternative situsing procedure for transportation services. 79684  
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(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in division (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be sitused to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits or modifies 79693  
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the exclusions enumerated in divisions (E) and (F)(2) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs gross receipts subject to this division. 79702  
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(I) Gross receipts from the sale of all other services, and all other gross receipts not otherwise sitused under this section, shall be sitused to this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the benefit everywhere. 79706  
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(J) If the situsing provisions of divisions (A) to (H) of this section do not fairly represent the extent of a person's activity in this state, the person may request, or the tax commissioner may require or permit, an alternative method. Such request by a person must be made within the applicable statute of limitations set forth in this chapter. 79715  
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(K) The tax commissioner may adopt rules to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar business or trade activities. 79721  
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Sec. 5751.04. (A) Not later than the later of November 15, 2005, or thirty days after a person first has more than two hundred thousand dollars in taxable gross receipts in a calendar year, each person subject to this chapter shall register with the tax commissioner on the form prescribed by the commissioner. The form shall include the following: 79726  
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<u>(1) The person's name;</u>	79732
<u>(2) If applicable, the name of the state or country under the laws of which the person is incorporated;</u>	79733 79734
<u>(3) If applicable, the location of a person's principal office, and, in the case of a foreign corporation, the location of its principal place of business in this state and the name and address of the officer or agent of the corporation in charge of the business in this state;</u>	79735 79736 79737 79738 79739
<u>(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;</u>	79740 79741 79742 79743
<u>(5) The kind of business in which the person is engaged, including applicable business or industry codes;</u>	79744 79745
<u>(6) The date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year;</u>	79746 79747 79748
<u>(7) If the person is not a corporation or a sole proprietor, the names of all the person's owners and officers;</u>	79749 79750
<u>(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent;</u>	79751 79752 79753
<u>(9) All other information that the commissioner requires to administer and enforce this chapter.</u>	79754 79755
<u>(B) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division (A) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner</u>	79756 79757 79758 79759 79760 79761

prescribed by the tax commissioner at the same time the 79762  
registration is due if a person is subject to the tax imposed 79763  
under this chapter before January 1, 2006. If a person first 79764  
becomes subject to the tax after that date, the registration fee 79765  
is payable with the first tax period return the person is required 79766  
to file as prescribed by section 5751.051 of the Revised Code. If 79767  
a registration fee is not paid when due, an additional fee is 79768  
imposed in the amount of one hundred dollars per month or part 79769  
thereof the fee is outstanding, not to exceed one thousand 79770  
dollars. The tax commissioner may abate the additional fee. The 79771  
fee imposed under this division may be assessed in the same manner 79772  
as the tax imposed under this chapter. Proceeds from the fee shall 79773  
be credited to the commercial activity tax administrative fund, 79774  
which is hereby created in the state treasury for the commissioner 79775  
to use in implementing and administering the tax imposed under 79776  
this chapter. 79777

No registration fee is payable by a person for a calendar 79778  
year if the person first begins business operations in this state 79779  
after the thirtieth day of November of that calendar year or if 79780  
the person's taxable gross receipts for the calendar year exceed 79781  
two hundred thousand dollars but do not exceed two hundred 79782  
thousand dollars as of the first day of December of the calendar 79783  
year. 79784

Registration fees paid under this section, excluding any 79785  
additional fee imposed for late payment of the registration fee, 79786  
shall be credited against the first payment of tax payable under 79787  
section 5751.03 of the Revised Code after the registration fee is 79788  
paid. 79789

(C) If a person that has registered under this section is no 79790  
longer a taxpayer subject to this chapter, including no longer 79791  
being a taxpayer because of the application of division (E)(1) of 79792  
section 5751.01 of the Revised Code, the person shall notify the 79793

commissioner that the person's registration should be cancelled. 79794

Sec. 5751.05. (A) If a person subject to this chapter 79795  
anticipates that the person's taxable gross receipts will be less 79796  
than one million dollars in calendar year 2006, the person may 79797  
elect to be a calendar year taxpayer. If a person is not required 79798  
to be registered under this section for calendar year 2006 and 79799  
anticipates that the person's taxable gross receipts will be less 79800  
than one million dollars in the first calendar year the person is 79801  
required to register under this section, the person may elect to 79802  
be a calendar year taxpayer. 79803

(B) Any person that is a calendar year taxpayer pursuant to 79804  
an election under division (A) of this section shall become a 79805  
calendar quarter taxpayer in the subsequent calendar year if the 79806  
person's taxable gross receipts for the prior calendar year are 79807  
one million dollars or more, and shall remain a calendar quarter 79808  
taxpayer until the person notifies the tax commissioner, and 79809  
receives approval in writing from the tax commissioner, to switch 79810  
back to being a calendar year taxpayer. Nothing in this division 79811  
prohibits a person that has elected to be a calendar year taxpayer 79812  
from notifying the tax commissioner, using the procedures 79813  
prescribed by the commissioner, that it is switching back to being 79814  
a calendar quarter taxpayer. 79815

(C) Any taxpayer that is not a calendar year taxpayer 79816  
pursuant to this section is a calendar quarter taxpayer. The tax 79817  
commissioner may grant written approval for a calendar quarter 79818  
taxpayer to use an alternative reporting schedule or estimate the 79819  
amount of tax due for a calendar quarter if the taxpayer 79820  
demonstrates to the commissioner the need for such a deviation. 79821  
The commissioner may adopt a rule to apply division (C) of this 79822  
section to a group of taxpayers without the taxpayers having to 79823  
receive written approval from the commissioner. 79824

Sec. 5751.051. (A)(1) Not later than forty days after the end 79825  
of each calendar quarter, every taxpayer other than a calendar 79826  
year taxpayer shall file with the tax commissioner a tax return in 79827  
such form as the commissioner prescribes. The return shall 79828  
include, but is not limited to, the amount of the taxpayer's 79829  
taxable gross receipts for the calendar quarter and shall indicate 79830  
the amount of tax due under section 5751.03 of the Revised Code 79831  
for the calendar quarter. 79832

(2) Not later than forty days after the end of each calendar 79833  
year, every calendar year taxpayer shall file with the tax 79834  
commissioner a tax return in such form as the commissioner 79835  
prescribes. The return shall include, but is not limited to, the 79836  
amount of the taxpayer's taxable gross receipts for the calendar 79837  
year and shall indicate the amount of tax due under section 79838  
5751.03 of the Revised Code for the calendar year. 79839

(B) A person that first becomes subject to this chapter 79840  
during a calendar quarter on or after January 1, 2006, shall pay 79841  
the minimum tax imposed under division (B) of section 5751.03 of 79842  
the Revised Code along with the registration fee imposed under 79843  
this section on or before the day the return is required to be 79844  
filed for that quarter under division (A)(1) of this section, 79845  
regardless of whether the person elects to be a calendar year 79846  
taxpayer under section 5751.05 of the Revised Code. 79847

The amount of the minimum tax shall be reduced to fifty 79848  
dollars if the registration is timely filed after the first day of 79849  
May and before the first day of December of the calendar year. 79850

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 79851  
pay the full amount of the tax due within the period prescribed 79852  
therefor under this chapter shall pay a penalty in an amount not 79853  
exceeding the greater of fifty dollars or ten per cent of the tax 79854

required to be paid for the tax period. 79855

(B)(1) If any additional tax is found to be due, the tax commissioner may impose an additional penalty of up to fifteen per cent on the additional tax found to be due. 79856  
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(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section 5751.10 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment. 79859  
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(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code. The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section. 79865  
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(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section. 79874  
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(E) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be 79882  
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considered as revenue arising from the tax imposed under this 79885  
chapter. 79886

(F) The tax commissioner may abate all or a portion of any 79887  
penalties imposed under this section and may adopt rules governing 79888  
such abatements. 79889

(G) If any tax due is not timely paid in accordance with this 79890  
chapter, the taxpayer shall pay interest, calculated at the rate 79891  
per annum prescribed by section 5703.47 of the Revised Code, from 79892  
the date the tax payment was due to the date of payment or to the 79893  
date an assessment was issued, whichever occurs first. 79894

Sec. 5751.07. (A) Any person required to file returns for a 79895  
calendar quarter shall remit each tax payment, and, if required by 79896  
the tax commissioner, file the tax return or the annual report, 79897  
electronically. The commissioner may require taxpayers to use the 79898  
Ohio business gateway as defined in section 718.051 of the Revised 79899  
Code to file returns and remit the tax, or may provide another 79900  
means for taxpayers to file and remit the tax electronically. 79901

(B) A person required by this section to remit taxes or file 79902  
returns electronically may apply to the tax commissioner, on the 79903  
form prescribed by the commissioner, to be excused from that 79904  
requirement. The commissioner may excuse a person from the 79905  
requirements of this division for good cause. 79906

(C)(1) If a person required to remit taxes or file a return 79907  
electronically under this section fails to do so, the commissioner 79908  
may impose a penalty not to exceed the following: 79909

(a) For either of the first two calendar quarters the person 79910  
so fails, five per cent of the amount of the payment that was 79911  
required to be remitted; 79912

(b) For the third and any subsequent calendar quarters the 79913  
person so fails, ten per cent of the amount of the payment that 79914

was required to be remitted.

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(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

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**Sec. 5751.08.** (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund.

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(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

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(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

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(D) A calendar quarter taxpayer with more than one million

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dollars in taxable gross receipts in a calendar year other than 79945  
calendar year 2005 and that is not able to exclude one million 79946  
dollars in taxable gross receipts because of the operation of the 79947  
taxpayer's business in that calendar year may file for a refund 79948  
under this section to obtain the full exclusion of one million 79949  
dollars in taxable gross receipts for that calendar year. 79950

(E) No person with an active registration as a taxpayer under 79951  
this chapter may claim a refund under this section for the tax 79952  
imposed under division (B) of section 5751.03 of the Revised Code 79953  
unless the person cancelled the registration before the tenth day 79954  
of February of the current calendar year pursuant to division (C) 79955  
of section 5751.04 of the Revised Code. 79956

(F) Except as provided in section 5751.091 of the Revised 79957  
Code, the tax commissioner may, with the consent of the taxpayer, 79958  
provide for the crediting against tax due for a tax year the 79959  
amount of any refund due the taxpayer under this chapter for a 79960  
preceding tax year. 79961

**Sec. 5751.081.** As used in this section, "debt to this state" 79962  
means unpaid taxes due the state, unpaid workers' compensation 79963  
premiums due under section 4123.35 of the Revised Code, unpaid 79964  
unemployment compensation contributions due under section 4141.25 79965  
of the Revised Code, unpaid unemployment compensation payment in 79966  
lieu of contribution under section 4141.241 of the Revised Code, 79967  
unpaid fee payable to the state or to the clerk of courts pursuant 79968  
to section 4505.06 of the Revised Code, incorrect medical 79969  
assistance payments under section 5111.02 of the Revised Code, or 79970  
any unpaid charge, penalty, or interest arising from any of the 79971  
foregoing. 79972

If a taxpayer entitled to a refund under section 5751.08 of 79973  
the Revised Code owes any debt to this state, the amount 79974  
refundable may be applied in satisfaction of the debt. If the 79975

amount refundable is less than the amount of the debt, it may be 79976  
applied in partial satisfaction of the debt. If the amount 79977  
refundable is greater than the amount of the debt, the amount 79978  
remaining after satisfaction of the debt shall be refunded. This 79979  
section applies only to debts that have become final. For the 79980  
purposes of this section, a debt becomes final when, under the 79981  
applicable law, any time provided for petition for reassessment, 79982  
request for reconsideration, or other appeal of the legality or 79983  
validity of the amount giving rise to the debt expires without an 79984  
appeal having been filed in the manner provided by law. 79985

Sec. 5751.09. (A) The tax commissioner may make an 79986  
assessment, based on any information in the commissioner's 79987  
possession, against any person that fails to file a return or pay 79988  
any tax as required by this chapter. The commissioner shall give 79989  
the person assessed written notice of the assessment as provided 79990  
in section 5703.37 of the Revised Code. With the notice, the 79991  
commissioner shall provide instructions on the manner in which to 79992  
petition for reassessment and request a hearing with respect to 79993  
the petition. 79994

(B) Unless the person assessed, within sixty days after 79995  
service of the notice of assessment, files with the tax 79996  
commissioner, either personally or by certified mail, a written 79997  
petition signed by the person or the person's authorized agent 79998  
having knowledge of the facts, the assessment becomes final, and 79999  
the amount of the assessment is due and payable from the person 80000  
assessed to the treasurer of state. The petition shall indicate 80001  
the objections of the person assessed, but additional objections 80002  
may be raised in writing if received by the commissioner prior to 80003  
the date shown on the final determination. 80004

If a petition for reassessment has been properly filed, the 80005  
commissioner shall proceed under section 5703.60 of the Revised 80006

Code. 80007

(C)(1) After an assessment becomes final, if any portion of 80008  
the assessment, including accrued interest, remains unpaid, a 80009  
certified copy of the tax commissioner's entry making the 80010  
assessment final may be filed in the office of the clerk of the 80011  
court of common pleas in the county in which the person resides or 80012  
has its principal place of business in this state, or in the 80013  
office of the clerk of court of common pleas of Franklin county. 80014

(2) Immediately upon the filing of the entry, the clerk shall 80015  
enter judgment for the state against the person assessed in the 80016  
amount shown on the entry. The judgment may be filed by the clerk 80017  
in a loose-leaf book entitled, "special judgments for the 80018  
commercial activity tax" and shall have the same effect as other 80019  
judgments. Execution shall issue upon the judgment at the request 80020  
of the tax commissioner, and all laws applicable to sales on 80021  
execution shall apply to sales made under the judgment. 80022

(3) The portion of the assessment not paid within sixty days 80023  
after the day the assessment was issued shall bear interest at the 80024  
rate per annum prescribed by section 5703.47 of the Revised Code 80025  
from the day the tax commissioner issues the assessment until it 80026  
is paid. Interest shall be paid in the same manner as the tax and 80027  
may be collected by the issuance of an assessment under this 80028  
section. 80029

(D) If the tax commissioner believes that collection of the 80030  
tax will be jeopardized unless proceedings to collect or secure 80031  
collection of the tax are instituted without delay, the 80032  
commissioner may issue a jeopardy assessment against the person 80033  
liable for the tax. Immediately upon the issuance of the jeopardy 80034  
assessment, the commissioner shall file an entry with the clerk of 80035  
the court of common pleas in the manner prescribed by division (C) 80036  
of this section. Notice of the jeopardy assessment shall be served 80037

on the person assessed or the person's authorized agent in the 80038  
manner provided in section 5703.37 of the Revised Code within five 80039  
days of the filing of the entry with the clerk. The total amount 80040  
assessed is immediately due and payable, unless the person 80041  
assessed files a petition for reassessment in accordance with 80042  
division (B) of this section and provides security in a form 80043  
satisfactory to the commissioner and in an amount sufficient to 80044  
satisfy the unpaid balance of the assessment. Full or partial 80045  
payment of the assessment does not prejudice the commissioner's 80046  
consideration of the petition for reassessment. 80047

(E) The tax commissioner shall immediately forward to the 80048  
treasurer of state all amounts the commissioner receives under 80049  
this section, and such amounts shall be considered as revenue 80050  
arising from the tax imposed under this chapter. 80051

(F) Except as otherwise provided in this division, no 80052  
assessment shall be made or issued against a taxpayer for the tax 80053  
imposed under this chapter more than four years after the due date 80054  
for the filing of the return for the tax period for which the tax 80055  
was reported, or more than four years after the return for the tax 80056  
period was filed, whichever is later. Nothing in this division 80057  
bars an assessment against a taxpayer that fails to file a return 80058  
required by this chapter or that files a fraudulent return. 80059

(G) If the tax commissioner possesses information that 80060  
indicates that the amount of tax a taxpayer is required to pay 80061  
under this chapter exceeds the amount the taxpayer paid, the tax 80062  
commissioner may audit a sample of the taxpayer's sales or 80063  
receipts over a representative period of time to ascertain the 80064  
amount of tax due, and may issue an assessment based on the audit. 80065  
The tax commissioner shall make a good faith effort to reach 80066  
agreement with the taxpayer in selecting a representative sample. 80067  
The tax commissioner may apply a sampling method only if the 80068  
commissioner has prescribed the method by rule. 80069

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the secretary of state is hereby deemed to be that person's agent for purposes of service of process of notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by one of the commissioner's agents by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy of the notice, and by sending to such person by ordinary mail, with an endorsement thereon of the service upon the secretary of state, addressed to such person at the person's last known address.

**Sec. 5751.10.** If any person liable for the tax imposed under this chapter sells the trade or business, disposes in any manner other than in the regular course of business at least seventy-five per cent of assets of the trade or business, or quits the trade or business, any tax owed by such person shall become due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, within fifteen days after the date of selling or quitting the trade or business. The person's successor shall withhold a sufficient amount of the purchase money to cover the amount due and unpaid until the former owner produces a receipt from the tax commissioner showing that the amounts are paid or a certificate indicating that no taxes are due. If a purchaser fails to withhold purchase money, that person is personally liable up to the purchase money amount, for such amounts that are unpaid during the operation of the business by the former owner.

The tax commissioner may adopt rules regarding the issuance of certificates under this section, including the waiver of the

need for a certificate if certain criteria are met. 80101

Sec. 5751.11. (A) If any person subject to this chapter fails 80102  
to report or pay the tax as required under this chapter, or fails 80103  
to pay any penalty imposed under this chapter within ninety days 80104  
after the time prescribed for payment of the penalty, the tax 80105  
commissioner shall provide such person at least thirty days' 80106  
notice either personally or by certified mail of the 80107  
commissioner's intent to revoke the person's registration under 80108  
section 5751.04 of the Revised Code. The revocation shall be 80109  
stayed if the taxpayer objects, in writing, to the revocation 80110  
within thirty days from the receipt of the notice of revocation. 80111  
It shall be unlawful for such person to engage in business in this 80112  
state after such registration is revoked. A final determination 80113  
revoking a registration shall be served in the manner provided by 80114  
section 5703.37 of the Revised Code. The commissioner's final 80115  
determination may be appealed to the board of tax appeals pursuant 80116  
to section 5717.02 of the Revised Code. The revocation shall 80117  
become effective immediately upon the expiration of all time 80118  
limits for appeal. The commissioner shall certify the revocation 80119  
to the secretary of state. 80120

(B) Upon receiving notification of the commissioner's 80121  
revocation under division (A) of this section, the secretary of 80122  
state shall: 80123

(1) Cancel the articles of incorporation of any corporation 80124  
that is organized under the laws of the state by appropriate entry 80125  
upon the margin thereof; 80126

(2) Cancel by proper entry the certificate of authority of 80127  
any foreign corporation to do business in this state; 80128

(3) Cancel the registration of a domestic limited liability 80129  
partnership by making a notation of the cancellation on the 80130



secretary of state's records of those persons that are the subject 80131  
of the revocation. 80132

Upon a cancellation under division (B) of this section, all 80133  
the powers, privileges, and franchises conferred upon a 80134  
corporation by its articles of incorporation or conferred upon a 80135  
foreign corporation by its certificate of authority, and all 80136  
powers and privileges of a registered domestic limited liability 80137  
partnership cease, subject to Title XVII of the Revised Code. 80138

Upon making a cancellation under division (B) of this 80139  
section, the secretary of state shall immediately notify such 80140  
domestic or foreign corporation or domestic limited liability 80141  
partnership of the action taken by the secretary of state, and 80142  
shall forward for filing a certification of the action to the 80143  
county recorder of the county in which the principal place of 80144  
business of the corporation or partnership in this state is 80145  
located. No fee shall be charged by the county recorder for the 80146  
filing. 80147

(C) No person shall exercise or attempt to exercise any 80148  
powers, privileges, or franchises under its articles of 80149  
incorporation or its certificate of authority, whichever the case 80150  
may be, after its articles or certificate is canceled for failure 80151  
to make a report or return or to pay any tax or fee under this 80152  
chapter. 80153

(D) A person whose registration has been revoked under this 80154  
section may not reregister for a new registration under section 80155  
5751.04 of the Revised Code unless and until all applicable taxes, 80156  
penalties, and interest are paid. In addition, no individual 80157  
having a ten per cent or greater direct or constructive ownership 80158  
interest in such person may reregister as an owner of a trade or 80159  
business registering under section 5751.04 of the Revised Code 80160  
unless and until all applicable taxes, penalties, and interest are 80161

paid. 80162

(E) Upon a corporation's or partnership's paying any fees 80163  
required by the secretary of state and filing with the secretary 80164  
of state a certificate from the tax commissioner specifying that 80165  
it has complied with all the requirements of this chapter and has 80166  
paid all applicable taxes, penalties, and interest, the secretary 80167  
of state shall cancel the entry of cancellation of the 80168  
corporation's or partnership's rights, privileges, and franchises. 80169

Sec. 5751.12. The tax commissioner may prescribe requirements 80170  
for the keeping of records and other pertinent documents, the 80171  
filing of copies of federal income tax returns and determinations, 80172  
and computations reconciling federal income tax returns with the 80173  
returns and reports required by section 5751.05 of the Revised 80174  
Code. The commissioner may require any person, by rule or notice 80175  
served on that person, to keep those records that the commissioner 80176  
considers necessary to show whether, and the extent to which, a 80177  
person is subject to this chapter. Those records and other 80178  
documents shall be open during business hours to the inspection of 80179  
the commissioner, and shall be preserved for a period of four 80180  
years unless the commissioner, in writing, consents to their 80181  
destruction within that period, or by order requires that they be 80182  
kept longer. If such records are normally kept by the person 80183  
electronically, the person shall provide such records to the 80184  
commissioner electronically at the commissioner's request. 80185

Any information required by the tax commissioner under this 80186  
chapter is confidential as provided for in section 5703.21 of the 80187  
Revised Code. However, the commissioner shall make public an 80188  
electronic list of all actively registered persons required to 80189  
remit the tax under this chapter, including legal names, trade 80190  
names, addresses, and account numbers. In addition, such list 80191  
shall include all persons that cancelled their registration at any 80192

time during the preceding four calendar years, including the date 80193  
the registration was cancelled. 80194

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 80195  
the Revised Code: 80196

(1) "School district," "joint vocational school district," 80197  
"local taxing unit," "state education aid," "recognized 80198  
valuation," "fixed-rate levy," and "fixed-sum levy" have the same 80199  
meanings as used in section 5727.84 of the Revised Code. 80200

(2) "State education aid offset" means the amount determined 80201  
for each school district or joint vocational school district under 80202  
division (A)(1) of section 5751.21 of the Revised Code. 80203

(3) "Machinery and equipment property tax value loss" means 80204  
the amount determined under division (C)(1) of this section. 80205

(4) "Inventory property tax value loss" means the amount 80206  
determined under division (C)(2) of this section. 80207

(5) "Furniture and fixtures property tax value loss" means 80208  
the amount determined under division (C)(3) of this section. 80209

(6) "Machinery and equipment fixed-rate levy loss" means the 80210  
amount determined under division (D)(1) of this section. 80211

(7) "Inventory fixed-rate levy loss" means the amount 80212  
determined under division (D)(2) of this section. 80213

(8) "Furniture and fixtures fixed-rate levy loss" means the 80214  
amount determined under division (D)(3) of this section. 80215

(9) "Total fixed-rate levy loss" means the sum of the 80216  
machinery and equipment fixed-rate levy loss, the inventory 80217  
fixed-rate levy loss, and the furniture and fixtures fixed-rate 80218  
levy loss. 80219

(10) "Fixed-sum levy loss" means the amount determined under 80220  
division (E) of this section. 80221

(11) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code. 80222  
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(12) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code. 80225  
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(13) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 80228  
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(14) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005, and first levied in tax year 2006. 80231  
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(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. All money in that fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages: 80235  
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<u>Fiscal year</u>	<u>General Revenue Fund</u>	<u>School District Tangible Property Tax Replacement Fund</u>	<u>Local Government Tangible Property Tax Replacement Fund</u>	
<u>2006</u>	<u>67.7%</u>	<u>22.6%</u>	<u>9.7%</u>	80248
<u>2007</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80249

<u>2008</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80250
<u>2009</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80251
<u>2010</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80252
<u>2011</u>	<u>3.6%</u>	<u>67.5%</u>	<u>28.9%</u>	80253
<u>2012</u>	<u>9.5%</u>	<u>67.5%</u>	<u>23.0%</u>	80254
<u>2013</u>	<u>14.4%</u>	<u>67.5%</u>	<u>18.1%</u>	80255
<u>2014</u>	<u>17.7%</u>	<u>67.5%</u>	<u>14.8%</u>	80256
<u>2015</u>	<u>20.6%</u>	<u>67.5%</u>	<u>11.9%</u>	80257
<u>2016</u>	<u>24.0%</u>	<u>67.5%</u>	<u>8.5%</u>	80258
<u>2017</u>	<u>27.4%</u>	<u>67.5%</u>	<u>5.1%</u>	80259
<u>2018</u>	<u>30.8%</u>	<u>67.5%</u>	<u>1.7%</u>	80260
<u>2019 and</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>	80261

thereafter

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, and furniture and fixtures property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), and (3) of this section: 80262  
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(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by: 80268  
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(a) For tax year 2006, thirty-three and eight-tenths per cent; 80271  
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(b) For tax year 2007, sixty-one and three-tenths per cent; 80273

(c) For tax year 2008, eighty-three per cent; 80274

(d) For tax year 2009 and thereafter, one hundred per cent. 80275

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by: 80276  
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<u>(a) For tax year 2006, a fraction, the numerator of which is</u>	80279
<u>five and three-fourths and the denominator of which is</u>	80280
<u>twenty-three;</u>	80281
<u>(b) For tax year 2007, a fraction, the numerator of which is</u>	80282
<u>nine and one-half and the denominator of which is twenty-three;</u>	80283
<u>(c) For tax year 2008, a fraction, the numerator of which is</u>	80284
<u>thirteen and one-fourth and the denominator of which is</u>	80285
<u>twenty-three;</u>	80286
<u>(d) For tax year 2009 and thereafter a fraction, the</u>	80287
<u>numerator of which is seventeen and the denominator of which is</u>	80288
<u>twenty-three.</u>	80289
<u>(3) Furniture and fixtures property tax value loss is the</u>	80290
<u>taxable value of furniture and fixture property as reported by</u>	80291
<u>taxpayers for tax year 2004 multiplied by:</u>	80292
<u>(a) For tax year 2006, twenty-five per cent;</u>	80293
<u>(b) For tax year 2007, fifty per cent;</u>	80294
<u>(c) For tax year 2008, seventy-five per cent;</u>	80295
<u>(d) For tax year 2009 and thereafter, one hundred per cent.</u>	80296
<u>To facilitate the calculations required under division (C) of</u>	80297
<u>this section, the county auditor, upon request from the tax</u>	80298
<u>commissioner, shall provide by August 1, 2005, the values of</u>	80299
<u>machinery and equipment, inventory, and furniture and fixtures for</u>	80300
<u>all single-county personal property taxpayers for tax year 2004.</u>	80301
<u>(D) Not later than September 15, 2005, the tax commissioner</u>	80302
<u>shall determine for each tax year from 2006 through 2010 for each</u>	80303
<u>school district, joint vocational school district, and local</u>	80304
<u>taxing unit its machinery and equipment, inventory, and furniture</u>	80305
<u>and fixtures fixed-rate levy losses, which are the applicable</u>	80306
<u>amounts described in divisions (D)(1), (2), and (3) of this</u>	80307
<u>section:</u>	80308

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80309  
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(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80312  
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(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80315  
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(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section: 80318  
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(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district emergency levies that are qualifying levies not remaining in effect for the current year. For 2011 through 2017, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district emergency levy remains in effect in a year after 2010 only if, for that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006. 80324  
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(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, and furniture and fixtures property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar. 80340  
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(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2010 under divisions (C)(1), (2), and (3) of this section. 80345  
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(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions. 80349  
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If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (D) of section 5751.21 or division (A)(2) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 80358  
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(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and 80368  
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equipment, inventory, and furniture and fixtures property tax 80371  
value losses determined under division (C) of this section, the 80372  
machinery and equipment, inventory, and furniture and fixtures 80373  
property fixed-rate levy losses determined under division (D) of 80374  
this section, and the fixed-sum levy losses calculated under 80375  
division (E) of this section. The calculations under divisions (D) 80376  
and (E) of this section shall separately display the levy loss for 80377  
each levy eligible for reimbursement. 80378

(G) Not later than October 1, 2005, the tax commissioner 80379  
shall certify the amount of the fixed-sum levy losses to the 80380  
county auditor of each county in which a school district, joint 80381  
vocational school district, or local taxing unit with a fixed-sum 80382  
levy loss reimbursement has territory. 80383

**Sec. 5751.21.** (A) Not later than the thirty-first day of July 80384  
of 2007 through 2017, the department of education shall determine 80385  
the following for each school district and each joint vocational 80386  
school district eligible for payment under division (B) of this 80387  
section: 80388

(1) The state education aid offset, which is the difference 80389  
obtained by subtracting the amount described in division (A)(1)(b) 80390  
of this section from the amount described in division (A)(1)(a) of 80391  
this section: 80392

(a) The state education aid computed for the school district 80393  
or joint vocational school district for the current fiscal year as 80394  
of the thirty-first day of July; 80395

(b) The state education aid that would be computed for the 80396  
school district or joint vocational school district for the 80397  
current fiscal year as of the thirty-first day of July if the 80398  
recognized valuation included the machinery and equipment, 80399  
inventory, and furniture and fixtures property tax value losses 80400

for the school district or joint vocational school district for 80401  
the second preceding tax year. 80402

(2) The greater of zero or the difference obtained by 80403  
subtracting the state education aid offset determined under 80404  
division (A)(1) of this section from the sum of the machinery and 80405  
equipment fixed-rate levy loss, the inventory fixed-rate levy 80406  
loss, and furniture and fixtures fixed-rate levy loss certified 80407  
under division (F) of section 5751.20 of the Revised Code for all 80408  
taxing districts in each school district and joint vocational 80409  
school district for the second preceding tax year. 80410

By the fifth day of August of each such year, the department 80411  
of education shall certify the amount so determined under division 80412  
(A)(1) of this section to the director of budget and management. 80413

(B) The department of education shall pay from the school 80414  
district tangible property tax replacement fund to each school 80415  
district and joint vocational school district all of the following 80416  
for fixed-rate levy losses certified under division (F) of section 80417  
5751.20 of the Revised Code: 80418

(1) On or before May 31, 2006, one-sixth of the total 80419  
fixed-rate levy loss for tax year 2006; 80420

(2) On or before August 31, 2006, November 30, 2006, and 80421  
February 28, 2007, one-third of five-sixths of the total 80422  
fixed-rate levy loss for tax year 2006; 80423

(3) On or before May 31, 2007, one-sixth of the total 80424  
fixed-rate levy loss for tax year 2007; 80425

(4) On or before August 31, 2007, November 30, 2007, and 80426  
February 29, 2008, one-fourth of the amount determined under 80427  
division (A)(2) of this section for fiscal year 2008, but not less 80428  
than zero, plus one-third of five-sixths of the difference between 80429  
the total fixed-rate levy loss for tax year 2007 and the total 80430

<u>fixed-rate levy loss for tax year 2006.</u>	80431
<u>(5) On or before May 31, 2008, one-fourth of the amount</u>	80432
<u>determined under division (A)(2) of this section for fiscal year</u>	80433
<u>2008, but not less than zero, plus one-sixth of the difference</u>	80434
<u>between the total fixed-rate levy loss for tax year 2008 and the</u>	80435
<u>total fixed-rate levy loss for tax year 2006.</u>	80436
<u>(6) On or before August 31, 2008, November 30, 2008, and</u>	80437
<u>February 28, 2009, one-fourth of the amount determined under</u>	80438
<u>division (A)(2) of this section for fiscal year 2009, but not less</u>	80439
<u>than zero, plus one-third of five-sixths of the difference between</u>	80440
<u>the total fixed-rate levy loss in tax year 2008 and the total</u>	80441
<u>fixed-rate levy loss in tax year 2007.</u>	80442
<u>(7) On or before May 31, 2009, one-fourth of the amount</u>	80443
<u>determined under division (A)(2) of this section for fiscal year</u>	80444
<u>2009, but not less than zero, plus one-sixth of the difference</u>	80445
<u>between the total fixed-rate levy loss for tax year 2009 and the</u>	80446
<u>total fixed-rate levy loss for tax year 2007.</u>	80447
<u>(8) On or before August 31, 2009, November 30, 2009, and</u>	80448
<u>February 28, 2010, one-fourth of the amount determined under</u>	80449
<u>division (A)(2) of this section for fiscal year 2010, but not less</u>	80450
<u>than zero, plus one-third of five-sixths of the difference between</u>	80451
<u>the total fixed-rate levy loss in tax year 2009 and the total</u>	80452
<u>fixed-rate levy loss in tax year 2008.</u>	80453
<u>(9) On or before May 31, 2010, one-fourth of the amount</u>	80454
<u>determined under division (A)(2) of this section for fiscal year</u>	80455
<u>2010, but not less than zero, plus one-sixth of the difference</u>	80456
<u>between the total fixed-rate levy loss in tax year 2010 and the</u>	80457
<u>total fixed-rate levy loss in tax year 2008.</u>	80458
<u>(10) On or before August 31, 2010, November 30, 2010,</u>	80459
<u>February 28, 2011, and May 31, 2011, one-fourth of the amount</u>	80460
<u>determined under division (A)(2) of this section for fiscal year</u>	80461

2011, but not less than zero. 80462

(11) On or before August 31, 2011, November 30, 2011, 80463  
February 29, 2012, and May 31, 2012, the amount determined under 80464  
division (A)(2) of this section multiplied by a fraction, the 80465  
numerator of which is fourteen and the denominator of which is 80466  
seventeen, but not less than zero, multiplied by one-fourth. 80467

(12) On or before August 31, 2012, November 30, 2012, 80468  
February 28, 2013, and May 31, 2013, the amount determined under 80469  
division (A)(2) of this section multiplied by a fraction, the 80470  
numerator of which is eleven and the denominator of which is 80471  
seventeen, but not less than zero, multiplied by one-fourth. 80472

(13) On or before August 31, 2013, November 30, 2013, 80473  
February 28, 2014, and May 31, 2014, the amount determined under 80474  
division (A)(2) of this section multiplied by a fraction, the 80475  
numerator of which is nine and the denominator of which is 80476  
seventeen, but not less than zero, multiplied by one-fourth. 80477

(14) On or before August 31, 2014, November 30, 2014, 80478  
February 28, 2015, and May 31, 2015, the amount determined under 80479  
division (A)(2) of this section multiplied by a fraction, the 80480  
numerator of which is seven and the denominator of which is 80481  
seventeen, but not less than zero, multiplied by one-fourth. 80482

(15) On or before August 31, 2015, November 30, 2015, 80483  
February 29, 2016, and May 31, 2016, the amount determined under 80484  
division (A)(2) of this section multiplied by a fraction, the 80485  
numerator of which is five and the denominator of which is 80486  
seventeen, but not less than zero, multiplied by one-fourth. 80487

(16) On or before August 31, 2016, November 30, 2016, 80488  
February 28, 2017, and May 31, 2017, the amount determined under 80489  
division (A)(2) of this section multiplied by a fraction, the 80490  
numerator of which is three and the denominator of which is 80491  
seventeen, but not less than zero, multiplied by one-fourth. 80492

(17) On or before August 31, 2017, November 30, 2017, February 28, 2018, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth.

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(18) After May 31, 2018, no payments shall be made under this section.

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The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under division (F) of section 5751.20 of the Revised Code.

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Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.

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(C) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (B) of this section.

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(D)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (F) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the

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commissioner made such a determination. The department shall pay 80524  
from the school district property tax replacement fund to the 80525  
school district or joint vocational school district one-fourth of 80526  
the fixed-sum levy loss so certified for each year on or before 80527  
the last day of May, August, and November of the current year and 80528  
of February of the following year. 80529

(2) Beginning in 2006, by the first day of January of each 80530  
year, the tax commissioner shall review the certification 80531  
originally made under division (D)(1) of this section. If the 80532  
commissioner determines that a debt levy that had been scheduled 80533  
to be reimbursed in the current year has expired, a revised 80534  
certification for that and all subsequent years shall be made to 80535  
the department of education. 80536

(E) Beginning in September 2007 and through June 2018, the 80537  
director of budget and management shall transfer from the school 80538  
district tangible property tax replacement fund to the general 80539  
revenue fund each of the following: 80540

(1) On the first day of September, the lesser of one-fourth 80541  
of the amount certified for that fiscal year under division (A)(1) 80542  
of this section or the balance in the school district tangible 80543  
property tax replacement fund; 80544

(2) On the first day of December, the lesser of one-fourth of 80545  
the amount certified for that fiscal year under division (A)(1) of 80546  
this section or the balance in the school district tangible 80547  
property tax replacement fund; 80548

(3) On the first day of March, the lesser of one-fourth of 80549  
the amount certified for that fiscal year under division (A)(1) of 80550  
this section or the balance in the school district tangible 80551  
property tax replacement fund; 80552

(4) On the first day of June, the lesser of one-fourth of the 80553  
amount certified for that fiscal year under division (A)(1) of 80554

this section or the balance in the school district tangible 80555  
property tax replacement fund. 80556

(F) For each of the fiscal years 2006 through 2018, if the 80557  
total amount in the school district tangible property tax 80558  
replacement fund is insufficient to make all payments under 80559  
divisions (B), (C), or (D) of this section at the times the 80560  
payments are to be made, the director of budget and management 80561  
shall transfer from the general revenue fund to the school 80562  
district tangible property tax replacement fund the difference 80563  
between the total amount to be paid and the amount in the school 80564  
district tangible property tax replacement fund. For each fiscal 80565  
year after 2018, at the time payments under division (D) of this 80566  
section are to be made, the director of budget and management 80567  
shall transfer from the general revenue fund to the school 80568  
district property tax replacement fund the amount necessary to 80569  
make such payments. 80570

(G) On the fifteenth day of June of 2006 through 2011, the 80571  
director of budget and management may transfer any balance in the 80572  
school district tangible property tax replacement fund to the 80573  
general revenue fund. At the end of fiscal years 2012 through 80574  
2018, any balance in the school district tangible property tax 80575  
replacement fund shall remain in the fund to be used in future 80576  
fiscal years for school purposes. 80577

(H) If all of the territory of a school district or joint 80578  
vocational school district is merged with another district, or if 80579  
a part of the territory of a school district or joint vocational 80580  
school district is transferred to an existing or newly created 80581  
district, the department of education, in consultation with the 80582  
tax commissioner, shall adjust the payments made under this 80583  
section as follows: 80584

(1) For a merger of two or more districts, the machinery and 80585

equipment, inventory, and furniture and fixture fixed-rate levy 80586  
losses and the fixed-sum levy losses of the successor district 80587  
shall be equal to the sum of the machinery and equipment, 80588  
inventory, and furniture and fixtures fixed-rate levy losses as 80589  
determined in section 5751.20 of the Revised Code, for each of the 80590  
districts involved in the merger. 80591

(2) If property is transferred from one district to a 80592  
previously existing district, the amount of machinery and 80593  
equipment, inventory, and furniture and fixtures fixed-rate levy 80594  
losses that shall be transferred to the recipient district shall 80595  
be an amount equal to the total machinery and equipment, 80596  
inventory, and furniture and fixtures fixed-rate levy losses times 80597  
a fraction, the numerator of which is the value of business 80598  
tangible personal property on the land being transferred in the 80599  
most recent year for which data are available, and the denominator 80600  
of which is the total value of business tangible personal property 80601  
in the district from which the land is being transferred in the 80602  
most recent year for which data are available. 80603

(3) After December 31, 2004, if property is transferred from 80604  
one or more districts to a district that is newly created out of 80605  
the transferred property, the newly created district shall be 80606  
deemed not to have any machinery and equipment, inventory, or 80607  
furniture and fixtures fixed-rate levy losses and the districts 80608  
from which the property was transferred shall have no reduction in 80609  
their machinery and equipment, inventory, and furniture and 80610  
fixtures fixed-rate levy losses. 80611

(4) If the recipient district under division (H)(2) of this 80612  
section or the newly created district under divisions (H)(3) of 80613  
this section is assuming debt from one or more of the districts 80614  
from which the property was transferred and any of the districts 80615  
losing the property had fixed-sum levy losses, the department of 80616  
education, in consultation with the tax commissioner, shall make 80617



an equitable division of the fixed-sum levy loss reimbursements. 80618

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), and (3) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed. 80619  
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(1) Except as provided in division (A)(3) of this section, for machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following: 80628  
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(a) For tax years 2006 through 2010, one hundred per cent; 80633

(b) For tax year 2011, a fraction, the numerator of which is fourteen and the denominator of which is seventeen; 80634  
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(c) For tax year 2012, a fraction, the numerator of which is eleven and the denominator of which is seventeen; 80636  
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(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen; 80638  
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(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen; 80640  
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(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen; 80642  
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(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen; 80644  
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(h) For tax year 2017, a fraction, the numerator of which is 80646

one and the denominator of which is seventeen; 80647

(i) For tax years 2018 and thereafter, no fixed-rate payments shall be made. 80648  
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Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable. 80650  
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(2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter. 80653  
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(3) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. 80657  
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(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made. 80667  
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(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county 80675  
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undivided income tax fund in the proper county treasury. Beginning 80678  
in May 2006, one-third of the amount certified under that division 80679  
shall be paid by the last day of May, August, and October. Within 80680  
forty-five days after receipt of such payments, the county 80681  
treasurer shall distribute amounts determined under division (A) 80682  
of this section to the proper local taxing unit as if they had 80683  
been levied and collected as taxes, and the local taxing unit 80684  
shall apportion the amounts so received among its funds in the 80685  
same proportions as if those amounts had been levied and collected 80686  
as taxes. 80687

(D) For each of the fiscal years 2006 through 2018, if the 80688  
total amount in the local government tangible property tax 80689  
replacement fund is insufficient to make all payments under 80690  
division (C) of this section at the times the payments are to be 80691  
made, the director of budget and management shall transfer from 80692  
the general revenue fund to the local government tangible property 80693  
tax replacement fund the difference between the total amount to be 80694  
paid and the amount in the local government tangible property tax 80695  
replacement fund. For each fiscal year after 2018, at the time 80696  
payments under division (A)(2) of this section are to be made, the 80697  
director of budget and management shall transfer from the general 80698  
revenue fund to the local government property tax replacement fund 80699  
the amount necessary to make such payments. 80700

(E) On the fifteenth day of June of each year from 2006 80701  
through 2018, the director of budget and management may transfer 80702  
any balance in the local government tangible property tax 80703  
replacement fund to the general revenue fund. 80704

(F) If all or a part of the territories of two or more local 80705  
taxing units are merged, or unincorporated territory of a township 80706  
is annexed by a municipal corporation, the tax commissioner shall 80707  
adjust the payments made under this section to each of the local 80708  
taxing units in proportion to the tax value loss apportioned to 80709

the merged or annexed territory, or as otherwise provided by a 80710  
written agreement between the legislative authorities of the local 80711  
taxing units certified to the commissioner not later than the 80712  
first day of June of the calendar year in which the payment is to 80713  
be made. 80714

**Sec. 5751.23.** (A) As used in this section: 80715

(1) "Administrative fees" means the dollar percentages 80716  
allowed by the county auditor for services or by the county 80717  
treasurer as fees, or paid to the credit of the real estate 80718  
assessment fund, under divisions (A) and (B) of section 319.54 and 80719  
division (A) of section 321.26 of the Revised Code. 80720

(2) "Administrative fee loss" means a county's loss of 80721  
administrative fees due to its tax value loss, determined as 80722  
follows: 80723

(a) For purposes of the determination made under division (B) 80724  
of this section in the years 2006 through 2010, the administrative 80725  
fee loss shall be computed by multiplying the amounts determined 80726  
for all taxing districts in the county under divisions (D) and (E) 80727  
of section 5751.20 of the Revised Code by nine thousand six 80728  
hundred fifty-nine ten-thousandths of one per cent if total taxes 80729  
collected in the county in 2004 exceeded one hundred fifty million 80730  
dollars, or one and one thousand one hundred fifty-nine 80731  
ten-thousandths of one per cent if total taxes collected in the 80732  
county in 2004 were one hundred fifty million dollars or less; 80733

(b) For purposes of the determination under division (B) of 80734  
this section in the years after 2010, the administrative fee 80735  
losses shall be determined by multiplying the administrative fee 80736  
losses calculated for 2010 by the fractions in divisions (A)(1)(b) 80737  
to (i) of section 5751.22 of the Revised Code. 80738

(3) "Total taxes collected" means all money collected on any 80739

tax duplicate of the county, other than the estate tax duplicates. 80740  
"Total taxes collected" does not include amounts received pursuant 80741  
to divisions (F) and (G) of section 321.24 or section 323.156 of 80742  
the Revised Code. 80743

(B) Not later than December 31, 2005, the tax commissioner 80744  
shall certify to each county auditor the tax levy losses 80745  
calculated under divisions (D) and (E) of section 5751.20 of the 80746  
Revised Code for each school district, joint vocational school 80747  
district, and local taxing unit in the county. Not later than the 80748  
thirty-first day of January of 2006 through 2017, the county 80749  
auditor shall determine the administrative fee loss for the county 80750  
and apportion that loss ratably among the school districts, joint 80751  
vocational school districts, and local taxing units on the basis 80752  
of the tax levy losses certified under this division. 80753

(C) On or before each of the days prescribed for the 80754  
settlements under divisions (A) and (C) of section 321.24 of the 80755  
Revised Code in the years 2006 through 2017, the county treasurer 80756  
shall deduct one-half of the amount apportioned to each school 80757  
district, joint vocational school district, and local taxing unit 80758  
from the portions of revenue payable to them. 80759

(D) On or before each of the days prescribed for settlements 80760  
under divisions (A) and (C) of section 321.24 of the Revised Code 80761  
in the years 2006 through 2017, the county auditor shall cause to 80762  
be deposited an amount equal to one-half of the amount of the 80763  
administrative fee loss in the same funds as if allowed as 80764  
administrative fees. 80765

**Sec. 5751.31.** (A) Notwithstanding any section of law to the 80766  
contrary, the tax commissioner may issue one or more final 80767  
determinations under section 5703.60 of the Revised Code for which 80768  
any appeal must be made directly to the supreme court within 80769  
thirty days after the date the commissioner issued the 80770

determination if the primary issue raised by the petitioner is an 80771  
issue arising under Section 3, 5a, or 13 of Article XII, Ohio 80772  
Constitution. Such final determination shall clearly indicate that 80773  
any appeal thereof must be made directly to the supreme court 80774  
within the thirty-day period prescribed in this division. 80775

(B) If division (H)(3) of section 5751.01 of the Revised Code 80776  
is determined to be unconstitutional under the Ohio Constitution 80777  
or the Constitution of the United States, the commissioner may 80778  
require taxpayers with taxable gross receipts in this state to 80779  
provide a report as part of the tax returns the taxpayers file 80780  
detailing the purchases they make from persons not registered to 80781  
collect the tax imposed under this chapter. The commissioner shall 80782  
adopt rules to enforce this division. The rules shall not require 80783  
a taxpayer located in this state to file a report for purchases 80784  
from a seller that total less than two million dollars in a 80785  
calendar year. 80786

**Sec. 5751.50.** (A) For tax periods beginning on or after 80787  
January 1, 2008, a refundable credit granted by the tax credit 80788  
authority under section 122.17 of the Revised Code may be claimed 80789  
under this chapter in the order required under section 5751.98 of 80790  
the Revised Code. For purposes of making tax payments under this 80791  
chapter, taxes equal to the amount of the refundable credit shall 80792  
be considered to be paid to this state on the first day of the tax 80793  
period. A credit claimed in calendar year 2008 may not be applied 80794  
against the tax otherwise due for a tax period beginning before 80795  
July 1, 2008. The refundable credit shall not be claimed against 80796  
the tax otherwise due for any tax period beginning after the date 80797  
on which a relocation of employment positions occurs in violation 80798  
of an agreement entered into under sections 122.17 or 122.171 of 80799  
the Revised Code. 80800

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

**Sec. 5751.51.** (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) For tax periods beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to seven per cent of the excess of (a) qualified research expenses incurred in this state by the taxpayer in the tax period for which the credit is claimed over (b) the taxpayer's average annual qualified research expenses incurred in this state for the three preceding tax periods.

(2) The taxpayer shall claim the credit allowed under division (B)(1) of this section in the order required by section 5751.98 of the Revised Code. A credit claimed in tax year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. Any credit amount in excess of the tax due under section 5751.03 of the Revised Code, after allowing for any other credits that precede the credit

under this section in the order required under that section, may 80832  
be carried forward for seven tax years, but the amount of the 80833  
excess credit claimed against the tax for any tax period shall be 80834  
deducted from the balance carried forward to the next tax period. 80835

(3) No credit shall be allowed under this chapter if the 80836  
credit was available against the tax imposed by section 5733.06 of 80837  
the Revised Code, except to the extent the credit was not applied 80838  
against such tax. 80839

**Sec. 5751.52.** (A) As used in this section: 80840

(1) "Borrower" means any person that receives a loan from the 80841  
director of development under section 166.21 of the Revised Code, 80842  
regardless of whether the borrower is subject to the tax imposed 80843  
by this chapter. 80844

(2) "Qualified research and development loan payments" has 80845  
the same meaning as in section 166.21 of the Revised Code. 80846

(3) "Related member" has the same meaning as in section 80847  
5733.042 of the Revised Code. 80848

(B) For tax periods beginning on or after January 1, 2008, a 80849  
nonrefundable credit may be claimed under this chapter equal to a 80850  
borrower's qualified research and development loan payments made 80851  
during the calendar year immediately preceding the tax period for 80852  
which the credit is claimed. The amount of the credit for a 80853  
calendar year shall not exceed one hundred fifty thousand dollars. 80854  
No taxpayer is entitled to claim a credit under this section 80855  
unless the taxpayer has obtained a certificate issued by the 80856  
director of development under division (D) of section 166.21 of 80857  
the Revised Code. The credit shall be claimed in the order 80858  
required under section 5151.98 of the Revised Code. A credit 80859  
claimed in calendar year 2008 may not be applied against the tax 80860  
otherwise due under this chapter for a tax period beginning before 80861



July 1, 2008. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code except to the extent the credit was not applied against such tax. The credit, to the extent it exceeds the taxpayer's tax liability for a tax period after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax period or periods, but the amount of the excess credit claimed against the tax for any tax period shall be deducted from the balance carried forward to the next tax period.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

Sec. 5751.53. (A) As used in this section:

(1) "Net income" and "taxable year" have the same meanings as 80892  
in section 5733.04 of the Revised Code. 80893

(2) "Franchise tax year" means "tax year" as defined in 80894  
section 5733.04 of the Revised Code. 80895

(3) "Deductible temporary differences" and "taxable temporary 80896  
differences" have the same meanings as those terms have for 80897  
purposes of paragraph 13 of the statement of financial accounting 80898  
standards, number 109. 80899

(4) "Qualifying taxpayer" means a taxpayer under this chapter 80900  
that has a qualifying Ohio net operating loss carryforward equal 80901  
to or greater than the qualifying amount. 80902

(5) "Qualifying Ohio net operating loss carryforward" means 80903  
an Ohio net operating loss carryforward that the taxpayer could 80904  
deduct in whole or in part for franchise tax year 2006 under 80905  
section 5733.04 of the Revised Code but for the application of 80906  
division (H) of this section. A qualifying Ohio net operating loss 80907  
carryforward shall not exceed the amount of loss carryforward from 80908  
franchise tax year 2005 as reported by the taxpayer either on a 80909  
franchise tax report for franchise tax year 2005 pursuant to 80910  
section 5733.02 of the Revised Code or on an amended franchise tax 80911  
report prepared in good faith for such year and filed before July 80912  
1, 2006. 80913

(6) "Disallowed Ohio net operating loss carryforward" means 80914  
the lesser of the amounts described in division (A)(6)(a) or (b) 80915  
of this section, but the amounts described in divisions (A)(6)(a) 80916  
and (b) of this section shall each be reduced by the qualifying 80917  
amount. 80918

(a) The qualifying taxpayer's qualifying Ohio net operating 80919  
loss carryforward; 80920

(b) The Ohio net operating loss carryforward amount that the 80921

qualifying taxpayer used to compute the related deferred tax asset 80922  
reflected on its books and records on the last day of its taxable 80923  
year ending in 2004, adjusted for return to accrual, but this 80924  
amount shall be reduced by the qualifying related valuation 80925  
allowance amount. For the purposes of this section, the 80926  
"qualifying related valuation allowance amount" is the amount of 80927  
Ohio net operating loss reflected in the qualifying taxpayer's 80928  
computation of the valuation allowance account, as shown on its 80929  
books and records on the last day of its taxable year ending in 80930  
2004, with respect to the deferred tax asset relating to its Ohio 80931  
net operating loss carryforward amount. 80932

(7) "Other net deferred tax items apportioned to this state" 80933  
is the product of (a) the amount of net deferred tax items and (b) 80934  
the fraction described in division (B)(2) of section 5733.05 for 80935  
the qualifying taxpayer's franchise tax year 2005. 80936

(8)(a) Subject to divisions (A)(8)(b) to (d) of this section, 80937  
the "amount of other net deferred tax items" is the difference 80938  
between (i) the qualifying taxpayer's deductible temporary 80939  
differences, net of related valuation allowance amounts, shown on 80940  
the qualifying taxpayer's books and records on the last day of its 80941  
taxable year ending in 2004, and (ii) the qualifying taxpayer's 80942  
taxable temporary differences as shown on those books and records 80943  
on that date. The amount of other net deferred tax items may be 80944  
less than zero. 80945

(b) For the purposes of computing the amount of the 80946  
qualifying taxpayer's other net deferred tax items described in 80947  
division (A)(8)(a) of this section, any credit carryforward 80948  
allowed under Chapter 5733. of the Revised Code shall be excluded 80949  
from the amount of deductible temporary differences to the extent 80950  
such credit carryforward amount, net of any related valuation 80951  
allowance amount, is otherwise included in the qualifying 80952  
taxpayer's deductible temporary differences, net of related 80953

valuation allowance amounts, shown on the qualifying taxpayer's 80954  
books and records on the last day of the qualifying taxpayer's 80955  
taxable year ending in 2004. 80956

(c) No portion of the disallowed Ohio net operating loss 80957  
carryforward shall be included in the computation of the amount of 80958  
the qualifying taxpayer's net deferred tax items described in 80959  
division (A)(8)(a) of this section. 80960

(d) In no event shall the amount of other net deferred tax 80961  
items exceed twenty-five per cent of the qualifying Ohio net 80962  
operating loss carryforward. 80963

(9) "Amortizable amount" means: 80964

(a) If the qualifying taxpayer's other net deferred tax items 80965  
apportioned to this state is equal to or greater than zero, eight 80966  
per cent of the sum of the qualifying taxpayer's disallowed Ohio 80967  
net operating loss carryforward and the qualifying taxpayer's 80968  
other net deferred tax items apportioned to this state; 80969

(b) If the amount of the qualifying taxpayer's other net 80970  
deferred tax items apportioned to this state is less than zero and 80971  
if the absolute value of the amount of qualifying taxpayer's other 80972  
net deferred tax items apportioned to this state is less than the 80973  
qualifying taxpayer's disallowed net operating loss, eight per 80974  
cent of the difference between the qualifying taxpayer's 80975  
disallowed net operating loss carryforward and the absolute value 80976  
of the qualifying taxpayer's other net deferred tax items 80977  
apportioned to this state; 80978

(c) If the amount of the qualifying taxpayer's other net 80979  
deferred tax items apportioned to this state is less than zero and 80980  
if the absolute value of the amount of qualifying taxpayer's other 80981  
net deferred tax items apportioned to this state is equal to or 80982  
greater than the qualifying taxpayer's disallowed net operating 80983  
loss, zero. 80984

(10) "Books and records" means the qualifying taxpayer's books, records, and all other information, all of which the qualifying taxpayer maintains and uses to prepare and issue its financial statements in accordance with generally accepted accounting principles. 80985  
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(11)(a) Except as modified by division (A)(11)(b) of this section, "qualifying amount" means fifty million dollars per person. 80990  
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(b) If for franchise tax year 2005 the person was a member of a combined franchise tax report, as provided by section 5733.052 of the Revised Code, the "qualifying amount" is, in the aggregate, fifty million dollars for all members of that combined franchise tax report, and for purposes of divisions (A)(6)(a) and (b) of this section, those members shall allocate to each member any portion of the fifty million dollar amount. The total amount allocated to the members who are qualifying taxpayers shall equal fifty million dollars. 80993  
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(B) For each calendar period beginning prior to January 1, 2030, there is hereby allowed a nonrefundable tax credit against the tax levied each year by this chapter on each qualifying taxpayer, on each consolidated elected taxpayer having one or more qualifying taxpayers as a member, and on each combined taxpayer having one or more qualifying taxpayers as a member. The credit shall be claimed in the order specified in section 5751.98 of the Revised Code and is allowed only to reduce the first one-half of any tax remaining after allowance of the credits that precede it in section 5751.98 of the Revised Code. No credit under division (B) of this section shall be allowed against the second one-half of such remaining tax. 81002  
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Except as otherwise limited by divisions (C) and (D) of this section, the maximum amount of the nonrefundable credit that may 81014  
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be used against the first one-half of the remaining tax for each 81016  
calendar year is as follows: 81017

(1) For calendar year 2010, ten per cent of the amortizable 81018  
amount; 81019

(2) For calendar year 2011, twenty per cent of the 81020  
amortizable amount, less all amounts previously used; 81021

(3) For calendar year 2012, thirty per cent of the 81022  
amortizable amount, less all amounts previously used; 81023

(4) For calendar year 2013, forty per cent of the amortizable 81024  
amount, less all amounts previously used; 81025

(5) For calendar year 2014, fifty per cent of the amortizable 81026  
amount, less all amounts previously used; 81027

(6) For calendar year 2015, sixty per cent of the amortizable 81028  
amount, less all amounts previously used; 81029

(7) For calendar year 2016, seventy per cent of the 81030  
amortizable amount, less all amounts previously used; 81031

(8) For calendar year 2017, eighty per cent of the 81032  
amortizable amount, less all amounts previously used; 81033

(9) For calendar year 2018, ninety per cent of the 81034  
amortizable amount, less all amounts previously used; 81035

(10) For each of calendar years 2019 through 2029, one 81036  
hundred per cent of the amortizable amount, less all amounts used 81037  
in all previous years. 81038

In no event shall the cumulative credit used for calendar 81039  
years 2010 through 2029 exceed one hundred per cent of the 81040  
amortizable amount. 81041

(C)(1) Except as otherwise set forth in division (C)(2) of 81042  
this section, a refundable credit is allowed in calendar year 2030 81043  
for any portion of the qualifying taxpayer's amortizable amount 81044

that is not used in accordance with division (B) of this section 81045  
against the tax levied by this chapter on all taxpayers. 81046

(2) Division (C)(1) of this section shall not apply and no 81047  
refundable credit shall be available to any person if during any 81048  
portion of the calendar year 2030 the person is not subject to the 81049  
tax imposed by this chapter. 81050

(D) Not later than June 30, 2006, each qualifying taxpayer, 81051  
consolidated elected taxpayer, or combined taxpayer that will 81052  
claim for any commercial activity tax year the credit allowed in 81053  
divisions (B) and (C) of this section shall file with the tax 81054  
commissioner a report setting forth the amortizable amount 81055  
available to such taxpayer and all other related information that 81056  
the commissioner, by rule, requires. If the taxpayer does not 81057  
timely file the report or fails to provide timely all information 81058  
required by this division, the taxpayer is precluded from claiming 81059  
any credit amounts described in divisions (B) and (C) of this 81060  
section. 81061

(E) For the purpose of calculating the amortizable amount, if 81062  
the tax commissioner ascertains that any portion of that amount is 81063  
the result of a sham transaction as described in section 5703.56 81064  
of the Revised Code, the commissioner shall reduce the amortizable 81065  
amount by two times the adjustment. 81066

(F) If one entity transfers all or a portion of its assets 81067  
and equity to another entity as part of an entity organization or 81068  
reorganization or subsequent entity organization or reorganization 81069  
for which no gain or loss is recognized in whole or in part for 81070  
federal income tax purposes under the Internal Revenue Code, the 81071  
credits allowed by this section shall be computed in a manner 81072  
consistent with that used to compute the portion, if any, of 81073  
federal net operating losses allowed to the respective entities 81074  
under the Internal Revenue Code. The tax commissioner may 81075

prescribe forms or rules for making the computations required by 81076  
this division. 81077

(G)(1) Except as provided in division (F) of this section, no 81078  
person shall pledge, collateralize, hypothecate, assign, convey, 81079  
sell, exchange, or otherwise dispose of any or all tax credits, or 81080  
any portion of any or all tax credits allowed under this section. 81081

(2) No credit allowed under this section is subject to 81082  
execution, attachment, lien, levy, or other judicial proceeding. 81083

(H)(1)(a) Except as set forth in division (H)(1)(b) of this 81084  
section and notwithstanding division (I)(1) of section 5733.04 of 81085  
the Revised Code to the contrary, each person timely and fully 81086  
complying with the reporting requirements set forth in division 81087  
(E) of this section shall not claim, and shall not be entitled to 81088  
claim, any deduction or adjustment for any Ohio net operating loss 81089  
carried forward to any one or more franchise tax years after 81090  
franchise tax year 2005. 81091

(b) Division (H)(1)(a) of this section applies only to the 81092  
portion of the Ohio net operating loss represented by the 81093  
disallowed Ohio net operating loss carryforward. 81094

(2) Notwithstanding division (I) of section 5733.04 of the 81095  
Revised Code to the contrary, with respect to all franchise tax 81096  
years after franchise tax year 2005, each person timely and fully 81097  
complying with the reporting requirements set forth in division 81098  
(D) of this section shall not claim, and shall not be entitled to 81099  
claim, any deduction, exclusion, or adjustment with respect to 81100  
deductible temporary differences reflected on the person's books 81101  
and records on the last day of its taxable year ending in 2004. 81102

(3)(a) Except as set forth in division (H)(3)(b) of this 81103  
section and notwithstanding division (I) of section 5733.04 of the 81104  
Revised Code to the contrary, with respect to all franchise tax 81105  
years after franchise tax year 2005, each person timely and fully 81106



complying with the reporting requirements set forth in division 81107  
(D) of this section shall exclude from Ohio net income all taxable 81108  
temporary differences reflected on the person's books and records 81109  
on the last day of its taxable year ending in 2004. 81110

(b) In no event shall the exclusion provided by division 81111  
(H)(3)(a) of this section for any franchise tax year exceed the 81112  
amount of the taxable temporary differences otherwise included in 81113  
Ohio net income for that year. 81114

(4) Divisions (H)(2) and (3) of this section shall apply only 81115  
to the extent such items were used in the calculations of the 81116  
credit provided by this section. 81117

**Sec. 5751.98.** (A) To provide a uniform procedure for 81118  
calculating the amount of tax due under this chapter, a taxpayer 81119  
shall claim any credits to which it is entitled in the following 81120  
order: 81121

(1) The nonrefundable jobs retention credit under division 81122  
(B) of section 5751.50 of the Revised Code; 81123

(2) The nonrefundable credit for qualified research expenses 81124  
under division (B) of section 5751.51 of the Revised Code; 81125

(3) The nonrefundable credit for a borrower's qualified 81126  
research and development loan payments under division (B) of 81127  
section 5751.52 of the Revised Code; 81128

(4) The nonrefundable credit for calendar years 2010 to 2029 81129  
for unused net operating losses under division (B) of section 81130  
5751.53 of the Revised Code; 81131

(5) The refundable credit for calendar year 2030 for unused 81132  
net operating losses under division (C) of section 5751.53 of the 81133  
Revised Code; 81134

(6) The refundable jobs creation credit under division (A) of 81135

section 5751.50 of the Revised Code. 81136

(B) For any credit except the credit enumerated in division (A)(4) of this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit. 81137  
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**Sec. 5751.99.** (A) Whoever files a fraudulent refund claim under section 5751.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both. 81143  
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(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. 81148  
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(C) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5751.06 of the Revised Code. 81152  
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**Sec. 5907.15.** There is hereby created in the state treasury the Ohio veterans' homes rental, service, and medicare reimbursement fund. Revenue generated from temporary use agreements of a veterans' home, from the sale of meals at a home's dining halls, from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by a home, and from medicare reimbursements shall be credited to the fund. The fund shall be used only for maintenance costs of the homes and for the purchase of medications, medication services, medical supplies, and medical equipment by the homes. 81155  
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Sec. 5919.31. (A) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the "Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq., the adjutant general shall reimburse the member in an amount equal to the monthly premium paid for each month or part of a month by the member pursuant to the act while being an active duty member. 81165  
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(B) The adjutant general may request additional money from the controlling board if the adjutant general does not have sufficient available unencumbered funds to reimburse active duty members for life insurance premiums pursuant to this section. 81172  
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(C) The adjutant general may prescribe and enforce regulations to implement the requirements of this section. In prescribing and enforcing those regulations, the adjutant general need not comply with section 111.15 or Chapter 119. of the Revised Code. 81176  
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(D) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor. 81181  
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~~Sec. 5919.33. Upon certification of availability of funds by the director of budget and management, the~~ (A) The adjutant general shall pay a death benefit of ~~twenty one hundred~~ twenty one hundred thousand dollars from the appropriations ~~for operating expenses made for the purpose~~ to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing ~~state~~ active duty ~~under orders issued by the adjutant general on behalf of the governor~~, if the beneficiary or beneficiaries has or have 81187  
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been so designated in a written statement as prescribed by the 81195  
adjutant general. 81196

(C) As used in this section, "active duty member" means a 81197  
member of the Ohio national guard on active duty pursuant to an 81198  
executive order of the president of the United States, the "Act of 81199  
October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as 81200  
amended, another act of the congress of the United States, or a 81201  
proclamation of the governor. 81202

Sec. 5919.341. There is hereby created in the state treasury 81203  
the national guard scholarship reserve fund. Not later than the 81204  
first day of July of each fiscal year, the Ohio board of regents 81205  
shall certify to the director of budget and management the 81206  
unencumbered balance of the general revenue fund appropriations 81207  
made in the immediately preceding fiscal year for purposes of the 81208  
Ohio national guard scholarship program created under division (B) 81209  
of section 5919.34 of the Revised Code. Upon receipt of the 81210  
certification, the director may transfer an amount not exceeding 81211  
the certified amount from the general revenue fund to the national 81212  
guard scholarship reserve fund. Moneys in the national guard 81213  
scholarship reserve fund shall be used to pay scholarship 81214  
obligations in excess of the general revenue fund appropriations 81215  
made for that purpose. Upon request of the adjutant general, the 81216  
Ohio board of regents shall seek controlling board approval to 81217  
establish appropriations as necessary. 81218

The director may transfer any unencumbered balance from the 81219  
national guard scholarship reserve fund to the general revenue 81220  
fund. 81221

Sec. 5920.01. (A) The governor shall organize and maintain 81222  
within this state on a cadre or reserve basis military forces 81223  
capable of being expanded and trained to defend this state 81224

whenever the Ohio national guard, or a part thereof, is employed 81225  
so as to leave this state without adequate defense. In case of an 81226  
emergency proclaimed by the president, or the Congress of the 81227  
United States, or the governor, or caused by enemy action or 81228  
imminent danger thereof, the governor, as commander in chief, 81229  
shall expand such forces as the exigency of the occasion requires. 81230  
Such forces shall be organized and maintained under regulations 81231  
which shall not be inconsistent with such regulations as the 81232  
secretary of defense prescribes for discipline and training and 81233  
shall be composed of officers commissioned and assigned, and such 81234  
able-bodied citizens of the state as are accepted therein. Such 81235  
forces shall be equipped with suitable uniforms not in violation 81236  
of federal laws or contrary to the regulations of the secretary of 81237  
defense. Such forces shall be known as the Ohio military reserve. 81238  
During the period of organization on a cadre or reserve basis the 81239  
commander in chief may fix lesser rates of pay for armory drill 81240  
purposes or for service in encampments and maneuvers. In the event 81241  
that the regulations of the department of defense are modified so 81242  
as to recognize the Ohio military reserve as a part of the Ohio 81243  
national guard not subject to induction into federal service, the 81244  
laws pertaining to the Ohio national guard shall apply to the Ohio 81245  
military reserve and it shall be known as a component of the Ohio 81246  
national guard. 81247

(B) The commander of the Ohio military reserve shall report 81248  
all expenditures and the use of all funds by the Ohio military 81249  
reserve to the general assembly. The commander annually shall 81250  
deliver the report, in writing, within three months of the end of 81251  
the state fiscal year. 81252

**Sec. 6109.21.** (A) Except as provided in divisions (D) and (E) 81253  
of this section, on and after January 1, 1994, no person shall 81254  
operate or maintain a public water system in this state without a 81255  
license issued by the director of environmental protection. A 81256

person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2006~~ 2008, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an

initial license who is proposing to operate or maintain a new 81288  
public water system after January 1, 1994, shall submit a fee that 81289  
equals a prorated amount of the appropriate fee established under 81290  
that division for the remainder of the licensing year. 81291

(B) Not later than thirty days after receiving a completed 81292  
application and the appropriate license fee for an initial license 81293  
under division (A) of this section, the director shall issue the 81294  
license for the public water system. Not later than thirty days 81295  
after receiving a completed application and the appropriate 81296  
license fee for a license renewal under division (A) of this 81297  
section, the director shall do one of the following: 81298

(1) Issue the license renewal for the public water system; 81299

(2) Issue the license renewal subject to terms and conditions 81300  
that the director determines are necessary to ensure compliance 81301  
with this chapter and rules adopted under it; 81302

(3) Deny the license renewal if the director finds that the 81303  
public water system was not operated in substantial compliance 81304  
with this chapter and rules adopted under it. 81305

(C) The director may suspend or revoke a license or license 81306  
renewal issued under this section if the director finds that the 81307  
public water system was not operated in substantial compliance 81308  
with this chapter and rules adopted under it. The director shall 81309  
adopt, and may amend and rescind, rules in accordance with Chapter 81310  
119. of the Revised Code governing such suspensions and 81311  
revocations. 81312

(D)(1) As used in division (D) of this section, "church" 81313  
means a fellowship of believers, congregation, society, 81314  
corporation, convention, or association that is formed primarily 81315  
or exclusively for religious purposes and that is not formed or 81316  
operated for the private profit of any person. 81317

(2) This section does not apply to a church that operates or 81318

maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6111.30. (A) Applications for a section 401 water quality certification required under division (P) of section 6111.03 of the Revised Code shall be submitted on forms provided by the director of environmental protection and shall include all information required on those forms as well as all of the following:

(1) A copy of a letter from the United States army corps of engineers documenting its jurisdiction over the wetlands, streams, or other waters of the state that are the subject of the section 401 water quality certification application;

(2) If the project involves impacts to a wetland, a wetland characterization analysis consistent with the Ohio rapid assessment method;

(3) If the project involves a stream for which a specific aquatic life use designation has not been made, a use attainability analysis;

(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;

(5) Applicable fees;



<u>(6) Site photographs;</u>	81349
<u>(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;</u>	81350 81351 81352 81353 81354
<u>(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;</u>	81355 81356 81357 81358
<u>(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;</u>	81359 81360 81361
<u>(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.</u>	81362 81363 81364
<u>(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is withdrawn or returned to the</u>	81365 81366 81367 81368 81369 81370 81371 81372 81373 81374 81375 81376 81377 81378 81379

applicant because it is incomplete, the director shall return the 81380  
review fee levied under division (A)(1), (2), or (3) of section 81381  
3745.114 of the Revised Code to the applicant, but shall retain 81382  
the application fee levied under that section. 81383

The time period specified in division (G) of this section 81384  
does not apply until the application is determined to be complete 81385  
by the director. Determining that an application is complete does 81386  
not constitute a technical review or approval of the application. 81387

(C) Not later than twenty-one days after a determination that 81388  
an application is complete under division (B) of this section, the 81389  
applicant shall publish public notice of the director's receipt of 81390  
the complete application in a newspaper of general circulation in 81391  
the county in which the project that is the subject of the 81392  
application is located. The public notice shall be in a form 81393  
acceptable to the director. The applicant shall promptly provide 81394  
the director with proof of publication. The applicant may choose, 81395  
subject to review by and approval of the director, to include in 81396  
the public notice an advertisement for an antidegradation public 81397  
hearing on the application pursuant to section 6111.12 of the 81398  
Revised Code. There shall be a public comment period of thirty 81399  
days following the publication of the public notice. 81400

(D) If the director determines that there is significant 81401  
public interest in a public hearing as evidenced by the public 81402  
comments received concerning the application and by other requests 81403  
for a public hearing on the application, the director or the 81404  
director's representative shall conduct a public hearing 81405  
concerning the application. Notice of the public hearing shall be 81406  
published by the applicant, subject to review and approval by the 81407  
director, at least thirty days prior to the date of the hearing in 81408  
a newspaper of general circulation in the county in which the 81409  
project that is the subject of the application is to take place. 81410  
If a public hearing is requested concerning an application, the 81411

director shall accept comments concerning the application until 81412  
five business days after the public hearing. A public hearing 81413  
conducted under this division shall take place not later than one 81414  
hundred days after the application is determined to be complete. 81415

(E) The director shall forward all public comments concerning 81416  
an application submitted under this section that are received 81417  
through the public involvement process required by rules adopted 81418  
under this chapter to the applicant not later than five business 81419  
days after receipt of the comments by the director. 81420

(F) The applicant shall respond in writing to written 81421  
comments or to deficiencies identified by the director during the 81422  
course of reviewing the application not later than fifteen days 81423  
after receiving or being notified of them. 81424

(G) The director shall issue or deny a section 401 water 81425  
quality certification not later than one hundred fifty days after 81426  
the application for the certification is received. The director 81427  
shall provide an applicant for a section 401 water quality 81428  
certification with an opportunity to review the certification 81429  
prior to its issuance. 81430

(H) The director shall maintain an accessible database that 81431  
includes environmentally beneficial water restoration and 81432  
protection projects that may serve as potential mitigation 81433  
projects for projects in the state for which a section 401 water 81434  
quality certification is required. A project's inclusion in the 81435  
database does not constitute an approval of the project. 81436

(I) As used in this section and sections 6111.31 and 6111.32 81437  
of the Revised Code, "section 401 water quality certification" 81438  
means certification pursuant to section 401 of the Federal Water 81439  
Pollution Control Act and this chapter and rules adopted under it 81440  
that any discharge, as set forth in section 401, will comply with 81441  
sections 301, 302, 303, 306, and 307 of the Federal Water 81442

Pollution Control Act. 81443

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 or the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process. 81444  
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Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements: 81463  
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(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts. 81468  
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(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order: 81471  
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<u>(a) On-site mitigation, provided that it is practicable and,</u>	81473
<u>if applicable, will provide wetland functions and values;</u>	81474
<u>(b) Mitigation within the eight-digit United States</u>	81475
<u>geological survey watershed or within the service area of a</u>	81476
<u>mitigation bank approved by a mitigation bank review team</u>	81477
<u>appointed by the director of environmental protection;</u>	81478
<u>(c) Mitigation in an adjacent eight-digit United States</u>	81479
<u>geological survey watershed;</u>	81480
<u>(d) Mitigation within the same United States army corps of</u>	81481
<u>engineers district as the impacts.</u>	81482
<u>(B) As used in this section, "category 1 wetland" and</u>	81483
<u>"category 2 wetland" have the same meanings as in section 6111.02</u>	81484
<u>of the Revised Code.</u>	81485
<b>Sec. 6121.04.</b> The Ohio water development authority may do any	81486
or all of the following:	81487
(A) Adopt bylaws for the regulation of its affairs and the	81488
conduct of its business;	81489
(B) Adopt an official seal;	81490
(C) Maintain a principal office and suboffices at places	81491
within the state that it designates;	81492
(D) Sue and plead in its own name and be sued and impleaded	81493
in its own name with respect to its contracts or torts of its	81494
members, employees, or agents acting within the scope of their	81495
employment, or to enforce its obligations and covenants made under	81496
sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any	81497
such actions against the authority shall be brought in the court	81498
of common pleas of the county in which the principal office of the	81499
authority is located or in the court of common pleas of the county	81500
in which the cause of action arose, provided that the county is	81501

located within this state, and all summonses, exceptions, and 81502  
notices of every kind shall be served on the authority by leaving 81503  
a copy thereof at the principal office with the person in charge 81504  
thereof or with the secretary-treasurer of the authority. 81505

(E) Make loans and grants to governmental agencies for the 81506  
acquisition or construction of water development projects by any 81507  
such governmental agency and adopt rules and procedures for making 81508  
such loans and grants; 81509

(F) Acquire, construct, reconstruct, enlarge, improve, 81510  
furnish, equip, maintain, repair, operate, or lease or rent to, or 81511  
contract for operation by, a governmental agency or person, water 81512  
development projects, and establish rules for the use of those 81513  
projects; 81514

(G) Make available the use or services of any water 81515  
development project to one or more persons, one or more 81516  
governmental agencies, or any combination thereof; 81517

(H) Issue water development revenue bonds and notes and water 81518  
development revenue refunding bonds of the state, payable solely 81519  
from revenues as provided in section 6121.06 of the Revised Code, 81520  
unless the bonds are refunded by refunding bonds, for the purpose 81521  
of paying any part of the cost of one or more water development 81522  
projects or parts thereof; 81523

(I) Acquire by gift or purchase, hold, and dispose of real 81524  
and personal property in the exercise of its powers and the 81525  
performance of its duties under this chapter; 81526

(J) Acquire, in the name of the state, by purchase or 81527  
otherwise, on terms and in the manner that it considers proper, or 81528  
by the exercise of the right of condemnation in the manner 81529  
provided by section 6121.18 of the Revised Code, public or private 81530  
lands, including public parks, playgrounds, or reservations, or 81531  
parts thereof or rights therein, rights-of-way, property, rights, 81532

easements, and interests that it considers necessary for carrying 81533  
out this chapter, but excluding the acquisition by the exercise of 81534  
the right of condemnation of any waste water facility or water 81535  
management facility owned by any person or governmental agency, 81536  
and compensation shall be paid for public or private lands so 81537  
taken, except that a government-owned waste water facility may be 81538  
appropriated in accordance with section 6121.041 of the Revised 81539  
Code; 81540

(K) Adopt rules to protect augmented flow in waters of the 81541  
state, to the extent augmented by a water development project, 81542  
from depletion so it will be available for beneficial use, and to 81543  
provide standards for the withdrawal from waters of the state of 81544  
the augmented flow created by a water development project that is 81545  
not returned to the waters of the state so augmented and to 81546  
establish reasonable charges therefor if considered necessary by 81547  
the authority; 81548

(L) Make and enter into all contracts and agreements and 81549  
execute all instruments necessary or incidental to the performance 81550  
of its duties and the execution of its powers under this chapter 81551  
in accordance with the following requirements: 81552

(1) When the cost under any such contract or agreement, other 81553  
than compensation for personal services, involves an expenditure 81554  
of more than ~~ten~~ twenty-five thousand dollars, the authority shall 81555  
make a written contract with the lowest responsive and responsible 81556  
bidder, in accordance with section 9.312 of the Revised Code, 81557  
after advertisement for not less than two consecutive weeks in a 81558  
newspaper of general circulation in Franklin county, and in other 81559  
publications that the authority determines, which shall state the 81560  
general character of the work and the general character of the 81561  
materials to be furnished, the place where plans and 81562  
specifications therefor may be examined, and the time and place of 81563  
receiving bids, provided that a contract or lease for the 81564

operation of a water development project constructed and owned by 81565  
the authority or an agreement for cooperation in the acquisition 81566  
or construction of a water development project pursuant to section 81567  
6121.13 of the Revised Code or any contract for the construction 81568  
of a water development project that is to be leased by the 81569  
authority to, and operated by, persons who are not governmental 81570  
agencies and the cost of the project is to be amortized 81571  
exclusively from rentals or other charges paid to the authority by 81572  
persons who are not governmental agencies is not subject to the 81573  
foregoing requirements and the authority may enter into such a 81574  
contract or lease or such an agreement pursuant to negotiation and 81575  
upon terms and conditions and for the period that it finds to be 81576  
reasonable and proper in the circumstances and in the best 81577  
interests of proper operation or of efficient acquisition or 81578  
construction of the project. 81579

(2) Each bid for a contract for the construction, demolition, 81580  
alteration, repair, or reconstruction of an improvement shall 81581  
contain the full name of every person interested in it and shall 81582  
meet the requirements of section 153.54 of the Revised Code. 81583

(3) Each bid for a contract except as provided in division 81584  
(L)(2) of this section shall contain the full name of every person 81585  
or company interested in it and shall be accompanied by a 81586  
sufficient bond or certified check on a solvent bank that if the 81587  
bid is accepted, a contract will be entered into and the 81588  
performance thereof secured. 81589

(4) The authority may reject any and all bids. 81590

(5) A bond with good and sufficient surety, approved by the 81591  
authority, shall be required of every contractor awarded a 81592  
contract except as provided in division (L)(2) of this section, in 81593  
an amount equal to at least fifty per cent of the contract price, 81594  
conditioned upon the faithful performance of the contract. 81595



(M) Employ managers, superintendents, and other employees and 81596  
retain or contract with consulting engineers, financial 81597  
consultants, accounting experts, architects, attorneys, and other 81598  
consultants and independent contractors that are necessary in its 81599  
judgment to carry out this chapter, and fix the compensation 81600  
thereof. All expenses thereof shall be payable solely from the 81601  
proceeds of water development revenue bonds or notes issued under 81602  
this chapter, from revenues, or from funds appropriated for that 81603  
purpose by the general assembly. 81604

(N) Receive and accept from any federal agency, subject to 81605  
the approval of the governor, grants for or in aid of the 81606  
construction of any water development project or for research and 81607  
development with respect to waste water or water management 81608  
facilities, and receive and accept aid or contributions from any 81609  
source of money, property, labor, or other things of value, to be 81610  
held, used, and applied only for the purposes for which the grants 81611  
and contributions are made; 81612

(O) Engage in research and development with respect to waste 81613  
water or water management facilities; 81614

(P) Purchase fire and extended coverage and liability 81615  
insurance for any water development project and for the principal 81616  
office and suboffices of the authority, insurance protecting the 81617  
authority and its officers and employees against liability for 81618  
damage to property or injury to or death of persons arising from 81619  
its operations, and any other insurance the authority may agree to 81620  
provide under any resolution authorizing its water development 81621  
revenue bonds or in any trust agreement securing the same; 81622

(Q) Charge, alter, and collect rentals and other charges for 81623  
the use or services of any water development project as provided 81624  
in section 6121.13 of the Revised Code; 81625

(R) Provide coverage for its employees under Chapters 145., 81626

4123., and 4141. of the Revised Code; 81627

(S) Assist in the implementation and administration of the 81628  
drinking water assistance fund and program created in section 81629  
6109.22 of the Revised Code and the water pollution control loan 81630  
fund and program created in section 6111.036 of the Revised Code, 81631  
including, without limitation, performing or providing fiscal 81632  
management for the funds and investing and disbursing moneys in 81633  
the funds, and enter into all necessary and appropriate agreements 81634  
with the director of environmental protection for those purposes; 81635

(T) Issue water development revenue bonds and notes of the 81636  
state in principal amounts that are necessary for the purpose of 81637  
raising moneys for the sole benefit of the water pollution control 81638  
loan fund created in section 6111.036 of the Revised Code, 81639  
including moneys to meet the requirement for providing matching 81640  
moneys under division (D) of that section. The bonds and notes may 81641  
be secured by appropriate trust agreements and repaid from moneys 81642  
credited to the fund from payments of principal and interest on 81643  
loans made from the fund, as provided in division (F) of section 81644  
6111.036 of the Revised Code. 81645

(U) Issue water development revenue bonds and notes of the 81646  
state in principal amounts that are necessary for the purpose of 81647  
raising moneys for the sole benefit of the drinking water 81648  
assistance fund created in section 6109.22 of the Revised Code, 81649  
including moneys to meet the requirement for providing matching 81650  
moneys under divisions (B) and (F) of that section. The bonds and 81651  
notes may be secured by appropriate trust agreements and repaid 81652  
from moneys credited to the fund from payments of principal and 81653  
interest on loans made from the fund, as provided in division (F) 81654  
of section 6109.22 of the Revised Code. 81655

(V) Make loans to and enter into agreements with boards of 81656  
county commissioners for the purposes of section 1521.26 of the 81657

Revised Code and adopt rules establishing requirements and 81658  
procedures for making the loans and entering into the agreements; 81659

(W) Do all acts necessary or proper to carry out the powers 81660  
expressly granted in this chapter. 81661

Any instrument by which real property is acquired pursuant to 81662  
this section shall identify the agency of the state that has the 81663  
use and benefit of the real property as specified in section 81664  
5301.012 of the Revised Code. 81665

"Sec. 6111.30. (A) Applications for a section 401 water 81666  
quality certification required under division (P) of section 81667  
6111.03 of the Revised Code shall be submitted on forms provided 81668  
by the director of environmental protection and shall include all 81669  
information required on those forms as well as all of the 81670  
following: 81671

(1) A copy of a letter from the United States army corps of 81672  
engineers documenting its jurisdiction over the wetlands, streams, 81673  
or other waters of the state that are the subject of the section 81674  
401 water quality certification application; 81675

(2) If the project involves impacts to a wetland, a wetland 81676  
characterization analysis consistent with the Ohio rapid 81677  
assessment method; 81678

(3) If the project involves a stream for which a specific 81679  
aquatic life use designation has not been made, a use 81680  
attainability analysis; 81681

(4) A specific and detailed mitigation proposal, including 81682  
the location and proposed legal mechanism for protecting the 81683  
property in perpetuity; 81684

(5) Applicable fees; 81685

(6) Site photographs; 81686

(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat; 81687  
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(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project; 81692  
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(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project; 81696  
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(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project. 81699  
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(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is withdrawn or returned to the applicant because it is incomplete, the director shall return the 81702  
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review fee levied under division (A)(1), (2), or (3) of section 81718  
3745.114 of the Revised Code to the applicant, but shall retain 81719  
the application fee levied under that section. 81720

The time period specified in division (G) of this section 81721  
does not apply until the application is determined to be complete 81722  
by the director. Determining that an application is complete does 81723  
not constitute a technical review or approval of the application. 81724

(C) Not later than twenty-one days after a determination that 81725  
an application is complete under division (B) of this section, the 81726  
applicant shall publish public notice of the director's receipt of 81727  
the complete application in a newspaper of general circulation in 81728  
the county in which the project that is the subject of the 81729  
application is located. The public notice shall be in a form 81730  
acceptable to the director. The applicant shall promptly provide 81731  
the director with proof of publication. The applicant may choose, 81732  
subject to review by and approval of the director, to include in 81733  
the public notice an advertisement for an antidegradation public 81734  
hearing on the application pursuant to section 6111.12 of the 81735  
Revised Code. There shall be a public comment period of thirty 81736  
days following the publication of the public notice. 81737

(D) If the director determines that there is significant 81738  
public interest in a public hearing as evidenced by the public 81739  
comments received concerning the application and by other requests 81740  
for a public hearing on the application, the director or the 81741  
director's representative shall conduct a public hearing 81742  
concerning the application. Notice of the public hearing shall be 81743  
published by the applicant, subject to review and approval by the 81744  
director, at least thirty days prior to the date of the hearing in 81745  
a newspaper of general circulation in the county in which the 81746  
project that is the subject of the application is to take place. 81747  
If a public hearing is requested concerning an application, the 81748  
director shall accept comments concerning the application until 81749

five business days after the public hearing. A public hearing 81750  
conducted under this division shall take place not later than one 81751  
hundred days after the application is determined to be complete. 81752

(E) The director shall forward all public comments concerning 81753  
an application submitted under this section that are received 81754  
through the public involvement process required by rules adopted 81755  
under this chapter to the applicant not later than five business 81756  
days after receipt of the comments by the director. 81757

(F) The applicant shall respond in writing to written 81758  
comments or to deficiencies identified by the director during the 81759  
course of reviewing the application not later than fifteen days 81760  
after receiving or being notified of them. 81761

(G) The director shall issue or deny a section 401 water 81762  
quality certification not later than one hundred fifty days after 81763  
the application for the certification is received. The director 81764  
shall provide an applicant for a section 401 water quality 81765  
certification with an opportunity to review the certification 81766  
prior to its issuance. 81767

(H) The director shall maintain an accessible database that 81768  
includes environmentally beneficial water restoration and 81769  
protection projects that may serve as potential mitigation 81770  
projects for projects in the state for which a section 401 water 81771  
quality certification is required. A project's inclusion in the 81772  
database does not constitute an approval of the project. 81773

(I) As used in this section and sections 6111.31 and 6111.32 81774  
of the Revised Code, "section 401 water quality certification" 81775  
means certification pursuant to section 401 of the Federal Water 81776  
Pollution Control Act and this chapter and rules adopted under it 81777  
that any discharge, as set forth in section 401, will comply with 81778  
sections 301, 302, 303, 306, and 307 of the Federal Water 81779  
Pollution Control Act. 81780

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 or the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process.

Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements:

(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts.

(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order:

(a) On-site mitigation, provided that it is practicable and,

<u>if applicable, will provide wetland functions and values;</u>	81811
<u>(b) Mitigation within the eight-digit United States geological survey watershed or within the service area of a mitigation bank approved by a mitigation bank review team appointed by the director of environmental protection;</u>	81812
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<u>(c) Mitigation in an adjacent eight-digit United States geological survey watershed;</u>	81816
	81817
<u>(d) Mitigation within the same United States army corps of engineers district as the impacts.</u>	81818
	81819
<u>(B) As used in this section, "category 1 wetland" and "category 2 wetland" have the same meanings as in section 6111.02 of the Revised Code."</u>	81820
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	81822
<b>Sec. 6123.04.</b> For the purposes of this chapter, the Ohio water development authority may:	81823
	81824
(A) Adopt bylaws for the regulation of its affairs and the conduct of its business under this chapter;	81825
	81826
(B) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6123.06, 6123.08, and 6123.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.	81827
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(C) Make loans and grants to governmental agencies for the	81840



acquisition or construction of development projects by any such 81841  
governmental agency and adopt rules and procedures for making such 81842  
loans and grants; 81843

(D) Acquire, construct, reconstruct, enlarge, improve, 81844  
furnish, equip, maintain, repair, operate, lease or rent to, or 81845  
contract for operation by, a person or governmental agency, 81846  
development projects, and establish rules for the use of such 81847  
projects; 81848

(E) Make available the use or services of any development 81849  
project to one or more persons, one or more governmental agencies, 81850  
or any combination thereof; 81851

(F) Issue development revenue bonds and notes and development 81852  
revenue refunding bonds of the state, payable solely from revenues 81853  
as provided in section 6123.06 of the Revised Code, unless the 81854  
bonds be refunded by refunding bonds, for the purpose of paying 81855  
any part of the cost of one or more development projects or parts 81856  
thereof; 81857

(G) Acquire by gift or purchase, hold, and dispose of real 81858  
and personal property in the exercise of the powers of the 81859  
authority and the performance of its duties under this chapter; 81860

(H) Acquire, in the name of the state, by purchase or 81861  
otherwise, on such terms and in such manner as the authority 81862  
determines proper, public or private lands, or parts thereof or 81863  
rights therein, rights-of-way, property, rights, easements, and 81864  
interests as it finds necessary for carrying out this chapter; and 81865  
compensation shall be paid for public or private lands so taken; 81866

(I) Make and enter into all contracts and agreements and 81867  
execute all instruments necessary or incidental to the performance 81868  
of its duties and the execution of its powers under this chapter: 81869

(1) When the cost under any such contract or agreement, other 81870

than compensation for personal services, involves an expenditure 81871  
of more than ~~two~~ twenty-five thousand dollars, the authority shall 81872  
make a written contract with the lowest responsive and responsible 81873  
bidder, in accordance with section 9.312 of the Revised Code, 81874  
after advertisement for not less than two consecutive weeks in a 81875  
newspaper of general circulation in Franklin county, and in such 81876  
other publications as the authority determines, such notice shall 81877  
state the general character of the work and materials to be 81878  
furnished, the place where plans and specifications therefor may 81879  
be examined, and the time and place of receiving bids. Provided, 81880  
that a contract or lease for the operation of a development 81881  
project constructed and owned by the authority or an agreement for 81882  
cooperation in the acquisition or construction of a development 81883  
project pursuant to section 6123.13 of the Revised Code or any 81884  
contract for the construction of a development project that is to 81885  
be leased by the authority to, and operated by, persons who are 81886  
not governmental agencies and the cost of such project is to be 81887  
amortized exclusively from rentals or other charges paid to the 81888  
authority by persons who are not governmental agencies or by 81889  
governmental agencies that receive the use or services of such 81890  
project, including governmental agencies that are parties to an 81891  
agreement for cooperation in the acquisition or construction of 81892  
such development project pursuant to section 6123.13 of the 81893  
Revised Code, is not subject to the foregoing requirements and the 81894  
authority may enter into such contract or lease or such agreement 81895  
pursuant to negotiation and upon such terms and conditions and for 81896  
such period as it finds to be reasonable and proper in the 81897  
circumstances and in the best interests of proper operation or of 81898  
efficient acquisition or construction of such project. 81899

(2) Each bid for a contract for the construction, demolition, 81900  
alteration, repair, or reconstruction of an improvement shall 81901  
contain the full name of every person interested in it and who 81902

meets the requirements of section 153.54 of the Revised Code. 81903

(3) Each bid for a contract, except as provided in division 81904  
(I)(2) of this section, shall contain the full name of every 81905  
person or company interested in it and shall be accompanied by a 81906  
sufficient bond or certified check on a solvent bank that if the 81907  
bid is accepted a contract will be entered into and the 81908  
performance thereof secured. 81909

(4) The authority may reject any and all bids. 81910

(5) A bond with good and sufficient surety, approved by the 81911  
authority, shall be required of every contractor awarded a 81912  
contract except as provided in division (I)(2) of this section, in 81913  
an amount equal to at least fifty per cent of the contract price, 81914  
conditioned upon the faithful performance of the contract. 81915

(J) Employ managers, superintendents, and other employees and 81916  
retain or contract with consulting engineers, financial 81917  
consultants, accounting experts, architects, attorneys, and such 81918  
other consultants and independent contractors as are necessary in 81919  
its judgment to carry out this chapter, and fix the compensation 81920  
thereof. All expenses thereof shall be payable solely from the 81921  
proceeds of development revenue bonds or notes issued under this 81922  
chapter, from revenues, or from funds appropriated for such 81923  
purpose by the general assembly. 81924

(K) Receive and accept from any federal agency, subject to 81925  
the approval of the governor, grants for or in aid of the 81926  
construction of any development project or for research and 81927  
development with respect to solid waste facilities or energy 81928  
resource development facilities, and receive and accept aid or 81929  
contributions from any source of money, property, labor, or other 81930  
things of value, to be held, used, and applied only for the 81931  
purposes for which such grants and contributions are made; 81932

(L) Engage in research and development with respect to solid 81933

waste facilities or energy resource development facilities;	81934
(M) Purchase fire and extended coverage and liability	81935
insurance for any development project and for the principal office	81936
and sub-offices of the authority, insurance protecting the	81937
authority and its officers and employees against liability for	81938
damage to property or injury to or death of persons arising from	81939
its operations, and any other insurance the authority may agree to	81940
provide under any resolution authorizing its development revenue	81941
bonds or in any trust agreement securing the same;	81942
(N) Charge, alter, and collect rentals and other charges for	81943
the use or services of any development project as provided in	81944
section 6123.13 of the Revised Code;	81945
(O) Provide coverage for its employees under Chapters 145.,	81946
4123., and 4141. of the Revised Code;	81947
(P) Do all acts necessary or proper to carry out the powers	81948
expressly granted in this chapter.	81949
Any instrument by which real property is acquired pursuant to	81950
this section shall identify the agency of the state that has the	81951
use and benefit of the real property as specified in section	81952
5301.012 of the Revised Code.	81953
<b>Section 101.02.</b> That existing sections 9.24, 101.68, 102.02,	81954
102.06, 105.41, 108.05, 109.54, 109.57, 109.60, 109.79, 109.91,	81955
109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37,	81956
121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71,	81957
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5743.20, 5743.32, 5743.33, 5743.99, 5747.01, 5747.012, 5747.02, 82059

5747.05, 5747.08, 5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 82060  
 5747.99, 5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 82061  
 6123.04 of the Revised Code are hereby repealed. Existing Section 82062  
 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby 82063  
 repealed. 82064

**Section 105.01.** That sections 181.53, 339.77, 742.36, 82065  
 1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 82066  
 3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.012, 3317.0212, 82067  
 3317.0213, 3353.02, 3353.03, 3501.141, 3506.17, 3704.14, 3704.142, 82068  
 3704.17, 3721.511, 3901.41, 3901.781, 3901.782, 3901.783, 82069  
 3901.784, 4115.16, 4519.06, 4519.07, 5101.751, 5101.753, 5101.754, 82070  
 5111.041, 5111.205, 5111.24, 5111.262, 5111.34, 5115.10, 5115.11, 82071  
 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5731.20, and 82072  
 5733.122 of the Revised Code are hereby repealed. 82073

**Section 200.01.** Except as otherwise provided, all 82074  
 appropriation items (AI) in this act are appropriated out of any 82075  
 moneys in the state treasury to the credit of the designated fund 82076  
 that are not otherwise appropriated. For all appropriations made 82077  
 in this act, the amounts in the first column are for fiscal year 82078  
 2006 and the amounts in the second column are for fiscal year 82079  
 2007. 82080

FND AI	AI TITLE	APPROPRIATIONS	82081
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**Section 203.03.** ACC ACCOUNTANCY BOARD OF OHIO 82082

General Services Fund Group			82083
4J8 889-601	CPA Education	\$ 209,510 \$ 209,510	82084
	Assistance		
4K9 889-609	Operating Expenses	\$ 1,069,776 \$ 1,069,776	82085
TOTAL GSF General Services Fund			82086
Group		\$ 1,279,286 \$ 1,279,286	82087



TOTAL ALL BUDGET FUND GROUPS \$ 1,279,286 \$ 1,279,286 82088

Section 203.06. PAY ACCRUED LEAVE LIABILITY 82090

Accrued Leave Liability Fund Group 82091

806 995-666 Accrued Leave Fund \$ 68,846,630 \$ 77,950,372 82092

807 995-667 Disability Fund \$ 48,057,723 \$ 50,955,496 82093

TOTAL ALF Accrued Leave Liability 82094

Fund Group \$ 116,904,353 \$ 128,905,868 82095

Agency Fund Group 82096

808 995-668 State Employee Health \$ 480,879,258 \$ 550,922,742 82097

Benefit Fund

809 995-669 Dependent Care \$ 2,801,543 \$ 2,969,635 82098

Spending Account

810 995-670 Life Insurance \$ 1,943,789 \$ 2,031,381 82099

Investment Fund

811 995-671 Parental Leave Benefit \$ 4,040,434 \$ 4,282,860 82100

Fund

813 995-672 Health Care Spending \$ 8,000,000 \$ 12,000,000 82101

Account

TOTAL AGY Agency Fund Group \$ 497,665,024 \$ 572,206,618 82102

TOTAL ALL BUDGET FUND GROUPS \$ 614,569,377 \$ 701,112,486 82103

ACCRUED LEAVE LIABILITY FUND 82104

The foregoing appropriation item 995-666, Accrued Leave Fund, 82105

shall be used to make payments from the Accrued Leave Liability 82106

Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 82107

If it is determined by the Director of Budget and Management that 82108

additional amounts are necessary, the amounts are appropriated. 82109

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 82110

The foregoing appropriation item 995-667, Disability Fund, 82111

shall be used to make payments from the State Employee Disability 82112

Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 82113

Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82114  
82115  
82116

STATE EMPLOYEE HEALTH BENEFIT FUND 82117

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82118  
82119  
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Effective July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management may transfer up to \$70,000 in cash from the General Revenue Fund to the State Employee Health Benefit Fund (Fund 808). The amount of the transfer shall not exceed the amount of cash transferred from the State Employee Health Benefit Fund to the Health Care Spending Account Fund (Fund 813) during fiscal year 2005. 82124  
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DEPENDENT CARE SPENDING ACCOUNT 82131

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82132  
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82134  
82135  
82136  
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LIFE INSURANCE INVESTMENT FUND 82138

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director 82139  
82140  
82141  
82142  
82143

of Budget and Management that additional amounts are necessary, 82144  
the amounts are appropriated. 82145

PARENTAL LEAVE BENEFIT FUND 82146

The foregoing appropriation item 995-671, Parental Leave 82147  
Benefit Fund, shall be used to make payments from the Parental 82148  
Leave Benefit Fund (Fund 811) to employees eligible for parental 82149  
leave benefits pursuant to section 124.137 of the Revised Code. If 82150  
it is determined by the Director of Budget and Management that 82151  
additional amounts are necessary, the amounts are appropriated. 82152

HEALTH CARE SPENDING ACCOUNT 82153

There is hereby established in the State Treasury the Health 82154  
Care Spending Account Fund (Fund 813). The foregoing appropriation 82155  
item 995-672, Health Care Spending Account, shall be used to make 82156  
payments from the fund. The fund shall be under the supervision of 82157  
the Department of Administrative Services and shall be used to 82158  
make payments pursuant to state employees' participation in a 82159  
flexible spending account for non-reimbursed health care expenses 82160  
and pursuant to Section 125 of the Internal Revenue Code. All 82161  
income derived from the investment of the fund shall accrue to the 82162  
fund. If it is determined by the Director of Administrative 82163  
Services that additional appropriation amounts are necessary, the 82164  
Director of Administrative Services may request that the Director 82165  
of Budget and Management increase such amounts. Such amounts are 82166  
hereby appropriated. 82167

At the request of the Director of Administrative Services, 82168  
the Director of Budget and Management shall transfer up to 82169  
\$400,000 from the State Employee Health Benefit Fund (Fund 808) to 82170  
the Health Care Spending Account Fund during fiscal years 2006 and 82171  
2007. This cash shall be transferred as needed to provide adequate 82172  
cash flow for the Health Care Spending Account Fund during fiscal 82173  
year 2006 and fiscal year 2007. At the end of fiscal years 2006 82174

and 2007, the Director of Budget and Management shall transfer 82175  
cash up to the amount previously transferred in the respective 82176  
year back from the Health Care Spending Account (Fund 813) to the 82177  
State Employee Health Benefit Fund (Fund 808). If funds are not 82178  
available in the Health Care Spending Account Fund, the Director 82179  
of Administrative Services may request, and the Director of Budget 82180  
and Management may transfer, the balance of the funds needed from 82181  
the General Revenue Fund. 82182

**Section 203.09. ADJ ADJUTANT GENERAL** 82183

General Revenue Fund 82184

GRF 745-401 Ohio Military Reserve \$ 15,188 \$ 15,188 82185

GRF 745-404 Air National Guard \$ 1,939,762 \$ 1,939,762 82186

GRF 745-407 National Guard \$ 1,400,000 \$ 1,400,000 82187

Benefits

GRF 745-409 Central Administration \$ 3,899,590 \$ 3,899,590 82188

GRF 745-499 Army National Guard \$ 4,086,222 \$ 4,086,222 82189

GRF 745-502 Ohio National Guard \$ 102,973 \$ 102,973 82190

Unit Fund

TOTAL GRF General Revenue Fund \$ 11,443,735 \$ 11,443,735 82191

General Services Fund Group 82192

534 745-612 Armory Improvements \$ 534,304 \$ 534,304 82193

536 745-620 Camp Perry/Buckeye Inn \$ 1,094,970 \$ 1,094,970 82194

Operations

537 745-604 Ohio National Guard \$ 219,826 \$ 219,826 82195

Facility Maintenance

TOTAL GSF General Services Fund \$ 1,849,100 \$ 1,849,100 82196

Group

Federal Special Revenue Fund Group 82197

3E8 745-628 Air National Guard \$ 12,174,760 \$ 12,174,760 82198

Agreement

3R8 745-603 Counter Drug \$ 25,000 \$ 25,000 82199

		Operations					
341	745-615	Air National Guard	\$	2,424,740	\$	2,424,740	82200
		Base Security					
342	745-616	Army National Guard	\$	8,686,893	\$	8,686,893	82201
		Agreement					
		TOTAL FED Federal Special Revenue	\$	23,311,393	\$	23,311,393	82202
		Fund Group					
		State Special Revenue Fund Group					82203
5U8	745-613	Community Match	\$	90,000	\$	91,800	82204
		Armories					
528	745-605	Marksmanship	\$	126,078	\$	128,600	82205
		Activities					
		TOTAL SSR State Special Revenue	\$	216,078	\$	220,400	82206
		Fund Group					
		TOTAL ALL BUDGET FUND GROUPS	\$	36,820,306	\$	36,824,628	82207
		NATIONAL GUARD BENEFITS					82208
		The foregoing appropriation item 745-407, National Guard					82209
		Benefits, shall be used for purposes of sections 5919.31 and					82210
		5919.33 of the Revised Code, and for administrative costs of the					82211
		associated programs.					82212
		For active duty members of the Ohio National Guard who died					82213
		after October 7, 2001, while performing active duty, the death					82214
		benefit, pursuant to section 5919.33 of the Revised Code, shall be					82215
		paid to the beneficiary or beneficiaries designated on the					82216
		member's Servicemembers' Group Life Insurance Policy.					82217
		<b>Section 203.12.</b> DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					82218
		General Revenue Fund					82219
GRF	100-403	Public School Employee	\$	750,000	\$	0	82220
		Benefits					
GRF	100-404	CRP Procurement	\$	248,040	\$	268,040	82221

	Program					
GRF 100-405	Agency Audit Expenses	\$	329,000	\$	329,000	82222
GRF 100-406	County & University	\$	60,000	\$	60,000	82223
	Human Resources					
	Services					
GRF 100-410	Veterans' Records	\$	69,000	\$	48,600	82224
	Conversion					
GRF 100-418	Web Sites and Business	\$	3,275,280	\$	3,275,280	82225
	Gateway					
GRF 100-419	IT Security	\$	1,636,247	\$	1,636,247	82226
	Infrastructure					
GRF 100-421	OAKS Project	\$	484,000	\$	410,839	82227
	Implementation					
GRF 100-433	State of Ohio Computer	\$	4,991,719	\$	4,991,719	82228
	Center					
GRF 100-439	Equal Opportunity	\$	726,481	\$	728,384	82229
	Certification Programs					
GRF 100-447	OBA - Building Rent	\$	115,740,400	\$	116,091,300	82230
	Payments					
GRF 100-448	OBA - Building	\$	25,393,250	\$	25,647,183	82231
	Operating Payments					
GRF 100-449	DAS - Building	\$	4,160,383	\$	4,170,623	82232
	Operating Payments					
GRF 100-451	Minority Affairs	\$	47,000	\$	47,000	82233
GRF 100-734	Major Maintenance -	\$	50,000	\$	50,000	82234
	State Bldgs					
GRF 102-321	Construction	\$	1,190,959	\$	1,206,779	82235
	Compliance					
GRF 130-321	State Agency Support	\$	2,693,788	\$	2,668,986	82236
	Services					
TOTAL GRF	General Revenue Fund	\$	161,845,547	\$	161,629,980	82237
	General Services Fund Group					82238
112 100-616	DAS Administration	\$	5,221,393	\$	5,299,427	82239

115	100-632	Central Service Agency	\$	466,517	\$	485,178	82240
117	100-644	General Services	\$	6,834,247	\$	7,245,772	82241
		Division - Operating					
122	100-637	Fleet Management	\$	4,025,043	\$	4,032,968	82242
125	100-622	Human Resources	\$	18,864,179	\$	19,220,614	82243
		Division - Operating					
127	100-627	Vehicle Liability	\$	3,344,644	\$	3,344,644	82244
		Insurance					
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	82245
130	100-606	Risk Management	\$	223,904	\$	223,904	82246
		Reserve					
131	100-639	State Architect's	\$	6,977,274	\$	7,047,427	82247
		Office					
132	100-631	DAS Building	\$	10,721,430	\$	11,066,228	82248
		Management					
133	100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564	82249
188	100-649	Equal Opportunity	\$	993,378	\$	1,010,256	82250
		Division - Operating					
201	100-653	General Services	\$	1,553,000	\$	1,553,000	82251
		Resale Merchandise					
210	100-612	State Printing	\$	5,931,421	\$	5,931,421	82252
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712	82253
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166	82254
4P3	100-603	DAS Information	\$	5,902,099	\$	6,117,004	82255
		Services					
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564	82256
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178	82257
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982	82258
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	82259
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	82260
		Development					
5V6	100-619	Employee Educational	\$	936,129	\$	936,129	82261
		Development					

TOTAL GSF General Services Fund				82262	
Group	\$	216,927,684	\$	216,576,090	82263
Federal Special Revenue Fund Group				82264	
3AJ 100-623 Information Technology	\$	82,048	\$	82,048	82265
Grants					
TOTAL FSR Federal Special Revenue	\$	82,048	\$	82,048	82266
Fund Group					
Agency Fund Group				82267	
124 100-629 Payroll Deductions	\$	2,050,000,000	\$	2,050,000,000	82268
TOTAL AGY Agency Fund Group	\$	2,050,000,000	\$	2,050,000,000	82269
Holding Account Redistribution Fund Group				82270	
R08 100-646 General Services	\$	20,000	\$	20,000	82271
Refunds					
TOTAL 090 Holding Account				82272	
Redistribution Fund Group	\$	20,000	\$	20,000	82273
TOTAL ALL BUDGET FUND GROUPS	\$	2,428,875,279	\$	2,428,308,118	82274

**Section 203.12.01.** TRANSFERS OF STATE USE PROGRAM FROM THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 82276

DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 82277

Effective July 1, 2005, or the earliest date thereafter 82278

permitted by law, the State Committee for the Purchase of Products 82279

and Services Provided by Persons with Severe Disabilities created 82280

by sections 4115.31 to 4115.35 of the Revised Code is part of the 82281

Department of Administrative Services. The committee's functions, 82282

assets, and liabilities, including, but not limited to, records 82283

regardless of form or medium, are transferred to the Department of 82284

Administrative Services. The Department of Administrative Services 82285

is thereupon and thereafter successor to, assumes the obligations 82286

of, and otherwise constitutes the continuation of the State 82287

Committee for the Purchase of Products and Services Provided by 82288

Persons with Severe Disabilities. The functions of the Executive 82289

Director of the committee are thereupon and thereafter transferred 82290



to the Department of Administrative Services. 82291

Any business commenced but not completed by the committee on 82292  
June 30, 2005, shall be completed by the Department of 82293  
Administrative Services, in the same manner, and with the same 82294  
effect, as if completed by the committee. No validation, cure, 82295  
right, privilege, remedy, obligation, or liability is lost or 82296  
impaired by reason of the transfer required under this section and 82297  
shall be administered by the Department of Administrative 82298  
Services. All of the committee's rules, orders, and determinations 82299  
continue in effect as rules, orders, and determinations of the 82300  
Department of Administrative Services, until modified or rescinded 82301  
by the Department of Administrative Services. If necessary to 82302  
ensure the integrity of the Administrative Code numbering system, 82303  
the Director of the Legislative Service Commission shall renumber 82304  
the committee's rules to reflect their transfer to the Department 82305  
of Administrative Services. 82306

Employees of the Department of Mental Retardation and 82307  
Developmental Disabilities designated as staff for the committee 82308  
shall be transferred to the Department of Administrative Services 82309  
as necessary. Subject to lay-off provisions of sections 124.321 to 82310  
124.328 of the Revised Code, as well as provisions of the contract 82311  
between the state and all bargaining units affected, those 82312  
employees so transferred to the Department of Administrative 82313  
Services retain their positions and all benefits accruing thereto. 82314

No judicial or administrative action or proceeding to which 82315  
the committee is a party that is pending on July 1, 2005, is 82316  
affected by the transfer of functions. Such action or proceeding 82317  
shall be prosecuted or defended in the name of the Director of the 82318  
Department of Administrative Services. On application to the court 82319  
or other tribunal, the Director of Administrative Services shall 82320  
be substituted for the Director of Mental Retardation and 82321  
Developmental Disabilities as a party to such action or 82322

proceeding. 82323

On and after July 1, 2005, notwithstanding any provision of 82324  
law to the contrary, the Director of Budget and Management shall 82325  
take the actions with respect to budget changes made necessary by 82326  
the transfer, including administrative reorganization, program 82327  
transfers, the creation of new funds, and the consolidation of 82328  
funds as authorized by this section. The Director may cancel 82329  
encumbrances and re-establish encumbrances or parts of 82330  
encumbrances as needed in fiscal year 2006 in the appropriate fund 82331  
and appropriation item for the same purpose and to the same 82332  
vendor. The Director, as determined necessary, may re-establish 82333  
such encumbrances in fiscal year 2006 in a different fund or 82334  
appropriation item within an agency or between agencies. The 82335  
re-established encumbrances are here by appropriated. The Director 82336  
shall reduce each year's appropriation balances by the amount of 82337  
the encumbrance canceled in their respective funds and 82338  
appropriation item. 82339

Not later than sixty days after the transfer of the committee 82340  
to the Department of Administrative Services, the Director of 82341  
Mental Retardation and Developmental Disabilities shall certify to 82342  
the Director of Budget and Management the amount of any unexpended 82343  
balance of General Revenue Fund appropriations made to GRF 82344  
appropriation item 322-405, State Use Program. Upon receipt of the 82345  
certification, the Director of Budget and Management shall 82346  
transfer the appropriations from GRF appropriation item 322-405, 82347  
State Use Program, to GRF appropriation item 100-404, CRP 82348  
Procurement Program. 82349

**Section 203.12.02. PUBLIC SCHOOL EMPLOYEE BENEFITS** 82350

The foregoing appropriation item 100-403, Public School 82351  
Employee Benefits, shall be used by the Department of 82352  
Administrative Services to contract with a third party to 82353

investigate the most cost-effective method for funding school 82354  
districts' health benefits pursuant to division (A) of Section 82355  
206.10.07 of this act. 82356

**Section 203.12.03. AGENCY AUDIT EXPENSES** 82357

The foregoing appropriation item 100-405, Agency Audit 82358  
Expenses, shall be used for auditing expenses designated in 82359  
division (A)(1) of section 117.13 of the Revised Code for those 82360  
state agencies audited on a biennial basis. 82361

**Section 203.12.06. OHIO BUILDING AUTHORITY** 82362

The foregoing appropriation item 100-447, OBA - Building Rent 82363  
Payments, shall be used to meet all payments at the times they are 82364  
required to be made during the period from July 1, 2005, to June 82365  
30, 2007, by the Department of Administrative Services to the Ohio 82366  
Building Authority pursuant to leases and agreements under Chapter 82367  
152. of the Revised Code, but limited to the aggregate amount of 82368  
\$231,831,700. These appropriations are the source of funds pledged 82369  
for bond service charges on obligations issued pursuant to Chapter 82370  
152. of the Revised Code. 82371

The foregoing appropriation item 100-448, OBA - Building 82372  
Operating Payments, shall be used to meet all payments at the 82373  
times that they are required to be made during the period from 82374  
July 1, 2005, to June 30, 2007, by the Department of 82375  
Administrative Services to the Ohio Building Authority pursuant to 82376  
leases and agreements under Chapter 152. of the Revised Code, but 82377  
limited to the aggregate amount of \$51,040,433. 82378

The payments to the Ohio Building Authority are for the 82379  
purpose of paying the expenses of agencies that occupy space in 82380  
the various state facilities. The Department of Administrative 82381  
Services may enter into leases and agreements with the Ohio 82382  
Building Authority providing for the payment of these expenses. 82383

The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

**Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS**

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2006 and 2007.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

**Section 203.12.12. CENTRAL SERVICE AGENCY FUND** 82414

The Director of Budget and Management may transfer up to 82415  
\$363,851 in fiscal year 2006 from the Occupational Licensing and 82416  
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 82417  
(Fund 115). The Director of Budget and Management may transfer up 82418  
to \$45,184 in fiscal year 2006 from the State Medical Board 82419  
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 82420  
115). The Director of Budget and Management may transfer up to 82421  
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 82422  
Registration Fund (Fund 5H9) to the Central Service Agency Fund 82423  
(Fund 115). The appropriation item 100-632, Central Service 82424  
Agency, shall be used to purchase the necessary equipment, 82425  
products, and services to maintain an automated application for 82426  
the professional licensing boards, and to support their licensing 82427  
functions in fiscal year 2006. The amount of the cash transfers is 82428  
appropriated to appropriation item 100-632, Central Service 82429  
Agency. 82430

**Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES** 82431

82432  
With approval of the Director of Budget and Management, the 82433  
Department of Administrative Services may seek reimbursement from 82434  
state agencies for the actual costs and expenses the department 82435  
incurs in the collective bargaining arbitration process. The 82436  
reimbursements shall be processed through intrastate transfer 82437  
vouchers and placed in the Collective Bargaining Fund (Fund 128). 82438

**Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY** 82439

The foregoing appropriation item 100-607, IT Service 82440  
Delivery, shall be used by the Office of Information Technology to 82441  
carry out its responsibilities under section 125.29 of the Revised 82442

Code. The foregoing appropriation item 100-630, IT Governance, 82443  
shall be used by the Office of Information Technology to carry out 82444  
its responsibilities under section 125.29 of the Revised Code. 82445

As soon as possible on or after July 1, 2005, the Director of 82446  
Administrative Services shall certify to the Director of Budget 82447  
and Management the amount of cash up to \$5,000,000 to be 82448  
transferred from the IT Service Delivery Fund (Fund 133) to the IT 82449  
Governance Fund (Fund 229). This amount represents a portion of 82450  
the cash balance in the IT Service Delivery Fund attributable to 82451  
IT Governance programs. The Director of Budget and Management 82452  
shall transfer the certified amount. 82453

After final payments are made from fiscal year 2005 82454  
encumbrances in the IT Service Delivery Fund (Fund 133), the 82455  
Department of Administrative Services shall reconcile fiscal year 82456  
2005 financial activity in the IT Service Delivery Fund and 82457  
determine the amount of the fund cash balance due to the IT 82458  
Governance Fund (Fund 229). The reconciliation shall be done in 82459  
accordance with federal cost accounting regulations. Not later 82460  
than June 30, 2006, the Director of Administrative Services shall 82461  
make a determination of any additional transfers of cash necessary 82462  
for reconciliation purposes. Upon concurrence with this 82463  
determination, the Director of Budget and Management may transfer 82464  
such cash between the IT Service Delivery Fund and the IT 82465  
Governance Fund. 82466

**Section 203.12.21. EQUAL OPPORTUNITY PROGRAM** 82467

The Department of Administrative Services, with the approval 82468  
of the Director of Budget and Management, shall establish charges 82469  
for recovering the costs of administering the activities supported 82470  
by the State EEO Fund (Fund 188). These charges shall be deposited 82471  
to the credit of the State EEO Fund (Fund 188) upon payment made 82472  
by state agencies, state-supported or state-assisted institutions 82473

of higher education, and tax-supported agencies, municipal 82474  
corporations, and other political subdivisions of the state, for 82475  
services rendered. 82476

**Section 203.12.24. MERCHANDISE FOR RESALE** 82477

The foregoing appropriation item 100-653, General Services 82478  
Resale Merchandise, shall be used to account for merchandise for 82479  
resale, which is administered by the General Services Division. 82480  
Deposits to the fund may comprise the cost of merchandise for 82481  
resale and shipping fees. 82482

**Section 203.12.27. DAS INFORMATION SERVICES** 82483

There is hereby established in the State Treasury the DAS 82484  
Information Services Fund. The foregoing appropriation item 82485  
100-603, DAS Information Services, shall be used to pay the costs 82486  
of providing information systems and services in the Department of 82487  
Administrative Services. 82488

The Department of Administrative Services shall establish 82489  
user charges for all information systems and services that are 82490  
allowable in the statewide indirect cost allocation plan submitted 82491  
annually to the United States Department of Health and Human 82492  
Services. These charges shall comply with federal regulations and 82493  
shall be deposited to the credit of the DAS Information Services 82494  
Fund (Fund 4P3). 82495

**Section 203.12.30. INVESTMENT RECOVERY FUND** 82496

Notwithstanding division (B) of section 125.14 of the Revised 82497  
Code, cash balances in the Investment Recovery Fund (Fund 427) may 82498  
be used to support the operating expenses of the Federal Surplus 82499  
Operating Program created in sections 125.84 to 125.90 of the 82500  
Revised Code. 82501

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$2,147,024 in fiscal year 2006 and up to \$2,205,594 in fiscal year 2007 shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$3,433,184 in fiscal year 2006 and \$3,477,970 in fiscal year 2007 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated.

Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$500,000 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the State Architect's Fund (Fund 131) to provide operating cash.



**Section 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM** 82533

Effective with the implementation of the Multi-Agency Radio 82534  
Communications System, the Director of Administrative Services 82535  
shall collect user fees from participants in the system. The 82536  
Director of Administrative Services, with the advice of the 82537  
Multi-Agency Radio Communications System Steering Committee and 82538  
the Director of Budget and Management, shall determine the amount 82539  
of the fees and the manner by which the fees shall be collected. 82540  
Such user charges shall comply with the applicable cost principles 82541  
issued by the federal Office of Management and Budget. All moneys 82542  
from user charges and fees shall be deposited in the state 82543  
treasury to the credit of the Multi-Agency Radio Communications 82544  
System Administration Fund (Fund 5C2), which is hereby established 82545  
in the state treasury. All interest income derived from the 82546  
investment of the fund shall accrue to the fund. 82547

**Section 203.12.36. WORKFORCE DEVELOPMENT FUND** 82548

There is hereby established in the state treasury the 82549  
Workforce Development Fund (Fund 5D7). The foregoing appropriation 82550  
item 100-621, Workforce Development, shall be used to make 82551  
payments from the fund. The fund shall be under the supervision of 82552  
the Department of Administrative Services, which may adopt rules 82553  
with regard to administration of the fund. The fund shall be used 82554  
to pay the costs of the Workforce Development Program, established 82555  
by Article 37 of the contract between the State of Ohio and 82556  
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 82557  
by any successor labor contract between the State of Ohio and 82558  
OCSEA/AFSCME. The program shall be administered in accordance with 82559  
the contract. Revenues shall accrue to the fund as specified in 82560  
the contract. The fund may be used to pay direct and indirect 82561  
costs of the program that are attributable to staff, consultants, 82562

and service providers. All income derived from the investment of 82563  
the fund shall accrue to the fund. 82564

If it is determined by the Director of Administrative 82565  
Services that additional appropriation amounts are necessary, the 82566  
Director of Administrative Services may request that the Director 82567  
of Budget and Management increase such amounts. Such amounts are 82568  
hereby appropriated. 82569

**Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND** 82570

The foregoing appropriation item 100-610, Professional 82571  
Development, shall be used to make payments from the Professional 82572  
Development Fund (Fund 5L7) under section 124.182 of the Revised 82573  
Code. 82574

**Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT** 82575

There is hereby established in the state treasury the 82576  
Employee Educational Development Fund (Fund 5V6). The foregoing 82577  
appropriation item 100-619, Employee Educational Development, 82578  
shall be used to make payments from the fund. The fund shall be 82579  
used to pay the costs of the administration of educational 82580  
programs per existing collective bargaining agreements with 82581  
District 1199, the Health Care and Social Service Union; State 82582  
Council of Professional Educators; Ohio Education Association and 82583  
National Education Association; the Fraternal Order of Police Ohio 82584  
Labor Council, Unit 2; and the Ohio State Troopers Association, 82585  
Units 1 and 15. The fund shall be under the supervision of the 82586  
Department of Administrative Services, which may adopt rules with 82587  
regard to administration of the fund. The fund shall be 82588  
administered in accordance with the applicable sections of the 82589  
collective bargaining agreements between the State and the 82590  
aforementioned unions. The Department of Administrative Services, 82591  
with the approval of the Director of Budget and Management, shall 82592

establish charges for recovering the costs of administering the  
educational programs. Receipts for these charges shall be  
deposited into the Employee Educational Development Fund. All  
income derived from the investment of the funds shall accrue to  
the fund.

If it is determined by the Director of Administrative  
Services that additional appropriation amounts are necessary, the  
Director of Administrative Services may request that the Director  
of Budget and Management increase such amounts. Such amounts are  
hereby appropriated with the approval of the Director of Budget  
and Management.

**Section 203.12.45. MAJOR IT PURCHASES**

The Director of Administrative Services shall compute the  
amount of revenue attributable to the amortization of all  
equipment purchases and capitalized systems from appropriation  
item 100-607, IT Service Delivery; appropriation item 100-617,  
Major IT Purchases; and appropriation item CAP-837, Major IT  
Purchases, which is recovered by the Department of Administrative  
Services as part of the rates charged by the IT Service Delivery  
Fund (Fund 133) created in section 125.15 of the Revised Code. The  
Director of Budget and Management may transfer cash in an amount  
not to exceed the amount of amortization computed from the IT  
Service Delivery Fund (Fund 133) to the Major IT Purchases Fund  
(Fund 4N6).

**Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT**

The Director of Administrative Services, with the approval of  
the Director of Budget and Management, may establish an  
information technology assessment for the purpose of recovering  
the cost of selected infrastructure and statewide programs. Such  
assessment shall comply with applicable cost principles issued by

the federal Office of Management and Budget. The information 82623  
technology assessment shall be charged to all organized bodies, 82624  
offices, or agencies established by the laws of the state for the 82625  
exercise of any function of state government except for the 82626  
General Assembly, any legislative agency, the Supreme Court, the 82627  
other courts of record in Ohio, or any judicial agency, the 82628  
Adjutant General, the Bureau of Workers' Compensation, and 82629  
institutions administered by a board of trustees. Any state-entity 82630  
exempted by this section may utilize the infrastructure or 82631  
statewide program by participating in the information technology 82632  
assessment. All charges for the information technology assessment 82633  
shall be deposited to the credit of the IT Service Delivery Fund 82634  
(Fund 133) created in section 125.15 of the Revised Code. 82635

**Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND** 82636

Within thirty days after the effective date of this section, 82637  
or as soon as possible thereafter, the Director of Administrative 82638  
Services shall certify the remaining cash in the Unemployment 82639  
Compensation Fund (Fund 113) to the Director of Budget and 82640  
Management who shall transfer that amount to the General Revenue 82641  
Fund and abolish the Unemployment Compensation Fund (Fund 113). 82642

**Section 203.12.54. PAYROLL WITHHOLDING FUND** 82643

The foregoing appropriation item 100-629, Payroll Deductions, 82644  
shall be used to make payments from the Payroll Withholding Fund 82645  
(Fund 124). If it is determined by the Director of Budget and 82646  
Management that additional appropriation amounts are necessary, 82647  
such amounts are hereby appropriated. 82648

**Section 203.12.57. GENERAL SERVICES REFUNDS** 82649

The foregoing appropriation item 100-646, General Services 82650  
Refunds, shall be used to hold bid guarantee and building plans 82651

and specifications deposits until they are refunded. The Director 82652  
of Administrative Services may request that the Director of Budget 82653  
and Management transfer cash received for the costs of providing 82654  
the building plans and specifications to contractors from the 82655  
General Services Refunds Fund to the State Architect's Office Fund 82656  
(Fund 131). Prior to the transfer of cash, the Director of 82657  
Administrative Services shall certify that such amounts are in 82658  
excess of amounts required for refunding deposits and are directly 82659  
related to costs of producing building plans and specifications. 82660  
If it is determined that additional appropriations are necessary, 82661  
such amounts are hereby appropriated. 82662

**Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM** 82663  
DEBT SERVICE PAYMENTS 82664

The Director of Administrative Services, in consultation with 82665  
the Multi-Agency Radio Communication System (MARCS) Steering 82666  
Committee and the Director of Budget and Management, shall 82667  
determine the share of debt service payments attributable to 82668  
spending for MARCS components that are not specific to any one 82669  
agency and that shall be charged to agencies supported by the 82670  
motor fuel tax. Such share of debt service payments shall be 82671  
calculated for MARCS capital disbursements made beginning July 1, 82672  
1997. Within thirty days of any payment made from appropriation 82673  
item 100-447, OBA - Building Rent Payments, the Director of 82674  
Administrative Services shall certify to the Director of Budget 82675  
and Management the amount of this share. The Director of Budget 82676  
and Management shall transfer such amounts to the General Revenue 82677  
Fund from the State Highway Safety Fund (Fund 036) established in 82678  
section 4501.06 of the Revised Code. 82679

The Director of Administrative Services shall consider 82680  
renting or leasing existing tower sites at reasonable or current 82681  
market rates, so long as these existing sites are equipped with 82682

the technical capabilities to support the MARCS project.	82683
<b>Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY</b>	82684
Whenever the Director of Administrative Services declares a	82685
"public exigency," as provided in division (C) of section 123.15	82686
of the Revised Code, the Director shall also notify the members of	82687
the Controlling Board.	82688
<b>Section 203.12.66. GENERAL SERVICE CHARGES</b>	82689
The Department of Administrative Services, with the approval	82690
of the Director of Budget and Management, shall establish charges	82691
for recovering the costs of administering the programs in the	82692
General Services Fund (Fund 117) and the State Printing Fund (Fund	82693
210).	82694
<b>Section 203.12.69. MEDICAID INFORMATION TECHNOLOGY SYSTEM</b>	82695
(A) The Department of Administrative Services shall conduct a	82696
study to do both of the following:	82697
(1) Comprehensively analyze the technology needs of all	82698
governmental agencies that administer components of the Medicaid	82699
program.	82700
(2) Determine how to ensure that the technology needs of	82701
those governmental agencies can be integrated into a Medicaid	82702
information technology system.	82703
(B) The Department of Administrative Services shall seek the	82704
most federal participation available for the conduct of the study,	82705
and the Department of Job and Family Services shall seek the most	82706
federal participation available for the development and	82707
implementation of a Medicaid information technology system.	82708
<b>Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES</b>	82709

General Revenue Fund				82710
GRF 036-100 Personal Services	\$	220,091	\$ 220,091	82711
GRF 036-200 Maintenance	\$	39,909	\$ 39,909	82712
GRF 036-300 Equipment	\$	1,000	\$ 1,000	82713
GRF 036-501 CAAM Awards and Scholarships	\$	1,000	\$ 1,000	82714
GRF 036-502 Community Projects	\$	20,000	\$ 20,000	82715
TOTAL GRF General Revenue Fund	\$	282,000	\$ 282,000	82716
State Special Revenue Fund Group				82717
4H3 036-601 Commission on African American Males - Gifts/Grants	\$	10,000	\$ 10,000	82718
TOTAL SSR State Special Revenue Fund Group	\$	10,000	\$ 10,000	82719
TOTAL ALL BUDGET FUND GROUPS	\$	292,000	\$ 292,000	82720
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				82721
Annually, not later than the thirty-first day of December,				82722
the Commission on African American Males shall internally prepare				82723
and submit to the chairperson and ranking minority member of the				82724
Human Services Subcommittee of the Finance and Appropriations				82725
Committee of the House of Representatives a report that				82726
demonstrates the progress that has been made toward meeting the				82727
Commission's mission statement.				82728
<b>Section 203.18.</b> JCR JOINT COMMITTEE ON AGENCY RULE REVIEW				82729
General Revenue Fund				82730
GRF 029-321 Operating Expenses	\$	379,769	\$ 387,364	82731
TOTAL GRF General Revenue Fund	\$	379,769	\$ 387,364	82732
TOTAL ALL BUDGET FUND GROUPS	\$	379,769	\$ 387,364	82733
OPERATING				82734
The Chief Administrative Officer of the House of				82735

Representatives and the Clerk of the Senate shall determine, by 82736  
mutual agreement, which of them shall act as fiscal agent for the 82737  
Joint Committee on Agency Rule Review. 82738

OPERATING EXPENSES 82739

The unencumbered balance of appropriation item 029-321, 82740  
Operating Expenses, at the end of fiscal year 2006 shall be 82741  
transferred to fiscal year 2007 for use under the same 82742  
appropriation item. 82743

**Section 203.21.** AGE DEPARTMENT OF AGING 82744

General Revenue Fund 82745

GRF 490-321 Operating Expenses \$ 2,579,867 \$ 2,308,867 82746

GRF 490-403 PASSPORT \$ 112,045,715 \$ 121,009,372 82747

GRF 490-405 Golden Buckeye Card \$ 467,614 \$ 467,614 82748

GRF 490-406 Senior Olympics \$ 15,638 \$ 15,638 82749

GRF 490-409 Ohio Community Service \$ 203,647 \$ 193,465 82750

Council Operations

GRF 490-410 Long-Term Care \$ 689,437 \$ 689,437 82751

Ombudsman

GRF 490-411 Senior Community \$ 10,630,988 \$ 10,630,988 82752

Services

GRF 490-412 Residential State \$ 9,156,771 \$ 9,156,771 82753

Supplement

GRF 490-414 Alzheimers Respite \$ 4,085,888 \$ 4,085,888 82754

GRF 490-416 JCFS Elderly \$ 100,000 \$ 100,000 82755

Transportation

GRF 490-421 PACE \$ 11,354,145 \$ 10,214,809 82756

GRF 490-422 Assisted Living Waiver \$ 0 \$ 359,919 82757

GRF 490-506 National Senior \$ 352,943 \$ 352,943 82758

Service Corps

TOTAL GRF General Revenue Fund \$ 151,682,653 \$ 159,585,711 82759



General Services Fund Group				82760
480 490-606 Senior Community	\$	372,677	\$ 372,677	82761
Outreach and Education				
TOTAL GSF General Services Fund				82762
Group	\$	372,677	\$ 372,677	82763
Federal Special Revenue Fund Group				82764
3C4 490-607 PASSPORT	\$	198,683,143	\$ 218,196,387	82765
3C4 490-621 PACE-Federal	\$	10,854,083	\$ 14,586,135	82766
3C4 490-622 Assisted	\$	0	\$ 5,687,374	82767
Living-Federal				
3M3 490-611 Federal Aging	\$	27,622,693	\$ 28,037,034	82768
Nutrition				
3M4 490-612 Federal Independence	\$	27,907,287	\$ 28,325,896	82769
Services				
3R7 490-617 Ohio Community Service	\$	9,170,000	\$ 9,170,000	82770
Council Programs				
322 490-618 Federal Aging Grants	\$	14,834,354	\$ 15,014,494	82771
TOTAL FED Federal Special Revenue				82772
Fund Group	\$	289,071,560	\$ 319,017,320	82773
State Special Revenue Fund Group				82774
4C4 490-609 Regional Long-Term	\$	910,000	\$ 935,000	82775
Care Ombudsman Program				
4J4 490-610 PASSPORT/Residential	\$	33,263,984	\$ 33,263,984	82776
State Supplement				
4U9 490-602 PASSPORT Fund	\$	4,424,969	\$ 4,424,969	82777
5BA 490-620 Ombudsman Support	\$	615,000	\$ 0	82778
5CE 490-624 Special Projects	\$	350,000	\$ 0	82779
5K9 490-613 Long Term Care	\$	298,400	\$ 820,400	82780
Consumers Guide				
5W1 490-616 Resident Services	\$	262,500	\$ 262,500	82781
Coordinator Program				
624 490-604 OCSC Community Support	\$	2,500	\$ 2,500	82782

TOTAL SSR State Special Revenue				82783	
Fund Group	\$	40,127,353	\$	39,709,353	82784
TOTAL ALL BUDGET FUND GROUPS	\$	481,254,243	\$	518,685,061	82785

**Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY** 82787  
ADMISSION 82788

Pursuant to an interagency agreement, the Department of Job 82789  
and Family Services shall designate the Department of Aging to 82790  
perform assessments under sections 173.42 and 5111.204 of the 82791  
Revised Code. Of the foregoing appropriation item 490-403, 82792  
PASSPORT, the Department of Aging may use not more than \$2,586,648 82793  
in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform 82794  
the assessments for persons not eligible for Medicaid under the 82795  
department's interagency agreement with the Department of Job and 82796  
Family Services and to assist individuals in planning for their 82797  
long-term health care needs. 82798

**Section 203.21.06. PASSPORT** 82799

Of the foregoing appropriation item 490-607, PASSPORT, Fund 82800  
3C4, up to \$125,000 per fiscal year shall be used for an 82801  
evaluation of the PASSPORT Program. 82802

(A) There is hereby created the PASSPORT Evaluation Panel to 82803  
oversee the performance of an evaluation of the PASSPORT Home and 82804  
Community Based Waiver Program conducted by an independent 82805  
contractor. The Panel shall be composed of the following members: 82806

(1) The Director of Aging or the Director's designee; 82807

(2) The Director of Job and Family Services or the Director's 82808  
designee; 82809

(3) A representative of the Central Ohio Area Agency on 82810  
Aging, appointed by the Agency; 82811

(4) A representative of the Ohio Association of Area Agencies 82812

on Aging, appointed by the Agency;	82813
(5) A representative of PASSPORT providers, appointed by the Director of Aging;	82814 82815
(6) A representative of the Ohio Academy of Nursing Homes, appointed by the Academy;	82816 82817
(7) A representative of the Ohio Health Care Association, appointed by the Association;	82818 82819
(8) A representative of the Association for Ohio Philanthropic Homes and Housing for the Aging, appointed by the Association;	82820 82821 82822
(9) A representative of the Ohio Council for Home Care, appointed by the Council;	82823 82824
(10) A representative of the Ohio Association of Adult Day Services, appointed by the Association;	82825 82826
(11) The State Long-Term Care Ombudsperson or the Ombudsperson's designee;	82827 82828
(12) A representative of the Ohio Association of Regional Long-Term Care Ombudsman, appointed by the Association;	82829 82830
(13) A representative of the American Association of Retired Persons, appointed by the Association;	82831 82832
(14) The Chair of the Long-Term Care Committee of the Ohio Commission to Reform Medicaid;	82833 82834
(15) Three individuals to represent PASSPORT program participants, appointed by the Director of Aging.	82835 82836
Panel members shall serve without compensation. The Department of Aging shall provide assistance to the PASSPORT Evaluation Panel, including support services and meeting space. The Panel shall convene not later than sixty days after the effective date of this section.	82837 82838 82839 82840 82841

- (B) The Panel shall do all of the following: 82842
- (1) Establish criteria to be used in selecting an independent 82843  
contractor to evaluate the PASSPORT Program. The criteria shall 82844  
specify that the independent contractor must not be affiliated 82845  
with any state agency. 82846
- (2) In accordance with the request for proposal process 82847  
administered by the Department of Administrative Services, accept 82848  
and evaluate bids from potential contractors; 82849
- (3) Select to evaluate the PASSPORT Program an independent 82850  
contractor that meets the criteria established by the Panel and 82851  
the Department. 82852
- (C) The independent contractor selected by the PASSPORT 82853  
Evaluation Panel shall, in conducting the evaluation of the 82854  
PASSPORT Program, do all of the following: 82855
- (1) Examine the implementation by the existing PASSPORT 82856  
system of the long-term care recommendations of the Ohio 82857  
Commission to Reform Medicaid and coordinate the work of the 82858  
PASSPORT evaluation with the Medicaid Transition Council and the 82859  
Medicaid Care Management Work Group; 82860
- (2) Evaluate the cost-effectiveness of services provided 82861  
under the program; 82862
- (3) Evaluate the population served and the appropriateness of 82863  
the program for that population; 82864
- (4) Evaluate program outcomes to determine the program's 82865  
effectiveness in preventing nursing home admissions; 82866
- (5) Evaluate the effectiveness of area agencies on aging in 82867  
efficiently linking older Ohioans to the appropriate level of 82868  
assistance based on the screening and assessment activities of the 82869  
PASSPORT system; 82870
- (6) Examine the cost effectiveness of increasing the care 82871

management responsibilities of area agencies on aging to include	82872
the management of the Medicaid state plan services;	82873
(7) Evaluate the effectiveness of client-to-case management	82874
ratios of area agencies on aging to assess whether clients receive	82875
quality outcomes in a cost-effective manner;	82876
(8) Evaluate and assess the effectiveness of the PASSPORT	82877
program's authority to provide interventions that increase	82878
enrollment and decrease disenrollment and increase flexibility to	82879
provide quality, timely service to clients with special service	82880
needs;	82881
(9) Evaluate the PASSPORT program's rate structure and	82882
contracting process to determine fair market rates and quality	82883
incentive indicators;	82884
(10) Evaluate the effectiveness of the PASSPORT program's	82885
current provider procurement process;	82886
(11) Determine elements of the program that may be vulnerable	82887
to fraud;	82888
(12) Any additional action requested by the PASSPORT	82889
Evaluation Panel.	82890
The independent contractor shall issue to the Panel quarterly	82891
reports and, by not later than May 15, 2007, a final report, of	82892
its findings. By not later than June 30, 2007, the PASSPORT	82893
Evaluation Panel shall approve a final report.	82894
Appropriation item 490-403, PASSPORT, and the amounts set	82895
aside for the PASSPORT Waiver Program in appropriation item	82896
490-610, PASSPORT/Residential State Supplement, may be used to	82897
assess clients regardless of Medicaid eligibility.	82898
The Director of Aging shall adopt rules under section 111.15	82899
of the Revised Code governing the nonwaiver funded PASSPORT	82900
program, including client eligibility.	82901

The Department of Aging shall administer the Medicaid 82902  
waiver-funded PASSPORT Home Care Program as delegated by the 82903  
Department of Job and Family Services in an interagency agreement. 82904  
The foregoing appropriation item 490-403, PASSPORT, and the 82905  
amounts set aside for the PASSPORT Waiver Program in appropriation 82906  
item 490-610, PASSPORT/Residential State Supplement, shall be used 82907  
to provide the required state match for federal Medicaid funds 82908  
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 82909  
Appropriation item 490-403, PASSPORT, and the amounts set aside 82910  
for the PASSPORT Waiver Program in appropriation item 490-610, 82911  
PASSPORT/Residential State Supplement, may also be used to support 82912  
the Department of Aging's administrative costs associated with 82913  
operating the PASSPORT program. 82914

The foregoing appropriation item 490-607, PASSPORT, shall be 82915  
used to provide the federal matching share for all PASSPORT 82916  
program costs determined by the Department of Job and Family 82917  
Services to be eligible for Medicaid reimbursement. 82918

OHIO COMMUNITY SERVICE COUNCIL 82919

The foregoing appropriation items 490-409, Ohio Community 82920  
Service Council Operations, and 490-617, Ohio Community Service 82921  
Council Programs, shall be used in accordance with section 121.40 82922  
of the Revised Code. 82923

TRANSFER OF RESIDENT PROTECTION FUNDS 82924

The Director of Budget and Management shall transfer, by 82925  
intrastate transfer voucher, in fiscal year 2006, \$615,000 from 82926  
Fund 4E3, Resident Protection Fund, in the Department of Job and 82927  
Family Services, to Fund 5BA in the Department of Aging, to be 82928  
used for program management for the Office of the State Long-Term 82929  
Care Ombudsman created by the Department of Aging under division 82930  
(M) of section 173.01 of the Revised Code. 82931

The Director of Budget and Management shall transfer, by 82932

intrastate transfer voucher, in fiscal year 2006, \$350,000 from 82933  
Fund 4E3, Resident Protection Fund, in the Department of Job and 82934  
Family Services to Fund 5CE in the Department of Aging to be used 82935  
by the Alzheimer's Association to develop a pilot training program 82936  
on person-centered dementia care for long term care staff who 82937  
interact with people with dementia. 82938

SENIOR COMMUNITY SERVICES 82939

Appropriation item 490-411, Senior Community Services, shall 82940  
be used for services designated by the Department of Aging, 82941  
including, but not limited to, home-delivered and congregate 82942  
meals, transportation services, personal care services, respite 82943  
services, adult day services, home repair, care coordination, and 82944  
decision support systems. Service priority shall be given to low 82945  
income, frail, and cognitively impaired persons 60 years of age 82946  
and over. The department shall promote cost sharing by service 82947  
recipients for those services funded with block grant funds, 82948  
including, when possible, sliding-fee scale payment systems based 82949  
on the income of service recipients. 82950

ALZHEIMERS RESPITE 82951

The foregoing appropriation item 490-414, Alzheimers Respite, 82952  
shall be used to fund only Alzheimer's disease services under 82953  
section 173.04 of the Revised Code. 82954

JCFS ELDERLY TRANSPORTATION 82955

The foregoing appropriation item 490-416, JCFS Elderly 82956  
Transportation, shall be used for noncapital expenses related to 82957  
transportation services for the elderly that provide access to 82958  
such things as healthcare services, congregate meals, 82959  
socialization programs, and grocery shopping. The funds shall pass 82960  
through and shall be administered by the Area Agencies on Aging. 82961

Agencies receiving funding from appropriation item 490-416, 82962

JCFS Elderly Transportation, shall coordinate services with other	82963
local service agencies. The appropriation shall be allocated to	82964
the following agencies:	82965
(A) \$30,000 in both fiscal years to Cincinnati Jewish	82966
Vocational Services;	82967
(B) \$20,000 in both fiscal years to Wexner Heritage Village;	82968
(C) \$20,000 in both fiscal years to Yassenoff Jewish	82969
Community Center;	82970
(D) \$30,000 in both fiscal years to Cleveland Jewish	82971
Community Center.	82972
RESIDENTIAL STATE SUPPLEMENT	82973
Under the Residential State Supplement Program, the amount	82974
used to determine whether a resident is eligible for payment and	82975
for determining the amount per month the eligible resident will	82976
receive shall be as follows:	82977
(A) \$900 for a residential care facility, as defined in	82978
section 3721.01 of the Revised Code;	82979
(B) \$900 for an adult group home, as defined in Chapter 3722.	82980
of the Revised Code;	82981
(C) \$800 for an adult foster home, as defined in Chapter 173.	82982
of the Revised Code;	82983
(D) \$800 for an adult family home, as defined in Chapter	82984
3722. of the Revised Code;	82985
(E) \$800 for an adult community alternative home, as defined	82986
in Chapter 3724. of the Revised Code;	82987
(F) \$800 for an adult residential facility, as defined in	82988
Chapter 5119. of the Revised Code;	82989
(G) \$600 for adult community mental health housing services,	82990
as defined in division (B)(5) of section 173.35 of the Revised	82991



Code.	82992
The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.	82993 82994 82995
LONG-TERM CARE OMBUDSMAN	82996
The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.	82997 82998 82999 83000
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	83001
The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.	83002 83003 83004 83005 83006 83007 83008
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS	83009 83010
Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Independence Services, and 490-618, Federal Aging Grants, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report a transfer to the Controlling Board at the next regularly scheduled meeting of the board.	83011 83012 83013 83014 83015 83016 83017 83018
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM	83019
The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Program, shall be used solely to pay the costs of	83020 83021

operating the regional long-term care ombudsman programs. 83022

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 83023

Of the foregoing appropriation item 490-610, 83024

PASSPORT/Residential State Supplement, up to \$2,835,000 each 83025

fiscal year may be used to fund the Residential State Supplement 83026

Program. The remaining available funds shall be used to fund the 83027

PASSPORT program. 83028

TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT 83029

Subject to approval by the Social Security Administration, of 83030

the foregoing appropriation items 490-412, Residential State 83031

Supplement, and 490-610, PASSPORT/Residential State Supplement, 83032

Fund 4J4, in fiscal year 2007 the Department of Aging shall 83033

transfer to the Ohio Department of Mental Health sufficient funds 83034

to make benefit payments for all Residential State Supplement 83035

recipients who are less than 60 years of age diagnosed with mental 83036

illness, mental retardation, or a developmental disability and are 83037

enrolled in the program on June 30, 2006. Upon the request of the 83038

Directors of Aging and of Mental Health, the Director of Budget 83039

and Management may transfer appropriations from GRF appropriation 83040

item 490-412, Residential State Supplement, in the Department of 83041

Aging to GRF appropriation item 335-505, Local Mental Health 83042

Systems of Care, in the Department of Mental Health. In addition, 83043

upon the request of the Directors of Aging and Mental Health, the 83044

Director of Budget and Management may transfer cash from Fund 4J4, 83045

PASSPORT Fund, into the General Revenue Fund and increase the 83046

appropriation in Department of Mental Health GRF appropriation 83047

item 335-505, Local Mental Health Systems of Care, by an equal 83048

amount. 83049

The departments of Aging and Mental Health shall jointly 83050

petition the Social Security Administration to approve changes to 83051

the Residential State Supplement program. Changes proposed by the 83052

two departments shall ensure that Residential State Supplement 83053  
program recipients on June 30, 2006, continue to receive benefit 83054  
payments as long as they remain in the program. Changes proposed 83055  
by the departments of Aging and Mental Health may include 83056  
provisions that improve local accountability to county boards of 83057  
mental health, maximize available funding, and improve the quality 83058  
of residential settings approved for recipients. If the Social 83059  
Security Administration does not approve these changes, the 83060  
Department of Aging shall continue to be responsible for the 83061  
Residential State Supplement Program. 83062

**Section 203.21.09. AGING AND DISABILITY RESOURCE CENTERS** 83063

The Department of Aging shall apply for the 2005 Aging and 83064  
Disability Resource Center Grant Initiative of the Administration 83065  
on Aging and the Centers for Medicare and Medicaid Services. If 83066  
the application is accepted, the Department shall create an Aging 83067  
and Disability Resource Center beginning in fiscal year 2006. The 83068  
Department of Job and Family Services shall endorse the 83069  
Department's application to the extent required by the invitation 83070  
to apply. 83071

**Section 203.24. AGR DEPARTMENT OF AGRICULTURE** 83072

General Revenue Fund 83073

GRF 700-321 Operating Expenses	\$	2,605,330	\$	2,605,330	83074
GRF 700-401 Animal Disease Control	\$	3,574,506	\$	3,574,506	83075
GRF 700-403 Dairy Division	\$	1,304,504	\$	1,304,504	83076
GRF 700-404 Ohio Proud	\$	185,395	\$	185,395	83077
GRF 700-405 Animal Damage Control	\$	60,000	\$	60,000	83078
GRF 700-406 Consumer Analytical	\$	819,907	\$	819,907	83079
Lab					
GRF 700-407 Food Safety	\$	939,099	\$	939,099	83080
GRF 700-409 Farmland Preservation	\$	241,573	\$	241,573	83081

GRF 700-410	Plant Industry	\$	391,216	\$	50,000	83082
GRF 700-411	International Trade	\$	617,524	\$	517,524	83083
	and Market Development					
GRF 700-412	Weights and Measures	\$	1,100,000	\$	1,300,000	83084
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000	83085
GRF 700-415	Poultry Inspection	\$	325,000	\$	325,000	83086
GRF 700-418	Livestock Regulation	\$	1,428,496	\$	1,428,496	83087
	Program					
GRF 700-424	Livestock Testing and	\$	115,946	\$	115,946	83088
	Inspections					
GRF 700-499	Meat Inspection	\$	4,696,889	\$	4,696,889	83089
	Program - State Share					
GRF 700-501	County Agricultural	\$	358,226	\$	358,226	83090
	Societies					
TOTAL GRF	General Revenue Fund	\$	18,963,611	\$	18,722,395	83091
	Federal Special Revenue Fund Group					83092
3J4 700-607	Indirect Cost	\$	1,500,027	\$	1,500,027	83093
3R2 700-614	Federal Plant Industry	\$	4,800,000	\$	4,800,000	83094
326 700-618	Meat Inspection	\$	5,201,291	\$	5,201,291	83095
	Program - Federal					
	Share					
336 700-617	Ohio Farm Loan	\$	43,793	\$	44,679	83096
	Revolving Fund					
382 700-601	Cooperative Contracts	\$	4,300,000	\$	4,300,000	83097
TOTAL FED	Federal Special Revenue					83098
Fund Group		\$	15,845,111	\$	15,845,997	83099
	State Special Revenue Fund Group					83100
4C9 700-605	Feed, Fertilizer,	\$	1,922,857	\$	1,891,395	83101
	Seed, and Lime					
	Inspection					
4D2 700-609	Auction Education	\$	23,885	\$	24,601	83102
4E4 700-606	Utility Radiological	\$	73,059	\$	73,059	83103

		Safety					
4P7	700-610	Food Safety Inspection	\$	816,096	\$	858,096	83104
4R0	700-636	Ohio Proud Marketing	\$	38,300	\$	38,300	83105
4R2	700-637	Dairy Industry	\$	1,541,466	\$	1,621,460	83106
		Inspection					
4T6	700-611	Poultry and Meat	\$	47,294	\$	47,294	83107
		Inspection					
4T7	700-613	International Trade	\$	52,000	\$	54,000	83108
		and Market Development					
494	700-612	Agricultural Commodity	\$	170,220	\$	170,220	83109
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054	83110
497	700-627	Commodity Handlers	\$	515,820	\$	529,978	83111
		Regulatory Program					
5B8	700-629	Auctioneers	\$	365,390	\$	365,390	83112
5H2	700-608	Metrology Lab and	\$	351,526	\$	362,526	83113
		Scale Certification					
5L8	700-604	Livestock Management	\$	30,000	\$	30,000	83114
		Program					
578	700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436	83115
652	700-634	Animal Health and Food	\$	1,876,624	\$	1,831,232	83116
		Safety					
669	700-635	Pesticide Program	\$	2,993,232	\$	3,354,448	83117
TOTAL SSR		State Special Revenue					83118
Fund Group			\$	12,994,304	\$	13,438,489	83119
Clean Ohio		Fund Group					83120
057	700-632	Clean Ohio	\$	149,000	\$	149,000	83121
		Agricultural Easement					
TOTAL CLR		Clean Ohio Fund Group	\$	149,000	\$	149,000	83122
TOTAL ALL BUDGET FUND GROUPS			\$	47,952,026	\$	48,155,881	83123
		OHIO - ISRAEL AGRICULTURAL INITIATIVE					83124
		Of the foregoing General Revenue Fund appropriation item					83125

700-411, International Trade and Market Development, \$100,000	83126
shall be used in fiscal year 2006 for the Ohio - Israel	83127
Agricultural Initiative.	83128
FAMILY FARM LOAN PROGRAM	83129
Notwithstanding Chapter 166. of the Revised Code, up to	83130
\$1,000,000 in each fiscal year shall be transferred from moneys in	83131
the Facilities Establishment Fund (Fund 037) to the Family Farm	83132
Loan Fund (Fund 5H1) in the Department of Development. These	83133
moneys shall be used for loan guarantees. The transfer is subject	83134
to Controlling Board approval.	83135
Financial assistance from the Family Farm Loan Fund (Fund	83136
5H1) shall be repaid to Fund 5H1. This fund is established in	83137
accordance with sections 166.031, 901.80, 901.81, 901.82, and	83138
901.83 of the Revised Code.	83139
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,	83140
all outstanding balances, all loan repayments, and any other	83141
outstanding obligations shall revert to the Facilities	83142
Establishment Fund (Fund 037).	83143
<b>Section 203.24.03. FERTILIZER-RELATED LICENSURE AND</b>	83144
<b>REGISTRATION</b>	83145
To facilitate implementation of the new schedule for	83146
fertilizer-related licensure, registration, and reporting	83147
established under sections 905.32, 905.33, 905.331, and 905.36 of	83148
the Revised Code, as amended by this act, all of the following	83149
apply:	83150
(A) With regard to licenses for which applications for the	83151
license period beginning July 1, 2005, have been submitted under	83152
sections 905.32 and 905.331 of the Revised Code as those sections	83153
existed prior to their amendment by this act, a license shall be	83154
issued for a period beginning on July 1, 2005, and ending on	83155

November 30, 2005, and shall expire on November 30, 2005. 83156

(B) With regard to registrations of a specialty fertilizer 83157  
for which applications for the registration period beginning July 83158  
1, 2005, have been submitted under section 905.33 of the Revised 83159  
Code as that section existed prior to its amendment by this act, a 83160  
registration shall be issued for the period beginning on July 1, 83161  
2005, and ending on November 30, 2005, and shall expire on 83162  
November 30, 2005. 83163

(C) A person who is required to submit a tonnage report 83164  
within thirty days of June 30, 2005, under section 905.36 of the 83165  
Revised Code as that section existed prior to its amendments by 83166  
this act shall submit the report by that date. However, the person 83167  
also shall submit a tonnage report by November 30, 2005, for the 83168  
period beginning on July 1, 2005, and ending on October 31, 2005 83169  
as required by section 905.36 of the Revised Code as amended by 83170  
this act. 83171

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND 83172  
LABORATORY FUND 83173

The Commercial Feed, Fertilizer, Seed, and Lime Inspection 83174  
and Laboratory Fund created in section 905.38 of the Revised Code, 83175  
as amended by this act, is a continuation of the Commerical Feed, 83176  
Fertilizer, and Lime Inspection and Laboratory Fund that was 83177  
created in that section prior to its amendment by this act. 83178  
Notwithstanding any other provision of law to the contrary, the 83179  
Seed Fund (5Z4) created in section 907.16 of the Revised Code 83180  
shall cease to exist, effective July 1, 2005. All assets, 83181  
liabilities, revenues, and obligations associated with the Seed 83182  
Fund (5Z4) are hereby transferred to the Commerical Feed, 83183  
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 83184  
4C9) on July 1, 2005. 83185

Effective July 1, 2005, or as soon thereafter as possible, 83186

the Director of Agriculture shall certify to the Director of  
Budget and Management the cash balance in the Seed Fund (5Z4),  
which was merged in section 907.16 of the Revised Code, as amended  
by this act. The Director of Budget and Management shall transfer  
the certified amount to the Commercial Feed, Fertilizer, Seed, and  
Lime Inspection and Laboratory Fund (Fund 4C9), which is created  
in section 907.16 of the Revised Code, formerly named the Seed  
Fund. The Director shall cancel any existing encumbrances against  
appropriation item 700-642, Seed Program, and re-establish them  
against appropriation item 700-605, Feed, Fertilizer, Seed, and  
Lime Inspection. The amounts of the re-established encumbrances  
are hereby appropriated.

METROLOGY LAB AND SCALE CERTIFICATION FUND

The Metrology and Scale Certification Fund created in section  
1327.511 of the Revised Code, as amended by this act, is a  
continuation of the Scale Certification Fund that was created in  
that section prior to its amendment by this act. Notwithstanding  
any other provision of law to the contrary, the Scale  
Certification Fund (Fund 579) created in section 1327.511 of the  
Revised Code shall cease to exist, effective July 1, 2005. All  
assets, liabilities, revenues, and obligations associated with the  
Scale Certification Fund (Fund 579) are hereby transferred to the  
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1,  
2005.

Effective July 1, 2005, or as soon thereafter as possible,  
the Director of Agriculture shall certify to the Director of  
Budget and Management the cash balance in the Scale Certification  
Fund (Fund 579), which was merged in section 1327.511 of the  
Revised Code, as amended by this act. The Director of Budget and  
Management shall transfer the certified amount to the Metrology  
Laboratory and Scale Certification Fund (Fund 5H2) which is  
created in section 1327.511 of the Revised Code, formerly named



the Scale Certification Laboratory Fund. The Director shall cancel 83219  
any existing encumbrances against appropriation item 700-630, 83220  
Scale Certification, and re-establish them against appropriation 83221  
item 700-608, Metrology Lab. The amounts of the re-established 83222  
encumbrances are hereby appropriated. 83223

ANIMAL HEALTH AND FOOD SAFETY 83224

Notwithstanding any other provision of law to the contrary, 83225  
the Animal Industry Laboratory Fees Fund (Fund 4V5) created in 83226  
division (E)(1) of section 901.43 of the Revised Code shall cease 83227  
to exist, effective July 1, 2005. All assets, liabilities, 83228  
revenues, and obligations associated with the Animal Industry 83229  
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal 83230  
Health and Food Safety Fund (Fund 652) on July 1, 2005. 83231

Effective July 1, 2005, or as soon thereafter as possible, 83232  
the Director of Agriculture shall certify to the Director of 83233  
Budget and Management the cash balance in the Animal Industry 83234  
Laboratory Fund (Fund 4V5), which was merged in division (E)(1) of 83235  
section 901.43 of the Revised Code, as amended by this act. The 83236  
Director of Budget and Management shall transfer the certified 83237  
amount to the Animal Health and Food Safety Fund (Fund 652) which 83238  
is created in division (E)(2) of section 901.43 of the Revised 83239  
Code, formerly named the Animal Industry Laboratory Fund. The 83240  
Director of Budget and Management shall cancel any existing 83241  
encumbrances against appropriation item 700-615, Animal Industry 83242  
Lab Fees, and re-establish them against appropriation item 83243  
700-634, Laboratory Services. The amounts of the re-established 83244  
encumbrances are hereby appropriated. 83245

PESTICIDE REGISTRATION AND INSPECTION FEE 83246

The registration and inspection fee established in rules 83247  
adopted under section 921.16 of Revised Code for the purposes of 83248  
section 921.02 of the Revised Code, as that section existed prior 83249

to its amendment by this act, that are in effect on January 1, 83250  
2005, shall remain in effect until the new fees established in 83251  
section 921.02 of the Revised Code as amended by this act take 83252  
effect on January 1, 2007. 83253

CLEAN OHIO AGRICULTURAL EASEMENT 83254

The foregoing appropriation item 700-632, Clean Ohio 83255  
Agricultural Easement, shall be used by the Department of 83256  
Agriculture in administering sections 901.21, 901.22, and 5301.67 83257  
to 5301.70 of the Revised Code. 83258

TRANSFER BETWEEN FUNDS 83259

For fiscal years 2006 and 2007, if the cash credited to the 83260  
Commercial Feed, Fertilizer, Seed, and Lime Inspection and 83261  
Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 83262  
669) exceeds the amount necessary to administer the programs for 83263  
which they were intended, the Director of Agriculture may certify 83264  
the amount to the Director of Budget and Management. The Director 83265  
of Budget and Management may transfer the cash to any other fund 83266  
administered by the Director of Agriculture. 83267

UNCLAIMED FUNDS TRANSFER 83268

Notwithstanding division (A) of section 169.05 of the Revised 83269  
Code, upon the request of the Director of Budget and Management, 83270  
the Director of Commerce, prior to June 30, 2006, shall transfer 83271  
to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed 83272  
funds that have been reported by the holders of unclaimed funds 83273  
under section 169.05 of the Revised Code, regardless of the 83274  
allocation of the unclaimed funds described in that section. 83275

Notwithstanding division (A) of section 169.05 of the Revised 83276  
Code, upon the request of the Director of Budget and Management, 83277  
the Director of Commerce, prior to June 30, 2007, shall transfer 83278  
to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed 83279

funds that have been reported by the holders of unclaimed funds 83280  
under section 169.05 of the Revised Code, regardless of the 83281  
allocation of the unclaimed funds described in that section. 83282

**Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY** 83283

General Revenue Fund 83284

GRF 898-402 Coal Development \$ 568,814 \$ 573,814 83285  
Office

GRF 898-901 Coal R&D General \$ 7,071,100 \$ 8,980,800 83286  
Obligation Debt  
Service

TOTAL GRF General Revenue Fund \$ 7,639,914 \$ 9,554,614 83287

Agency Fund Group 83288

429 898-602 Small Business \$ 263,165 \$ 264,196 83289  
Ombudsman

5A0 898-603 Small Business \$ 71,087 \$ 71,087 83290  
Assistance

570 898-601 Operating Expenses \$ 256,875 \$ 263,693 83291

TOTAL AGY Agency Fund Group \$ 591,127 \$ 598,976 83292

Coal Research/Development Fund 83293

046 898-604 Coal Research and \$ 10,000,000 \$ 10,000,000 83294  
Development Fund

TOTAL 046 Coal \$ 10,000,000 \$ 10,000,000 83295

Research/Development Fund

TOTAL ALL BUDGET FUND GROUPS \$ 18,231,041 \$ 20,153,590 83296

**COAL DEVELOPMENT OFFICE** 83297

The foregoing appropriation item GRF 898-402, Coal 83298  
Development Office, shall be used for the administrative costs of 83299  
the Coal Development Office. 83300

**COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE** 83301

The foregoing appropriation item GRF 898-901, Coal R & D 83302

General Obligation Debt Service, shall be used to pay all debt 83303  
service and related financing costs at the times they are required 83304  
to be made under sections 151.01 and 151.07 of the Revised Code 83305  
during the period from July 1, 2005, to June 30, 2007. The Office 83306  
of the Sinking Fund or the Director of Budget and Management shall 83307  
effectuate the required payments by intrastate transfer voucher. 83308

SCIENCE AND TECHNOLOGY COLLABORATION 83309

The Air Quality Development Authority shall work in close 83310  
collaboration with the Department of Development, the Board of 83311  
Regents, and the Third Frontier Commission in relation to 83312  
appropriation items and programs referred to as Alignment Programs 83313  
in the following paragraph, and other technology-related 83314  
appropriations and programs in the Department of Development, Air 83315  
Quality Development Authority, and the Board of Regents as those 83316  
agencies may designate, to ensure implementation of a coherent 83317  
state strategy with respect to science and technology. 83318

To the extent permitted by law, the Air Quality Development 83319  
Authority shall assure that coal research and development 83320  
programs, proposals, and projects consider or incorporate 83321  
appropriate collaborations with Third Frontier Project programs 83322  
and grantees and with Alignment Programs and grantees. 83323

"Alignment Programs" means: appropriation items 195-401, 83324  
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 83325  
Third Frontier Action Fund; 898-604, Coal Research and Development 83326  
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 83327  
Institute of Technology; 235-510, Ohio Supercomputer Center; 83328  
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 83329  
235-535, Ohio Agricultural Research and Development Center; 83330  
235-553, Dayton Area Graduate Studies Institute; 235-554, 83331  
Priorities in Collaborative Graduate Education; 235-556, Ohio 83332  
Academic Resources Network; and 195-435, Biomedical Research and 83333

Technology Transfer Trust. 83334

Consistent with the recommendations of the Governor's 83335  
Commission on Higher Education and the Economy, Alignment Programs 83336  
shall be managed and administered (1) to build on existing 83337  
competitive research strengths, (2) to encourage new and emerging 83338  
discoveries and commercialization of ideas and products that will 83339  
benefit the Ohio economy, and (3) to assure improved collaboration 83340  
among Alignment Programs, with programs administered by the Third 83341  
Frontier Commission, and with other state programs that are 83342  
intended to improve economic growth and job creation. 83343

As directed by the Third Frontier Commission, Alignment 83344  
Program managers shall report to the Commission or to the Third 83345  
Frontier Advisory Board on the contributions of their programs to 83346  
achieving the objectives stated in the preceding paragraph. 83347

Each alignment program shall be reviewed annually by the 83348  
Third Frontier Commission with respect to its development of 83349  
complementary relationships within a combined state science and 83350  
technology investment portfolio and its overall contribution to 83351  
the state's science and technology strategy, including the 83352  
adoption of appropriately consistent criteria for: (1) the 83353  
scientific merit of activities supported by the program; (2) the 83354  
relevance of the program's activities to commercial opportunities 83355  
in the private sector; (3) the private sector's involvement in a 83356  
process that continually evaluates commercial opportunities to use 83357  
the work supported by the program; and (4) the ability of the 83358  
program and recipients of grant funding from the program to engage 83359  
in activities that are collaborative, complementary, and efficient 83360  
with respect to the expenditure of state funds. Each alignment 83361  
program shall provide annual reports to the Third Frontier 83362  
Commission discussing existing, planned, or possible 83363  
collaborations between programs and recipients of grant funding 83364  
related to technology, development, commercialization, and 83365

supporting Ohio's economic development. The annual review by the 83366  
Third Frontier Commission shall be a comprehensive review of the 83367  
entire state science and technology program portfolio rather than 83368  
a review of individual programs. 83369

Applicants for Third Frontier and Alignment Program funding 83370  
shall identify their requirements for high-performance computing 83371  
facilities and services, including both hardware and software, in 83372  
all proposals. If an applicant's requirements exceed approximately 83373  
\$100,000 for a proposal, the Ohio Supercomputer Center shall 83374  
convene a panel of experts. The panel shall review the proposal to 83375  
determine whether the proposal's requirements can be met through 83376  
Ohio Supercomputer Center facilities or through other means and 83377  
report its conclusion to the Third Frontier Commission. 83378

To ensure that the state receives the maximum benefit from 83379  
its investment in the Third Frontier Project and the Third 83380  
Frontier Network, organizations receiving Third Frontier awards 83381  
and Alignment Program awards shall, as appropriate, be expected to 83382  
have a connection to the Third Frontier Network that enables them 83383  
and their collaborators to achieve award objectives through the 83384  
Third Frontier Network. 83385

**Section 203.30.** ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 83386  
SERVICES 83387

General Revenue Fund 83388

GRF 038-321 Operating Expenses	\$	1,128,275	\$	1,128,275	83389
GRF 038-401 Treatment Services	\$	35,593,265	\$	36,661,063	83390
GRF 038-404 Prevention Services	\$	1,021,483	\$	1,052,127	83391
TOTAL GRF General Revenue Fund	\$	37,743,023	\$	38,841,465	83392

General Services Fund 83393

5T9 038-616 Problem Gambling	\$	285,000	\$	285,000	83394
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Services

TOTAL GSF General Services Fund	\$	285,000	\$	285,000	83395
Group					
Federal Special Revenue Fund Group					83396
3G3 038-603 Drug Free Schools	\$	3,500,000	\$	3,500,000	83397
3G4 038-614 Substance Abuse Block	\$	73,000,000	\$	73,000,000	83398
Grant					
3H8 038-609 Demonstration Grants	\$	7,093,075	\$	7,093,075	83399
3J8 038-610 Medicaid	\$	42,000,000	\$	46,000,000	83400
3N8 038-611 Administrative	\$	500,000	\$	500,000	83401
Reimbursement					
TOTAL FED Federal Special Revenue					83402
Fund Group	\$	126,093,075	\$	130,093,075	83403
State Special Revenue Fund Group					83404
475 038-621 Statewide Treatment	\$	17,500,000	\$	18,000,000	83405
and Prevention					
5BR 038-406 Tobacco Use Prevention	\$	265,000	\$	205,000	83406
and Control Program					
689 038-604 Education and	\$	350,000	\$	350,000	83407
Conferences					
TOTAL SSR State Special Revenue					83408
Fund Group	\$	18,115,000	\$	18,555,000	83409
TOTAL ALL BUDGET FUND GROUPS	\$	182,236,098	\$	187,774,540	83410
TREATMENT SERVICES					83411
Of the foregoing appropriation item 038-401, Treatment					83412
Services, not more than \$8,190,000 shall be used by the Department					83413
of Alcohol and Drug Addiction Services for program grants for					83414
priority populations in each year of the biennium.					83415
SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN					83416
Of the foregoing appropriation item 038-401, Treatment					83417
Services, \$4 million in each fiscal year shall be used to provide					83418
substance abuse services to families involved in the child welfare					83419

system under the requirements of Am. Sub. H.B. 484 of the 122nd	83420
General Assembly.	83421
SERVICES FOR TANF-ELIGIBLE INDIVIDUALS	83422
Of the foregoing appropriation item 038-401, Treatment	83423
Services, \$5 million each year shall be used to fund TANF-eligible	83424
expenditures for substance abuse prevention and treatment services	83425
to children, or their families, whose income is at or below 200	83426
per cent of the official income poverty guideline. The Director of	83427
Alcohol and Drug Addiction Services and the Director of Job and	83428
Family Services shall develop operating and reporting guidelines	83429
for these programs.	83430
THERAPEUTIC COMMUNITIES	83431
Of the foregoing appropriation item 038-401, Treatment	83432
Services, \$750,000 shall be used in each fiscal year for expansion	83433
of the Therapeutic Communities Program in the Department of	83434
Rehabilitation and Correction.	83435
PARENT AWARENESS TASK FORCE	83436
The Parent Awareness Task Force shall study ways to engage	83437
more parents in activities, coalitions, and educational programs	83438
in Ohio relating to alcohol and other drug abuse prevention. Of	83439
the foregoing appropriation item 038-404, Prevention Services,	83440
\$30,000 in each fiscal year may be used to support the functions	83441
of the Parent Awareness Task Force.	83442
<b>Section 203.36.</b> ARC STATE BOARD OF EXAMINERS OF ARCHITECTS	83443
General Services Fund Group	83444
4K9 891-609 Operating Expenses \$ 489,197 \$ 489,197	83445
TOTAL GSF General Services Fund	83446
Group \$ 489,197 \$ 489,197	83447
TOTAL ALL BUDGET FUND GROUPS \$ 489,197 \$ 489,197	83448



<b>Section 203.39. ART OHIO ARTS COUNCIL</b>				83450
General Revenue Fund				83451
GRF 370-100 Personal Services	\$	1,798,235	\$ 1,798,235	83452
GRF 370-200 Maintenance	\$	459,746	\$ 459,746	83453
GRF 370-300 Equipment	\$	4,700	\$ 4,700	83454
GRF 370-502 Program Subsidies	\$	8,975,480	\$ 8,975,480	83455
TOTAL GRF General Revenue Fund	\$	11,238,161	\$ 11,238,161	83456
General Services Fund Group				83457
4B7 370-603 Per Cent for Art	\$	86,366	\$ 86,366	83458
Acquisitions				
460 370-602 Gifts and Donations	\$	400,000	\$ 400,000	83459
TOTAL GSF General Services Fund	\$	486,366	\$ 486,366	83460
Group				
Federal Special Revenue Fund Group				83461
314 370-601 Federal Programs	\$	1,537,200	\$ 1,537,200	83462
TOTAL FED Federal Special Revenue	\$	1,537,200	\$ 1,537,200	83463
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	13,261,727	\$ 13,261,727	83464
PROGRAM SUBSIDIES				83465
A museum is not eligible to receive funds from appropriation				83466
item 370-502, Program Subsidies, if \$8,000,000 or more in capital				83467
appropriations were appropriated by the state for the museum				83468
between January 1, 1986, and December 31, 2002.				83469
<b>Section 203.45. ATH ATHLETIC COMMISSION</b>				83470
General Services Fund Group				83471
4K9 175-609 Operating Expenses	\$	248,150	\$ 0	83472
TOTAL GSF General Services Fund	\$	248,150	\$ 0	83473
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	248,150	\$ 0	83474

<b>Section 203.48. AGO ATTORNEY GENERAL</b>				83476
General Revenue Fund				83477
GRF 055-321	Operating Expenses	\$ 42,118,150	\$ 52,610,156	83478
GRF 055-411	County Sheriffs' Pay	\$ 760,495	\$ 779,509	83479
Supplement				
GRF 055-415	County Prosecutors'	\$ 740,704	\$ 759,222	83480
Pay Supplement				
TOTAL GRF	General Revenue Fund	\$ 43,619,349	\$ 54,148,887	83481
General Services Fund Group				83482
106 055-612	General Reimbursement	\$ 21,370,196	\$ 21,370,196	83483
107 055-624	Employment Services	\$ 850,000	\$ 850,000	83484
195 055-660	Workers' Compensation	\$ 7,769,628	\$ 7,769,628	83485
Section				
4Y7 055-608	Title Defect	\$ 250,000	\$ 250,000	83486
Rescission				
4Z2 055-609	BCI Asset Forfeiture	\$ 1,332,109	\$ 1,332,109	83487
and Cost Reimbursement				
418 055-615	Charitable Foundations	\$ 4,899,066	\$ 4,899,066	83488
420 055-603	Attorney General	\$ 446,449	\$ 446,449	83489
Antitrust				
421 055-617	Police Officers'	\$ 1,693,213	\$ 1,693,213	83490
Training Academy Fee				
5A9 055-618	Telemarketing Fraud	\$ 7,500	\$ 7,500	83491
Enforcement				
590 055-633	Peace Officer Private	\$ 98,370	\$ 98,370	83492
Security Fund				
629 055-636	Corrupt Activity	\$ 15,000	\$ 15,000	83493
Investigation and				
Prosecution				
631 055-637	Consumer Protection	\$ 1,373,832	\$ 1,373,832	83494
Enforcement				

TOTAL GSF General Services Fund				83495
Group	\$	40,105,363	\$ 40,105,363	83496
Federal Special Revenue Fund Group				83497
3E5 055-638 Attorney General	\$	1,981,102	\$ 1,981,102	83498
Pass-Through Funds				
3R6 055-613 Attorney General	\$	3,842,097	\$ 3,842,097	83499
Federal Funds				
306 055-620 Medicaid Fraud Control	\$	2,799,000	\$ 2,799,000	83500
381 055-611 Civil Rights Legal	\$	390,815	\$ 390,815	83501
Service				
383 055-634 Crime Victims	\$	18,439,313	\$ 18,439,313	83502
Assistance				
TOTAL FED Federal Special Revenue				83503
Fund Group	\$	27,452,327	\$ 27,452,327	83504
State Special Revenue Fund Group				83505
4L6 055-606 DARE	\$	3,927,962	\$ 3,927,962	83506
402 055-616 Victims of Crime	\$	30,000,000	\$ 30,000,000	83507
419 055-623 Claims Section	\$	23,671,954	\$ 15,149,954	83508
659 055-641 Solid and Hazardous	\$	621,159	\$ 621,159	83509
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				83510
Fund Group	\$	58,221,075	\$ 49,699,075	83511
Holding Account Redistribution Fund Group				83512
R04 055-631 General Holding	\$	275,000	\$ 275,000	83513
Account				
R05 055-632 Antitrust Settlements	\$	1,000	\$ 1,000	83514
R18 055-630 Consumer Frauds	\$	300,000	\$ 300,000	83515
R42 055-601 Organized Crime	\$	25,025	\$ 25,025	83516
Commission Account				
TOTAL 090 Holding Account				83517
Redistribution Fund Group	\$	601,025	\$ 601,025	83518

TOTAL ALL BUDGET FUND GROUPS	\$ 169,999,139	\$ 172,006,677	83519
COUNTY SHERIFFS' PAY SUPPLEMENT			83520
The foregoing appropriation item 055-411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.			83521 83522 83523 83524
COUNTY PROSECUTORS' PAY SUPPLEMENT			83525
The foregoing appropriation item 055-415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.			83526 83527 83528 83529
WORKERS' COMPENSATION SECTION			83530
The Workers' Compensation Section Fund (Fund 195) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.			83531 83532 83533 83534 83535 83536 83537
In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.			83538 83539 83540
All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.			83541 83542 83543
CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION			83544
The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines, and penalties credited to the Corrupt			83545 83546 83547 83548

Activity Investigation and Prosecution Fund, which is created in 83549  
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 83550  
is determined that additional amounts are necessary for this 83551  
purpose, the amounts are hereby appropriated. 83552

ATTORNEY GENERAL PASS-THROUGH FUNDS 83553

The foregoing appropriation item 055-638, Attorney General 83554  
Pass-Through Funds, shall be used to receive federal grant funds 83555  
provided to the Attorney General by other state agencies, 83556  
including, but not limited to, the Department of Youth Services 83557  
and the Department of Public Safety. 83558

ANTITRUST SETTLEMENTS 83559

The foregoing appropriation item 055-632, Antitrust 83560  
Settlements, shall be used to distribute court-ordered antitrust 83561  
settlements in which the Office of Attorney General represents the 83562  
state or a political subdivision under section 109.81 of the 83563  
Revised Code. If it is determined that additional amounts are 83564  
necessary for this purpose, the amounts are hereby appropriated. 83565

CONSUMER FRAUDS 83566

The foregoing appropriation item 055-630, Consumer Frauds, 83567  
shall be used for distribution of moneys from court-ordered 83568  
judgments against sellers in actions brought by the Office of 83569  
Attorney General under sections 1334.08 and 4549.48 and division 83570  
(B) of section 1345.07 of the Revised Code. These moneys shall be 83571  
used to provide restitution to consumers victimized by the fraud 83572  
that generated the court-ordered judgments. If it is determined 83573  
that additional amounts are necessary for this purpose, the 83574  
amounts are hereby appropriated. 83575

ORGANIZED CRIME COMMISSION ACCOUNT 83576

The foregoing appropriation item 055-601, Organized Crime 83577  
Commission Account, shall be used by the Organized Crime 83578

Investigations Commission, as provided by section 177.011 of the  
Revised Code, to reimburse political subdivisions for the expenses  
the political subdivisions incur when their law enforcement  
officers participate in an organized crime task force. If it is  
determined that additional amounts are necessary for this purpose,  
the amounts are hereby appropriated.

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83581  
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83584

**Section 203.51. AUD AUDITOR OF STATE**

83585

General Revenue Fund

83586

GRF 070-321 Operating Expenses \$ 29,014,425 \$ 28,964,425

83587

GRF 070-403 Fiscal Watch/Emergency \$ 500,000 \$ 500,000

83588

Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193

83589

Processing - Auditing  
and Administration

GRF 070-406 Uniform Accounting \$ 1,588,538 \$ 1,588,538

83590

Network/Technology  
Improvements Fund

TOTAL GRF General Revenue Fund \$ 31,926,156 \$ 31,876,156

83591

Auditor of State Fund Group

83592

R06 070-604 Continuous Receipts \$ 35,000 \$ 35,000

83593

109 070-601 Public Audit Expense - \$ 9,300,000 \$ 9,300,000

83594

Intra-State

422 070-601 Public Audit Expense - \$ 31,104,840 \$ 31,104,840

83595

Local Government

584 070-603 Training Program \$ 131,250 \$ 131,250

83596

675 070-605 Uniform Accounting \$ 3,317,336 \$ 3,317,336

83597

Network

TOTAL AUS Auditor of State Fund

83598

Group \$ 43,888,426 \$ 43,888,426

83599

TOTAL ALL BUDGET FUND GROUPS \$ 75,814,582 \$ 75,764,582

83600

BILLING PRACTICES PILOT REVIEW

83601

Of the foregoing appropriation item 070-321, Operating 83602  
Expenses, \$50,000 shall be used by the Auditor of State to conduct 83603  
a pilot review of the billing practices of facilities licensed by 83604  
the Department of Mental Health and the Department of Job and 83605  
Family Services that serve children in a residential setting for 83606  
whom mental health treatment services are provided. In conducting 83607  
this review, the Auditor of State shall have access to any 83608  
information, records, or other data that would otherwise be 83609  
available to any federal, state, or local public agency that 83610  
provides funding to the facility. 83611

The Auditor of State shall prepare a report on the 83612  
conclusions of the pilot review, and shall furnish copies of the 83613  
report to the Governor, the Speaker of the House of 83614  
Representatives, and the President of the Senate, as well as to 83615  
the majority and minority leaders of the House of Representatives 83616  
and the Senate, by June 30, 2006. 83617

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 83618

The foregoing appropriation item 070-403, Fiscal 83619  
Watch/Emergency Technical Assistance, shall be used for all 83620  
expenses incurred by the Office of the Auditor of State in its 83621  
role relating to fiscal watch or fiscal emergency activities under 83622  
Chapters 118. and 3316. of the Revised Code. Expenses include, but 83623  
are not limited to, the following: duties related to the 83624  
determination or termination of fiscal watch or fiscal emergency 83625  
of municipal corporations, counties, or townships as outlined in 83626  
Chapter 118. of the Revised Code and of school districts as 83627  
outlined in Chapter 3316. of the Revised Code; development of 83628  
preliminary accounting reports; performance of annual forecasts; 83629  
provision of performance audits; and supervisory, accounting, or 83630  
auditing services for the mentioned public entities and school 83631  
districts. The unencumbered balance of appropriation item 070-403, 83632  
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 83633

year 2006 is transferred to fiscal year 2007 for use under the				83634
same appropriation item.				83635
ELECTRONIC DATA PROCESSING				83636
The unencumbered balance of appropriation item 070-405,				83637
Electronic Data Processing - Auditing and Administration, at the				83638
end of fiscal year 2006 is transferred to fiscal year 2007 for use				83639
under the same appropriation item.				83640
UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND				83641
The foregoing appropriation item 070-406, Uniform Accounting				83642
Network/Technology Improvements Fund, shall be used to pay the				83643
costs of developing and implementing the Uniform Accounting				83644
Network and technology improvements for the Office of the Auditor				83645
of State. The unencumbered balance of the appropriation at the end				83646
of fiscal year 2006 is transferred to fiscal year 2007 to pay the				83647
costs of developing and implementing the Uniform Accounting				83648
Network and technology improvements for the Office of the Auditor				83649
of State.				83650
<b>Section 203.54. BRB BOARD OF BARBER EXAMINERS</b>				83651
General Services Fund Group				83652
4K9 877-609 Operating Expenses	\$	568,126	\$ 0	83653
TOTAL GSF General Services Fund				83654
Group	\$	568,126	\$ 0	83655
TOTAL ALL BUDGET FUND GROUPS				83656
<b>Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT</b>				83658
General Revenue Fund				83659
GRF 042-321 Budget Development and	\$	2,143,886	\$ 2,143,886	83660
Implementation				
GRF 042-410 National Association	\$	27,089	\$ 28,173	83661
Dues				



GRF 042-412	Audit of Auditor of State	\$	55,900	\$	58,700	83662
GRF 042-435	Gubernatorial Transition	\$	0	\$	250,000	83663
TOTAL GRF	General Revenue Fund	\$	2,226,875	\$	2,480,759	83664
	General Services Fund Group					83665
105 042-603	Accounting and Budgeting	\$	9,781,085	\$	9,976,689	83666
TOTAL GSF	General Services Fund Group	\$	9,781,085	\$	9,976,689	83667
	State Special Revenue Fund Group					83668
5N4 042-602	OAKS Project Implementation	\$	2,262,441	\$	2,272,595	83669
TOTAL SSR	State Special Revenue Fund Group	\$	2,262,441	\$	2,272,595	83670
TOTAL ALL BUDGET FUND GROUPS		\$	14,270,401	\$	14,730,043	83671
	AUDIT COSTS					83672
	Of the foregoing appropriation item 042-603, Accounting and Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000 in fiscal year 2007 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.					83673 83674 83675 83676 83677 83678
	OAKS PROJECT IMPLEMENTATION					83679
	Notwithstanding section 126.25 of the Revised Code, in fiscal years 2006 and 2007, rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code may be deposited into the OAKS Project Implementation Fund (Fund 5N4).					83680 83681 83682 83683 83684
	<b>Section 203.60.</b> CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					83685

General Revenue Fund				83686
GRF 874-100 Personal Services	\$	1,900,000	\$ 1,900,000	83687
GRF 874-320 Maintenance and Equipment	\$	992,269	\$ 952,269	83688
TOTAL GRF General Revenue Fund	\$	2,892,269	\$ 2,852,269	83689
General Services Fund Group				83690
4G5 874-603 Capitol Square Maintenance Expenses	\$	15,000	\$ 15,000	83691
4S7 874-602 Statehouse Gift Shop/Events	\$	770,484	\$ 770,484	83692
TOTAL GSF General Services Fund Group	\$	785,484	\$ 785,484	83693 83694
Underground Parking Garage				83695
208 874-601 Underground Parking Garage Operating	\$	2,959,721	\$ 2,959,721	83696
TOTAL UPG Underground Parking Garage	\$	2,959,721	\$ 2,959,721	83697 83698
TOTAL ALL BUDGET FUND GROUPS	\$	6,637,474	\$ 6,597,474	83699
EXPANSION OF COMMITTEE HEARING ROOMS				83700
Of the foregoing appropriation item 874-320, Maintenance and Equipment, \$40,000 in fiscal year 2006 shall be used to expand the House of Representatives committee hearing rooms, numbers 119 and 121.				83701 83702 83703 83704
<b>Section 203.63.</b> SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS				83705 83706
General Services Fund Group				83707
4K9 233-601 Operating Expenses	\$	486,700	\$ 508,600	83708
TOTAL GSF General Services Fund Group	\$	486,700	\$ 508,600	83709
TOTAL ALL BUDGET FUND GROUPS	\$	486,700	\$ 508,600	83710

<b>Section 203.66.</b> CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				83712
General Services Fund Group				83713
4K9 930-609 Operating Expenses	\$	452,976	\$	0 83714
TOTAL GSF General Services Fund	\$	452,976	\$	0 83715
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	452,976	\$	0 83716
 <b>Section 203.69.</b> CHR STATE CHIROPRACTIC BOARD				83718
General Services Fund Group				83719
4K9 878-609 Operating Expenses	\$	605,278	\$	0 83720
TOTAL GSF General Services Fund				83721
Group	\$	605,278	\$	0 83722
TOTAL ALL BUDGET FUND GROUPS	\$	605,278	\$	0 83723
 <b>Section 203.72.</b> CIV OHIO CIVIL RIGHTS COMMISSION				83725
General Revenue Fund				83726
GRF 876-321 Operating Expenses	\$	7,253,075	\$ 7,470,667	83727
TOTAL GRF General Revenue Fund	\$	7,253,075	\$ 7,470,667	83728
Federal Special Revenue Fund Group				83729
334 876-601 Investigations	\$	3,760,000	\$ 3,560,000	83730
TOTAL FED Federal Special Revenue				83731
Fund Group	\$	3,760,000	\$ 3,560,000	83732
State Special Revenue Fund Group				83733
217 876-604 Operations Support	\$	50,951	\$ 50,951	83734
TOTAL SSR State Special				83735
Revenue Fund Group	\$	50,951	\$ 50,951	83736
TOTAL ALL BUDGET FUND GROUPS	\$	11,064,026	\$ 11,081,618	83737
 <b>Section 203.75.</b> COM DEPARTMENT OF COMMERCE				83739
General Revenue Fund				83740

GRF 800-410	Labor and Worker	\$	2,086,477	\$	2,032,397	83741
	Safety					
Total GRF	General Revenue Fund	\$	2,086,477	\$	2,032,397	83742
General Services Fund Group						83743
163 800-620	Division of	\$	4,262,314	\$	4,368,037	83744
	Administration					
163 800-637	Information Technology	\$	2,733,853	\$	2,785,045	83745
5F1 800-635	Small Government Fire	\$	250,000	\$	250,000	83746
	Departments					
543 800-602	Unclaimed	\$	7,351,051	\$	7,351,051	83747
	Funds-Operating					
543 800-625	Unclaimed Funds-Claims	\$	52,000,000	\$	55,000,000	83748
TOTAL GSF General Services Fund						83749
Group		\$	66,597,218	\$	69,754,133	83750
Federal Special Revenue Fund Group						83751
348 800-622	Underground Storage	\$	195,008	\$	195,008	83752
	Tanks					
348 800-624	Leaking Underground	\$	1,850,000	\$	1,850,000	83753
	Storage Tanks					
TOTAL FED Federal Special Revenue						83754
Fund Group		\$	2,045,008	\$	2,045,008	83755
State Special Revenue Fund Group						83756
4B2 800-631	Real Estate Appraisal	\$	35,000	\$	35,000	83757
	Recovery					
4H9 800-608	Cemeteries	\$	273,465	\$	273,465	83758
4X2 800-619	Financial Institutions	\$	2,400,843	\$	2,400,843	83759
5K7 800-621	Penalty Enforcement	\$	50,000	\$	50,000	83760
544 800-612	Banks	\$	6,757,197	\$	6,759,197	83761
545 800-613	Savings Institutions	\$	2,678,248	\$	2,669,774	83762
546 800-610	Fire Marshal	\$	12,187,994	\$	12,292,994	83763
546 800-639	Fire Department Grants	\$	1,647,140	\$	1,647,140	83764
547 800-603	Real Estate	\$	250,000	\$	250,000	83765

Education/Research				
548 800-611	Real Estate Recovery	\$ 50,000	\$ 50,000	83766
549 800-614	Real Estate	\$ 3,605,892	\$ 3,605,892	83767
550 800-617	Securities	\$ 4,300,000	\$ 4,400,000	83768
552 800-604	Credit Union	\$ 2,936,852	\$ 2,941,852	83769
553 800-607	Consumer Finance	\$ 4,300,445	\$ 4,300,445	83770
556 800-615	Industrial Compliance	\$ 25,037,257	\$ 25,037,257	83771
6A4 800-630	Real Estate	\$ 664,006	\$ 664,006	83772
Appraiser-Operating				
653 800-629	UST Registration/Permit	\$ 1,249,632	\$ 1,249,632	83773
Fee				
TOTAL SSR State Special Revenue				83774
Fund Group		\$ 68,423,971	\$ 68,627,497	83775
Liquor Control Fund Group				83776
043 800-601	Merchandising	\$ 382,595,409	\$ 397,839,347	83777
043 800-627	Liquor Control	\$ 16,873,183	\$ 15,981,346	83778
Operating				
043 800-633	Development Assistance	\$ 32,158,300	\$ 39,230,000	83779
Debt Service				
043 800-636	Revitalization Debt	\$ 9,740,500	\$ 13,485,800	83780
Service				
TOTAL LCF Liquor Control				83781
Fund Group		\$ 441,367,392	\$ 466,536,493	83782
TOTAL ALL BUDGET FUND GROUPS				83783
SMALL GOVERNMENT FIRE DEPARTMENTS				83784
Notwithstanding section 3737.17 of the Revised Code, the				83785
foregoing appropriation item 800-635, Small Government Fire				83786
Departments, may be used to provide loans to private fire				83787
departments.				83788
PENALTY ENFORCEMENT				83789
The foregoing appropriation item 800-621, Penalty				83790

Enforcement, shall be used to enforce sections 4115.03 to 4115.16 83791  
of the Revised Code. 83792

UNCLAIMED FUNDS PAYMENTS 83793

The foregoing appropriation item 800-625, Unclaimed 83794  
Funds-Claims, shall be used to pay claims under section 169.08 of 83795  
the Revised Code. If it is determined that additional amounts are 83796  
necessary, the amounts are hereby appropriated. 83797

UNCLAIMED FUNDS TRANSFERS 83798

Notwithstanding division (A) of section 169.05 of the Revised 83799  
Code, prior to June 30, 2006, and upon the request of the Director 83800  
of Budget and Management, the Director of Commerce shall transfer 83801  
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 83802  
that have been reported by holders of unclaimed funds under 83803  
section 169.05 of the Revised Code, irrespective of the allocation 83804  
of the unclaimed funds under that section. 83805

Notwithstanding division (A) of section 169.05 of the Revised 83806  
Code, prior to June 30, 2007, and upon the request of the Director 83807  
of Budget and Management, the Director of Commerce shall transfer 83808  
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 83809  
that have been reported by holders of unclaimed funds under 83810  
section 169.05 of the Revised Code, irrespective of the allocation 83811  
of the unclaimed funds under that section. 83812

CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546) 83813

Effective July 1, 2005, or as soon thereafter as possible, 83814  
the Director of Budget and Management shall transfer the cash 83815  
balance in the Fire Marshal's Fireworks Training and Education 83816  
Fund (Fund 4L5), which is abolished in division (B) of section 83817  
3743.57 of the Revised Code as amended by this act, to the State 83818  
Fire Marshal's Fund (Fund 546), which is created in section 83819  
3737.71 of the Revised Code. The director shall cancel any 83820

existing encumbrances against appropriation item 800-609, 83821  
Fireworks Training and Education, in Fund 4L5, and re-establish 83822  
them against appropriation item 800-610, Fire Marshal, in Fund 83823  
546. The amounts of the re-established encumbrances are hereby 83824  
appropriated. 83825

CASH TRANSFER TO BUDGET STABILIZATION FUND 83826

Notwithstanding any other law to the contrary, the Director 83827  
of Budget and Management shall transfer up to \$1,700,000 in cash 83828  
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 83829  
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 83830  
Stabilization Fund. 83831

FIRE DEPARTMENT GRANTS 83832

Of the foregoing appropriation item 800-639, Fire Department 83833  
Grants, up to \$760,000 in each fiscal year shall be used to make 83834  
annual grants to volunteer fire departments of up to \$10,000, or 83835  
up to \$25,000 if the volunteer fire department provides service 83836  
for an area affected by a natural disaster. The grant program 83837  
shall be administered by the Fire Marshal under the Department of 83838  
Commerce. The Fire Marshal shall adopt rules as are necessary for 83839  
the administration and operation of the grant program. 83840

Of the foregoing appropriation item 800-639, Fire Department 83841  
Grants, up to \$687,140 in each fiscal year shall be used as full 83842  
or partial reimbursement to local units of government and fire 83843  
departments for the cost of firefighter training and equipment or 83844  
gear. Under rules that the department shall adopt, a local unit of 83845  
government or fire department may apply to the department for a 83846  
grant to cover all documented costs that are incurred to provide 83847  
firefighter training and equipment or gear. The department shall 83848  
make grants within the limits of the funding provided, with 83849  
priority given to fire departments that serve small villages and 83850  
townships. 83851

Of the foregoing appropriation item 800-639, Fire Department 83852  
Grants, up to \$200,000 in each fiscal year shall be used to make 83853  
grants to fire departments to assist in the conversion of existing 83854  
data systems to the NFIRS 5 electronic fire reporting system. 83855  
Under rules that the department shall adopt, awards shall have a 83856  
maximum of \$50,000 per fire department and shall be based on a 83857  
point system that includes factors such as consideration of the 83858  
fire department's information technology and operating budgets, 83859  
population and area served, number of incidents, data conversion 83860  
and implementation methods, and readiness. 83861

CASH TRANSFER TO REAL ESTATE OPERATING FUND 83862

At the request of the Director of Commerce, the Director of 83863  
Budget and Management may transfer up to \$100,000 in cash from the 83864  
Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash 83865  
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the 83866  
Real Estate Operating Fund (Fund 549) during the 2005-2007 83867  
biennium. 83868

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 83869

The foregoing appropriation item 800-601, Merchandising, 83870  
shall be used under section 4301.12 of the Revised Code. If it is 83871  
determined that additional amounts are necessary, the amounts are 83872  
hereby appropriated. 83873

DEVELOPMENT ASSISTANCE DEBT SERVICE 83874

The foregoing appropriation item 800-633, Development 83875  
Assistance Debt Service, shall be used to meet all payments at the 83876  
times they are required to be made during the period from July 1, 83877  
2005, to June 30, 2007, for bond service charges on obligations 83878  
issued under Chapter 166. of the Revised Code. If it is determined 83879  
that additional appropriations are necessary for this purpose, 83880  
such amounts are hereby appropriated, subject to the limitations 83881  
set forth in section 166.11 of the Revised Code. The General 83882



Assembly acknowledges that an appropriation for this purpose is 83883  
not required, but is made in this form and in this act for record 83884  
purposes only. 83885

REVITALIZATION DEBT SERVICE 83886

The foregoing appropriation item 800-636, Revitalization Debt 83887  
Service, shall be used to pay debt service and related financing 83888  
costs under sections 151.01 and 151.40 of the Revised Code during 83889  
the period from July 1, 2005, to June 30, 2007. If it is 83890  
determined that additional appropriations are necessary for this 83891  
purpose, such amounts are hereby appropriated. The General 83892  
Assembly acknowledges the priority of the pledge of a portion of 83893  
receipts from that source to obligations issued and to be issued 83894  
under Chapter 166. of the Revised Code. 83895

ADMINISTRATIVE ASSESSMENTS 83896

Notwithstanding any other provision of law to the contrary, 83897  
Fund 163, Division of Administration, is entitled to receive 83898  
assessments from all operating funds of the department in 83899  
accordance with procedures prescribed by the Director of Commerce 83900  
and approved by the Director of Budget and Management. 83901

**Section 203.78.** OCC OFFICE OF CONSUMERS' COUNSEL 83902

General Services Fund Group 83903

5F5 053-601 Operating Expenses \$ 7,770,000 \$ 7,770,000 83904

TOTAL GSF General Services Fund \$ 7,770,000 \$ 7,770,000 83905

Group

TOTAL ALL BUDGET FUND GROUPS \$ 7,770,000 \$ 7,770,000 83906

**Section 203.81.** CEB CONTROLLING BOARD 83908

General Revenue Fund 83909

GRF 911-401 Emergency \$ 5,000,000 \$ 5,000,000 83910

Purposes/Contingencies

GRF 911-404 Mandate Assistance	\$	650,000	\$	650,000	83911
GRF 911-441 Ballot Advertising	\$	300,000	\$	300,000	83912
Costs					
TOTAL GRF General Revenue Fund	\$	5,950,000	\$	5,950,000	83913
TOTAL ALL BUDGET FUND GROUPS	\$	5,950,000	\$	5,950,000	83914

FEDERAL SHARE 83915

In transferring appropriations to or from appropriation items 83916  
that have federal shares identified in this act, the Controlling 83917  
Board shall add or subtract corresponding amounts of federal 83918  
matching funds at the percentages indicated by the state and 83919  
federal division of the appropriations in this act. Such changes 83920  
are hereby appropriated. 83921

DISASTER ASSISTANCE 83922

Pursuant to requests submitted by the Department of Public 83923  
Safety, the Controlling Board may approve transfers from 83924  
appropriation item 911-401, Emergency Purposes/Contingencies, to 83925  
Department of Public Safety appropriation items to provide funding 83926  
for assistance to political subdivisions and individuals made 83927  
necessary by natural disasters or emergencies. Such transfers may 83928  
be requested and approved prior to or following the occurrence of 83929  
any specific natural disasters or emergencies in order to 83930  
facilitate the provision of timely assistance. 83931

DISASTER SERVICES 83932

Pursuant to requests submitted by the Department of Public 83933  
Safety, the Controlling Board may approve transfers from the 83934  
Disaster Services Fund (5E2) to a Department of Public Safety 83935  
General Revenue Fund appropriation item to provide for assistance 83936  
to political subdivisions made necessary by natural disasters or 83937  
emergencies. These transfers may be requested and approved prior 83938  
to the occurrence of any specific natural disasters or emergencies 83939  
in order to facilitate the provision of timely assistance. The 83940

Emergency Management Agency of the Department of Public Safety 83941  
shall use the funding for disaster aid requests that meet the 83942  
Emergency Management Agency's criteria for assistance. 83943

The Disaster Services Fund (5E2) shall be used by the 83944  
Controlling Board, pursuant to requests submitted by state 83945  
agencies, to transfer cash and appropriation authority to any fund 83946  
and appropriation item for the payment of state agency program 83947  
expenses as follows: 83948

(A) The Southern Ohio flooding, referred to as 83949  
FEMA-DR-1164-OH; 83950

(B) The flood and storm disaster referred to as 83951  
FEMA-DR-1227-OH; 83952

(C) The Southern Ohio flooding, referred to as 83953  
FEMA-DR-1321-OH; 83954

(D) The flooding referred to as FEMA-DR-1339-OH; 83955

(E) The tornado and storms referred to as FEMA-DR-1343-OH; 83956

(F) Other disasters declared by the Governor, if the Director 83957  
of Budget and Management determines that sufficient funds exist 83958  
beyond the expected program costs of these other disasters. 83959

The unencumbered balance of the Disaster Services Fund (5E2) 83960  
at the end of fiscal year 2006 is transferred to fiscal year 2007 83961  
for use for the same purposes as in fiscal year 2006. 83962

SOUTHERN OHIO CORRECTIONAL FACILITY COST 83963

The Division of Criminal Justice Services in the Department 83964  
of Public Safety and the Public Defender Commission may each 83965  
request, upon approval of the Director of Budget and Management, 83966  
additional funds from appropriation item 911-401, Emergency 83967  
Purposes/Contingencies, for costs related to the disturbance that 83968  
occurred on April 11, 1993, at the Southern Ohio Correctional 83969  
Facility in Lucasville, Ohio. 83970

MANDATE ASSISTANCE 83971

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two unfunded state mandates: 83972  
83973  
83974  
83975

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services; 83976  
83977  
83978  
83979

(2) The cost to school districts of in-service training for child abuse detection. 83980  
83981

(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance. 83982  
83983  
83984  
83985  
83986  
83987  
83988  
83989

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Division of Criminal Justice Services	\$150,000	83992 83993
Child Abuse Detection Training Costs	Department of Education	\$500,000	83994

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program. 83995  
83996  
83997  
83998  
83999  
84000

(D) In addition to making the initial transfers requested by 84001  
the Division of Criminal Justice Services in the Department of 84002  
Public Safety and the Department of Education, the Controlling 84003  
Board may transfer appropriations received by a state agency under 84004  
this section back to appropriation item 911-404, Mandate 84005  
Assistance, or to the other program of state financial assistance 84006  
identified under this section. 84007

(E) It is expected that not all costs incurred by local units 84008  
of government and school districts under each of the two programs 84009  
of state financial assistance identified in this section will be 84010  
fully reimbursed by the state. Reimbursement levels may vary by 84011  
program and shall be based on: the relationship between the 84012  
appropriation transfers requested by the Division of Criminal 84013  
Justice Services in the Department of Public Safety and the 84014  
Department of Education and provided by the Controlling Board for 84015  
each of the programs; the rules and procedures established for 84016  
each program by the administering state agency; and the actual 84017  
costs incurred by local units of government and school districts. 84018

(F) Each of these programs of state financial assistance 84019  
shall be carried out as follows: 84020

(1) PROSECUTION COSTS 84021

(a) Appropriations may be transferred to the Division of 84022  
Criminal Justice Services in the Department of Public Safety to 84023  
cover local prosecution costs for aggravated murder, murder, 84024  
felonies of the first degree, and felonies of the second degree 84025  
that occur on the grounds of institutions operated by the 84026  
Department of Rehabilitation and Correction and the Department of 84027  
Youth Services. 84028

(b) Upon a delinquency filing in juvenile court or the return 84029  
of an indictment for aggravated murder, murder, or any felony of 84030  
the first or second degree that was committed at a Department of 84031

Youth Services or a Department of Rehabilitation and Correction 84032  
institution, the affected county may, in accordance with rules 84033  
that the Division of Criminal Justice Services in the Department 84034  
of Public Safety shall adopt, apply to the Division of Criminal 84035  
Justice Services for a grant to cover all documented costs that 84036  
are incurred by the county prosecutor's office. 84037

(c) Twice each year, the Division of Criminal Justice 84038  
Services in the Department of Public Safety shall designate 84039  
counties to receive grants from those counties that have submitted 84040  
one or more applications in compliance with the rules that have 84041  
been adopted by the Division of Criminal Justice Services for the 84042  
receipt of such grants. In each year's first round of grant 84043  
awards, if sufficient appropriations have been made, up to a total 84044  
of \$100,000 may be awarded. In each year's second round of grant 84045  
awards, the remaining appropriations available for this purpose 84046  
may be awarded. 84047

(d) If for a given round of grants there are insufficient 84048  
appropriations to make grant awards to all the eligible counties, 84049  
the first priority shall be given to counties with cases involving 84050  
aggravated murder and murder; second priority shall be given to 84051  
counties with cases involving a felony of the first degree; and 84052  
third priority shall be given to counties with cases involving a 84053  
felony of the second degree. Within these priorities, the grant 84054  
awards shall be based on the order in which the applications were 84055  
received, except that applications for cases involving a felony of 84056  
the first or second degree shall not be considered in more than 84057  
two consecutive rounds of grant awards. 84058

(2) CHILD ABUSE DETECTION TRAINING COSTS 84059

Appropriations may be transferred to the Department of 84060  
Education for disbursement to local school districts as full or 84061  
partial reimbursement for the cost of providing in-service 84062

training for child abuse detection. In accordance with rules that 84063  
the department shall adopt, a local school district may apply to 84064  
the department for a grant to cover all documented costs that are 84065  
incurred to provide in-service training for child abuse detection. 84066  
The department shall make grants within the limits of the funding 84067  
provided. 84068

(G) Any moneys allocated within appropriation item 911-404, 84069  
Mandate Assistance, not fully utilized may, upon application of 84070  
the Ohio Public Defender Commission, and with the approval of the 84071  
Controlling Board, be disbursed to boards of county commissioners 84072  
to provide additional reimbursement for the costs incurred by 84073  
counties in providing defense to indigent defendants pursuant to 84074  
Chapter 120. of the Revised Code. Application for the unutilized 84075  
funds shall be made by the Ohio Public Defender Commission at the 84076  
first June meeting of the Controlling Board. 84077

The amount to be disbursed to each county shall be allocated 84078  
proportionately on the basis of the total amount of reimbursement 84079  
paid to each county as a percentage of the amount of reimbursement 84080  
paid to all of the counties during the most recent state fiscal 84081  
year for which data is available and as calculated by the Ohio 84082  
Public Defender Commission. 84083

BALLOT ADVERTISING COSTS 84084

Pursuant to requests submitted by the Ohio Ballot Board, the 84085  
Controlling Board shall approve transfers from the foregoing 84086  
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 84087  
Ballot Board appropriation item in order to reimburse county 84088  
boards of elections for the cost of public notices associated with 84089  
statewide ballot initiatives. 84090

**Section 203.84.** COS STATE BOARD OF COSMETOLOGY 84091

General Services Fund Group 84092

4K9 879-609 Operating Expenses	\$	2,929,630	\$	0	84093
TOTAL GSF General Services Fund					84094
Group	\$	2,929,630	\$	0	84095
TOTAL ALL BUDGET FUND GROUPS	\$	2,929,630	\$	0	84096

<b>Section 203.87.</b> CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE					84098
AND FAMILY THERAPIST BOARD					84099
General Services Fund Group					84100
4K9 899-609 Operating Expenses	\$	1,058,445	\$	0	84101
TOTAL GSF General Services Fund					84102
Group	\$	1,058,445	\$	0	84103
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,445	\$	0	84104

<b>Section 203.90.</b> CLA COURT OF CLAIMS					84106
General Revenue Fund					84107
GRF 015-321 Operating Expenses	\$	2,598,040	\$	2,678,331	84108
TOTAL GRF General Revenue Fund	\$	2,598,040	\$	2,678,331	84109
State Special Revenue Fund Group					84110
5K2 015-603 CLA Victims of Crime	\$	1,582,684	\$	1,582,684	84111
TOTAL SSR State Special Revenue					84112
Fund Group	\$	1,582,684	\$	1,582,684	84113
TOTAL ALL BUDGET FUND GROUPS	\$	4,180,724	\$	4,261,015	84114

<b>Section 203.91.</b> AFC OHIO CULTURAL FACILITIES COMMISSION					84116
General Revenue Fund					84117
GRF 371-321 Operating Expenses	\$	198,406	\$	195,707	84118
GRF 371-401 Lease Rental Payments	\$	38,126,600	\$	38,246,500	84119
TOTAL GRF General Revenue Fund	\$	38,325,006	\$	38,442,207	84120
State Special Revenue Fund Group					84121
4T8 371-601 Riffe Theatre	\$	81,000	\$	81,000	84122
Equipment Maintenance					
4T8 371-603 Project Administration	\$	920,448	\$	983,295	84123



TOTAL SSR State Special Revenue	\$	1,001,448	\$	1,064,295	84124
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	39,326,454	\$	39,506,502	84125
LEASE RENTAL PAYMENTS					84126
The foregoing appropriation item 371-401, Lease Rental					84127
Payments, shall be used for payments to the Ohio Building					84128
Authority and the Treasurer of State for the period from July 1,					84129
2005, to June 30, 2007, under the primary leases and agreements					84130
for those arts and sports facilities made under Chapters 152. and					84131
154. of the Revised Code, but limited to the aggregate amount of					84132
\$76,373,100. This appropriation is the source of funds pledged for					84133
bond service charges on related obligations issued pursuant to					84134
Chapter 152. of the Revised Code.					84135
OPERATING EXPENSES					84136
The foregoing appropriation item 371-321, Operating Expenses,					84137
shall be used by the Ohio Cultural Facilities Commission to carry					84138
out its responsibilities under this section and Chapter 3383. of					84139
the Revised Code.					84140
By July 10, 2005, or as soon as possible thereafter, the					84141
Director of Budget and Management shall determine the amount of					84142
cash from interest earnings to be transferred from the Ohio					84143
Cultural Facilities Building Fund (Fund 030) to the AFC					84144
Administration Fund (Fund 4T8).					84145
By July 10, 2006, or as soon as possible thereafter, the					84146
Director of Budget and Management shall determine the amount of					84147
cash from interest earnings to be transferred from the Ohio					84148
Cultural Facilities Building Fund (Fund 030) to the AFC					84149
Administration Fund (Fund 4T8).					84150
As soon as possible after each bond issuance made on behalf					84151
of the Cultural Facilities Commission, the Director of Budget and					84152
Management shall determine the amount of cash from the premium					84153

paid on each issuance to be transferred from the Ohio Cultural and 84154  
Sports Facilities Building Fund (Fund 030) to the AFC 84155  
Administration Fund (Fund 4T8). 84156

**Section 203.93.** DEN STATE DENTAL BOARD 84157

General Services Fund Group 84158  
4K9 880-609 Operating Expenses \$ 1,424,791 \$ 1,424,791 84159  
TOTAL GSF General Services Fund 84160  
Group \$ 1,424,791 \$ 1,424,791 84161  
TOTAL ALL BUDGET FUND GROUPS \$ 1,424,791 \$ 1,424,791 84162

**Section 203.96.** BDP BOARD OF DEPOSIT 84164

General Services Fund Group 84165  
4M2 974-601 Board of Deposit \$ 1,676,000 \$ 1,676,000 84166  
TOTAL GSF General Services Fund 84167  
Group \$ 1,676,000 \$ 1,676,000 84168  
TOTAL ALL BUDGET FUND GROUPS \$ 1,676,000 \$ 1,676,000 84169

BOARD OF DEPOSIT EXPENSE FUND 84170

Upon receiving certification of expenses from the Treasurer 84171  
of State, the Director of Budget and Management shall transfer 84172  
cash from the Investment Earnings Redistribution Fund (Fund 608) 84173  
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 84174  
shall be used to pay for banking charges and fees required for the 84175  
operation of the State of Ohio Regular Account. 84176

**Section 203.99.** DEV DEPARTMENT OF DEVELOPMENT 84177

General Revenue Fund 84178  
GRF 195-321 Operating Expenses \$ 2,688,908 \$ 2,688,908 84179  
GRF 195-401 Thomas Edison Program \$ 15,554,838 \$ 15,454,838 84180  
GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 84181  
Development

GRF 195-405	Minority Business Development Division	\$ 1,580,291	\$ 1,580,291	84182
GRF 195-407	Travel and Tourism	\$ 6,812,845	\$ 6,712,845	84183
GRF 195-410	Defense Conversion Assistance	\$ 300,000	\$ 200,000	84184
GRF 195-412	Business Development Grants	\$ 10,000,000	\$ 10,000,000	84185
GRF 195-415	Economic Development Division and Regional Offices	\$ 5,794,975	\$ 5,894,975	84186
GRF 195-416	Governor's Office of Appalachia	\$ 4,122,372	\$ 4,122,372	84187
GRF 195-422	Third Frontier Action Fund	\$ 16,790,000	\$ 16,790,000	84188
GRF 195-426	Clean Ohio Implementation	\$ 300,000	\$ 300,000	84189
GRF 195-432	International Trade	\$ 4,223,787	\$ 4,223,787	84190
GRF 195-434	Investment in Training Grants	\$ 12,227,500	\$ 12,227,500	84191
GRF 195-436	Labor/Management Cooperation	\$ 811,869	\$ 811,869	84192
GRF 195-497	CDBG Operating Match	\$ 1,040,956	\$ 1,040,956	84193
GRF 195-498	State Match Energy	\$ 94,000	\$ 94,000	84194
GRF 195-501	Appalachian Local Development Districts	\$ 380,080	\$ 380,080	84195
GRF 195-502	Appalachian Regional Commission Dues	\$ 246,803	\$ 246,803	84196
GRF 195-507	Travel and Tourism Grants	\$ 1,282,500	\$ 1,157,500	84197
GRF 195-515	Economic Development Contingency	\$ 10,000,000	\$ 0	84198
GRF 195-905	Third Frontier Research &	\$ 0	\$ 13,910,000	84199

	Commercialization						
	General Obligation						
	Debt Service						
TOTAL GRF	General Revenue Fund	\$	95,992,446	\$	99,577,446		
					84200		
	General Services Fund Group				84201		
135	195-605	Supportive Services	\$	7,450,000	\$	7,539,686	84202
5AD	195-667	Investment in Training	\$	5,000,000	\$	5,000,000	84203
		Expansion					
5AD	195-668	Worker Guarantee	\$	3,000,000	\$	3,000,000	84204
		Program					
5AD	195-677	Economic Development	\$	0	\$	10,000,000	84205
		Contingency					
685	195-636	General Reimbursements	\$	1,000,000	\$	1,000,000	84206
TOTAL GSF	General Services Fund						84207
Group			\$	16,450,000	\$	26,539,686	84208
	Federal Special Revenue Fund Group						84209
3AE	195-643	Workforce Development	\$	5,800,000	\$	5,800,000	84210
		Initiatives					
3K8	195-613	Community Development	\$	65,000,000	\$	65,000,000	84211
		Block Grant					
3K9	195-611	Home Energy Assistance	\$	90,500,000	\$	90,500,000	84212
		Block Grant					
3K9	195-614	HEAP Weatherization	\$	16,219,478	\$	16,219,478	84213
3L0	195-612	Community Services	\$	25,235,000	\$	25,235,000	84214
		Block Grant					
3V1	195-601	HOME Program	\$	40,000,000	\$	40,000,000	84215
308	195-602	Appalachian Regional	\$	600,660	\$	600,660	84216
		Commission					
308	195-603	Housing and Urban	\$	5,000,000	\$	5,000,000	84217
		Development					
308	195-605	Federal Projects	\$	15,300,249	\$	15,300,249	84218
308	195-609	Small Business	\$	4,296,381	\$	4,296,381	84219

		Administration					
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	84220
335	195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000	84221
		TOTAL FED Federal Special Revenue					84222
		Fund Group	\$	274,349,427	\$	274,349,427	84223
		State Special Revenue Fund Group					84224
4F2	195-639	State Special Projects	\$	290,183	\$	290,183	84225
4F2	195-676	Promote Ohio	\$	4,978,210	\$	4,978,210	84226
4S0	195-630	Enterprise Zone	\$	275,000	\$	275,000	84227
		Operating					
4S1	195-634	Job Creation Tax	\$	375,800	\$	375,800	84228
		Credit Operating					
4W1	195-646	Minority Business	\$	2,580,597	\$	2,580,597	84229
		Enterprise Loan					
444	195-607	Water and Sewer	\$	523,775	\$	523,775	84230
		Commission Loans					
450	195-624	Minority Business	\$	53,967	\$	53,967	84231
		Bonding Program					
		Administration					
451	195-625	Economic Development	\$	2,358,311	\$	2,358,311	84232
		Financing Operating					
5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000	84233
5CG	195-679	Alternative Fuel	\$	150,000	\$	150,000	84234
		Transportation					
XXX	195-XXX	Defense Conversion	\$	1,000,000	\$	0	84235
		Assistance					
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000	84236
5M5	195-660	Energy Efficiency Loan	\$	12,000,000	\$	12,000,000	84237
		and Grant					
5X1	195-651	Exempt Facility	\$	25,000	\$	25,000	84238
		Inspection					
611	195-631	Water and Sewer	\$	15,713	\$	15,713	84239
		Administration					

617	195-654	Volume Cap Administration	\$	200,000	\$	200,000	84240
646	195-638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000	84241
TOTAL SSR State Special Revenue							84242
Fund Group			\$	292,826,556	\$	291,826,556	84243
Facilities Establishment Fund Group							84244
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000	84245
010	195-665	Research and Development	\$	50,000,000	\$	50,000,000	84246
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149	84247
4Z6	195-647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000	84248
5D2	195-650	Urban Redevelopment Loans	\$	5,475,000	\$	5,475,000	84249
5H1	195-652	Family Farm Loan Guarantee	\$	1,000,000	\$	1,000,000	84250
5S8	195-627	Rural Development Initiative	\$	3,000,000	\$	3,000,000	84251
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000	84252
TOTAL 037 Facilities Establishment Fund Group							84253
			\$	179,406,149	\$	179,406,149	84254
Clean Ohio Revitalization Fund							84255
003	195-663	Clean Ohio Operating	\$	350,000	\$	350,000	84256
TOTAL 003 Clean Ohio Revitalization Fund							84257
TOTAL ALL BUDGET FUND GROUPS			\$	859,374,578	\$	872,049,264	84258
<b>Section 203.99.03. THOMAS EDISON PROGRAM</b>							84260

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of the program by the Technology Division. 84261  
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Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2006 and \$2,300,000 in fiscal year 2007 shall be used for operating expenditures in administering the programs of the Technology Division. 84269  
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The Department of Development, in consultation with the Third Frontier Commission, shall develop a plan providing for appropriate, value-added participation of Edison Centers and Incubators in Third Frontier Project proposals and grants. 84274  
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The Department of Development shall work with Edison Centers and Incubators and the Third Frontier Network, when appropriate, to provide for Third Frontier Network connections to Edison Centers and Incubators and their tenants and, as appropriate, clients. 84278  
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Of the foregoing appropriation item 195-401, Thomas Edison Program, \$100,000 in fiscal year 2006 shall be used for technology recruitment, development, and construction. 84283  
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**Section 203.99.06. SMALL BUSINESS DEVELOPMENT** 84286

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed. 84287  
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The foregoing appropriation item 195-404, Small Business 84290

Development, may be used to provide grants to local organizations 84291  
to support the operation of Small Business Development Centers and 84292  
other local economic development activity promoting small 84293  
business, and for the cost of administering the small business 84294  
development center program. The centers shall provide technical, 84295  
financial, and management consultation for small business and 84296  
shall facilitate access to state and federal programs. These funds 84297  
shall be used as matching funds for grants from the United States 84298  
Small Business Administration and other federal agencies, pursuant 84299  
to Public Law No. 96-302 (1980) as amended by Public Law No. 84300  
98-395 (1984), and regulations and policy guidelines for the 84301  
programs under this law. 84302

In addition, the Office of Small Business may operate the 84303  
1st-Stop Business Connection and implement and coordinate the 84304  
duties imposed on the Department of Development by Am. Sub. S.B. 84305  
239 of the 115th General Assembly. 84306

MINORITY BUSINESS DEVELOPMENT DIVISION 84307

Of the foregoing appropriation item 195-405, Minority 84308  
Business Development Division, up to \$1,060,000 but not less than 84309  
\$954,000 in each fiscal year shall be used to fund minority 84310  
contractors and business assistance organizations. The Minority 84311  
Business Development Division shall determine which cities need 84312  
minority contractors and business assistance organizations by 84313  
utilizing United States Census Bureau data and zip codes to locate 84314  
the highest concentrations of minority businesses. The Minority 84315  
Business Development Division also shall determine the numbers of 84316  
minority contractors and business assistance organizations 84317  
necessary and the amount of funding to be provided each. In 84318  
addition, the Minority Business Development Division shall 84319  
continue to plan and implement business conferences. 84320

**Section 203.99.09. BUSINESS DEVELOPMENT** 84321



The foregoing appropriation item 195-412, Business 84322  
Development Grants, shall be used as an incentive for attracting 84323  
and retaining business opportunities for the state. Any such 84324  
business opportunity, whether new, expanding, or relocating in 84325  
Ohio, is eligible for funding. The project must create or retain a 84326  
significant number of jobs for Ohioans. Grant awards may be 84327  
considered only when (1) the project's viability hinges on an 84328  
award of funds from appropriation item 195-412, Business 84329  
Development Grants; (2) all other public or private sources of 84330  
financing have been considered; or (3) the funds act as a catalyst 84331  
for the infusion into the project of other financing sources. 84332

The department's primary goal shall be to award funds to 84333  
political subdivisions of the state for off-site infrastructure 84334  
improvements. In order to meet the particular needs of economic 84335  
development in a region, the department may elect to award funds 84336  
directly to a business for on-site infrastructure improvements. 84337  
"Infrastructure improvements" mean improvements to water system 84338  
facilities, sewer and sewage treatment facilities, electric or gas 84339  
service facilities, fiber optic facilities, rail facilities, site 84340  
preparation, and parking facilities. The Director of Development 84341  
may recommend the funds be used in an alternative manner when 84342  
considered appropriate to meet an extraordinary economic 84343  
development opportunity or need. 84344

The foregoing appropriation item 195-412, Business 84345  
Development Grants, may be expended only after the submission of a 84346  
request to the Controlling Board by the Department of Development 84347  
outlining the planned use of the funds, and the subsequent 84348  
approval of the request by the Controlling Board. 84349

The foregoing appropriation item 195-412, Business 84350  
Development Grants, may be used for, but is not limited to, 84351  
construction, rehabilitation, and acquisition projects for rail 84352  
freight assistance as requested by the Department of 84353

Transportation. The Director of Transportation shall submit the  
proposed projects to the Director of Development for an evaluation  
of potential economic benefit.

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**Section 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL  
OFFICES**

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The foregoing appropriation item 195-415, Economic  
Development Division and Regional Offices, shall be used for the  
operating expenses of the Economic Development Division and the  
regional economic development offices and for grants for  
cooperative economic development ventures.

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**Section 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA**

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The foregoing appropriation item 195-416, Governor's Office  
of Appalachia, shall be used for the administrative costs of  
planning and liaison activities for the Governor's Office of  
Appalachia. Funds not expended for planning and liaison activities  
may be expended for special project grants within the Appalachian  
Region.

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Of the foregoing appropriation item 195-416, Governor's  
Office of Appalachia, up to \$250,000 each fiscal year shall be  
used to match federal funds from the Appalachian Regional  
Commission to provide job training to impact the Appalachian  
Region.

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Of the foregoing appropriation item 195-416, Governor's  
Office of Appalachia, up to \$4,122,372 in each fiscal year shall  
be used in conjunction with other federal and state funds to  
provide financial assistance to projects in Ohio's Appalachian  
counties in order to further the goals of the Appalachian Regional  
Commission. The projects and project sponsors shall meet  
Appalachian Regional Commission eligibility requirements. Grants  
shall be administered by the Department of Development.

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**Section 203.99.18. THIRD FRONTIER ACTION FUND** 84384

The foregoing appropriation item 195-422, Third Frontier 84385  
Action Fund, shall be used to make grants under sections 184.01 84386  
and 184.02 of the Revised Code. Prior to the release of funds from 84387  
appropriation item 195-422, Third Frontier Action Fund, each grant 84388  
award shall be recommended for funding by the Third Frontier 84389  
Commission and obtain approval from the Controlling Board. 84390

Of the foregoing appropriation item 195-422, Third Frontier 84391  
Action Fund, not more than six per cent in each fiscal year shall 84392  
be used for operating expenditures in administering the program. 84393

In addition to the six per cent for operating expenditures, 84394  
an additional administrative amount, not to exceed \$1,500,000 84395  
within the biennium, shall be available for proposal evaluation, 84396  
research and analyses, and marketing efforts considered necessary 84397  
to receive and disseminate information about science and 84398  
technology-related opportunities in the state. 84399

**SCIENCE AND TECHNOLOGY COLLABORATION** 84400

The Department of Development shall work in close 84401  
collaboration with the Board of Regents, the Air Quality 84402  
Development Authority, and the Third Frontier Commission in 84403  
relation to appropriation items and programs referred to as 84404  
Alignment Programs in the following paragraph, and other 84405  
technology-related appropriations and programs in the Department 84406  
of Development, Air Quality Development Authority, and the Board 84407  
of Regents as these agencies may designate, to ensure 84408  
implementation of a coherent state strategy with respect to 84409  
science and technology. 84410

"Alignment Programs" means appropriation items 195-401, 84411  
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 84412  
Third Frontier Action Fund; 898-604, Coal Research and Development 84413

Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 84414  
Institute of Technology; 235-510, Ohio Supercomputer Center; 84415  
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 84416  
235-535, Ohio Agricultural Research and Development Center; 84417  
235-553, Dayton Area Graduate Studies Institute; 235-554, 84418  
Priorities in Collaborative Graduate Education; 235-556, Ohio 84419  
Academic Resources Network; and 195-435, Biomedical Research and 84420  
Technology Transfer Trust. 84421

Consistent with the recommendations of the Governor's 84422  
Commission on Higher Education and the Economy, Alignment Programs 84423  
shall be managed and administered in accordance with the following 84424  
objectives: (1) to build on existing competitive research 84425  
strengths; (2) to encourage new and emerging discoveries and 84426  
commercialization of products and ideas that will benefit the Ohio 84427  
economy; (3) and to assure improved collaboration among Alignment 84428  
Programs with programs administered by the Third Frontier 84429  
Commission and with other state programs that are intended to 84430  
improve economic growth and job creation. As directed by the Third 84431  
Frontier Commission, Alignment Program managers shall report to 84432  
the Commission or the Third Frontier Advisory Board regarding the 84433  
contributions of their programs to achieving these objectives. 84434

Each Alignment Program shall be reviewed annually by the 84435  
Third Frontier Commission with respect to its development of 84436  
complementary relationships within a combined state science and 84437  
technology investment portfolio, and with respect to its overall 84438  
contribution to the state's science and technology strategy, 84439  
including the adoption of appropriately consistent criteria for: 84440  
(1) the scientific merit of activities supported by the program; 84441  
(2) the relevance of the program's activities to commercial 84442  
opportunities in the private sector; (3) the private sector's 84443  
involvement in a process that continually evaluates commercial 84444  
opportunities to use the work supported by the program; and (4) 84445

the ability of the program and recipients of grant funding from 84446  
the program to engage in activities that are collaborative, 84447  
complementary, and efficient with respect to the expenditures of 84448  
state funds. Each Alignment Program shall provide an annual report 84449  
to the Third Frontier Commission that discusses existing, planned, 84450  
or possible collaborations between programs and between recipients 84451  
of grant funding related to technology, development, 84452  
commercialization, and the support of Ohio's economic development. 84453  
The annual review conducted by the Third Frontier Commission shall 84454  
be a comprehensive review of the entire state science and 84455  
technology program portfolio rather than a review of individual 84456  
programs. 84457

Applicants for Third Frontier and Alignment Programs funding 84458  
shall identify their requirements for high-performance computing 84459  
facilities and services, including both hardware and software, in 84460  
all proposals. If an applicant's requirements exceed approximately 84461  
\$100,000 for a proposal, the Ohio Supercomputer Center shall 84462  
convene a panel of experts. The panel shall review the proposal to 84463  
determine whether the proposal's requirements can be met through 84464  
Ohio Supercomputer Center facilities or through other means and 84465  
report such information to the Third Frontier Commission. 84466

To ensure that the state receives the maximum benefit from 84467  
its investment in the Third Frontier Project and the Third 84468  
Frontier Network, organizations receiving Third Frontier awards 84469  
and Alignment Programs awards shall, as appropriate, be expected 84470  
to have a connection to the Third Frontier Network that enables 84471  
them and their collaborators to achieve award objectives through 84472  
the Third Frontier Network. 84473

**Section 203.99.21. INTERNATIONAL TRADE** 84474

The foregoing appropriation item 195-432, International 84475  
Trade, shall be used to operate and to maintain Ohio's 84476

out-of-state trade offices.	84477
The Director of Development may enter into contracts with foreign nationals to staff foreign offices. The contracts may be paid in local currency or United States currency and shall be exempt from section 127.16 of the Revised Code. The director also may establish foreign currency accounts under section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of the foreign trade offices.	84478 84479 84480 84481 84482 84483 84484
The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and to assist Ohio manufacturers and agricultural producers in exporting to foreign countries in conjunction with the Department of Agriculture.	84485 84486 84487 84488 84489
Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.	84490 84491 84492 84493
<b>Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM</b>	84494
The foregoing appropriation items 195-434, Investment in Training Grants, and 195-667, Investment in Training Expansion, shall be used to promote training through grants for the reimbursement of eligible training expenses.	84495 84496 84497 84498
<b>Section 203.99.27. CDBG OPERATING MATCH</b>	84499
The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program.	84500 84501 84502 84503 84504
STATE OPERATING MATCH	84505

The foregoing appropriation item 195-498, State Match Energy, 84506  
shall be used to provide matching funds as required by the United 84507  
States Department of Energy to administer the federally funded 84508  
State Energy Plan. 84509

**Section 203.99.30. TRAVEL AND TOURISM GRANTS** 84510

The foregoing appropriation item 195-507, Travel and Tourism 84511  
Grants, shall be used to provide grants to local organizations to 84512  
support various local travel and tourism events in Ohio. 84513

Of the foregoing appropriation item 195-507, Travel and 84514  
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84515  
Lorain County Visitors Bureau. 84516

Of the foregoing appropriation item 195-507, Travel and 84517  
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84518  
Sandusky/Erie County Visitors and Convention Bureau. 84519

Of the foregoing appropriation item 195-507, Travel and 84520  
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84521  
Ottawa County Convention and Visitors Bureau. 84522

Of the foregoing appropriation item 195-507, Travel and 84523  
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84524  
Greene County Convention and Visitors Bureau. 84525

Of the foregoing appropriation item 195-507, Travel and 84526  
Tourism Grants, \$45,000 in each fiscal year shall be used for the 84527  
Warren County Convention and Visitors Bureau. 84528

Of the foregoing appropriation item 195-507, Travel and 84529  
Tourism Grants, \$25,000 in each fiscal year shall be used for 84530  
grants to the Wood County Economic Development Commission. 84531

Of the foregoing appropriation item 195-507, Travel and 84532  
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84533  
Wright Dunbar Historical Site. 84534

Of the foregoing appropriation item 195-507, Travel and 84535  
Tourism Grants, up to \$120,000 in each fiscal year may be used to 84536  
support the outdoor dramas "Trumpet in the Land," "Blue Jacket," 84537  
and "Tecumseh!". 84538

Of the foregoing appropriation item 195-507, Travel and 84539  
Tourism Grants, \$40,000 in each fiscal year shall be used for the 84540  
Cincinnati Film Commission and \$40,000 in each fiscal year shall 84541  
be used for the Cleveland Film Commission. 84542

Of the foregoing appropriation item 195-507, Travel and 84543  
Tourism Grants, \$100,000 in each fiscal year shall be used for the 84544  
Cleveland Institute of Art. 84545

Of the foregoing appropriation item 195-507, Travel and 84546  
Tourism Grants, up to \$500,000 in each fiscal year shall be used 84547  
for grants to The International Center for the Preservation of 84548  
Wild Animals. 84549

Of the foregoing appropriation item 195-507, Travel and 84550  
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84551  
Lake Shore Railway Association, Inc. 84552

Of the foregoing appropriation item 195-507, Travel and 84553  
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84554  
Ohio River Trails program. 84555

Of the foregoing appropriation item 195-507, Travel and 84556  
Tourism Grants, \$12,500 in each fiscal year shall be used for the 84557  
Morgan County Community Improvement Corporation. 84558

Of the foregoing appropriation item 195-507, Travel and 84559  
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 84560  
Ohio Buckeye Junior Hereford Association. 84561

Of the foregoing appropriation item 195-507, Travel and 84562  
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for 84563  
grants to the NCR U.S. Senior Open. 84564



**Section 203.99.33.** THIRD FRONTIER RESEARCH & 84565  
COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE 84566

The foregoing appropriation item 195-905, Third Frontier 84567  
Research & Commercialization General Obligation Debt Service, 84568  
shall be used to pay all debt service and related financing costs 84569  
during the period from July 1, 2005, to June 30, 2007, on 84570  
obligations to be issued for research and development purposes, as 84571  
authorized by the Ohio Constitution and implementing statutes. The 84572  
Office of the Sinking Fund or the Director of Budget and 84573  
Management shall effectuate the required payments by intrastate 84574  
transfer voucher. 84575

**Section 203.99.36.** SUPPORTIVE SERVICES 84576

The Director of Development may assess divisions of the 84577  
department for the cost of central service operations. An 84578  
assessment shall be based on a plan submitted to and approved by 84579  
the Office of Budget and Management by August 1, 2005, and shall 84580  
contain the characteristics of administrative ease and uniform 84581  
application. 84582

A division's payments shall be credited to the Supportive 84583  
Services Fund (Fund 135) using an intrastate transfer voucher. 84584

GENERAL REIMBURSEMENT 84585

The foregoing appropriation item 195-636, General 84586  
Reimbursements, shall be used for conference and subscription fees 84587  
and other reimbursable costs. Revenues to the General 84588  
Reimbursement Fund (Fund 685) shall consist of fees and other 84589  
moneys charged for conferences, subscriptions, and other 84590  
administrative costs that are not central service costs. 84591

WORKER GUARANTEE PROGRAM 84592

The foregoing appropriation item 195-668, Worker Guarantee 84593

Program, shall be used for the Worker Guarantee Program. 84594

Benefited employers must create at least 100 high-paying, 84595  
full-time jobs over a three-year period and must demonstrate prior 84596  
to the commitment of state funds that the availability of those 84597  
skilled workers is a major factor in the employer's decision to 84598  
locate or expand in Ohio. Activities eligible for funding through 84599  
the Worker Guarantee Program include job assessment services, 84600  
screening and testing of potential employees, customized training 84601  
activities, and any other training or related service determined 84602  
by the Director. 84603

A local workforce development service provider may include, 84604  
but is not limited to, a community college, technical or 84605  
vocational school, one-stop center, or any other entity designated 84606  
by the Director of Development to provide services under the 84607  
program. 84608

State matching funds totaling one-third of a project's cost 84609  
shall be provided for each approved project when an employer and 84610  
any local workforce development service provider, in conjunction 84611  
with the local community, contracts with the Department of 84612  
Development to provide services under the program. The employer 84613  
and the local community each shall provide matching funds totaling 84614  
one-third of a project's cost, and each portion of the matching 84615  
funds shall be equal to state funding, which also shall be 84616  
one-third of a project's cost. 84617

The state shall count in-kind contributions when determining 84618  
a contribution from entities associated with the local community. 84619

The Director of Development, under Chapter 119. of the 84620  
Revised Code, shall adopt, and may amend or rescind, rules the 84621  
Director finds necessary for the implementation and successful 84622  
operation of the Worker Guarantee Program. 84623

**Section 203.99.37. TRAINING SERVICES** 84624

Of the foregoing appropriation item 195-605, Federal 84625  
Projects, \$400,000 in each fiscal year shall be used for grants to 84626  
the Ohio Weatherization Training Center, administered by the 84627  
Corporation for Ohio Appalachian Development, for training and 84628  
technical assistance services. 84629

**Section 203.99.39. HEAP WEATHERIZATION** 84630

Fifteen per cent of the federal funds received by the state 84631  
for the Home Energy Assistance Block Grant shall be deposited in 84632  
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 84633  
shall be used to provide home weatherization services in the 84634  
state. 84635

Of the foregoing appropriation item 195-614, HEAP 84636  
Weatherization, \$200,000 in each fiscal year shall be used for 84637  
grants to the Ohio Weatherization Training Center, administered by 84638  
the Corporation for Ohio Appalachian Development, for training and 84639  
technical assistance services. 84640

**STATE SPECIAL PROJECTS** 84641

The foregoing fund, Fund 4F2, State Special Projects, shall 84642  
be used for the deposit of private-sector funds from utility 84643  
companies and for the deposit of other miscellaneous state funds. 84644  
Private-sector moneys shall be used to (1) pay the expenses of 84645  
verifying the income-eligibility of HEAP applicants, (2) market 84646  
economic development opportunities in the state, and (3) leverage 84647  
additional federal funds. State funds shall be used to match 84648  
federal housing grants for the homeless and to market economic 84649  
development opportunities in the state. 84650

**Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN** 84651

All repayments from the Minority Development Financing  
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee  
Program shall be deposited in the State Treasury to the credit of  
the Minority Business Enterprise Loan Fund (Fund 4W1).

All operating costs of administering the Minority Business  
Enterprise Loan Fund shall be paid from the Minority Business  
Enterprise Loan Fund (Fund 4WI).

MINORITY BUSINESS BONDING FUND 84659

Notwithstanding Chapters 122., 169., and 175. of the Revised  
Code and other provisions of Am. Sub. H.B. 283 of the 123rd  
General Assembly, the Director of Development may, upon the  
recommendation of the Minority Development Financing Advisory  
Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of  
unclaimed funds administered by the Director of Commerce and  
allocated to the Minority Business Bonding Program under section  
169.05 of the Revised Code. The transfer of any cash by the  
Director of Budget and Management from the Department of  
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of  
Development's Minority Business Bonding Fund (Fund 449) shall  
occur, if requested by the Director of Development, only if such  
funds are needed for payment of losses arising from the Minority  
Business Bonding Program, and only after proceeds of the initial  
transfer of \$2,700,000 by the Controlling Board to the Minority  
Business Bonding Program has been used for that purpose. Moneys  
transferred by the Director of Budget and Management from the  
Department of Commerce for this purpose may be moneys in custodial  
funds held by the Treasurer of State. If expenditures are required  
for payment of losses arising from the Minority Business Bonding  
Program, such expenditures shall be made from appropriation item  
195-623, Minority Business Bonding Contingency in the Minority  
Business Bonding Fund, and such amounts are appropriated.

<b>Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING</b>	84683
The foregoing appropriation item 195-625, Economic	84684
Development Financing Operating, shall be used for the operating	84685
expenses of financial assistance programs authorized under Chapter	84686
166. of the Revised Code and under sections 122.43 and 122.45 of	84687
the Revised Code.	84688
<b>VOLUME CAP ADMINISTRATION</b>	84689
The foregoing appropriation item 195-654, Volume Cap	84690
Administration, shall be used for expenses related to the	84691
administration of the Volume Cap Program. Revenues received by the	84692
Volume Cap Administration Fund (Fund 617) shall consist of	84693
application fees, forfeited deposits, and interest earned from the	84694
custodial account held by the Treasurer of State.	84695
<b>UNIVERSAL SERVICE FUND</b>	84696
The foregoing appropriation item 195-659, Universal Service,	84697
shall be used to provide payments to regulated electric utility	84698
companies for low-income customers enrolled in Percentage of	84699
Income Payment Plan (PIPP) electric accounts, to fund targeted	84700
energy efficiency and customer education services to PIPP	84701
customers, and to cover the department's administrative costs	84702
related to Universal Service Fund Programs.	84703
<b>SHOVEL READY SITES</b>	84704
The foregoing appropriation item 195-678, Shovel Ready Sites,	84705
shall be used to administer the Shovel Ready Sites Program under	84706
section 122.083 of the Revised Code.	84707
<b>ALTERNATIVE FUEL TRANSPORTATION</b>	84708
The foregoing appropriation item 195-679, Alternative Fuel	84709
Transportation, shall be used by the Director of Development to	84710
make grants under the Alternative Fuel Transportation Grant Fund	84711

Program in accordance with section 122.075 of the Revised Code, 84712  
and for administrative costs associated with the program. 84713

TRANSFER OF UNCLAIMED FUNDS TO THE DEFENSE CONVERSION 84714  
ASSISTANCE FUND FOR BASE REALIGNMENT AND CLOSURE GRANTS 84715

(A) There is hereby created in the State Treasury the Defense 84716  
Conversion Assistance Fund (Fund XXX). The fund shall consist of 84717  
all cash deposited to it pursuant to division (C) of this section. 84718

(B) The foregoing appropriation item 195-XXX, Defense 84719  
Conversion Assistance, shall be used by the Director of 84720  
Development to provide grants to local communities for costs 84721  
associated with the preparation and redevelopment of military 84722  
installations in Ohio that are slated for realignment or closure 84723  
under the United States Department of Defense Base Realignment and 84724  
Closure Program. 84725

(C) Notwithstanding division (A) of section 169.05 of the 84726  
Revised Code, upon the request of the Director of Budget and 84727  
Management, the Director of Commerce, prior to June 30, 2006, 84728  
shall transfer to the Defense Conversion Assistance Fund (Fund 84729  
XXX) \$1,000,000 of the unclaimed funds that have been reported by 84730  
the holders of unclaimed funds under section 169.05 of the Revised 84731  
Code regardless of the allocation of the unclaimed funds described 84732  
in that section. 84733

(D) On or before June 30, 2006, the unencumbered balance of 84734  
the foregoing appropriation item 195-XXX, Defense Conversion 84735  
Assistance, for fiscal year 2006 is hereby appropriated for the 84736  
same purpose for fiscal year 2007. 84737

ENERGY EFFICIENCY REVOLVING LOAN FUND 84738

The foregoing appropriation item 195-660, Energy Efficiency 84739  
Loan and Grant, shall be used to provide financial assistance to 84740  
customers for eligible energy efficiency projects for residential, 84741

commercial and industrial business, local government, educational 84742  
institution, nonprofit, and agriculture customers, and to pay for 84743  
the program's administrative costs as provided in the Revised Code 84744  
and rules adopted by the Director of Development. 84745

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84746  
THE INDUSTRIAL SITE IMPROVEMENTS FUND 84747

Notwithstanding Chapters 122. and 4928. of the Revised Code 84748  
and any other law to the contrary, the Director of Budget and 84749  
Management shall transfer \$2,500,000 in cash in fiscal year 2006 84750  
and \$2,500,000 in cash in fiscal year 2007 from the Energy 84751  
Efficiency Revolving Loan Fund (Fund 5M5) to the Industrial Site 84752  
Improvements Fund (Fund 5AR). 84753

Moneys in Fund 5AR, Industrial Site Improvements, shall be 84754  
used by the Director of Development to make grants to eligible 84755  
counties for the improvement of commercial or industrial areas 84756  
within those counties under section 122.951 of the Revised Code. 84757

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84758  
THE RAIL TRANSLOAD FACILITIES FUND 84759

Notwithstanding Chapters 122. and 4928. of the Revised Code 84760  
and any other law to the contrary, the Director of Budget and 84761  
Management shall transfer \$500,000 in cash in fiscal year 2006 84762  
from the Energy Efficiency Revolving Loan Fund (Fund 5M5) in the 84763  
Department of Development to the Rail Transload Facilities Fund 84764  
(Fund 5CF) in the Department of Transportation. 84765

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84766  
THE ALTERNATIVE FUEL TRANSPORTATION GRANT FUND 84767

Notwithstanding Chapter 4928. of the Revised Code and any 84768  
other law to the contrary, the Director of Budget and Management 84769  
shall transfer \$150,000 in cash in fiscal year 2006 and \$150,000 84770  
in cash in fiscal year 2007 from the Energy Efficiency Revolving 84771

Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant Fund (Fund 5CG).	84772 84773
GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS	84774
All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators (henceforth referred to as the "Global Analysts Settlement Agreements"), shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y6), which is hereby created in the state treasury. The fund shall be used by the Director of Development to support economic development projects for which appropriations would not otherwise be available, and shall be subject to the submission of a request to the Controlling Board by the Director outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.	84775 84776 84777 84778 84779 84780 84781 84782 84783 84784 84785 84786 84787 84788 84789
<b>Section 203.99.46.</b> TRANSFER FROM THE LOW- AND MODERATE-INCOME HOUSING TRUST FUND TO THE RESIDENTIAL STATE SUPPLEMENT FUND	84790 84791
Notwithstanding Chapter 175. of the Revised Code and any other law to the contrary, the Director of Budget and Management shall transfer \$1,500,000 in cash in fiscal year 2006 and \$1,500,000 in cash in fiscal year 2007 from the Low- and Moderate-Income Housing Trust Fund (Fund 646) in the Department of Development to the Residential State Supplement Fund (Fund 5CH) in the Department of Mental Health.	84792 84793 84794 84795 84796 84797 84798
<b>Section 203.99.48.</b> FACILITIES ESTABLISHMENT FUND	84799
The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the	84800 84801



Facilities Establishment Fund under Chapter 166. of the Revised Code. 84802  
84803

Notwithstanding Chapter 166. of the Revised Code, up to 84804  
\$1,800,000 in cash each fiscal year may be transferred from the 84805  
Facilities Establishment Fund (Fund 037) to the Economic 84806  
Development Financing Operating Fund (Fund 451). The transfer is 84807  
subject to Controlling Board approval under division (B) of 84808  
section 166.03 of the Revised Code. 84809

Notwithstanding Chapter 166. of the Revised Code, up to 84810  
\$5,000,000 in cash each fiscal year may be transferred from the 84811  
Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites 84812  
Fund (Fund 5CA). The transfer is subject to Controlling Board 84813  
approval under division (B) of section 166.03 of the Revised Code. 84814

Notwithstanding Chapter 166. of the Revised Code, up to 84815  
\$10,950,000 in cash may be transferred during the biennium from 84816  
the Facilities Establishment Fund (Fund 037) to the Urban 84817  
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 84818  
barriers to urban core redevelopment. The Director of Development 84819  
shall develop program guidelines for the transfer and release of 84820  
funds, including, but not limited to, the completion of all 84821  
appropriate environmental assessments before state assistance is 84822  
committed to a project. 84823

Notwithstanding Chapter 166. of the Revised Code, up to 84824  
\$3,000,000 each fiscal year in cash may be transferred from the 84825  
Facilities Establishment Fund (Fund 037) to the Rural Industrial 84826  
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 84827  
Board approval under section 166.03 of the Revised Code. 84828

FAMILY FARM LOAN PROGRAM 84829

Notwithstanding Chapter 166. of the Revised Code, up to 84830  
\$1,000,000 in each fiscal year shall be transferred from moneys in 84831  
the Facilities Establishment Fund (Fund 037) to the Family Farm 84832

Loan Guarantee Fund (Fund 5H1) in the Department of Development. 84833  
The moneys shall be used for loan guarantees. The transfer is 84834  
subject to Controlling Board approval. 84835

Financial assistance from the Family Farm Loan Guarantee Fund 84836  
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 84837  
under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the 84838  
Revised Code. 84839

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 84840  
exist, all outstanding balances, all loan repayments, and any 84841  
other outstanding obligations shall revert to the Facilities 84842  
Establishment Fund (Fund 037). 84843

RURAL DEVELOPMENT INITIATIVE FUND 84844

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is 84845  
entitled to receive moneys from the Facilities Establishment Fund 84846  
(Fund 037). The Director of Development may make grants from the 84847  
Rural Development Initiative Fund as specified in division (A)(2) 84848  
of this section to eligible applicants in Appalachian counties and 84849  
in rural counties in the state that are designated as distressed 84850  
under section 122.25 of the Revised Code. Preference shall be 84851  
given to eligible applicants located in Appalachian counties 84852  
designated as distressed by the federal Appalachian Regional 84853  
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 84854  
cease to exist after June 30, 2007. All moneys remaining in the 84855  
Fund after that date shall revert to the Facilities Establishment 84856  
Fund (Fund 037). 84857

(2) The Director of Development shall make grants from the 84858  
Rural Development Initiative Fund (Fund 5S8) only to eligible 84859  
applicants who also qualify for and receive funding under the 84860  
Rural Industrial Park Loan Program as specified in sections 122.23 84861  
to 122.27 of the Revised Code. Eligible applicants shall use the 84862  
grants for the purposes specified in section 122.24 of the Revised 84863

Code. All projects supported by grants from the fund are subject 84864  
to Chapter 4115. of the Revised Code as specified in division (E) 84865  
of section 166.02 of the Revised Code. The Director shall develop 84866  
program guidelines for the transfer and release of funds. The 84867  
release of grant moneys to an eligible applicant is subject to 84868  
Controlling Board approval. 84869

(B) Notwithstanding Chapter 166. of the Revised Code, the 84870  
Director of Budget and Management may transfer up to \$3,000,000 84871  
each fiscal year in cash on an as needed basis at the request of 84872  
the Director of Development from the Facilities Establishment Fund 84873  
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 84874  
The transfer is subject to Controlling Board approval under 84875  
section 166.03 of the Revised Code. 84876

CAPITAL ACCESS LOAN PROGRAM 84877

The foregoing appropriation item 195-628, Capital Access Loan 84878  
Program, shall be used for operating, program, and administrative 84879  
expenses of the program. Funds of the Capital Access Loan Program 84880  
shall be used to assist participating financial institutions in 84881  
making program loans to eligible businesses that face barriers in 84882  
accessing working capital and obtaining fixed asset financing. 84883

Notwithstanding Chapter 166. of the Revised Code, the 84884  
Director of Budget and Management may transfer up to \$3,000,000 84885  
each fiscal year in cash on an as needed basis at the request of 84886  
the Director of Development from the Facilities Establishment Fund 84887  
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 84888  
transfer is subject to Controlling Board approval under section 84889  
166.03 of the Revised Code. 84890

INNOVATION OHIO LOAN FUND 84891

The foregoing appropriation item 195-664, Innovation Ohio, 84892  
shall be used to provide for innovation Ohio purposes, including 84893  
loan guarantees and loans under Chapter 166. and particularly 84894

sections 166.12 to 166.16 of the Revised Code.	84895
RESEARCH AND DEVELOPMENT	84896
The foregoing appropriation item 195-665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.	84897 84898 84899 84900
<b>Section 203.99.51. CLEAN OHIO OPERATING EXPENSES</b>	84901
The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.	84902 84903 84904
<b>Section 203.99.54. UNCLAIMED FUNDS TRANSFER</b>	84905
(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$8,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.	84906 84907 84908 84909 84910 84911 84912 84913
Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$18,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.	84914 84915 84916 84917 84918 84919 84920 84921
(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and	84922 84923

Management, the Director of Commerce, prior to June 30, 2006, 84924  
shall transfer to the State Special Projects Fund (Fund 4F2) up to 84925  
\$4,978,210 of the unclaimed funds that have been reported by the 84926  
holders of unclaimed funds under section 169.05 of the Revised 84927  
Code, regardless of the allocation of the unclaimed funds 84928  
described under that section. 84929

Notwithstanding division (A) of section 169.05 of the Revised 84930  
Code, upon the request of the Director of Budget and Management, 84931  
the Director of Commerce, prior to June 30, 2007, shall transfer 84932  
to the State Special Projects Fund (Fund 4F2) up to \$4,978,210 of 84933  
the unclaimed funds that have been reported by the holders of 84934  
unclaimed funds under section 169.05 of the Revised Code, 84935  
regardless of the allocation of the unclaimed funds described 84936  
under that section. 84937

**Section 206.03. OBD OHIO BOARD OF DIETETICS** 84938

General Services Fund Group 84939  
4K9 860-609 Operating Expenses \$ 332,495 \$ 0 84940  
TOTAL GSF General Services Fund 84941  
Group \$ 332,495 \$ 0 84942  
TOTAL ALL BUDGET FUND GROUPS \$ 332,495 \$ 0 84943

**Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND** 84945  
**CONFLICT MANAGEMENT** 84946

General Revenue Fund 84947  
GRF 145-401 Commission on Dispute \$ 470,000 \$ 470,000 84948  
Resolution/Management  
TOTAL GRF General Revenue Fund \$ 470,000 \$ 470,000 84949  
General Services Fund Group 84950  
4B6 145-601 Gifts and Grants \$ 140,000 \$ 140,000 84951  
TOTAL GSF General Services Fund \$ 140,000 \$ 140,000 84952  
Group

Federal Special Revenue Fund Group				84953
3S6 145-602 Dispute Resolution:	\$	140,000	\$ 140,000	84954
Federal				
TOTAL FED Federal Special Revenue	\$	140,000	\$ 140,000	84955
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$ 750,000	84956
<b>Section 206.09. EDU DEPARTMENT OF EDUCATION</b>				84958
General Revenue Fund				84959
GRF 200-100 Personal Services	\$	9,880,406	\$ 10,880,655	84960
GRF 200-320 Maintenance and	\$	4,344,235	\$ 4,344,235	84961
Equipment				
GRF 200-408 Early Childhood	\$	19,002,195	\$ 19,002,195	84962
Education				
GRF 200-410 Educator Training	\$	19,513,057	\$ 20,088,057	84963
GRF 200-416 Career-Technical	\$	2,233,195	\$ 2,233,195	84964
Education Match				
GRF 200-420 Computer/Application/	\$	5,361,525	\$ 5,361,525	84965
Network Development				
GRF 200-421 Alternative Education	\$	13,907,665	\$ 13,732,665	84966
Programs				
GRF 200-422 School Management	\$	2,683,208	\$ 2,710,572	84967
Assistance				
GRF 200-424 Policy Analysis	\$	556,687	\$ 556,687	84968
GRF 200-425 Tech Prep Consortia	\$	2,069,217	\$ 2,069,217	84969
Support				
GRF 200-426 Ohio Educational	\$	30,446,197	\$ 30,446,197	84970
Computer Network				
GRF 200-427 Academic Standards	\$	11,607,753	\$ 11,679,181	84971
GRF 200-431 School Improvement	\$	20,763,649	\$ 23,792,828	84972
Initiatives				
GRF 200-433 Reading/Writing	\$	16,165,000	\$ 16,165,000	84973

		Improvement-Professional Development			
GRF 200-437	Student Assessment	\$ 54,445,234	\$ 60,011,935	84974	
GRF 200-439	Accountability/Report Cards	\$ 3,878,850	\$ 7,457,290	84975	
GRF 200-442	Child Care Licensing	\$ 1,302,495	\$ 1,302,495	84976	
GRF 200-445	OhioReads Volunteer Support	\$ 3,905,000	\$ 3,905,000	84977	
GRF 200-446	Education Management Information System	\$ 15,674,805	\$ 15,674,805	84978	
GRF 200-447	GED Testing	\$ 1,544,360	\$ 1,544,360	84979	
GRF 200-448	Educator Preparation	\$ 1,651,000	\$ 1,651,000	84980	
GRF 200-455	Community Schools	\$ 2,942,094	\$ 2,942,094	84981	
GRF 200-502	Pupil Transportation	\$ 412,330,728	\$ 420,577,343	84982	
GRF 200-503	Bus Purchase Allowance	\$ 8,600,000	\$ 14,000,000	84983	
GRF 200-505	School Lunch Match	\$ 8,998,025	\$ 8,998,025	84984	
GRF 200-509	Adult Literacy Education	\$ 8,669,738	\$ 8,669,738	84985	
GRF 200-511	Auxiliary Services	\$ 127,903,356	\$ 127,903,356	84986	
GRF 200-514	Postsecondary Adult Career-Technical Education	\$ 19,481,875	\$ 19,481,875	84987	
GRF 200-521	Gifted Pupil Program	\$ 46,910,068	\$ 47,157,293	84988	
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$ 56,762,916	\$ 58,068,463	84989	
GRF 200-540	Special Education Enhancements	\$ 133,754,606	135,015,125	84990	
GRF 200-545	Career-Technical Education Enhancements	\$ 10,169,442	\$ 9,225,569	84991	
GRF 200-550	Foundation Funding	\$ 5,585,820,663	\$ 5,701,771,366	84992	
GRF 200-558	Emergency Loan Interest Subsidy	\$ 1,388,164	\$ 651,404	84993	

GRF 200-566	Reading/Writing Improvement-Classroom Grants	\$ 12,062,336	\$ 12,062,336	84994
GRF 200-578	Safe and Supportive Schools	\$ 1,218,555	\$ 1,218,555	84995
GRF 200-901	Property Tax Allocation - Education	\$ 764,626,987	\$ 728,793,318	84996
GRF 200-906	Tangible Tax Exemption - Education	\$ 42,830,487	\$ 32,122,865	84997
TOTAL GRF	General Revenue Fund	\$ 7,485,405,773	\$ 7,583,267,819	84998
	General Services Fund Group			84999
138 200-606	Computer Services-Operational Support	\$ 7,600,091	\$ 7,600,091	85000
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 832,000	\$ 832,000	85001
4L2 200-681	Teacher Certification and Licensure	\$ 5,497,158	\$ 5,628,332	85002
452 200-638	Miscellaneous Educational Services	\$ 400,000	\$ 400,000	85003
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000	85004
596 200-656	Ohio Career Information System	\$ 529,761	\$ 529,761	85005
TOTAL GSF	General Services Fund Group	\$ 32,859,010	\$ 32,990,184	85006 85007
	Federal Special Revenue Fund Group			85008
3AF 200-603	Schools Medicaid Administrative Claims	\$ 1,000,000	\$ 1,000,000	85009
3C5 200-661	Early Childhood Education	\$ 23,874,338	\$ 23,874,338	85010



3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966	85011
3D2	200-667	Honors Scholarship Program	\$	5,812,903	\$	5,833,965	85012
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	85013
3L6	200-617	Federal School Lunch	\$	220,256,132	\$	227,583,653	85014
3L7	200-618	Federal School Breakfast	\$	56,382,851	\$	58,405,608	85015
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843	85016
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	85017
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070	85018
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000	85019
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547	85020
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000	85021
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000	85022
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280	85023
3X5	200-684	School Renovation/IDEA	\$	2,200,000	\$	0	85024
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554	85025
3Y4	200-632	Reading First	\$	50,775,637	\$	31,215,798	85026
3Y5	200-634	Community Service Grants	\$	1,000,000	\$	0	85027
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000	85028
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000	85029
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000	85030
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799	85031

3Z3	200-645	Consolidated USDE Administration	\$	9,200,000	\$	9,200,000	85032
309	200-601	Educationally Disadvantaged	\$	19,658,846	\$	19,658,846	85033
366	200-604	Adult Basic Education	\$	18,500,000	\$	18,500,000	85034
367	200-607	School Food Services	\$	11,383,637	\$	11,666,732	85035
368	200-614	Veterans' Training	\$	672,961	\$	691,130	85036
369	200-616	Career-Technical Education Federal Enhancement	\$	6,500,000	\$	6,500,000	85037
370	200-624	Education of Exceptional Children	\$	2,386,610	\$	2,386,610	85038
371	200-631	Immigrant Education Opportunities	\$	400,000	\$	400,000	85039
374	200-647	Troops to Teachers	\$	1,600,000	\$	0	85040
378	200-660	Learn and Serve	\$	1,200,000	\$	1,200,000	85041
TOTAL FED Federal Special							85042
Revenue Fund Group			\$	1,730,323,816	\$	1,830,953,440	85043
State Special Revenue Fund Group							85044
4R7	200-695	Indirect Operational Support	\$	5,382,864	\$	5,449,748	85045
4V7	200-633	Interagency Operational Support	\$	500,000	\$	500,000	85046
454	200-610	Guidance and Testing	\$	400,000	\$	400,000	85047
455	200-608	Commodity Foods	\$	24,000,000	\$	24,000,000	85048
5BB	200-696	State Action for Education Leadership	\$	1,200,000	\$	1,200,000	85049
5BJ	200-626	Half-Mill Maintenance Equalization	\$	0	\$	10,700,000	85050
5U2	200-685	National Education Statistics	\$	300,000	\$	300,000	85051
5W2	200-663	Early Learning Initiative	\$	106,580,000	\$	127,456,000	85052

598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	85053
		Reimbursement					
620	200-615	Educational	\$	1,000,000	\$	1,000,000	85054
		Improvement Grants					
TOTAL SSR State Special Revenue							85055
Fund Group			\$	140,691,774	\$	172,334,658	85056
Lottery Profits Education Fund Group							85057
017	200-612	Foundation Funding	\$	606,208,300	\$	606,296,800	85058
017	200-682	Lease Rental Payment	\$	31,691,700	\$	31,603,200	85059
		Reimbursement					
TOTAL LPE Lottery Profits							85060
Education Fund Group			\$	637,900,000	\$	637,900,000	85061
Revenue Distribution Fund Group							85062
047	200-900	School District	\$	38,810,000	\$	291,010,000	85063
		Property Tax					
		Replacement-Business					
053	200-900	School District	\$	116,647,522	\$	101,647,522	85064
		Property Tax					
		Replacement-Utility					
TOTAL RDF Revenue Distribution							85065
Fund Group			\$	155,457,522	\$	392,657,522	85066
TOTAL ALL BUDGET FUND GROUPS			\$	10,182,637,895	\$	10,650,103,623	85067

**Section 206.09.03. MAINTENANCE AND EQUIPMENT** 85069

Of the foregoing appropriation item 200-320, Maintenance and 85070  
Equipment, up to \$25,000 may be expended in each fiscal year for 85071  
State Board of Education out-of-state travel. 85072

**Section 206.09.06. EARLY CHILDHOOD EDUCATION** 85073

The Department of Education shall distribute the foregoing 85074  
appropriation item 200-408, Early Childhood Education, to pay the 85075  
costs of comprehensive early childhood education programs. As used 85076

in this section, "provider" means a city, local, exempted village, 85077  
or joint vocational school district, or an educational service 85078  
center. 85079

(A) In each fiscal year, up to two per cent of the total 85080  
appropriation may be used by the Department for program support 85081  
and technical assistance. The Department shall distribute the 85082  
remainder of the appropriation in each fiscal year to serve 85083  
children from families earning not more than 200 per cent of the 85084  
federal poverty guidelines. 85085

(B) The Department shall provide an annual report to the 85086  
Governor, the Speaker of the House of Representatives, and the 85087  
President of the Senate and post the report to the Department's 85088  
web site, regarding early childhood education programs operated 85089  
under this section and the early learning program guidelines for 85090  
school readiness. 85091

(C) For purposes of this section, "eligible child" means a 85092  
child who is at least three years of age, is not of the age to be 85093  
eligible for kindergarten, and whose family earns not more than 85094  
200 per cent of the federal poverty guidelines. 85095

(D) After setting aside the amounts to make payments due from 85096  
the previous fiscal year, in fiscal year 2006, the Department 85097  
shall distribute funds first to recipients of funds for public 85098  
preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 85099  
125th General Assembly in the previous fiscal year and the balance 85100  
to new providers of early childhood education programs under this 85101  
section. After setting aside the amounts to make payments due from 85102  
the previous fiscal year, in fiscal year 2007, the Department 85103  
shall distribute funds first to providers of early childhood 85104  
education programs under this section in the previous fiscal year 85105  
and the balance to new providers. Awards under this section shall 85106  
be distributed on a per-pupil basis, which the Department may 85107

adjust so that the per-pupil amount multiplied by the number of  
eligible children enrolled and receiving services, as defined by  
the Department, reported on the first day of December or the first  
business day following that date equals the amount allocated under  
division (A) of this section. The Department may increase the  
per-pupil amount by a reasonable percentage for inflation, to be  
determined by the Department.

The Department may reallocate unobligated or unspent money to  
participating providers for purposes of program expansion,  
improvement, or special projects to promote quality and  
innovation.

(E) Costs for developing and administering an early childhood  
education program may not exceed fifteen per cent of the total  
approved costs of the program.

All providers shall maintain such fiscal control and  
accounting procedures as may be necessary to ensure the  
disbursement of, and accounting for, these funds. The control of  
funds provided in this program, and title to property obtained  
therefrom, shall be under the authority of the approved provider  
for purposes provided in the program unless, as described in  
division (I) of this section, the program waives its right for  
funding or a program's funding is eliminated or reduced due to its  
inability to meet financial or early learning program guidelines  
for school readiness. The approved provider shall administer and  
use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and  
program records. If the financial practices of the program are not  
in accordance with standard accounting principles or do not meet  
financial standards outlined under division (E) of this section,  
or if the program fails to substantially meet the early learning  
program guidelines for school readiness or exhibits below average

performance as measured against the guidelines, the early 85139  
childhood education program shall propose and implement a 85140  
corrective action plan that has been approved by the Department. 85141  
The approved corrective action plan shall be signed by the chief 85142  
executive officer and the executive of the official governing body 85143  
of the provider. The corrective action plan shall include a 85144  
schedule for monitoring by the Department. Such monitoring may 85145  
include monthly reports, inspections, a timeline for correction of 85146  
deficiencies, and technical assistance to be provided by the 85147  
Department or obtained by the early childhood education program. 85148  
The Department may withhold funding pending corrective action. If 85149  
an early childhood education program fails to satisfactorily 85150  
complete a corrective action plan, the Department may deny 85151  
expansion funding to the program or withdraw all or part of the 85152  
funding to the program and establish a new provider through a 85153  
competitive bidding process established by the Department. 85154

(G) Each early childhood education program shall do all of 85155  
the following: 85156

(1) Meet teacher qualification requirements prescribed by 85157  
section 3301.311 of the Revised Code; 85158

(2) Align curriculum to the early learning program guidelines 85159  
for school readiness; 85160

(3) Meet any assessment requirements prescribed by section 85161  
3301.0715 of the Revised Code that are applicable to the program; 85162

(4) Require teachers, including teachers enrolled and working 85163  
to obtain a degree pursuant to section 3301.311 of the Revised 85164  
Code, to attend a minimum of twenty hours per year of professional 85165  
development as prescribed by the Department regarding the 85166  
implementation of content standards and assessments; 85167

(5) Document and report child progress in meeting the early 85168  
learning program guidelines for school readiness. 85169

(H) Each provider shall develop a sliding fee scale based on 85170  
family incomes and shall charge families who earn more than the 85171  
federal poverty guidelines for the early childhood education 85172  
program. 85173

(I) If an early childhood education program voluntarily 85174  
waives its right for funding, or has its funding eliminated for 85175  
not meeting financial standards or the early learning program 85176  
guidelines for school readiness, the provider shall transfer 85177  
control of title to property, equipment, and remaining supplies 85178  
obtained through the program to providers designated by the 85179  
Department and return any unexpended funds to the Department along 85180  
with any reports prescribed by the Department. The funding made 85181  
available from a program that waives its right for funding or has 85182  
its funding eliminated or reduced may be used by the Department 85183  
for new grant awards or expansion grants. The Department may award 85184  
new grants or expansion grants to eligible providers who apply. 85185  
The eligible providers who apply must do so in accordance with the 85186  
competitive bidding process established by the Department. 85187

(J) As used in this section, "early learning program 85188  
guidelines for school readiness" means the guidelines established 85189  
by the Department pursuant to division (C)(3) of Section 206.09.54 85190  
of this act. 85191

**Section 206.09.09. EDUCATOR TRAINING** 85192

The foregoing appropriation item 200-410, Educator Training, 85193  
shall be used to fund professional development programs in Ohio. 85194  
The Department of Education shall, when possible, incorporate 85195  
cultural competency as a component of professional development and 85196  
actively promote the development of cultural competency in the 85197  
operation of its professional development programs. As used in 85198  
this section, "cultural competency" has the meaning specified by 85199  
the Educator Standards Board under section 3319.61 of the Revised 85200

Code. 85201

Of the foregoing appropriation item 200-410, Educator 85202  
Training, up to \$7,850,000 in fiscal year 2006 and up to 85203  
\$8,250,000 in fiscal year 2007 shall be used by the Department of 85204  
Education to provide grants to pay \$2,000 of the application fee 85205  
in order to assist teachers from public and chartered nonpublic 85206  
schools applying for the first time to the National Board for 85207  
Professional Teaching Standards for professional teaching 85208  
certificates or licenses that the board offers. This set aside 85209  
shall also be used to recognize and reward teachers who become 85210  
certified by the National Board for Professional Teaching 85211  
Standards under section 3319.55 of the Revised Code. Up to 85212  
\$300,000 in each fiscal year of this set aside may be used by the 85213  
Department to pay for costs associated with activities to support 85214  
candidates through the application and certification process. 85215

These moneys shall be used to pay up to the first 400 85216  
applications in each fiscal year received by the Department. 85217

Of the foregoing appropriation item 200-410, Educator 85218  
Training, up to \$9,515,817 in each fiscal year shall be allocated 85219  
for entry year programs. These funds shall be used to support 85220  
mentoring services and performance assessments of beginning 85221  
teachers in school districts and chartered nonpublic schools. 85222

Of the foregoing appropriation item 200-410, Educator 85223  
Training, up to \$200,000 in each fiscal year shall be used to 85224  
provide technical assistance and grants for districts to develop 85225  
local knowledge/skills-based compensation systems (Teacher 85226  
Advancement Program). Each district receiving grants shall issue 85227  
an annual report to the Department of Education detailing the use 85228  
of the funds and the impact of the system developed by the 85229  
district. 85230

Of the foregoing appropriation item 200-410, Educator 85231



Training, up to \$350,000 in each fiscal year shall be used for 85232  
training and professional development of school administrators, 85233  
school treasurers, and school business officials. 85234

Of the foregoing appropriation item 200-410, Educator 85235  
Training, up to \$100,000 in fiscal year 2007 shall be used by the 85236  
Department of Education to develop a supply and demand report that 85237  
describes the availability of quality educators and critical 85238  
educator shortage areas in Ohio. 85239

Of the foregoing appropriation item 200-410, Educator 85240  
Training, up to \$885,740 in each fiscal year shall be used for 85241  
educator recruitment programs targeting shortage areas, including 85242  
recruiting highly qualified minority candidates into teaching and 85243  
recruiting prospective mathematics and science teachers. The funds 85244  
also may be used to provide an alternative route to licensure for 85245  
principals and other administrators. 85246

Of the foregoing appropriation item 200-410, Educator 85247  
Training, up to \$187,500 in each fiscal year shall be used by the 85248  
Department of Education to identify hard-to-staff schools and to 85249  
provide incentives for highly qualified teachers to teach in these 85250  
schools. Stipends shall be provided to teachers with at least 85251  
three years of experience who teach in the areas of special 85252  
education or middle or high school mathematics or science. 85253

Of the foregoing appropriation item 200-410, Educator 85254  
Training, up to \$63,000 in each fiscal year shall be used to 85255  
support the Ohio University Leadership Program. 85256

Of the foregoing appropriation item 200-410, Educator 85257  
Training, \$250,000 in each fiscal year shall be used to support 85258  
the Ohio School Leadership Institute. 85259

**Section 206.09.10. CAREER-TECHNICAL EDUCATION MATCH** 85260

The foregoing appropriation item 200-416, Career-Technical 85261

Education Match, shall be used by the Department of Education to 85262  
provide vocational administration matching funds under 20 U.S.C. 85263  
2311. 85264

**Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT** 85265

The foregoing appropriation item 200-420, 85266  
Computer/Application/Network Development, shall be used to support 85267  
the development and implementation of information technology 85268  
solutions designed to improve the performance and services of the 85269  
Department of Education. Funds may be used for personnel, 85270  
maintenance, and equipment costs related to the development and 85271  
implementation of these technical system projects. Implementation 85272  
of these systems shall allow the Department to provide greater 85273  
levels of assistance to school districts and to provide more 85274  
timely information to the public, including school districts, 85275  
administrators, and legislators. 85276

**ALTERNATIVE EDUCATION PROGRAMS** 85277

There is hereby created the Alternative Education Advisory 85278  
Council, which shall consist of one representative from each of 85279  
the following agencies: the Ohio Department of Education; the 85280  
Department of Youth Services; the Ohio Department of Alcohol and 85281  
Drug Addiction Services; the Department of Mental Health; the 85282  
Office of the Governor or, at the Governor's discretion, the 85283  
Office of the Lieutenant Governor; the Office of the Attorney 85284  
General; and the Office of the Auditor of State. 85285

Of the foregoing appropriation item 200-421, Alternative 85286  
Education Programs, up to \$6,227,310 in each fiscal year shall be 85287  
used for the renewal of successful implementation grants and for 85288  
competitive matching grants to the 21 urban school districts as 85289  
defined in division (0) of section 3317.02 of the Revised Code as 85290  
it existed prior to July 1, 1998, and up to \$6,408,074 in each 85291

fiscal year shall be used for the renewal of successful  
implementation grants and for competitive matching grants to rural  
and suburban school districts for alternative educational programs  
for existing and new at-risk and delinquent youth. Programs shall  
be focused on youth in one or more of the following categories:  
those who have been expelled or suspended, those who have dropped  
out of school or who are at risk of dropping out of school, those  
who are habitually truant or disruptive, or those on probation or  
on parole from a Department of Youth Services facility. Grants  
shall be awarded according to the criteria established by the  
Alternative Education Advisory Council in 1999. Grants shall be  
awarded only to programs in which the grant will not serve as the  
program's primary source of funding. These grants shall be  
administered by the Department of Education.

The Department of Education may waive compliance with any  
minimum education standard established under section 3301.07 of  
the Revised Code for any alternative school that receives a grant  
under this section on the grounds that the waiver will enable the  
program to more effectively educate students enrolled in the  
alternative school.

Of the foregoing appropriation item 200-421, Alternative  
Education Programs, up to \$422,281 in each fiscal year may be used  
for program administration, monitoring, technical assistance,  
support, research, and evaluation. Any unexpended balance may be  
used to provide additional matching grants to urban, suburban, or  
rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative  
Education Programs, up to \$675,000 in fiscal year 2006 and up to  
\$500,000 in fiscal year 2007 may be used by the Department of  
Education to administer the Educational Choice Scholarship Pilot  
Program established under section 3310.02 of the Revised Code.

Of the foregoing appropriation item 200-421, Alternative 85323  
Education Programs, \$75,000 in each fiscal year shall be used to 85324  
support the Toledo Tech Academy. 85325

Of the foregoing appropriation item 200-421, Alternative 85326  
Education Programs, \$100,000 in each fiscal year shall be used for 85327  
the Youth Opportunities United, Inc. 85328

SCHOOL MANAGEMENT ASSISTANCE 85329

Of the foregoing appropriation item 200-422, School 85330  
Management Assistance, up to \$1,315,000 in each fiscal year shall 85331  
be used by the Auditor of State in consultation with the 85332  
Department of Education for expenses incurred in the Auditor of 85333  
State's role relating to fiscal caution, fiscal watch, and fiscal 85334  
emergency activities as defined in Chapter 3316. of the Revised 85335  
Code and may also be used to conduct performance audits consistent 85336  
with the recommendations of the Governor's Blue Ribbon Task Force 85337  
on Financing Student Success, with priority given to districts in 85338  
fiscal distress. Expenses include duties related to the completion 85339  
of performance audits for school districts that the Superintendent 85340  
of Public Instruction determines are employing fiscal practices or 85341  
experiencing budgetary conditions that could produce a state of 85342  
fiscal watch or fiscal emergency. 85343

The remainder of foregoing appropriation item 200-422, School 85344  
Management Assistance, shall be used by the Department of 85345  
Education to provide fiscal technical assistance and inservice 85346  
education for school district management personnel and to 85347  
administer, monitor, and implement the fiscal watch and fiscal 85348  
emergency provisions under Chapter 3316. of the Revised Code. 85349

POLICY ANALYSIS 85350

The foregoing appropriation item 200-424, Policy Analysis, 85351  
shall be used by the Department of Education to support a system 85352  
of administrative, statistical, and legislative education 85353

information to be used for policy analysis. Staff supported by 85354  
this appropriation shall administer the development of reports, 85355  
analyses, and briefings to inform education policymakers of 85356  
current trends in education practice, efficient and effective use 85357  
of resources, and evaluation of programs to improve education 85358  
results. The database shall be kept current at all times. These 85359  
research efforts shall be used to supply information and analysis 85360  
of data to the General Assembly and other state policymakers, 85361  
including the Office of Budget and Management and the Legislative 85362  
Service Commission. 85363

The Department of Education may use funding from this 85364  
appropriation item to purchase or contract for the development of 85365  
software systems or contract for policy studies that will assist 85366  
in the provision and analysis of policy-related information. 85367  
Funding from this appropriation item also may be used to monitor 85368  
and enhance quality assurance for research-based policy analysis 85369  
and program evaluation to enhance the effective use of education 85370  
information to inform education policymakers. 85371

TECH PREP CONSORTIA SUPPORT 85372

The foregoing appropriation item 200-425, Tech Prep Consortia 85373  
Support, shall be used by the Department of Education to support 85374  
state-level activities designed to support, promote, and expand 85375  
tech prep programs. Use of these funds shall include, but not be 85376  
limited to, administration of grants, program evaluation, 85377  
professional development, curriculum development, assessment 85378  
development, program promotion, communications, and statewide 85379  
coordination of tech prep consortia. 85380

OHIO EDUCATIONAL COMPUTER NETWORK 85381

The foregoing appropriation item 200-426, Ohio Educational 85382  
Computer Network, shall be used by the Department of Education to 85383  
maintain a system of information technology throughout Ohio and to 85384

provide technical assistance for such a system in support of the 85385  
State Education Technology Plan under section 3301.07 of the 85386  
Revised Code. 85387

Of the foregoing appropriation item 200-426, Ohio Educational 85388  
Computer Network, up to \$18,136,691 in each fiscal year shall be 85389  
used by the Department of Education to support connection of all 85390  
public school buildings and participating chartered nonpublic 85391  
schools to the state's education network, to each other, and to 85392  
the Internet. In each fiscal year the Department of Education 85393  
shall use these funds to assist data acquisition sites or school 85394  
districts with the operational costs associated with this 85395  
connectivity. The Department of Education shall develop a formula 85396  
and guidelines for the distribution of these funds to the data 85397  
acquisition sites or individual school districts. As used in this 85398  
section, "public school building" means a school building of any 85399  
city, local, exempted village, or joint vocational school 85400  
district, any community school established under Chapter 3314. of 85401  
the Revised Code, any educational service center building used for 85402  
instructional purposes, the Ohio School for the Deaf and the Ohio 85403  
School for the Blind, or high schools chartered by the Ohio 85404  
Department of Youth Services and high schools operated by Ohio 85405  
Department of Rehabilitation and Corrections' Ohio Central School 85406  
System. 85407

Of the foregoing appropriation item 200-426, Ohio Educational 85408  
Computer Network, up to \$1,700,000 in each fiscal year shall be 85409  
used for the Union Catalog and InfOhio Network. 85410

Of the foregoing appropriation item 200-426, Ohio Educational 85411  
Computer Network, up to \$8,338,468 in each fiscal year shall be 85412  
used, through a formula and guidelines devised by the department, 85413  
to subsidize the activities of designated data acquisition sites, 85414  
as defined by State Board of Education rules, to provide school 85415  
districts and chartered nonpublic schools with computer-based 85416

student and teacher instructional and administrative information 85417  
services, including approved computerized financial accounting, 85418  
and to ensure the effective operation of local automated 85419  
administrative and instructional systems. 85420

Of the foregoing appropriation item 200-426, Ohio Educational 85421  
Computer Network, up to \$769,223 in each fiscal year shall be used 85422  
for the INFOhio Network to support the provision of electronic 85423  
resources with priority given to resources that support the 85424  
teaching of state academic content standards to all public 85425  
schools. Consideration shall be given by the Department of 85426  
Education to coordinating the allocation of these moneys with the 85427  
efforts of Libraries Connect Ohio, whose members include OhioLINK, 85428  
the Ohio Public Information Network, and the State Library of 85429  
Ohio. 85430

The remainder of appropriation item 200-426, Ohio Educational 85431  
Computer Network, shall be used to support development, 85432  
maintenance, and operation of a network of uniform and compatible 85433  
computer-based information and instructional systems. This 85434  
technical assistance shall include, but not be restricted to, 85435  
development and maintenance of adequate computer software systems 85436  
to support network activities. In order to improve the efficiency 85437  
of network activities, the Department and data acquisition sites 85438  
may jointly purchase equipment, materials, and services from funds 85439  
provided under this appropriation for use by the network and, when 85440  
considered practical by the Department, may utilize the services 85441  
of appropriate state purchasing agencies. 85442

ACADEMIC STANDARDS 85443

Of the foregoing appropriation item 200-427, Academic 85444  
Standards, up to \$747,912 in each fiscal year shall be used to 85445  
provide funds to school districts that have one or more teachers 85446  
participating in the teachers-on-loan program. 85447

Of the foregoing appropriation item 200-427, Academic Standards, \$150,000 in each fiscal year shall be used by the Department in combination with funding earmarked for this purpose in the Board of Regents' budget under appropriation item 235-321, Operating Expenses. Such funding shall be used to support Ohio's Partnership for Continued Learning at the direction of the Office of the Governor. Ohio's Partnership for Continued Learning replaces and broadens the former Joint Council of the Department of Education and the Board of Regents. The Partnership shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Governor, or the Governor's designee, shall serve as the chairperson.

Of the foregoing appropriation item 200-427, Academic Standards, \$1,000,000 in each fiscal year shall be used for Project Lead the Way leadership and management oversight and initial and continuing support of Project Lead the Way workforce development programs in participating school districts. Project Lead the Way is a program that supports students interested in pursuing engineering professions and stimulates growth of career pathways that meet business and industry workforce needs.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$2,600,000 in each fiscal year shall be used for intensive teacher professional development institutes that focus on classroom implementation of the mathematics standards.

Of the foregoing appropriation item 200-427, Academic Standards, \$200,000 in each fiscal year may be used to support the Ohio Resource Center for Math and Science.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$282,000 in each fiscal year shall be used for



the JASON Expedition project that provides statewide access to 85479  
JASON Expedition content. Funds shall be used to provide 85480  
professional development training for teachers participating in 85481  
the project, statewide management, and a seventy-five per cent 85482  
subsidy for statewide licensing of JASON Expedition content with 85483  
priority given to content aligned with state academic content 85484  
standards for approximately 90,000 middle school students 85485  
statewide. 85486

Of the foregoing appropriation item 200-427, Academic 85487  
Standards, \$285,000 in each fiscal year shall be used for the Ohio 85488  
Science Institute (OSCI). 85489

The remainder of appropriation item 200-427, Academic 85490  
Standards, shall be used by the Department of Education to develop 85491  
and communicate to school districts academic content standards and 85492  
curriculum models. 85493

**Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES** 85494

Of the foregoing appropriation item 200-431, School 85495  
Improvement Initiatives, \$300,000 in fiscal year 2006 and \$450,000 85496  
in fiscal year 2007 shall be used for Ohio's Rural Appalachian 85497  
Leadership Development Initiative. 85498

Of the foregoing appropriation item 200-431, School 85499  
Improvement Initiatives, up to \$601,165 in each fiscal year shall 85500  
be used by the Department of Education to contract with 85501  
educational media centers to provide Ohio public schools with 85502  
instructional resources and services with priority given to 85503  
resources and services aligned with state academic content 85504  
standards. 85505

Of the foregoing appropriation item 200-431, School 85506  
Improvement Initiatives, up to \$13,972,949 in fiscal year 2006 and 85507  
\$13,672,678 in fiscal year 2007 shall be used to provide technical 85508

assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code, to provide support to districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code, to support a statewide comprehensive system of field relations that support local educators' abilities to foster academic achievement in the students they serve, and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field relations system shall include training that assists educators, school leadership, and technical assistance providers in understanding and implementing standards-based education, data analysis, and development of assessment systems for quality instruction.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$315,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,574,535 in fiscal year 2006 and \$2,753,985 in fiscal year 2007 shall be used in conjunction with funding provided in the Board of Regents' budget under appropriation item 235-434, College Readiness and Access, to create early college high schools, which are small, autonomous schools that blend high school and college into a coherent educational program.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$2,935,000 in fiscal year 2006 and up to \$4,935,000 in fiscal year 2007 shall be used in partnership with nonprofit groups with expertise in converting existing large urban high schools into small, personalized high schools.

Districts eligible for such funding include the Urban 21 high schools, as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$65,000 in each fiscal year shall be provided to Southern State Community College for the Pilot Post-Secondary Enrollment Options Program with Miami Trace High School.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 in each fiscal year shall be used to support Jobs for Ohio Graduates (JOG). The Department of Education shall require a two-to-one match of local funding to state funding before releasing these funds to JOG.

READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,790,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education, higher education institutions, literacy networks, and school districts.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$900,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this set-aside also may be used to conduct

evaluations of the impact and effectiveness of Reading Recovery 85572  
and other reading improvement programs. 85573

Of the foregoing appropriation item 200-433, Reading/Writing 85574  
Improvement-Professional Development, up to \$250,000 in each 85575  
fiscal year shall be used for the Waterford Early Reading Program. 85576

The remainder of appropriation item 200-433, Reading/Writing 85577  
Improvement-Professional Development, shall be used by the 85578  
Department of Education to provide administrative support of 85579  
literacy professional development programs. 85580

STUDENT ASSESSMENT 85581

The foregoing appropriation item 200-437, Student Assessment, 85582  
shall be used to develop, field test, print, distribute, score, 85583  
report results, and support other associated costs for the tests 85584  
required under sections 3301.0710 and 3301.0711 of the Revised 85585  
Code and for similar purposes as required by section 3301.27 of 85586  
the Revised Code. 85587

ACCOUNTABILITY/REPORT CARDS 85588

Of the foregoing appropriation item 200-439, 85589  
Accountability/Report Cards, up to \$200,100 in fiscal year 2006 85590  
and up to \$3,778,540 in fiscal year 2007 shall be used by the 85591  
Department of Education to incorporate a statewide pilot 85592  
value-added progress dimension into performance ratings for school 85593  
districts and to train regional specialists. This funding shall be 85594  
used in consultation with a credible nonprofit organization with 85595  
expertise in value-added progress dimensions. 85596

The remainder of the appropriation item 200-439, 85597  
Accountability/Report Cards, shall be used for the development of 85598  
an accountability system that includes the preparation and 85599  
distribution of school report cards under section 3302.03 of the 85600  
Revised Code. 85601

CHILD CARE LICENSING 85602

The foregoing appropriation item 200-442, Child Care 85603  
Licensing, shall be used by the Department of Education to license 85604  
and to inspect preschool and school-age child care programs under 85605  
sections 3301.52 to 3301.59 of the Revised Code. 85606

OHIOREADS VOLUNTEER SUPPORT 85607

The foregoing appropriation item 200-445, OhioReads Volunteer 85608  
Support, may be allocated by the Department of Education for 85609  
volunteer coordinators in public school buildings, for background 85610  
checks for volunteers, to evaluate programs, and to develop, 85611  
implement, and support literacy improvement activities and 85612  
interventions for students in grades kindergarten through twelve. 85613

**Section 206.09.18.** EDUCATION MANAGEMENT INFORMATION SYSTEM 85614

The foregoing appropriation item 200-446, Education 85615  
Management Information System, shall be used by the Department of 85616  
Education to improve the Education Management Information System 85617  
(EMIS). 85618

Of the foregoing appropriation item 200-446, Education 85619  
Management Information System, up to \$1,295,857 in each fiscal 85620  
year shall be distributed to designated data acquisition sites for 85621  
costs relating to processing, storing, and transferring data for 85622  
the effective operation of the EMIS. These costs may include, but 85623  
are not limited to, personnel, hardware, software development, 85624  
communications connectivity, professional development, and support 85625  
services, and to provide services to participate in the State 85626  
Education Technology Plan pursuant to section 3301.07 of the 85627  
Revised Code. 85628

Of the foregoing appropriation item 200-446, Education 85629  
Management Information System, up to \$8,055,189 in each fiscal 85630  
year shall be distributed on a per-pupil basis to school 85631

districts, community schools established under Chapter 3314. of 85632  
the Revised Code, educational service centers, joint vocational 85633  
school districts, and any other education entity that reports data 85634  
through EMIS. From this funding, each school district or community 85635  
school established under Chapter 3314. of the Revised Code with 85636  
enrollment greater than 100 students and each vocational school 85637  
district shall receive a minimum of \$5,000 in each fiscal year. 85638  
Each school district or community school established under Chapter 85639  
3314. of the Revised Code with enrollment between one and one 85640  
hundred and each educational service center and each county board 85641  
of MR/DD that submits data through EMIS shall receive \$3,000 in 85642  
each fiscal year. This subsidy shall be used for costs relating to 85643  
reporting, processing, storing, transferring, and exchanging data 85644  
necessary to meet requirements of the Department of Education's 85645  
data system. 85646

The remainder of appropriation item 200-446, Education 85647  
Management Information System, shall be used to develop and 85648  
support a common core of data definitions and standards as adopted 85649  
by the Education Data Advisory Council, including the ongoing 85650  
development and maintenance of the data dictionary and data 85651  
warehouse. In addition, such funds shall be used to support the 85652  
development and implementation of data standards and the design, 85653  
development, and implementation of a new data exchange system. 85654

Any provider of software meeting the standards approved by 85655  
the Education Data Advisory Council shall be designated as an 85656  
approved vendor and may enter into contracts with local school 85657  
districts, community schools, data acquisition centers, or other 85658  
educational entities for the purpose of collecting and managing 85659  
data required under Ohio's education management information system 85660  
(EMIS) laws. On an annual basis, the Department of Education shall 85661  
convene an advisory group of school districts, community schools, 85662  
and other education-related entities to review the Education 85663

Management Information System data definitions and data format 85664  
standards. The advisory group shall recommend changes and 85665  
enhancements based upon surveys of its members, education agencies 85666  
in other states, and current industry practices, to reflect best 85667  
practices, align with federal initiatives, and meet the needs of 85668  
school districts. 85669

School districts and community schools not implementing a 85670  
common and uniform set of data definitions and data format 85671  
standards for Education Management Information System purposes 85672  
shall have all EMIS funding withheld until they are in compliance. 85673

GED TESTING 85674

The foregoing appropriation item 200-447, GED Testing, shall 85675  
be used to provide General Educational Development (GED) testing 85676  
at no cost to applicants, under rules adopted by the State Board 85677  
of Education. The Department of Education shall reimburse school 85678  
districts and community schools, created under Chapter 3314. of 85679  
the Revised Code, for a portion of the costs incurred in providing 85680  
summer instructional or intervention services to students who have 85681  
not graduated because of their inability to pass one or more parts 85682  
of the state's Ohio Graduation Test or ninth grade proficiency 85683  
test. School districts shall also provide such services to 85684  
students who are residents of the district under section 3313.64 85685  
of the Revised Code, but who are enrolled in chartered, nonpublic 85686  
schools. The services shall be provided in the public school, in 85687  
nonpublic schools, in public centers, or in mobile units located 85688  
on or off the nonpublic school premises. No school district shall 85689  
provide summer instructional or intervention services to nonpublic 85690  
school students as authorized by this section unless such services 85691  
are available to students attending the public schools within the 85692  
district. No school district shall provide services for use in 85693  
religious courses, devotional exercises, religious training, or 85694  
any other religious activity. Chartered, nonpublic schools shall 85695

pay for any unreimbursed costs incurred by school districts for 85696  
providing summer instruction or intervention services to students 85697  
enrolled in chartered, nonpublic schools. School districts may 85698  
provide these services to students directly or contract with 85699  
postsecondary or nonprofit community-based institutions in 85700  
providing instruction. 85701

EDUCATOR PREPARATION 85702

Of the foregoing appropriation item 200-448, Educator 85703  
Preparation, \$100,000 in each fiscal year shall be provided in 85704  
conjunction with funding in the Board of Regents' budget under 85705  
appropriation item 235-435, Teacher Improvement Initiatives, to 85706  
the Teacher Quality Partnership project. The Teacher Quality 85707  
Partnership is a research consortium of Ohio's fifty colleges and 85708  
universities providing teacher preparation programs. Funds shall 85709  
be used to support a comprehensive longitudinal study of the 85710  
preparation, in-school support, and effectiveness of Ohio 85711  
teachers. 85712

Of the foregoing appropriation item 200-448, Educator 85713  
Preparation, up to \$1,551,000 in each fiscal year shall be used by 85714  
the Department to support the Educator Standards Board under 85715  
section 3319.61 of the Revised Code as it develops and recommends 85716  
to the State Board of Education standards for educator training 85717  
and standards for teacher and other school leadership positions. 85718

COMMUNITY SCHOOLS 85719

Of the foregoing appropriation item 200-455, Community 85720  
Schools, up to \$1,308,661 in each fiscal year may be used by the 85721  
Department of Education for additional services and 85722  
responsibilities under section 3314.11 of the Revised Code. 85723

Of the foregoing appropriation item 200-455, Community 85724  
Schools, up to \$225,000 in each fiscal year may be used by the 85725  
Department of Education for developing and conducting training 85726



sessions for sponsors and prospective sponsors of community 85727  
schools as prescribed in division (A)(1) of section 3314.015 of 85728  
the Revised Code. In developing the training sessions, the 85729  
Department shall collect and disseminate examples of best 85730  
practices used by sponsors of independent charter schools in Ohio 85731  
and other states. 85732

The remaining appropriation may be used by the Department of 85733  
Education to make grants of up to \$50,000 to each proposing group 85734  
with a preliminary agreement obtained under division (C)(2) of 85735  
section 3314.02 of the Revised Code in order to defray planning 85736  
and initial start-up costs. In the first year of operation of a 85737  
community school, the Department of Education may make a grant of 85738  
not more than \$100,000 to the governing authority of the school to 85739  
partially defray additional start-up costs. The amount of the 85740  
grant shall be based on a thorough examination of the needs of the 85741  
community school. The Department of Education shall not utilize 85742  
moneys received under this section for any other purpose other 85743  
than those specified under this section. 85744

A community school awarded start-up grants from appropriation 85745  
item 200-613, Public Charter Schools (Fund 3T4), shall not be 85746  
eligible for grants under this section. 85747

**Section 206.09.21. PUPIL TRANSPORTATION** 85748

Of the foregoing appropriation item 200-502, Pupil 85749  
Transportation, up to \$822,400 in each fiscal year may be used by 85750  
the Department of Education for training prospective and 85751  
experienced school bus drivers in accordance with training 85752  
programs prescribed by the Department. Up to \$58,115,428 in fiscal 85753  
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by 85754  
the Department of Education for special education transportation 85755  
reimbursements to school districts and county MR/DD boards for 85756  
transportation operating costs as provided in division (M) of 85757

section 3317.024 of the Revised Code. The remainder of 85758  
appropriation item 200-502, Pupil Transportation, shall be used 85759  
for the state reimbursement of public school districts' costs in 85760  
transporting pupils to and from the school they attend in 85761  
accordance with the district's policy, State Board of Education 85762  
standards, and the Revised Code. 85763

Notwithstanding the distribution formula outlined in division 85764  
(D) of section 3317.022 of the Revised Code, each school district 85765  
shall receive an additional two per cent in state funding for 85766  
transportation in fiscal year 2006 over what was received in 85767  
fiscal year 2005, and the local share of transportation costs that 85768  
is used in the calculation of the charge-off supplement and excess 85769  
cost supplement for each school district in fiscal year 2006 shall 85770  
be increased by two per cent from that used in calculations in 85771  
fiscal year 2005. 85772

Notwithstanding the distribution formula outlined in division 85773  
(D) of section 3317.022 of the Revised Code, each school district 85774  
shall receive an additional two per cent in state funding for 85775  
transportation in fiscal year 2007 over what was received in 85776  
fiscal year 2006, and the local share of transportation costs that 85777  
is used in the calculation of the charge-off supplement and excess 85778  
cost supplement for each school district in fiscal year 2007 shall 85779  
be increased by two per cent from that used in calculations in 85780  
fiscal year 2006. 85781

The Department of Education shall recommend a new formula for 85782  
allocating state funds for transportation costs. The Department 85783  
shall submit the recommendation to the Director of Budget and 85784  
Management, the Speaker of the House of Representatives, and the 85785  
President of the Senate not later than July 1, 2006. 85786

School districts not receiving state funding for 85787  
transportation in fiscal year 2005 under division (D) of section 85788

3317.022 of the Revised Code shall not receive state funding for 85789  
transportation in fiscal year 2006 or fiscal year 2007. 85790

BUS PURCHASE ALLOWANCE 85791

The foregoing appropriation item 200-503, Bus Purchase 85792  
Allowance, shall be distributed to school districts, educational 85793  
service centers, and county MR/DD boards pursuant to rules adopted 85794  
under section 3317.07 of the Revised Code. Up to 28 per cent of 85795  
the amount appropriated may be used to reimburse school districts 85796  
and educational service centers for the purchase of buses to 85797  
transport handicapped and nonpublic school students and to county 85798  
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 85799  
for the Blind for the purchase of buses to transport handicapped 85800  
students. 85801

SCHOOL LUNCH MATCH 85802

The foregoing appropriation item 200-505, School Lunch Match, 85803  
shall be used to provide matching funds to obtain federal funds 85804  
for the school lunch program. 85805

**Section 206.09.24. ADULT LITERACY EDUCATION** 85806

The foregoing appropriation item 200-509, Adult Literacy 85807  
Education, shall be used to support adult basic and literacy 85808  
education instructional programs and the State Literacy Resource 85809  
Center Program. 85810

Of the foregoing appropriation item 200-509, Adult Literacy 85811  
Education, up to \$488,037 in each fiscal year shall be used for 85812  
the support and operation of the State Literacy Resource Center. 85813

Of the foregoing appropriation item 200-509, Adult Literacy 85814  
Education, up to \$175,000 in each fiscal year shall be used for 85815  
state reimbursement to school districts for adult high school 85816  
continuing education programs under section 3313.531 of the 85817  
Revised Code or for costs associated with awarding adult high 85818

school diplomas under section 3313.611 of the Revised Code. 85819

Of the foregoing appropriation item 200-509, Adult Literacy 85820  
Education, \$130,000 in each fiscal year shall be used to support 85821  
initiatives for English as a Second Language programs. Funding 85822  
shall be distributed as follows: \$60,000 in each fiscal year for 85823  
Jewish Community Federation of Cleveland, \$25,000 in each fiscal 85824  
year for Yassenoff Jewish Community Center of Columbus, \$30,000 in 85825  
each fiscal year for Jewish Family Services of Cincinnati, and 85826  
\$15,000 in each fiscal year for Jewish Family Services of Dayton. 85827

The remainder of the appropriation shall be used to continue 85828  
to satisfy the state match and maintenance of effort requirements 85829  
for the support and operation of the Department of 85830  
Education-administered instructional grant program for adult basic 85831  
and literacy education in accordance with the Department's state 85832  
plan for adult basic and literacy education as approved by the 85833  
State Board of Education and the Secretary of the United States 85834  
Department of Education. 85835

AUXILIARY SERVICES 85836

The foregoing appropriation item 200-511, Auxiliary Services, 85837  
shall be used by the Department of Education for the purpose of 85838  
implementing section 3317.06 of the Revised Code. Of the 85839  
appropriation, up to \$2,000,000 in each fiscal year may be used 85840  
for payment of the Post-Secondary Enrollment Options Program for 85841  
nonpublic students under section 3365.10 of the Revised Code. 85842

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 85843

Of the foregoing appropriation item 200-514, Postsecondary 85844  
Adult Career-Technical Education, \$40,000 in each fiscal year 85845  
shall be used for statewide coordination of the activities of the 85846  
Ohio Young Farmers. 85847

The remainder of appropriation item 200-514, Postsecondary 85848

Adult Career-Technical Education, shall be used by the State Board 85849  
of Education to provide postsecondary adult career-technical 85850  
education under sections 3313.52 and 3313.53 of the Revised Code. 85851

**Section 206.09.27. GIFTED PUPIL PROGRAM** 85852

The foregoing appropriation item 200-521, Gifted Pupil 85853  
Program, shall be used for gifted education units not to exceed 85854  
1,110 in each fiscal year under division (P) of section 3317.024 85855  
and division (F) of section 3317.05 of the Revised Code. 85856

Of the foregoing appropriation item 200-521, Gifted Pupil 85857  
Program, up to \$4,700,000 in each fiscal year may be used as an 85858  
additional supplement for identifying gifted students under 85859  
Chapter 3324. of the Revised Code. 85860

Of the foregoing appropriation item 200-521, Gifted Pupil 85861  
Program, the Department of Education may expend up to \$940,000 in 85862  
each fiscal year for the Summer Honors Institute for gifted 85863  
freshman and sophomore high school students. Up to \$65,800 in each 85864  
fiscal year shall be used for the Ohio Summer School for the 85865  
Gifted (Martin Essex Program). 85866

**NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT** 85867

The foregoing appropriation item 200-532, Nonpublic 85868  
Administrative Cost Reimbursement, shall be used by the Department 85869  
of Education for the purpose of implementing section 3317.063 of 85870  
the Revised Code. 85871

**Section 206.09.28.** Not later than June 30, 2006, the State 85872  
Board of Education shall adopt a model student acceleration policy 85873  
addressing any recommendations made in the 2005 study conducted 85874  
under the Gifted Research and Demonstration Grant Program. The 85875  
model shall address, but not be limited to, whole grade 85876  
acceleration, subject area acceleration, and early high school 85877

graduation. 85878

**Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS** 85879

Of the foregoing appropriation item 200-540, Special 85880  
Education Enhancements, up to \$2,906,875 in each fiscal year shall 85881  
be used for home instruction for children with disabilities; up to 85882  
\$1,462,500 in each fiscal year shall be used for parent mentoring 85883  
programs; and up to \$2,783,396 in each fiscal year may be used for 85884  
school psychology interns. 85885

Of the foregoing appropriation item 200-540, Special 85886  
Education Enhancements, \$750,000 in each fiscal year shall be used 85887  
for the Out of School Initiative of Sinclair Community College. 85888

Of the foregoing appropriation item 200-540, Special 85889  
Education Enhancements, \$200,000 shall be used for a preschool 85890  
special education pilot program in Bowling Green City School 85891  
District. 85892

Of the foregoing appropriation item 200-540, Special 85893  
Education Enhancements, \$100,000 in each fiscal year shall be used 85894  
to support the Bellefaire Jewish Children's Bureau. 85895

Of the foregoing appropriation item 200-540, Special 85896  
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 85897  
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 85898  
Department of Education to county boards of mental retardation and 85899  
developmental disabilities, educational service centers, and 85900  
school districts for preschool special education units and 85901  
preschool supervisory units under section 3317.052 of the Revised 85902  
Code. The Department may reimburse county boards of mental 85903  
retardation and developmental disabilities, educational service 85904  
centers, and school districts for related services as defined in 85905  
rule 3301-51-11 of the Administrative Code, for preschool 85906  
occupational and physical therapy services provided by a physical 85907

therapy assistant and certified occupational therapy assistant, 85908  
and for an instructional assistant. To the greatest extent 85909  
possible, the Department of Education shall allocate these units 85910  
to school districts and educational service centers. 85911

No physical therapy assistant who provides services under 85912  
this section shall fail to practice in accordance with the 85913  
requirements of Chapter 4755. of the Revised Code and rules 85914  
4755-27-02 and 4755-27-03 of the Administrative Code. No 85915  
occupational therapy assistant who provides services under this 85916  
section shall fail to practice in accordance with the requirements 85917  
of Chapter 4755. of the Revised Code and rules 4755-7-01 and 85918  
4755-7-03 of the Administrative Code. 85919

The Department of Education shall require school districts, 85920  
educational service centers, and county MR/DD boards serving 85921  
preschool children with disabilities to document child progress 85922  
using research-based indicators prescribed by the Department and 85923  
report results annually. The reporting dates and method shall be 85924  
determined by the Department. 85925

The remainder of appropriation item 200-540, Special 85926  
Education Enhancements, shall be used to fund special education 85927  
and related services at county boards of mental retardation and 85928  
developmental disabilities for eligible students under section 85929  
3317.20 of the Revised Code and at institutions for eligible 85930  
students under section 3317.201 of the Revised Code. 85931

85932

**Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS** 85933

Of the foregoing appropriation item 200-545, Career-Technical 85934  
Education Enhancements, up to \$2,436,070 in each fiscal year shall 85935  
be used to fund grants for career-technical education at 85936  
institutions under division (C) of section 3317.052 of the Revised 85937

Code. 85938

Of the foregoing appropriation item 200-545, Career-Technical 85939  
Education Enhancements, up to \$2,621,507 in each fiscal year shall 85940  
be used by the Department of Education to fund competitive grants 85941  
to tech prep consortia that expand the number of students enrolled 85942  
in tech prep programs. These grant funds shall be used to directly 85943  
support expanded tech prep programs, including equipment, provided 85944  
to students enrolled in school districts, including joint 85945  
vocational school districts, and affiliated higher education 85946  
institutions. 85947

Of the foregoing appropriation item 200-545, Career-Technical 85948  
Education Enhancements, \$943,873 in fiscal year 2006 shall be used 85949  
to provide an amount to each eligible school district for the 85950  
replacement or updating of equipment essential for the instruction 85951  
of students in job skills taught as part of a career-technical 85952  
program or programs approved for such instruction by the State 85953  
Board of Education. School districts replacing or updating 85954  
career-technical education equipment may purchase or lease such 85955  
equipment. The Department of Education shall review and approve 85956  
all equipment requests and may allot appropriated funds to 85957  
eligible school districts on the basis of the number of full-time 85958  
equivalent workforce development teachers in all eligible 85959  
districts making application for funds. 85960

The State Board of Education may adopt standards of need for 85961  
equipment allocation. Pursuant to the adoption of any such 85962  
standards of need by the State Board of Education, appropriated 85963  
funds may be allotted to eligible districts according to such 85964  
standards. Equipment funds allotted under either process shall be 85965  
provided to a school district at 30, 40, or 50 per cent of cost on 85966  
the basis of a rating developed by the Department of Education 85967  
using the state share percentage as provided in division (B)(2) of 85968  
section 3317.022 of the Revised Code. 85969



Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,401,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$466,992 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the \$270,000 set aside.

**Section 206.09.36. FOUNDATION FUNDING**

The foregoing appropriation item 200-550, Foundation Funding, includes \$85,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a

result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd  
General Assembly. This amount represents the total state education  
aid offset due to the valuation change for school districts and  
joint vocational school districts from all relevant appropriation  
line item sources. Upon certification by the Department of  
Education, in consultation with the Department of Taxation, to the  
Director of Budget and Management of the actual state aid offset,  
the cash transfer from fund 053, appropriation item 200-900,  
School District Property Tax Replacement - Utility, shall be  
decreased or increased by the Director of Budget and Management to  
match the certification in accordance with section 5727.84 of the  
Revised Code.

Of the foregoing appropriation item 200-550, Foundation  
Funding, up to \$425,000 shall be expended in each fiscal year for  
court payments under section 2151.357 of the Revised Code; an  
amount shall be available in each fiscal year for the cost of  
reappraisal guarantee under section 3317.04 of the Revised Code;  
an amount shall be available in each fiscal year to fund up to 225  
full-time equivalent approved GRADS teacher grants under division  
(R) of section 3317.024 of the Revised Code; an amount shall be  
available in each fiscal year to make payments to school districts  
under division (A)(2) of section 3317.022 of the Revised Code; an  
amount shall be available in each fiscal year to make payments to  
school districts under division (F) of section 3317.022 of the  
Revised Code; an amount shall be available in each fiscal year to  
make payments to school districts under division (C) of section  
3317.0212 of the Revised Code; and up to \$30,000,000 in each  
fiscal year shall be reserved for payments under sections  
3317.026, 3317.027, and 3317.028 of the Revised Code except that  
the Controlling Board may increase the \$30,000,000 amount if  
presented with such a request from the Department of Education. Of  
the foregoing appropriation item 200-550, Foundation Funding, up

to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal 86033  
year 2007 shall be used to provide additional state aid to school 86034  
districts for special education students under division (C)(3) of 86035  
section 3317.022 of the Revised Code; up to \$2,000,000 in each 86036  
fiscal year shall be reserved for Youth Services tuition payments 86037  
under section 3317.024 of the Revised Code; and up to \$52,000,000 86038  
in each fiscal year shall be reserved to fund the state 86039  
reimbursement of educational service centers under section 3317.11 86040  
of the Revised Code and the section of this act entitled 86041  
"EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 86042  
available for special education weighted funding under division 86043  
(C)(1) of section 3317.022 and division (D)(1) of section 3317.16 86044  
of the Revised Code. 86045

Of the foregoing appropriation item 200-550, Foundation 86046  
Funding, an amount shall be available in each fiscal year to be 86047  
used by the Department of Education for transitional aid for 86048  
school districts and joint vocational school districts. Funds 86049  
shall be distributed under the sections of this act entitled 86050  
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 86051  
DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 86052  
DISTRICTS." 86053

Of the foregoing appropriation item 200-550, Foundation 86054  
Funding, up to \$1,000,000 in each fiscal year shall be used by the 86055  
Department of Education for a program to pay for educational 86056  
services for youth who have been assigned by a juvenile court or 86057  
other authorized agency to any of the facilities described in 86058  
division (A) of the section of this act entitled "PRIVATE 86059  
TREATMENT FACILITY PROJECT." 86060

Of the foregoing appropriation item 200-550, Foundation 86061  
Funding, up to \$3,700,000 in each fiscal year shall be used for 86062  
school breakfast programs. Of this amount, up to \$900,000 shall be 86063  
used in each fiscal year by the Department of Education to 86064

contract with the Children's Hunger Alliance to expand access to 86065  
child nutrition programs consistent with the organization's 86066  
continued ability to meet specified performance measures as 86067  
detailed in the contract. Of this amount, the Children's Hunger 86068  
Alliance shall use at least \$150,000 in each fiscal year to 86069  
subcontract with an appropriate organization or organizations to 86070  
expand summer food participation in underserved areas of the 86071  
state, consistent with those organizations' continued ability to 86072  
meet specified performance measures as detailed in the 86073  
subcontracts. The remainder of the appropriation shall be used to 86074  
partially reimburse school buildings within school districts that 86075  
are required to have a school breakfast program under section 86076  
3313.813 of the Revised Code, at a rate decided by the Department. 86077

Of the foregoing appropriation item 200-550, Foundation 86078  
Funding, up to \$8,800,000 in fiscal year 2006 and up to \$8,600,000 86079  
in fiscal year 2007 shall be used to operate the school choice 86080  
program in the Cleveland Municipal School District under sections 86081  
3313.974 to 3313.979 of the Revised Code. 86082

Of the portion of the funds distributed to the Cleveland 86083  
Municipal School District under this section, up to \$10,401,887 in 86084  
fiscal year 2006 and up to \$11,901,887 in fiscal year 2007 shall 86085  
be used to operate the school choice program in the Cleveland 86086  
Municipal School District under sections 3313.974 to 3313.979 of 86087  
the Revised Code. 86088

The remaining portion of appropriation item 200-550, 86089  
Foundation Funding, shall be expended for the public schools of 86090  
city, local, exempted village, and joint vocational school 86091  
districts, including base cost funding, special education speech 86092  
service enhancement funding, career-technical education weight 86093  
funding, career-technical education associated service funding, 86094  
guarantee funding, teacher training and experience funding, 86095  
poverty-based assistance, parity aid, charge-off supplement, and 86096

excess cost supplement under sections 3317.022, 3317.023,  
3317.029, 3317.0212, 3317.0216, 3317.0217, and 3317.16 of the  
Revised Code.

Appropriation items 200-502, Pupil Transportation, 200-521,  
Gifted Pupil Program, 200-540, Special Education Enhancements, and  
200-550, Foundation Funding, other than specific set-asides, are  
collectively used in each fiscal year to pay state formula aid  
obligations for school districts and joint vocational school  
districts under Chapter 3317. of the Revised Code. The first  
priority of these appropriation items, with the exception of  
specific set-asides, is to fund state formula aid obligations  
under Chapter 3317. of the Revised Code. It may be necessary to  
reallocate funds among these appropriation items or use excess  
funds from other general revenue fund appropriation items in the  
Department of Education's budget in each fiscal year, in order to  
meet state formula aid obligations. If it is determined that it is  
necessary to transfer funds among these appropriation items or to  
transfer funds from other General Revenue Fund appropriations in  
the Department of Education's budget to meet state formula aid  
obligations, the Department of Education shall seek approval from  
the Controlling Board to transfer funds as needed.

**Section 206.09.37. DISTRICT SPENDING REQUIREMENTS**

The Department of Education shall review district spending  
requirements as specified in section 3317.029 of the Revised Code  
and shall submit a report recommending modifications by March 31,  
2007. Copies of the report shall be provided to the Director of  
Budget and Management, the Speaker of the House of  
Representatives, and the President of the Senate. The  
recommendations shall include decreasing degrees of flexibility of  
spending for districts not meeting adequate progress standards as  
defined by the Department of Education. Recommendations shall also

specifically review the definition of class size reduction in 86128  
division (J)(7) of section 3317.029 of the Revised Code. The 86129  
reports submitted by school districts under the section of this 86130  
act entitled "INTERVENTION FUNDING" shall be used to inform these 86131  
recommendations. 86132

**Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND 86133**  
EXEMPTED VILLAGE SCHOOL DISTRICTS 86134

(A) The Department of Education shall distribute funds within 86135  
appropriation item 200-550, Foundation Funding, for transitional 86136  
aid in each fiscal year to each qualifying city, local, and 86137  
exempted village school district. 86138

In fiscal years 2006 and 2007, the Department shall pay 86139  
transitional aid to each city, local, or exempted village school 86140  
district that experiences any decrease in its SF-3 funding plus 86141  
charge-off supplement for the current fiscal year from its SF-3 86142  
funding plus charge-off supplement for the previous fiscal year. 86143  
The amount of the transitional aid payment shall equal the 86144  
difference between the district's SF-3 funding plus charge-off 86145  
supplement for the current fiscal year and its SF-3 funding plus 86146  
charge-off supplement for the previous fiscal year. 86147

(B)(1) Subject to divisions (B)(2) and (3) of this section, 86148  
the "SF-3 funding plus charge-off supplement" for each city, 86149  
local, and exempted village school district in fiscal years 2006 86150  
and 2007 equals the sum of the following: 86151

(a) Base-cost funding under division (A) of section 3317.022 86152  
of the Revised Code; 86153

(b) Special education and related services additional 86154  
weighted funding under division (C)(1) of section 3317.022 of the 86155  
Revised Code; 86156

(c) Speech services funding under division (C)(4) of section 86157

3317.022 of the Revised Code;	86158
(d) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;	86159 86160
(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	86161 86162
(f) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	86163 86164 86165
(g) Poverty-Based Assistance under section 3317.029 of the Revised Code;	86166 86167
(h) Gifted education units under section 3317.05 of the Revised Code;	86168 86169
(i) Transportation under the section of this act entitled "PUPIL TRANSPORTATION";	86170 86171
(j) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	86172 86173
(k) Parity aid under section 3317.0217 of the Revised Code;	86174
(l) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	86175 86176
(m) The charge-off supplement under section 3317.0216 of the Revised Code.	86177 86178
(2) For purposes of calculating transitional aid in fiscal year 2006, a district's fiscal year 2005 SF-3 funding plus charge-off supplement is the difference of (a) the sum of the amounts described in divisions (A) to (O) of Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, plus any transitional aid paid to the district under that section, that the district actually received in fiscal year 2005 minus (b) the amount of parity aid and the amount of disadvantaged pupil impact	86179 86180 86181 86182 86183 86184 86185 86186

aid deducted that year under division (C)(6) of section 3314.08 of 86187  
the Revised Code, as that section existed that year, and Section 86188  
16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of 86189  
students entitled to attend school in the district who were 86190  
enrolled in Internet- and computer-based community schools. For 86191  
purposes of calculating transitional aid in fiscal year 2007, a 86192  
district's fiscal year 2006 SF-3 funding plus charge-off 86193  
supplement is the sum of the amounts described in divisions 86194  
(B)(1)(a) to (n) of this section, plus any transitional aid paid 86195  
to the district under this section, that the district actually 86196  
received in fiscal year 2006. 86197

(3) The SF-3 funding plus charge-off supplement in each 86198  
fiscal year for each district is the sum of the amounts specified 86199  
in divisions (B)(1)(a) to (n) and (B)(2) of this section less any 86200  
general revenue fund spending reductions ordered by the Governor 86201  
under section 126.05 of the Revised Code. 86202

(C)(1) When calculating the reappraisal guarantee under 86203  
division (C) or (D) of section 3317.04 of the Revised Code in 86204  
fiscal year 2006, the Department shall: 86205

(a) Include in a school district's fiscal year 2005 payments 86206  
any transitional aid paid to the district in fiscal year 2005 86207  
under Section 41.37 of Am. Sub. H.B. 95 of the 125th General 86208  
Assembly, as amended; 86209

(b) Subtract from a school district's fiscal year 2005 86210  
payments the amount of parity aid and the amount of disadvantaged 86211  
pupil impact aid deducted that year under division (C)(6) of 86212  
section 3314.08 of the Revised Code, as that section existed that 86213  
year, and Section 16 of Am. Sub. S.B. 2 of the 125th General 86214  
Assembly on behalf of students entitled to attend school in the 86215  
district who were enrolled in Internet- and computer-based 86216  
community schools. 86217



(2) When calculating the reappraisal guarantee under division 86218  
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 86219  
2007, the Department shall include in a school district's fiscal 86220  
year 2006 payments any transitional aid paid to the district in 86221  
fiscal year 2006 under this section. 86222

(3) When calculating the reappraisal guarantee under division 86223  
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 86224  
2008, the Department shall include in a school district's fiscal 86225  
year 2007 payments any transitional aid paid to the district in 86226  
fiscal year 2007 under this section. 86227

**Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL 86228**  
SCHOOL DISTRICTS 86229

(A) The Department of Education shall distribute funds within 86230  
appropriation item 200-550, Foundation Funding, for transitional 86231  
aid in each fiscal year to each joint vocational school district 86232  
that experiences a decrease in its joint vocational funding for 86233  
the current fiscal year exceeding 2% of its joint vocational 86234  
funding from the previous fiscal year. The Department shall 86235  
distribute to each such district transitional aid in an amount to 86236  
reduce the decrease to 2% of the district's joint vocational 86237  
funding from the previous fiscal year. 86238

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 86239  
district's joint vocational funding equals the sum of the 86240  
following: 86241

(a) Base-cost funding under division (B) of section 3317.16 86242  
of the Revised Code; 86243

(b) Special education and related services additional 86244  
weighted funding under division (D)(1) of section 3317.16 of the 86245  
Revised Code; 86246

(c) Speech services funding under division (D)(2) of section 86247

3317.16 of the Revised Code;	86248
(d) Vocational education additional weighted funding under division (C) of section 3317.16 of the Revised Code;	86249 86250
(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	86251 86252
(f) The state aid guarantee under division (H) of section 3317.16 of the Revised Code.	86253 86254
(2) For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 joint vocational funding is the sum of the amounts described in divisions (B)(1)(a) to (f) of this section, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006.	86255 86256 86257 86258 86259 86260
(3) The joint vocational funding in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (f) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.	86261 86262 86263 86264 86265
EMERGENCY LOAN INTEREST SUBSIDY	86266
The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.	86267 86268 86269 86270 86271 86272 86273 86274
<b>Section 206.09.45.</b> READING/WRITING IMPROVEMENT-CLASSROOM GRANTS	86275 86276

The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps.

SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs.

**Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION**

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of

Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption - Education, is appropriated to pay for the state's costs incurred because of the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer under division (G) of section 321.24 of the Revised Code, for all school districts located in the county, notwithstanding section 321.24 of the Revised Code insofar as it provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Department of Education among the appropriate school districts.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the

property tax rollback payments, and 200-906, Tangible Tax 86339  
Exemption - Education, for the \$10,000 tangible personal property 86340  
tax exemption payments, which are determined to be necessary for 86341  
these purposes, are hereby appropriated. 86342

**Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 86343**

The foregoing appropriation item 200-681, Teacher 86344  
Certification and Licensure, shall be used by the Department of 86345  
Education in each year of the biennium to administer and support 86346  
teacher certification and licensure activities. 86347

**SCHOOL DISTRICT SOLVENCY ASSISTANCE 86348**

Of the foregoing appropriation item 200-687, School District 86349  
Solvency Assistance, \$9,000,000 in each fiscal year shall be 86350  
allocated to the School District Shared Resource Account and 86351  
\$9,000,000 in each fiscal year shall be allocated to the 86352  
Catastrophic Expenditures Account. These funds shall be used to 86353  
provide assistance and grants to school districts to enable them 86354  
to remain solvent under section 3316.20 of the Revised Code. 86355  
Assistance and grants shall be subject to approval by the 86356  
Controlling Board. Any required reimbursements from school 86357  
districts for solvency assistance shall be made to the appropriate 86358  
account in the School District Solvency Assistance Fund (Fund 86359  
5H3). 86360

Notwithstanding any provision of law to the contrary, upon 86361  
the request of the Superintendent of Public Instruction, the 86362  
Director of Budget and Management may make transfers to the School 86363  
District Solvency Assistance Fund (Fund 5H3) from any Department 86364  
of Education-administered fund or the General Revenue Fund to 86365  
maintain sufficient cash balances in the School District Solvency 86366  
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any 86367  
funds transferred are hereby appropriated. The transferred funds 86368

may be used by the Department of Education to provide assistance 86369  
and grants to school districts to enable them to remain solvent 86370  
and to pay unforeseeable expenses of a temporary or emergency 86371  
nature that the school district is unable to pay from existing 86372  
resources. The Director of Budget and Management shall notify the 86373  
members of the Controlling Board of any such transfers. 86374

READING FIRST 86375

The foregoing appropriation item 200-632, Reading First, 86376  
shall be used by school districts to administer federal diagnostic 86377  
tests as well as other functions permitted by federal statute. 86378  
Notwithstanding section 3301.079 of the Revised Code, federal 86379  
diagnostic tests may be recognized as meeting the state diagnostic 86380  
testing requirements outlined in section 3301.079 of the Revised 86381  
Code. 86382

HALF-MILL MAINTENANCE EQUALIZATION 86383

The foregoing appropriation item 200-626, Half-Mill 86384  
Maintenance Equalization, shall be used in fiscal year 2007 to 86385  
make payments pursuant to section 3318.18 of the Revised Code. 86386

**Section 206.09.54. EARLY LEARNING INITIATIVE** 86387

(A) As used in this section: 86388

(1) "Title IV-A services" means benefits and services that 86389  
are allowable under Title IV-A of the "Social Security Act," as 86390  
specified in 42 U.S.C. 604(a), except that they shall not be 86391  
benefits and services included in the term "assistance" as defined 86392  
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 86393  
excluded from the definition of the term "assistance" under 45 86394  
C.F.R. 260.31(b). 86395

(2) "Title IV-A funds" means funds provided under the 86396  
temporary assistance for needy families block grant established by 86397  
Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 86398

U.S.C. 601, as amended. 86399

(3) "Child care" has the same meaning as in section 5104.01 86400  
of the Revised Code. 86401

(4) "Eligible child" means a child who is at least three 86402  
years of age but not of compulsory school age or enrolled in 86403  
kindergarten, is eligible for Title IV-A services, and whose 86404  
family income does not exceed one hundred eighty-five per cent of 86405  
the federal poverty line at application. If the family income of a 86406  
child receiving early learning services under this section exceeds 86407  
one hundred ninety-five per cent of the federal poverty line, the 86408  
child ceases to be eligible for an early learning program. 86409

(5) "Early learning program" means a program for eligible 86410  
children that is funded with Title IV-A funds and provides Title 86411  
IV-A services that are both of the following: 86412

(a) Early learning services, as defined by the Department of 86413  
Education pursuant to division (C)(1) of this section; 86414

(b) Child care. 86415

(6) "Early learning provider" means an entity that is 86416  
receiving Title IV-A funds to operate an early learning program. 86417

(7) "Early learning agency" means an early learning provider 86418  
or an entity that has entered into an agreement with an early 86419  
learning provider requiring the early learning provider to operate 86420  
an early learning program on behalf of the entity. 86421

(8) "Federal poverty line" has the same meaning as in section 86422  
5104.01 of the Revised Code. 86423

(9) "Of compulsory school age" has the same meaning as in 86424  
section 3321.01 of the Revised Code. 86425

(B) The Early Learning Initiative is hereby established. The 86426  
Initiative shall be administered by the Department of Education 86427  
and the Department of Job and Family Services in accordance with 86428

sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Education shall do all of the following:

(1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative;

(2) In consultation with the Department of Job and Family Services, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation of an early learning program on the agency's behalf, to be licensed or certified by the Department of Education under sections 3301.52 to 3301.59 of the Revised Code or by the Department of Job and Family Services under Chapter 5104. of the Revised Code.

(3) Establish early learning program guidelines for school readiness to assess the operation of early learning programs.

(D) Any entity that seeks to be an early learning agency shall apply to the Department of Education by a deadline established by the Department. The Department of Education shall select entities that meet the criteria established under division (C)(2) of this section to be early learning agencies. Upon selection of an entity to be an early learning agency, the Department of Education shall designate the number of eligible children the agency will serve. The Department of Education shall notify the Office of Budget and Management and the Department of Job and Family Services of the number so designated.



(E) The Department of Education and the Department of Job and Family Services shall enter into a contract with each early learning agency selected under division (D) of this section. The contract shall outline the terms and conditions applicable to the provision of Title IV-A services for eligible children and shall include at least the following:

(1) The respective duties of the early learning agency, the Department of Education, and the Department of Job and Family Services;

(2) Requirements applicable to the allowable use of and accountability for Title IV-A funds;

(3) A requirement that the amount used by the early learning agency for development and administrative costs shall not exceed fifteen per cent of the total approved costs for the early learning program;

(4) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten;

(5) The reimbursement methodology, including a requirement that reimbursement shall be based upon the weekly attendance rate of each eligible child, which shall be consistent with the rules adopted pursuant to division (C)(3) of Section 206.67.12 of this act;

(6) Audit requirements;

(7) Provisions for suspending, modifying, or terminating the contract;

(8) A requirement that a child enrolled in a Head Start Plus program during fiscal year 2005 be given higher priority if the child is an eligible child and enrolls in an early learning

program. 86490

The requirements of section 127.16 of the Revised Code do not 86491  
apply to contracts entered into under this section. 86492

(F) If an early learning agency, or an early learning 86493  
provider operating an early learning program on the agency's 86494  
behalf, substantially fails to meet the early learning program 86495  
guidelines for school readiness or exhibits below average 86496  
performance, as determined by the Department of Education, the 86497  
agency shall develop and implement a corrective action plan. The 86498  
Department of Education shall approve the corrective action plan 86499  
prior to implementation. 86500

(G) If an early learning agency fails to implement a 86501  
corrective action plan under division (F) of this section, the 86502  
Department of Education may direct the Department of Job and 86503  
Family Services to withhold funding from the agency or either the 86504  
Department of Education or the Department of Job and Family 86505  
Services may suspend or terminate the contract with the agency. 86506

(H) Each early learning program shall do all of the 86507  
following: 86508

(1) Meet teacher qualification requirements prescribed by 86509  
section 3301.311 of the Revised Code; 86510

(2) Align curriculum to the early learning guidelines for 86511  
school readiness established pursuant to division (C) of this 86512  
section; 86513

(3) Meet any assessment requirements prescribed by section 86514  
3301.0715 of the Revised Code that apply to the program; 86515

(4) Require teachers, except teachers enrolled and working to 86516  
obtain a degree pursuant to section 3301.311 of the Revised Code, 86517  
to attend a minimum of twenty hours per year of professional 86518  
development as prescribed by the Department of Education regarding 86519

the implementation of content standards and assessments; 86520

(5) Document and report child progress in meeting the early 86521  
learning program guidelines for school readiness; 86522

(6) Meet and report compliance with the early learning 86523  
program guidelines for school success. 86524

(I) Of the foregoing appropriation item 200-663, Early 86525  
Learning Initiative, up to \$2,200,000 in each fiscal year may be 86526  
used by the Department of Education to perform administrative 86527  
functions for the Early Learning Initiative. The Director of 86528  
Budget and Management may transfer appropriation, as needed, from 86529  
the Department of Education, appropriation item 200-663, Early 86530  
Learning Initiative in Fund 5W2, to the Department of Job and 86531  
Family Services, appropriation item 600-689, TANF Block Grant in 86532  
Fund 3V6, for the successful operation of the Early Learning 86533  
Initiative. This transfer shall take place not less than fifteen 86534  
days after the Department of Education has provided the Office of 86535  
Budget and Management and the Department of Job and Family 86536  
Services its determination as to the number of children to be 86537  
served by each early learning agency under division (D) of this 86538  
section. The appropriation transferred is hereby authorized. 86539

START-UP FUNDS 86540

Funds appropriated for the purpose of providing start-up 86541  
grants to Title IV-A Head Start and Title IV-A Head Start Plus 86542  
agencies in fiscal year 2004 and fiscal year 2005 for the 86543  
provision of services to children eligible for Title IV-A services 86544  
under the Title IV-A Head Start or Title IV-A Head Start Plus 86545  
programs shall be reimbursed to the General Revenue Fund as 86546  
follows: 86547

(A) If, for fiscal year 2006, an entity that was a Title IV-A 86548  
Head Start or Title IV-A Head Start Plus agency will not be an 86549  
early learning agency or early learning provider, the entity shall 86550

repay the entire amount of the start-up grant it received in 86551  
fiscal year 2004 and fiscal year 2005 not later than June 30, 86552  
2007, in accordance with a payment schedule agreed to by the 86553  
Department of Education. 86554

(B) If, for fiscal year 2006, an entity that was a Title IV-A 86555  
Head Start or Title IV-A Head Start Plus agency will be an early 86556  
learning agency or early learning provider and the number of 86557  
eligible children served beginning in fiscal year 2006 is less 86558  
than the number for which the start-up grant was based, the amount 86559  
of reimbursement shall be adjusted based on the number of eligible 86560  
children who will be served by the entity in fiscal year 2006 and 86561  
the rate of reimbursement for the early learning program set by 86562  
the Department of Job and Family Services. The entity shall repay 86563  
the amount determined pursuant to this division by not later than 86564  
June 30, 2007, in accordance with a payment schedule agreed to by 86565  
the Department of Education. 86566

(C) If, for fiscal year 2006, an entity that was a Title IV-A 86567  
Head Start or Title IV-A Head Start Plus agency will be an early 86568  
learning agency or early learning provider and the number of 86569  
eligible children served beginning in fiscal year 2006 is greater 86570  
than or equal to the number for which the start-up grants were 86571  
based, the entity shall be allowed to retain the total amount of 86572  
the start-up grant it received. 86573

(D) Within ninety days after the effective date of this 86574  
section, the Title IV-A Head Start agencies, Title IV-A Head Start 86575  
Plus agencies, and the Department of Education shall determine the 86576  
amounts of the start-up grants to be repaid and within thirty days 86577  
thereafter determine the repayment schedule for such amounts. The 86578  
Department of Education shall refer any amounts remaining due and 86579  
payable to the state after June 30, 2007, to the Attorney General 86580  
for collection under section 131.02 of the Revised Code. 86581

(E) Any start-up grants that are retained by early learning agencies or early learning providers pursuant to this section shall be reimbursed to the General Revenue Fund when the early learning program ceases or is no longer funded from Title IV-A or if an early learning agency's or early learning provider's participation in the early learning program ceases.

**Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT**

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2006 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2007 by August 1, 2006, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

**Section 206.09.57. LOTTERY PROFITS EDUCATION FUND**

Appropriation item 200-612, Foundation Funding (Fund 017), shall be used in conjunction with appropriation item 200-550, Foundation Funding (GRF), to provide payments to school districts under Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-550, Foundation Funding (GRF), and appropriation item 200-612, Foundation Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682,

Lease Rental Payment Reimbursement, to the General Revenue Fund on 86612  
a schedule determined by the director. These funds shall support 86613  
the appropriation item 230-428, Lease Rental Payments (GRF), of 86614  
the School Facilities Commission. 86615

**Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND** 86616

(A) There is hereby created the Lottery Profits Education 86617  
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 86618  
of the Lottery Profits Education Reserve Fund shall be credited to 86619  
the fund. The Superintendent of Public Instruction may certify 86620  
cash balances exceeding \$75,000,000 in the Lottery Profits 86621  
Education Reserve Fund (Fund 018) to the Director of Budget and 86622  
Management in June of any given fiscal year. Prior to making the 86623  
certification, the Superintendent of Public Instruction shall 86624  
determine whether the funds above the \$75,000,000 threshold are 86625  
needed to help pay for foundation program obligations for that 86626  
fiscal year under Chapter 3317. of the Revised Code. If those 86627  
funds are needed for the foundation program, the Superintendent of 86628  
Public Instruction shall notify and consult with the Director of 86629  
Budget and Management to determine the amount that may be 86630  
transferred to the Public School Building Fund (Fund 021). Upon 86631  
this determination, the Director of Budget and Management shall 86632  
transfer the amount from the Lottery Profits Education Reserve 86633  
Fund (Fund 018) to the Public School Building Fund (Fund 021). The 86634  
amount transferred is hereby appropriated to appropriation item 86635  
CAP-622, Public School Buildings. 86636

For fiscal years 2006 and 2007, notwithstanding any 86637  
provisions of law to the contrary, amounts necessary to make loans 86638  
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 86639  
Revised Code are hereby appropriated to the Lottery Profits 86640  
Education Reserve Fund (Fund 018). Loan repayments from loans made 86641  
in previous years shall be deposited to the fund. 86642

(B) On July 15, 2005, or as soon as possible thereafter, the 86643  
Director of the Ohio Lottery Commission shall certify to the 86644  
Director of Budget and Management the amount by which lottery 86645  
profit transfers received by the Lottery Profits Education Fund 86646  
(Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director 86647  
of Budget and Management shall transfer the amount so certified, 86648  
plus the cash balance in Fund 017, to the Lottery Profits 86649  
Education Reserve Fund (Fund 018). 86650

(C) On July 15, 2006, or as soon as possible thereafter, the 86651  
Director of the Ohio Lottery Commission shall certify to the 86652  
Director of Budget and Management the amount by which lottery 86653  
profit transfers received by the Lottery Profits Education Fund 86654  
(Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director 86655  
of Budget and Management shall transfer the amount so certified, 86656  
plus the cash balance in Fund 017, to the Lottery profits 86657  
Education Reserve Fund (Fund 018). 86658

(D) Any amounts transferred under division (B) or (C) of this 86659  
section may be made available by the Controlling Board in fiscal 86660  
years 2006 or 2007, at the request of the Superintendent of Public 86661  
Instruction, to provide assistance and grants to school districts 86662  
to enable them to remain solvent and to pay unforeseeable expenses 86663  
of a temporary or emergency nature that they are unable to pay 86664  
from existing resources under section 3316.20 of the Revised Code, 86665  
and to provide payments to school districts under Chapter 3317. of 86666  
the Revised Code. 86667

**Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 86668**  
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047) 86669

Notwithstanding any provision of law to the contrary, the 86670  
Director of Budget and Management shall transfer \$10,010,000 in 86671  
fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the 86672  
General Revenue Fund to appropriation item 200-909, School 86673

District Property Tax Replacement - Business (Fund 047) in the 86674  
Department of Education. The funds shall be used to reimburse 86675  
school districts and joint vocational districts under section 86676  
5751.21 of the Revised Code. 86677

**Section 206.09.63.** SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 86678  
BUSINESS 86679

The foregoing appropriation item, 200-909, School District 86680  
Property Tax Replacement - Business, in Fund 047, shall be used by 86681  
the Department of Education, in consultation with the Department 86682  
of Taxation, to make payments to school districts and joint 86683  
vocational school districts under section 5751.21 of the Revised 86684  
Code. 86685

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 86686

The foregoing appropriation item 200-900, School District 86687  
Property Tax Replacement-Utility, in Fund 053, shall be used by 86688  
the Department of Education, in consultation with the Department 86689  
of Taxation, to make payments to school districts and joint 86690  
vocational school districts under section 5727.85 of the Revised 86691  
Code. 86692

**\*Section 206.09.66.** DISTRIBUTION FORMULAS 86693

The Department of Education shall report the following to the 86694  
Director of Budget and Management, the Legislative Office of 86695  
Education Oversight, and the Legislative Service Commission: 86696

(A) Changes in formulas for distributing state 86697  
appropriations, including administratively defined formula 86698  
factors; 86699

(B) Discretionary changes in formulas for distributing 86700  
federal appropriations; 86701

(C) Federally mandated changes in formulas for distributing 86702



federal appropriations. 86703

Any such changes shall be reported two weeks prior to the 86704  
effective date of the change. 86705

**Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING** 86706

(A) As used in this section: 86707

(1) "Internet- or computer-based community school" has the 86708  
same meaning as in section 3314.02 of the Revised Code. 86709

(2) "Service center ADM" has the same meaning as in section 86710  
3317.11 of the Revised Code. 86711

(B) Notwithstanding division (F) of section 3317.11 of the 86712  
Revised Code, no funds shall be provided under that division to an 86713  
educational service center in either fiscal year for any pupils of 86714  
a city or exempted village school district unless an agreement to 86715  
provide services under section 3313.843 of the Revised Code was 86716  
entered into by January 1, 1997, except that funds shall be 86717  
provided to an educational service center for any pupils of a city 86718  
school district if the agreement to provide services was entered 86719  
into within one year of the date upon which such district changed 86720  
from a local school district to a city school district. 86721

(C) Notwithstanding any provision of the Revised Code to the 86722  
contrary, an educational service center that sponsors a community 86723  
school under Chapter 3314. of the Revised Code in either fiscal 86724  
year may include the students of that community school in its 86725  
service center ADM for purposes of state funding under division 86726  
(F) of section 3317.11 of the Revised Code, unless the community 86727  
school is an Internet- or computer-based community school. A 86728  
service center shall include the community school students in its 86729  
service center ADM only to the extent that the students are not 86730  
already so included, and only in accordance with guidelines issued 86731  
by the Department of Education. If the students of a community 86732

school sponsored by an educational service center are included in 86733  
the service center ADM of another educational service center, 86734  
those students shall be removed from the service center ADM of the 86735  
other educational service center and added to the service center 86736  
ADM of the community school's sponsoring service center. The 86737  
General Assembly authorizes this procedure as an incentive for 86738  
educational service centers to take over sponsorship of community 86739  
schools from the State Board of Education as the State Board's 86740  
sponsorship is phased out in accordance with Sub. H.B. 364 of the 86741  
124th General Assembly. No student of an Internet- or 86742  
computer-based community school shall be counted in the service 86743  
center ADM of any educational service center. The Department shall 86744  
pay educational service centers under division (F) of section 86745  
3317.11 of the Revised Code for community school students included 86746  
in their service center ADMs under this division only if 86747  
sufficient funds earmarked within appropriation item 200-550, 86748  
Foundation Funding, for payments under that division remain after 86749  
first paying for students attributable to their local and client 86750  
school districts, in accordance with divisions (B) and (D) of this 86751  
section. 86752

(D) If insufficient funds are earmarked within appropriation 86753  
item 200-550, Foundation Funding, for payments under division (F) 86754  
of section 3317.11 of the Revised Code and division (C) of this 86755  
section in fiscal year 2006 or fiscal year 2007, the Department 86756  
shall prioritize the distribution of the earmarked funds as 86757  
follows: 86758

(1) The Department shall first distribute to each educational 86759  
service center the per-student amount specified in division (F) of 86760  
section 3317.11 of the Revised Code for each student in its 86761  
service center ADM attributable to the local school districts 86762  
within the service center's territory. 86763

(2) The Department shall distribute the remaining funds in 86764

each fiscal year to each educational service center for the 86765  
students in its service center ADM attributable to each city and 86766  
exempted village school district that had entered into an 86767  
agreement with an educational service center for that fiscal year 86768  
under section 3313.843 of the Revised Code by January 1, 1997, up 86769  
to the per-student amount specified in division (F) of section 86770  
3317.11 of the Revised Code. If insufficient funds remain to pay 86771  
each service center the full amount specified in division (F) of 86772  
that section for each such student, the Department shall 86773  
distribute the remaining funds to each service center 86774  
proportionally, on a per-student basis for each such student, 86775  
unless that proportional per-student amount exceeds the amount 86776  
specified in division (F)(1) of that section. In that case, the 86777  
Department shall distribute the per-student amount specified in 86778  
division (F)(1) of that section to each service center for each 86779  
such student and shall distribute the remainder proportionally, on 86780  
a per-student basis for each such student, to the multi-county 86781  
service centers described in division (F)(2) of that section. 86782

(3) If the Department has paid each service center under 86783  
divisions (D)(1) and (2) of this section, the full amount 86784  
specified in division (F) of section 3317.11 of the Revised Code 86785  
for each student attributable to its local school districts and 86786  
its client school districts described in division (D)(2) of this 86787  
section the Department shall distribute any remaining funds 86788  
proportionally, on a per-student basis, to each service center 86789  
that sponsors a community school, other than an Internet- or 86790  
computer-based community school, for the students included in the 86791  
service center ADM under division (C) of this section. These 86792  
payments shall not exceed per student the amount specified in 86793  
division (F) of section 3317.11 of the Revised Code. 86794

**\*Section 206.09.72.** For the school year commencing July 1, 86795

2005, or the school year commencing July 1, 2006, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

**Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT**

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2006 or fiscal year 2007 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;	86825
(d) Act One, in Akron;	86826
(e) Friars Club, in Cincinnati.	86827
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	86828 86829 86830
(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.	86831 86832
(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.	86833 86834 86835 86836 86837
(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.	86838 86839 86840
(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall	86841 86842 86843 86844 86845 86846 86847 86848 86849 86850 86851 86852 86853 86854

provide the educational program at the treatment center to 86855  
children under twenty-two years of age residing in the treatment 86856  
center. 86857

(C) Any school district responsible for tuition for a 86858  
residential child shall, notwithstanding any conflicting provision 86859  
of the Revised Code regarding tuition payment, pay tuition for the 86860  
child for fiscal year 2006 and fiscal year 2007 to the education 86861  
program provider and in the amount specified in this division. If 86862  
there is no school district responsible for tuition for a 86863  
residential child and if the participating residential treatment 86864  
center to which the child is assigned is located in the city, 86865  
exempted village, or local school district that, if the child were 86866  
not a resident of that treatment center, would be the school 86867  
district where the child is entitled to attend school under 86868  
sections 3313.64 and 3313.65 of the Revised Code, that school 86869  
district, notwithstanding any conflicting provision of the Revised 86870  
Code, shall pay tuition for the child for fiscal year 2006 and 86871  
fiscal year 2007 under this division unless that school district 86872  
is providing the educational program to the child under division 86873  
(B) of this section. 86874

A tuition payment under this division shall be made to the 86875  
school district, educational service center, or residential 86876  
treatment facility providing the educational program to the child. 86877

The amount of tuition paid shall be: 86878

(1) The amount of tuition determined for the district under 86879  
division (A) of section 3317.08 of the Revised Code; 86880

(2) In addition, for any student receiving special education 86881  
pursuant to an individualized education program as defined in 86882  
section 3323.01 of the Revised Code, a payment for excess costs. 86883  
This payment shall equal the actual cost to the school district, 86884  
educational service center, or residential treatment facility of 86885

providing special education and related services to the student 86886  
pursuant to the student's individualized education program, minus 86887  
the tuition paid for the child under division (C)(1) of this 86888  
section. 86889

A school district paying tuition under this division shall 86890  
not include the child for whom tuition is paid in the district's 86891  
average daily membership certified under division (A) of section 86892  
3317.03 of the Revised Code. 86893

(D) In each of fiscal years 2006 and 2007, the Department of 86894  
Education shall reimburse, from appropriations made for the 86895  
purpose, a school district, educational service center, or 86896  
residential treatment facility, whichever is providing the 86897  
service, that has demonstrated that it is in compliance with the 86898  
funding criteria for each served child for whom a school district 86899  
must pay tuition under division (C) of this section. The amount of 86900  
the reimbursement shall be the formula amount specified in section 86901  
3317.022 of the Revised Code, except that the department shall 86902  
proportionately reduce this reimbursement if sufficient funds are 86903  
not available to pay this amount to all qualified providers. 86904

(E) Funds provided to a school district, educational service 86905  
center, or residential treatment facility under this section shall 86906  
be used to supplement, not supplant, funds from other public 86907  
sources for which the school district, service center, or 86908  
residential treatment facility is entitled or eligible. 86909

(F) The Department of Education shall track the utilization 86910  
of funds provided to school districts, educational service 86911  
centers, and residential treatment facilities under this section 86912  
and monitor the effect of the funding on the educational programs 86913  
they provide in participating residential treatment facilities. 86914  
The department shall monitor the programs for educational 86915  
accountability. 86916

**Section 206.09.78.** SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS 86917  
86918

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate. 86919  
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**Section 206.09.81.** DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT 86925  
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In fiscal year 2006 and fiscal year 2007, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. H.B. 3 of the 125th General Assembly for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unspent and unencumbered appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment. 86927  
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**Section 206.09.84.** (A) As used in this section: 86940

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code. 86941  
86942  
86943

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code. 86944  
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- (3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code. 86946  
86947
- (4) "Parent" has the same meaning as in section 3313.64 of the Revised Code. 86948  
86949
- (5) "Qualified special education child" is a child for whom all of the following conditions apply: 86950  
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- (a) The school district in which the child is entitled to attend school has identified the child as autistic. 86952  
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- (b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child. 86954  
86955  
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- (c) The child either: 86957
- (i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or 86958  
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86961
- (ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child. 86962  
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- (6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section. 86966  
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- (B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2006 and 2007, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each 86970  
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scholarship shall be used only to pay tuition for the child on 86976  
whose behalf the scholarship is awarded to attend a special 86977  
education program that implements the child's individualized 86978  
education program and that is operated by a school district other 86979  
than the school district in which the child is entitled to attend 86980  
school, by another public entity, or by a registered private 86981  
provider. Each scholarship shall be in an amount not to exceed the 86982  
lesser of the tuition charged for the child by the special 86983  
education program or twenty thousand dollars. The purpose of the 86984  
scholarship is to permit the parent of a qualified special 86985  
education child the choice to send the child to a special 86986  
education program, instead of the one operated by or for the 86987  
school district in which the child is entitled to attend school, 86988  
to receive the services prescribed in the child's individualized 86989  
education program once the individualized education program is 86990  
finalized. A scholarship under this section shall not be awarded 86991  
to the parent of a child while the child's individualized 86992  
education program is being developed by the school district in 86993  
which the child is entitled to attend school, or while any 86994  
administrative or judicial mediation or proceedings with respect 86995  
to the content of the child's individualized education program are 86996  
pending. A scholarship under this section shall not be used for a 86997  
child to attend a public special education program that operates 86998  
under a contract, compact, or other bilateral agreement between 86999  
the school district in which the child is entitled to attend 87000  
school and another school district or other public provider, or 87001  
for a child to attend a community school established under Chapter 87002  
3314. of the Revised Code. However, nothing in this section or in 87003  
any rule adopted by the State Board of Education shall prohibit a 87004  
parent whose child attends a public special education program 87005  
under a contract, compact, or other bilateral agreement, or a 87006  
parent whose child attends a community school, from applying for 87007  
and accepting a scholarship under this section so that the parent 87008

may withdraw the child from that program or community school and  
use the scholarship for the child to attend a special education  
program for which the parent is required to pay for services for  
the child. A child attending a special education program with a  
scholarship under this section shall continue to be entitled to  
transportation to and from that program in the manner prescribed  
by law.

(C)(1) Notwithstanding anything to the contrary in the  
Revised Code, a child for whom a scholarship is awarded under this  
section shall be counted in the formula ADM and the category six  
special education ADM of the district in which the child is  
entitled to attend school and not in the formula ADM and the  
category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the  
amounts paid to each school district under Chapter 3317. of the  
Revised Code, and, if necessary, sections 321.24 and 323.156 of  
the Revised Code, the aggregate amount of scholarships awarded  
under this section for qualified special education children  
included in the formula ADM and category six special education ADM  
of that school district as provided in division (C)(1) of this  
section. The scholarships deducted shall be considered as an  
approved special education and related services expense for the  
purpose of the school district's compliance with division (C)(5)  
of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to  
the parent of each qualified special education child for whom a  
scholarship has been awarded under this section. The scholarship  
amount shall be proportionately reduced in the case of any such  
child who is not enrolled in the special education program for  
which a scholarship was awarded under this section for the entire  
school year. The Department shall make no payments to the parent  
of a child while any administrative or judicial mediation or

proceedings with respect to the content of the child's 87041  
individualized education program are pending. 87042

(D) A scholarship shall not be paid to a parent for payment 87043  
of tuition owed to a nonpublic entity unless that entity is a 87044  
registered private provider. The Department shall approve entities 87045  
that meet the standards established by rule of the State Board for 87046  
the program established under this section. 87047

(E) The State Board shall adopt rules under Chapter 119. of 87048  
the Revised Code prescribing procedures necessary to implement 87049  
this section, including, but not limited to, procedures and 87050  
deadlines for parents to apply for scholarships, standards for 87051  
registered private providers, and procedures for approval of 87052  
entities as registered private providers. The Board shall adopt 87053  
the rules so that the program established under this section is 87054  
operational by January 1, 2004. 87055

**Section 206.09.90. INTERVENTION FUNDING** 87056

No later than September 30, 2006, each school district shall 87057  
report, in a manner defined by the Department of Education, how 87058  
state intervention funding provided under division (B)(1) of 87059  
section 3317.012 and division (C) of section 3317.029 of the 87060  
Revised Code in fiscal year 2006 was deployed. To the degree that 87061  
school districts do not meet adequate progress standards as 87062  
defined by the Department of Education, the Department shall use 87063  
the reported information to intervene at the district and building 87064  
levels to make recommendations on how state funding for 87065  
intervention should be deployed in a more effective manner. This 87066  
information shall also be used by the Department to inform its 87067  
recommendations required in the section of this act entitled 87068  
"DISTRICT SPENDING REQUIREMENTS." 87069

**Section 206.09.93. EARMARK ACCOUNTABILITY** 87070

At the request of the Superintendent of Public Instruction, 87071  
any entity that receives a budget earmark under the Department of 87072  
Education shall submit annually to the chairpersons of the 87073  
committees of the House of Representatives and the Senate 87074  
primarily concerned with education and to the Department of 87075  
Education a report that includes a description of the services 87076  
supported by the funds, a description of the results achieved by 87077  
those services, an analysis of the effectiveness of the program, 87078  
and an opinion as to the program's applicability to other school 87079  
districts. For an earmarked entity that received state funds from 87080  
an earmark in the prior fiscal year, no funds shall be provided by 87081  
the Department of Education to an earmarked entity for a fiscal 87082  
year until its report for the prior fiscal year has been 87083  
submitted. 87084

**Section 206.09.99.** The revisions by this act to the 87085  
Post-Secondary Enrollment Options Program established under 87086  
Chapter 3365. of the Revised Code shall apply as follows: 87087

(A) The amendment to the definition of "tuition base" in 87088  
section 3365.01 of the Revised Code, as amended by this act, shall 87089  
apply to payments for courses taken beginning in the 2005-2006 87090  
school year. 87091

(B) The requirement that a secondary grade student be a 87092  
resident of this state in order to participate in the 87093  
Post-Secondary Enrollment Options Program as specified in section 87094  
3365.02 of the Revised Code, as amended by this act, shall not 87095  
apply to students participating in the program during fiscal year 87096  
2005. That requirement applies to students participating in the 87097  
program after July 1, 2005, regardless of whether they 87098  
participated in the program prior to that date. 87099

**Section 206.10.03.** Not later than September 1, 2005, the 87100

Superintendent of Public Instruction shall begin preparations to 87101  
implement the Educational Choice Scholarship Pilot Program 87102  
established by sections 3310.01 to 3310.17 of the Revised Code. 87103  
The Superintendent shall ensure that school districts, chartered 87104  
nonpublic schools, students, and parents are informed of the 87105  
Educational Choice Scholarship Pilot Program and how the Program 87106  
may affect them. The Superintendent shall provide such information 87107  
in sufficient time for affected parties to meet all deadlines 87108  
imposed for participation in the Educational Choice Scholarship 87109  
Pilot Program in the 2006-2007 school year. The State Board of 87110  
Education shall adopt the rules required by section 3310.16 of the 87111  
Revised Code so that those rules are in effect and the Educational 87112  
Choice Scholarship Pilot Program is operational in the school year 87113  
that commences July 1, 2006. 87114

The Superintendent shall select not more than 10,000 students 87115  
in fiscal year 2007 to be awarded scholarships under the 87116  
Educational Choice Scholarship Pilot Program. 87117

**Section 206.10.05.** Not later than December 31, 2005, the 87118  
Department of Education shall make recommendations to the General 87119  
Assembly regarding the payment of state parity aid to community 87120  
schools in fiscal year 2007. 87121

**Section 206.10.07.** (A) Within sixty days after the effective 87122  
date of this section, the Director of Administrative Services 87123  
shall contract with a third party to investigate the most cost 87124  
effective method for funding school districts' health benefits. 87125  
The third party shall consider all the following when conducting 87126  
the investigation: 87127

(1) Existing school district benefit offerings, employees' 87128  
costs for the benefits, and cost sharing arrangements; 87129

(2) Existing health care pools and consortiums in which 87130

school districts participate;	87131
(3) Potential benefits of state or regional regulated health care pools or consortiums that offer multiple health care plans and that have different pools or consortiums for each region of the state;	87132 87133 87134 87135
(4) Existing strategies that positively manage health care costs;	87136 87137
(5) Other states' studies of, experience with, or existing statewide and regional health care pools or consortiums;	87138 87139
(6) Alternatives to statewide or regional health care pools, including, but not limited to, existing consortiums and school alliances.	87140 87141 87142
(B) There is hereby created the Health Care Task Force within the Department of Administrative Services. The Director of Administrative Services shall appoint the members of the Task Force within ninety days after the effective date of this section and with the consent of the President of the Senate and the Speaker of the House of Representatives. The seventeen-member task force shall consist of the following members:	87143 87144 87145 87146 87147 87148 87149
(1) One member from each of the following:	87150
(a) Ohio School Boards Association;	87151
(b) Ohio Education Association;	87152
(c) Ohio Association of Public School Employees;	87153
(d) Ohio Association of School Business Officials;	87154
(e) Ohio Association of Health Underwriters;	87155
(f) Department of Insurance;	87156
(g) Department of Administrative Services;	87157
(h) A school health care consortium.	87158

(2) One member of a health insuring corporation licensed to do business in Ohio and recommended by the Ohio Association of Health Plans;

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(3) A person licensed under Chapter 3923. of the Revised Code recommended by the Ohio Association of Health Plans;

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(4) A third party administrator licensed under Chapter 3959. of the Revised Code;

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(5) Three members of the Senate;

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(6) Three members of the House of Representatives.

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(C) Within ninety days after the Director of Administrative Services contracts with the third party to conduct the investigation described in division (A) of this section, the third party shall report initial data to the Health Care Task Force. Within ninety days after reporting the initial data, the third party shall report final data to the Task Force. Using the final data, the Task Force shall determine whether any changes to the existing school employee health benefit purchasing system would result in cost savings and make findings and recommendations based on these determinations. The Task Force's findings and recommendations shall include, but are not limited to, all of the following:

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(1) Identification of any necessary provisions needed to ensure long-term financial solvency and stability of a health care purchasing system;

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(2) Potential impacts of any changes to the existing purchasing structure on all of the following:

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(a) Private companies and brokers, consultants, and agents currently providing or producing health care benefits and services through fully-insured or self-insured arrangements;

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(b) Existing health care pooling and consortiums;

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(c) Individual school districts;	87189
(d) Existing and future collective bargaining agreements.	87190
(3) Identification of issues that could arise when school districts would transition from the existing purchasing structure to a new purchasing structure;	87191 87192 87193
(4) Projected costs and savings to the state, school boards, and school employees if the existing purchasing structure is changed, including, but not limited to, costs of health care claims, health care premiums, and administrative costs.	87194 87195 87196 87197
(D) The Task Force shall submit the findings and recommendations described in division (C) of this section and the final data of the investigation done by the third party described in division (A) of this section to the President of the Senate, the Speaker of the House of Representatives, and the Director of Budget and Management not later than forty-five days after receiving the final data from the third party. The Director of Administrative Services may extend the deadline with the consent of the President of the Senate and the Speaker of the House of Representatives. The Director of Administrative Services shall make copies of the findings and recommendations available to the public upon request. After the Task Force submits findings and recommendations as required in this division, the Task Force ceases to exist.	87198 87199 87200 87201 87202 87203 87204 87205 87206 87207 87208 87209 87210 87211
<b>Section 206.10.09.</b> Within thirty days after the effective date of this section, the Department of Education shall notify each entity approved to be a sponsor of community schools pursuant to division (B)(1) of section 3314.015 of the Revised Code prior to the effective date of this section and each entity that is not required to be so approved by section 3314.021 of the Revised Code or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the	87212 87213 87214 87215 87216 87217 87218

number of schools the entity may sponsor under that division.	87219
<b>Section 206.10.12.</b> (A) The School Physical Fitness and	87220
Wellness Advisory Council is hereby established. The Council shall	87221
consist of the following members:	87222
(1) A representative of the Ohio Association for Health,	87223
Physical Education, Recreation and Dance, appointed by the	87224
Association;	87225
(2) A school food service director, appointed by the Ohio	87226
School Food Service Association;	87227
(3) A representative of the Ohio School Boards Association,	87228
appointed by the Association;	87229
(4) A registered dietician, appointed by the Ohio Dietetic	87230
Association;	87231
(5) A representative of the Ohio State Medical Association,	87232
appointed by the Association;	87233
(6) A representative of the food industry, appointed by the	87234
Ohio Chamber of Commerce;	87235
(7) A representative of the Ohio Parent Teacher Association,	87236
appointed by the Association;	87237
(8) A representative of the Ohio Soft Drink Association,	87238
appointed by the Association;	87239
(9) A representative of the Department of Education,	87240
appointed by the Superintendent of Public Instruction;	87241
(10) A representative of the Ohio Parks and Recreation	87242
Association, appointed by the Association;	87243
(11) The Director of Health;	87244
(12) A representative of the Ohio Children's Hunger Alliance,	87245
appointed by the Alliance.	87246

(B) Appointments to the Council shall be made within thirty 87247  
days after the effective date of this section. The representative 87248  
of the Department of Education shall be the chairperson of the 87249  
Council. The Council shall meet at least every two months. The 87250  
Department of Education shall provide administrative support to 87251  
the Council in the performance of its duties. 87252

(C) The Council shall develop guidelines for best practices 87253  
regarding nutrition education, physical activity for students, and 87254  
school-based activities and school-business partnerships that 87255  
promote student wellness. For this purpose, the Council shall 87256  
examine research concerning these issues and review existing 87257  
guidelines and best practices established by associations or 87258  
governmental entities at the national, state, and local levels. 87259  
The best practices guidelines developed by the Council shall 87260  
provide information that school districts participating in a 87261  
school lunch program under the "National School Lunch Act," 60 87262  
Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when 87263  
adopting local wellness policies as required by the "Child 87264  
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. 87265  
The Council also shall develop strategies for districts to use in 87266  
evaluating the implementation of their local wellness policies to 87267  
determine if the goals and objectives described in those policies 87268  
are being met. 87269

(D) Not later than December 31, 2005, the Council shall 87270  
compile a written report containing its best practices guidelines 87271  
and evaluation strategies. Copies of the report shall be provided 87272  
to each school district participating in a school lunch program as 87273  
described in division (C) of this section, the Governor, the 87274  
Speaker of the House of Representatives, and the President of the 87275  
Senate. Upon submission of its report, the Council shall cease to 87276  
exist. 87277

**Section 206.10.21.** (A) Notwithstanding section 3313.41 of the Revised Code, a school district board of education in support of economic development within the territory of the district may dispose of real property that it owns in its corporate capacity, and that exceeds in value ten thousand dollars, by direct sale in lieu of offering the property for sale at public auction as provided in division (A) of that section, in lieu of offering the property for sale to an entity listed in division (C) of that section, or in lieu of offering the property for sale to a community school as provided in division (G) of that section, if all of the following conditions are satisfied:

(1) The real property is encumbered by easements, liens, or other use restrictions that benefit the person acquiring the property under this section;

(2) The real property was part of or adjacent to real property previously disposed of by the board of education;

(3) The real property when sold will be used for commercial development.

(B) This section expires December 31, 2005.

**Section 206.10.24.** Not later than July 1, 2006, the Superintendent of Public Instruction shall recommend to the General Assembly a plan whereby:

(A) School districts make a second annual certification of formula ADM in the second half of each fiscal year, prior to the first day of April;

(B) This second annual certification of formula ADM may be used to guarantee a minimum level of state funding to each school district for the next fiscal year, with sufficient notice so that the districts may prepare in advance of each school year.

The recommended plan shall include methods to accommodate enrollment growth trends in fast-growing districts. 87307  
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**Section 206.10.27.** When designating performance ratings for school districts under section 3302.03 of the Revised Code in 2005, based on the 2004-2005 school year, and in 2006, based on the 2005-2006 school year, the Department of Education shall not assign a school district a lower designation from its previous year's designation based solely on one student subgroup's not meeting adequate yearly progress. 87309  
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**Section 206.13.** ELC OHIO ELECTIONS COMMISSION 87316

General Revenue Fund 87317

GRF 051-321 Operating Expenses	\$	411,623	\$	411,623	87318
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TOTAL GRF General Revenue Fund	\$	411,623	\$	411,623	87319
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General Services Fund Group 87320

4P2 051-601 Ohio Elections 87321

Commission Fund	\$	225,000	\$	225,000	87322
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TOTAL GSF General Services Fund	\$	225,000	\$	225,000	87323
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	636,623	\$	636,623	87324
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**Section 206.16.** FUN STATE BOARD OF EMBALMERS AND FUNERAL 87326

DIRECTORS 87327

General Services Fund Group 87328

4K9 881-609 Operating Expenses	\$	598,933	\$	0	87329
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TOTAL GSF General Services					87330
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Fund Group	\$	598,933	\$	0	87331
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TOTAL ALL BUDGET FUND GROUPS	\$	598,933	\$	0	87332
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**Section 206.19.** ERB STATE EMPLOYMENT RELATIONS BOARD 87334

General Revenue Fund 87335

GRF 125-321 Operating Expenses	\$	3,265,397	\$	3,363,359	87336
TOTAL GRF General Revenue Fund	\$	3,265,397	\$	3,363,359	87337
General Services Fund Group					87338
572 125-603 Training and Publications	\$	75,541	\$	75,541	87339
TOTAL GSF General Services Fund Group	\$	75,541	\$	75,541	87341
TOTAL ALL BUDGET FUND GROUPS	\$	3,340,938	\$	3,438,900	87342

**Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS** 87344

General Services Fund Group					87345
4K9 892-609 Operating Expenses	\$	1,058,881	\$	1,058,881	87346
TOTAL GSF General Services Fund Group	\$	1,058,881	\$	1,058,881	87348
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,881	\$	1,058,881	87349

**Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY** 87351

General Revenue Fund					87352
GRF 715-403 Clean Ohio	\$	92,707	\$	0	87353
GRF 715-501 Local Air Pollution Control	\$	128,297	\$	0	87354
GRF 717-321 Surface Water	\$	1,112,342	\$	0	87355
GRF 718-321 Groundwater	\$	136,719	\$	0	87356
GRF 719-321 Air Pollution Control	\$	311,494	\$	0	87357
GRF 721-321 Drinking Water	\$	318,783	\$	0	87358
GRF 723-321 Hazardous Waste	\$	12,606	\$	0	87359
GRF 724-321 Pollution Prevention	\$	87,538	\$	0	87360
GRF 725-321 Laboratory	\$	152,043	\$	0	87361
GRF 726-321 Corrective Actions	\$	147,473	\$	0	87362
TOTAL GRF General Revenue Fund	\$	2,500,002	\$	0	87363
General Services Fund Group					87364
199 715-602 Laboratory Services	\$	1,078,348	\$	1,083,574	87365

219	715-604	Central Support	\$	15,804,913	\$	16,345,805	87366
		Indirect					
4A1	715-640	Operating Expenses	\$	3,369,731	\$	3,369,731	87367
TOTAL GSF General Services							87368
Fund Group			\$	20,252,992	\$	20,799,110	87369
Federal Special Revenue Fund Group							87370
3F2	715-630	Revolving Loan Fund -	\$	152,021	\$	293,129	87371
		Operating					
3F3	715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,777,648	87372
		and Response					
3F4	715-633	Water Quality	\$	710,000	\$	710,000	87373
		Management					
3F5	715-641	Nonpoint Source	\$	7,815,000	\$	7,810,000	87374
		Pollution Management					
3J1	715-620	Urban Stormwater	\$	706,000	\$	710,000	87375
3K2	715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846	87376
3K4	715-634	DOD Monitoring and	\$	1,450,333	\$	1,450,333	87377
		Oversight					
3K6	715-639	Remedial Action Plan	\$	320,000	\$	319,000	87378
3N4	715-657	DOE Monitoring and	\$	3,181,736	\$	3,231,963	87379
		Oversight					
3V7	715-606	Agencywide Grants	\$	458,115	\$	479,115	87380
352	715-611	Wastewater Pollution	\$	525,000	\$	530,000	87381
353	715-612	Public Water Supply	\$	3,384,959	\$	3,388,619	87382
354	715-614	Hazardous Waste	\$	4,203,891	\$	4,203,891	87383
		Management - Federal					
357	715-619	Air Pollution Control	\$	6,966,337	\$	7,243,950	87384
		- Federal					
362	715-605	Underground Injection	\$	111,874	\$	111,874	87385
		Control - Federal					
TOTAL FED Federal Special Revenue							87386
Fund Group			\$	37,501,759	\$	38,283,368	87387

State Special Revenue Fund Group					87388	
3T3 715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910	87389
4J0 715-638	Underground Injection Control	\$	438,285	\$	458,418	87390
4K2 715-648	Clean Air - Non Title V	\$	3,234,278	\$	3,178,062	87391
4K3 715-649	Solid Waste	\$	13,800,377	\$	14,282,845	87392
4K4 715-650	Surface Water Protection	\$	11,606,000	\$	12,420,000	87393
4K5 715-651	Drinking Water Protection	\$	7,202,901	\$	7,492,035	87394
4P5 715-654	Cozart Landfill	\$	149,728	\$	149,728	87395
4R5 715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000	87396
4R9 715-658	Voluntary Action Program	\$	1,008,765	\$	1,032,098	87397
4T3 715-659	Clean Air - Title V Permit Program	\$	16,960,373	\$	17,180,980	87398
4U7 715-660	Construction & Demolition Debris	\$	586,797	\$	582,305	87399
5BC 715-617	Clean Ohio	\$	648,939	\$	741,646	87400
5BC 715-622	Local Air Pollution Control	\$	898,072	\$	1,026,369	87401
5BC 715-624	Surface Water	\$	7,685,071	\$	8,797,413	87402
5BC 715-667	Groundwater	\$	957,022	\$	1,093,741	87403
5BC 715-672	Air Pollution Control	\$	4,234,681	\$	5,199,290	87404
5BC 715-673	Drinking Water	\$	2,231,467	\$	2,550,250	87405
5BC 715-675	Hazardous Waste	\$	88,241	\$	100,847	87406
5BC 715-676	Assistance and Prevention	\$	612,764	\$	700,302	87407
5BC 715-677	Laboratory	\$	1,064,290	\$	1,216,333	87408
5BC 715-678	Corrective Action	\$	1,032,302	\$	1,179,775	87409
5CD 715-682	Clean Diesel School Buses	\$	650,000	\$	850,000	87410



5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871	87411
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	87412
500	715-608	Immediate Removal	\$	482,000	\$	482,000	87413
		Special Account					
503	715-621	Hazardous Waste	\$	11,270,231	\$	11,711,473	87414
		Facility Management					
505	715-623	Hazardous Waste	\$	11,482,988	\$	11,482,988	87415
		Cleanup					
505	715-674	Clean Ohio	\$	104,500	\$	109,725	87416
		Environmental Review					
541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650	87417
542	715-671	Risk Management	\$	146,188	\$	146,188	87418
		Reporting					
592	715-627	Anti Tampering	\$	17,203	\$	9,707	87419
		Settlement					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	87420
		Education					
602	715-626	Motor Vehicle	\$	1,190,944	\$	250,000	87421
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114	87422
660	715-629	Infectious Waste	\$	160,000	\$	100,000	87423
		Management					
676	715-642	Water Pollution	\$	4,964,625	\$	4,964,625	87424
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	210,621	\$	210,622	87425
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647	87426
696	715-643	Air Pollution Control	\$	750,000	\$	750,000	87427
		Administration					
699	715-644	Water Pollution	\$	750,000	\$	750,000	87428
		Control Administration					
TOTAL	SSR	State Special Revenue	\$	122,034,950	\$	126,770,957	87429

Fund Group

Clean Ohio Revitalization Fund Group				87430	
5S1 715-607 Clean Ohio - Operating	\$	208,174	\$	208,174	87431
TOTAL CLF Clean Ohio Revitalization	\$	208,174	\$	208,174	87432

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	182,497,877	\$	186,061,609	87433
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AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT 87434

(A) There is hereby created the Auto Emissions Test Fund 87435  
(Fund 5BY). When renewing a contract to continue the E-check 87436  
program after December 31, 2005, the Ohio Environmental Protection 87437  
Agency (EPA) shall use the foregoing appropriation item 715-681, 87438  
Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BY), to 87439  
pay the contracted amount per test for the operation and oversight 87440  
of the auto emissions testing programs in counties still 87441  
designated as non-attainment or designated by the General Assembly 87442  
to continue such tests under mandate of the federal Clean Air Act. 87443  
These amounts are hereby appropriated. 87444

(B)(1) Not later than July 1, 2005, the Director of 87445  
Environmental Protection, in conjunction with the Office of Budget 87446  
and Management, shall estimate the amount necessary for operation 87447  
of the Auto Emissions Testing Program for the period beginning 87448  
January 1, 2006, and ending June 30, 2006. Notwithstanding section 87449  
183.02 of the Revised Code, of the tobacco revenue that is 87450  
credited to the Tobacco Master Settlement Agreement Fund (Fund 87451  
087) in fiscal year 2005, the Director of Budget and Management 87452  
shall withhold from the share that is determined pursuant to 87453  
section 183.02 of the Revised Code to be the amount to be 87454  
transferred from the Tobacco Master Settlement Agreement Fund 87455  
(Fund 086) to the Tobacco Use Prevention and Cessation Trust Fund 87456  
(Fund H87) an amount equal to the estimate determined pursuant to 87457  
this division. 87458

(2) Not later than December 31, 2005, the Director of 87459  
Environmental Protection shall certify to the Director of Budget 87460  
and Management the actual amount, not to exceed the estimated 87461  
amount, necessary for the Auto Emissions Testing Program for the 87462  
period beginning January 1, 2006, and ending June 30, 2006. 87463  
Notwithstanding section 183.02 of the Revised Code, on January 1, 87464  
2006, or as soon as possible thereafter, the Director of Budget 87465  
and Management shall transfer the amount certified pursuant to 87466  
this division from the Tobacco Master Settlement Agreement Fund 87467  
(Fund 087) to the Auto Emissions Test Fund (Fund 5BY). Amounts 87468  
transferred are hereby appropriated to appropriation item 715-681, 87469  
Auto Emissions Test, in the Environmental Protection Agency. 87470

(3) On January 1, 2006, or as soon as possible thereafter, 87471  
the Director of Budget and Management shall transfer to the 87472  
Tobacco Use Prevention and Cessation Trust Fund (Fund H87) any 87473  
amount withheld from being transferred to the Tobacco Use 87474  
Prevention and Cessation Trust Fund pursuant to division (B)(1) of 87475  
this section that is greater than the amount that is transferred 87476  
under division (B)(2) of this section. 87477

(C) An amount equal to the remaining balance in appropriation 87478  
item 715-681, Auto Emissions Test, from fiscal year 2006 is hereby 87479  
appropriated for fiscal year 2007 into appropriation item 715-681, 87480  
Auto Emissions Test. 87481

(D) Not later than June 30, 2006, the Director of 87482  
Environmental Protection shall certify to the Director of Budget 87483  
and Management the amount needed for the Auto Emissions Testing 87484  
Program for fiscal year 2007 taking into account the amounts 87485  
appropriated for fiscal year 2007 pursuant to division (C) of this 87486  
section. 87487

Notwithstanding section 183.02 of the Revised Code, on July 87488  
1, 2006, or as soon as possible thereafter, the Director of Budget 87489

and Management shall transfer cash equal to the amount certified 87490  
pursuant to this division from the Tobacco Master Settlement 87491  
Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 87492  
5BY) in the Environmental Protection Agency. Of the tobacco 87493  
revenue that is credited to the Tobacco Master Settlement 87494  
Agreement Fund (Fund 087) in fiscal year 2006, the share that is 87495  
determined pursuant to section 183.02 of the Revised Code to be 87496  
the amount transferred by the Director of Budget and Management 87497  
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 87498  
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 87499  
shall be reduced by the amount that is transferred from the 87500  
Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto 87501  
Emissions Test Fund (Fund 5BY) under this division. Amounts 87502  
transferred are hereby appropriated to appropriation item 715-681, 87503  
Auto Emissions Test, in the Environmental Protection Agency. 87504

(E) Not later than July 31, 2007, the Director of Budget and 87505  
Management shall transfer the unencumbered cash balance of the 87506  
Auto Emissions Test Fund (Fund 5BY) to the Tobacco Use Prevention 87507  
and Cessation Trust Fund (Fund H87). 87508

(F) The funds identified in this section shall not be used to 87509  
cover the testing costs of any dealers that are required to 87510  
provide passing certificates under section 3704.14 of the Revised 87511  
Code or to provide more than two free tests for any vehicle in a 87512  
three-hundred-sixty-five-day period. The cost of testing and 87513  
retesting for any vehicle shall not exceed the contracted amount 87514  
per test. 87515

NPDES TRANSFER TO AGRICULTURE 87516

On or after the date on which the United States Environmental 87517  
Protection Agency approves the state program submitted under 87518  
division (A)(1) of section 903.08 of the Revised Code, the 87519  
Director of Environmental Protection, the Director of Agriculture, 87520

and the Director of Budget and Management shall calculate the  
amount of compensation to be made to the Environmental Protection  
Agency and to the Department of Agriculture from federal moneys  
disbursed and received for purposes of administering the National  
Pollutant Discharge Elimination System (NPDES) Program and shall  
calculate the amount of state matching funding that is required  
for administering that program. The Environmental Protection  
Agency and the Department of Agriculture may apply separately to  
the United States Environmental Protection Agency for each  
agency's respective share of the federal moneys. If the United  
States Environmental Protection Agency awards all federal moneys  
for administration of the NPDES program to one agency, that agency  
shall transfer the appropriate amount of moneys to the other  
agency in accordance with the calculations of compensation made  
pursuant to these provisions.

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND 87536

On July 1, 2005, or as soon as possible thereafter, the  
Director of Budget and Management may transfer \$1,000,000 in cash  
from the Central Support Indirect Fund (Fund 219) into the  
Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the  
Director of Budget and Management may transfer \$6,000,000 in cash  
from the Hazardous Waste Facility Management Fund (Fund 503) into  
the Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the  
Director of Budget and Management may transfer \$3,000,000 in cash  
from the Solid Waste Fund (Fund 4K3) into the Environmental  
Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the  
Director of Budget and Management may transfer \$1,000,000 in cash  
from the Hazardous Waste Cleanup Fund (Fund 505) into the

Environmental Protection Fund (Fund 5BC).				87552
<b>Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION</b>				87553
General Revenue Fund				87554
GRF 172-321 Operating Expenses	\$	479,161	\$ 483,859	87555
TOTAL GRF General Revenue Fund	\$	479,161	\$ 483,859	87556
TOTAL ALL BUDGET FUND GROUPS	\$	479,161	\$ 483,859	87557
<b>Section 206.31. ETC ETECH OHIO</b>				87559
General Revenue Fund				87560
GRF 935-321 Operations	\$	7,174,453	\$ 6,830,918	87561
GRF 935-401 Statehouse News Bureau	\$	244,400	\$ 244,400	87562
GRF 935-402 Ohio Government	\$	716,417	\$ 716,417	87563
Telecommunications				
Studio				
GRF 935-403 Technical Operations	\$	1,768,150	\$ 1,768,150	87564
GRF 935-404 Telecommunications	\$	3,632,413	\$ 3,632,413	87565
Operating Subsidy				
GRF 935-406 Technical and	\$	6,484,763	\$ 6,607,144	87566
Instructional				
Professional				
Development				
GRF 935-539 Educational Technology	\$	5,968,791	\$ 5,968,791	87567
TOTAL GRF General Revenue Fund	\$	25,989,387	\$ 25,768,233	87568
General Services Fund Group				87569
4F3 935-603 Affiliate Services	\$	2,000,000	\$ 2,000,000	87570
4T2 935-605 Government	\$	150,000	\$ 150,000	87571
Television/Telecommunications				
Operating				
5D4 935-640 Conference/Special	\$	1,600,645	\$ 1,821,817	87572
Purposes				
TOTAL GSF General Services Fund	\$	3,750,645	\$ 3,971,817	87573

Group

Federal Special Revenue Fund Group				87574	
3S3 935-606 Enhancing Education	\$	589,363	\$	589,363	87575
Technology					
TOTAL FED Federal Special Revenue	\$	589,363	\$	589,363	87576
Fund Group					
State Special Revenue Fund Group				87577	
4W9 935-630 Telecommunity	\$	50,000	\$	25,000	87578
4X1 935-634 Distance Learning	\$	250,000	\$	100,000	87579
5T3 935-607 Gates Foundation	\$	600,000	\$	200,000	87580
Grants					
TOTAL SSR State Special Revenue	\$	900,000	\$	325,000	87581
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	31,229,395	\$	30,654,413	87582

**Section 206.31.03. OPERATIONS** 87584

eTech Ohio shall enter into an agreement with the Department 87585  
of Administrative Services to provide for the maintenance of all 87586  
of its towers. eTech Ohio and the Department of Administrative 87587  
Services shall develop a plan to address the best method for 87588  
transferring ownership and control of all the towers to the 87589  
Department of Administrative Services. This plan shall be 87590  
submitted to the Office of Budget and Management by July 1, 2006. 87591

**Section 206.31.06. TELECOMMUNICATIONS** 87592

STATEHOUSE NEWS BUREAU 87593

The foregoing appropriation item 935-401, Statehouse News 87594  
Bureau, shall be used solely to support the operations of the Ohio 87595  
Statehouse News Bureau. 87596

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO 87597

The foregoing appropriation item 935-402, Ohio Government 87598

Telecommunications Studio, shall be used solely to support the 87599  
operations of the Ohio Government Telecommunications Studio. 87600

TECHNICAL OPERATIONS 87601

The foregoing appropriation item 935-403, Technical 87602  
Operations, shall be used by eTech Ohio to pay expenses of the 87603  
television and radio transmission infrastructure. 87604

TELECOMMUNICATIONS OPERATING SUBSIDY 87605

Of the foregoing appropriation item 935-404, 87606  
Telecommunications Operating Subsidy, \$45,000 in each fiscal year 87607  
shall be used to contract for dial-up newspaper reading services 87608  
for the blind and physically handicapped. The contract shall be 87609  
awarded through a competitive bidding process. eTech Ohio shall 87610  
not disburse these funds without prior approval of the Controlling 87611  
Board. 87612

The remainder of appropriation item 935-404, 87613  
Telecommunications Operating Subsidy, shall be distributed by 87614  
eTech Ohio to Ohio's qualified public educational television 87615  
stations, radio reading services, and educational radio stations 87616  
to support their operations. The funds shall be distributed 87617  
pursuant to an allocation formula used by the Ohio Educational 87618  
Telecommunications Network Commission unless and until a 87619  
substitute formula is developed by eTech Ohio in consultation with 87620  
Ohio's qualified public educational television stations, radio 87621  
reading services, and educational radio stations. 87622

**Section 206.31.09. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL** 87623  
**DEVELOPMENT** 87624

The foregoing appropriation item 935-406, Technical and 87625  
Instructional Professional Development, shall be used by eTech 87626  
Ohio to make grants or provide services to qualifying public 87627  
schools, including the State School for the Blind and the State 87628



School for the Deaf, and the Ohio Department of Youth Services, 87629  
for the provision of hardware, software, telecommunications 87630  
services, and staff development to support educational uses of 87631  
technology in the classroom. eTech Ohio shall consider the 87632  
professional development needs associated with the OhioReads 87633  
Program when making funding allocations and program decisions. 87634

Of the foregoing appropriation item 935-406, Technical and 87635  
Instructional Professional Development, up to \$200,000 in each 87636  
fiscal year shall be used by eTech Ohio to provide competitive 87637  
professional development grants to school districts. Grant 87638  
proposals shall focus on developing innovative programs that 87639  
enhance the abilities of teachers to use innovative methods for 87640  
integrating technology to implement state academic content 87641  
standards in classroom lessons. Grant requirements and awards 87642  
shall be approved by eTech Ohio, with priority given to school 87643  
districts designated in academic emergency, academic watch, or 87644  
continuous improvement. eTech Ohio shall develop a website to 87645  
share information learned through these programs with school 87646  
districts statewide. The website shall be linked with the Ohio 87647  
Department of Education's Instructional Management System. 87648

Of the foregoing appropriation item 935-406, Technical and 87649  
Instructional Professional Development, up to \$1,260,000 in each 87650  
fiscal year shall be allocated equally among the 12 Ohio 87651  
educational television stations and used with the advice and 87652  
approval of eTech Ohio. Funds shall be used for the production of 87653  
interactive instructional programming series with priority given 87654  
to resources aligned with state academic content standards in 87655  
consultation with the Ohio Department of Education. The 87656  
programming shall be targeted to the needs of the poorest two 87657  
hundred school districts as determined by the district's adjusted 87658  
valuation per pupil as defined in section 3317.0213 of the Revised 87659  
Code as that section existed prior to the effective date of this 87660

section. 87661

The remainder of appropriation item 935-406, Technical and Instructional Professional Development, shall be used by eTech Ohio for professional development for teachers and administrators for the use of educational technology. eTech Ohio may make grants to provide technical assistance and professional development on the use of educational technology to school districts. 87662  
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Eligible recipients of grants include regional training centers, educational service centers, data acquisition sites, educational technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. In addition, services provided through these grants may include use of private entities subcontracting through the grant recipient. 87668  
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Grants shall be made to entities on a contractual basis with eTech Ohio. Contracts shall include provisions that demonstrate how services will benefit technology use in the public schools, and in particular how services will support eTech Ohio's efforts to integrate technology in the public schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time. Grants shall be awarded in a manner consistent with the goals and priorities of eTech Ohio. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers. 87676  
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Application for grants from appropriation item 935-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by eTech Ohio. Funds allocated through these 87687  
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grants may be combined with funds received through other state or 87692  
federal grants for technology so long as the school district's 87693  
technology plan specifies the use of these funds. 87694

**Section 206.31.12. EDUCATION TECHNOLOGY** 87695

The foregoing appropriation item 935-539, Education 87696  
Technology, shall be used to provide funding to suppliers of 87697  
information services to school districts for the provision of 87698  
hardware, software, and staff development in support of 87699  
educational uses of technology in the classroom as prescribed by 87700  
the State Plan for Technology pursuant to section 3301.07 of the 87701  
Revised Code, and to support assistive technology for children and 87702  
youth with disabilities. 87703

Of the foregoing appropriation item 935-539, Education 87704  
Technology, up to \$1,829,240 in each fiscal year shall be used by 87705  
eTech Ohio to link all public K-12 classrooms to each other and 87706  
the Internet, and to provide access to voice, video, and data 87707  
educational resources for students and teachers through the OneNet 87708  
Ohio Program. 87709

Up to \$4,139,551 in each fiscal year shall be used by eTech 87710  
Ohio to contract with public television to provide Ohio public 87711  
schools with instructional resources and services with priority 87712  
given to resources and services aligned with state academic 87713  
content standards and such resources and services shall be based 87714  
upon the advice and approval of eTech Ohio, based on a formula 87715  
used by the Ohio SchoolNet Commission unless and until a 87716  
substitute formula is developed by eTech Ohio in consultation with 87717  
Ohio's educational technology agencies and noncommercial 87718  
educational television stations. 87719

Resources may include, but not be limited to, the following: 87720  
prerecorded video materials (including videotape, laser discs, and 87721

CD-ROM discs); computer software for student use or student access 87722  
to electronic communication, databases, spreadsheet, and word 87723  
processing capability; live student courses or courses delivered 87724  
electronically; automated media systems; and instructional and 87725  
professional development materials for teachers. eTech Ohio shall 87726  
collaborate with public television stations and cooperate with 87727  
education technology centers in the acquisition, development, and 87728  
delivery of such educational resources to ensure high-quality and 87729  
educational soundness at the lowest possible cost. Delivery of 87730  
such resources may utilize a variety of technologies. 87731

Services shall include presentations and technical assistance 87732  
that will help students and teachers integrate educational 87733  
materials that support curriculum objectives, match specific 87734  
learning styles, and are appropriate for individual interests and 87735  
ability levels. 87736

Such instructional resources and services shall be made 87737  
available for purchase by chartered nonpublic schools or by school 87738  
districts for the benefit of pupils attending chartered nonpublic 87739  
schools. 87740

eTech Ohio shall monitor the developments of technology, 87741  
coordinate with the Office of Information Technology, and assure 87742  
the most effective and highest quality operation of eTech Ohio 87743  
networks. All efforts may be aligned with the State's ongoing 87744  
efforts to coordinate appropriate network operations through the 87745  
Office of Information Technology and through the Third Frontier 87746  
Network. 87747

**Section 206.31.15. TELECOMMUNITY** 87748

The foregoing appropriation item 935-630, Telecommunity, 87749  
shall be distributed by eTech Ohio on a grant basis to eligible 87750  
school districts to establish "distance learning" through 87751

interactive video technologies in the school district. Per 87752  
agreements with eight Ohio local telephone companies: ALLTEL Ohio, 87753  
CENTURY Telephone of Ohio, Chillicothe Telephone Company, 87754  
Cincinnati Bell Telephone Company, Orwell Telephone Company, 87755  
Sprint North Central Telephone, VERIZON, and Western Reserve 87756  
Telephone Company, school districts are eligible for funds if they 87757  
are within one of the listed telephone company service areas. 87758  
Funds to administer the program shall be expended by eTech Ohio up 87759  
to the amount specified in agreements with the listed telephone 87760  
companies. 87761

Within thirty days after the effective date of this section, 87762  
the Director of Budget and Management shall transfer to Fund 4W9 87763  
in the state special revenue fund group any investment earnings 87764  
from moneys paid by any telephone company as part of any 87765  
settlement agreement between the listed companies and the Public 87766  
Utilities Commission in fiscal years 1996 and beyond. 87767

DISTANCE LEARNING 87768

The foregoing appropriation item 935-634, Distance Learning, 87769  
shall be distributed by eTech Ohio on a grant basis to eligible 87770  
school districts to establish "distance learning" in the school 87771  
district. Per the agreement with Ameritech, school districts are 87772  
eligible for funds if they are within an Ameritech service area. 87773  
Funds to administer the program shall be expended by eTech Ohio up 87774  
to the amount specified in the agreement with Ameritech. 87775

Within thirty days after the effective date of this section, 87776  
the Director of Budget and Management shall transfer to fund 4X1 87777  
in the State Special Revenue Fund Group any investment earnings 87778  
from moneys paid by any telephone company as part of a settlement 87779  
agreement between the company and the Public Utilities Commission 87780  
in fiscal year 1995. 87781

GATES FOUNDATION GRANTS 87782

The foregoing appropriation item 935-607, Gates Foundation 87783  
Grants, shall be used by eTech Ohio to provide professional 87784  
development to school district principals, superintendents, and 87785  
other administrative staff for the use of education technology. 87786

**Section 206.33. ETH OHIO ETHICS COMMISSION** 87787

General Revenue Fund 87788  
GRF 146-321 Operating Expenses \$ 1,536,213 \$ 1,536,213 87789  
TOTAL GRF General Revenue Fund \$ 1,536,213 \$ 1,536,213 87790  
General Services Fund Group 87791  
4M6 146-601 Operating Expenses \$ 502,543 \$ 432,543 87792  
TOTAL GSF General Services 87793  
Fund Group \$ 502,543 \$ 432,543 87794  
TOTAL ALL BUDGET FUND GROUPS \$ 2,038,756 \$ 1,968,756 87795

**Section 206.36. EXP OHIO EXPOSITIONS COMMISSION** 87797

General Revenue Fund 87798  
GRF 723-403 Junior Fair Subsidy \$ 400,000 \$ 400,000 87799  
TOTAL GRF General Revenue Fund \$ 400,000 \$ 400,000 87800  
State Special Revenue Fund Group 87801  
4N2 723-602 Ohio State Fair \$ 520,000 \$ 520,000 87802  
Harness Racing  
506 723-601 Operating Expenses \$ 13,643,315 \$ 13,643,315 87803  
TOTAL SSR State Special Revenue 87804  
Fund Group \$ 14,163,315 \$ 14,163,315 87805  
TOTAL ALL BUDGET FUND GROUPS \$ 14,563,315 \$ 14,563,315 87806

**Section 206.39. GOV OFFICE OF THE GOVERNOR** 87808

General Revenue Fund 87809  
GRF 040-321 Operating Expenses \$ 3,981,582 \$ 3,981,582 87810  
GRF 040-403 Federal Relations \$ 422,760 \$ 422,760 87811

GRF 040-408 Office of Veterans' Affairs	\$	267,923	\$	267,923	87812
TOTAL GRF General Revenue Fund	\$	4,672,265	\$	4,672,265	87813
General Services Fund Group					87814
5AK 040-607 Federal Relations	\$	354,514	\$	354,514	87815
TOTAL GSF General Services Fund Group	\$	354,514	\$	354,514	87816
TOTAL ALL BUDGET FUND GROUPS	\$	5,026,779	\$	5,026,779	87817
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR					87818
The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.					87819 87820 87821 87822 87823 87824
FEDERAL RELATIONS					87825
A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.					87826 87827 87828
The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 5AK).					87829 87830 87831 87832 87833 87834
<b>Section 206.42. DOH DEPARTMENT OF HEALTH</b>					87835
General Revenue Fund					87836
GRF 440-407 Animal Borne Disease and Prevention	\$	2,452,101	\$	2,452,101	87837
GRF 440-412 Cancer Incidence	\$	1,002,619	\$	1,002,619	87838

		Surveillance System					
GRF	440-413	Local Health	\$	3,786,794	\$	3,786,794	87839
		Department Support					
GRF	440-416	Child and Family	\$	9,532,874	\$	9,532,874	87840
		Health Services					
GRF	440-418	Immunizations	\$	8,600,615	\$	9,400,615	87841
GRF	440-431	Free Clinic Liability	\$	275,000	\$	325,000	87842
		Insurance					
GRF	440-444	AIDS Prevention and	\$	7,158,127	\$	7,158,127	87843
		Treatment					
GRF	440-446	Infectious Disease	\$	200,000	\$	200,000	87844
		Prevention					
GRF	440-451	Lab and Public Health	\$	6,085,250	\$	6,085,250	87845
		Prevention Programs					
GRF	440-452	Child and Family	\$	1,024,017	\$	1,024,017	87846
		Health Services Match					
GRF	440-453	Health Care Quality	\$	10,253,728	\$	10,253,728	87847
		Assurance					
GRF	440-454	Local Environmental	\$	889,752	\$	889,752	87848
		Health					
GRF	440-459	Help Me Grow	\$	9,323,797	\$	9,323,797	87849
GRF	440-461	Center for Vital and	\$	3,629,535	\$	3,629,535	87850
		Health Stats					
GRF	440-505	Medically Handicapped	\$	9,591,784	\$	8,791,784	87851
		Children					
GRF	440-507	Targeted Health Care	\$	1,631,023	\$	1,631,023	87852
		Services Over 21					
TOTAL GRF		General Revenue Fund	\$	75,437,016	\$	75,487,016	87853
		General Services Fund Group					87854
142	440-618	Agency Health Services	\$	2,461,915	\$	2,561,915	87855
211	440-613	Central Support	\$	26,584,707	\$	26,584,707	87856
		Indirect Costs					
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	87857



683	440-633	Employee Assistance Program	\$	1,208,214	\$	1,208,214	87858
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	87859
TOTAL GSF General Services							87860
Fund Group			\$	34,578,881	\$	34,678,881	87861
Federal Special Revenue Fund Group							87862
320	440-601	Maternal Child Health Block Grant	\$	28,779,322	\$	29,025,635	87863
387	440-602	Preventive Health Block Grant	\$	7,755,005	\$	7,826,659	87864
389	440-604	Women, Infants, and Children	\$	219,920,083	\$	230,077,451	87865
391	440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959	87866
392	440-618	Federal Public Health Programs	\$	126,678,202	\$	127,677,458	87867
TOTAL FED Federal Special Revenue							87868
Fund Group			\$	407,343,810	\$	419,458,162	87869
State Special Revenue Fund Group							87870
4D6	440-608	Genetics Services	\$	2,617,000	\$	2,617,000	87871
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	87872
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	87873
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	87874
4L3	440-609	Non-Governmental Grants and Awards	\$	144,119	\$	144,119	87875
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	87876
4V6	440-641	Save Our Sight	\$	1,767,994	\$	1,767,994	87877
470	440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194	87878
471	440-619	Certificate of Need	\$	581,572	\$	594,572	87879
477	440-627	Medically Handicapped	\$	3,800,000	\$	3,693,016	87880

		Children Audit					
5BL	440-638	Healthy Ohioans	\$	5,000,000	\$	0	87881
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	87882
5CB	440-640	Poison Control Centers	\$	200,000	\$	200,000	87883
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	87884
5D6	440-620	Second Chance Trust	\$	1,054,951	\$	1,054,951	87885
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	87886
5L1	440-623	Nursing Facility Technical Assistance Program	\$	617,517	\$	617,517	87887
610	440-626	Radiation Emergency Response	\$	850,000	\$	850,000	87888
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	87889
TOTAL SSR State Special Revenue							87890
Fund Group			\$	50,572,156	\$	45,478,172	87891
Holding Account Redistribution Fund Group							87892
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	87893
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	87894
TOTAL 090 Holding Account							87895
Redistribution Fund Group			\$	90,000	\$	90,000	87896
TOTAL ALL BUDGET FUND GROUPS			\$	568,021,863	\$	575,192,231	87897

**Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES** 87899

Of the foregoing appropriation item 440-416, Child and Family 87900  
Health Services, not more than \$1,700,000 in each fiscal year 87901  
shall be used for women's health services. 87902

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cincinnati, \$10,000 shall be allocated in each fiscal year to the Jewish Family Services in Columbus, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be provided to the Jewish Family Services in Dayton, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Akron, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Sylvania, \$2,500 in each fiscal year shall be provided

to the Jewish Community Center in Youngstown, and \$2,500 in each 87934  
fiscal year shall be provided to the Jewish Community Center in 87935  
Canton. 87936

Of the foregoing appropriation item 440-416, Child and Family 87937  
Health Services, \$450,000 in each fiscal year shall be allocated 87938  
to the Visiting Nurse Association. 87939

Of the foregoing appropriation item 440-416, Child and Family 87940  
Health Services, \$16,667 in each fiscal year shall be allocated to 87941  
the Yassenoff Jewish Community Center, \$16,667 in each fiscal year 87942  
shall be allocated to the Jewish Community Center in Cincinnati, 87943  
and \$16,666 in each fiscal year shall be allocated to the Jewish 87944  
Community Center in Cleveland for children's health and nutrition 87945  
camp programs. 87946

Of the foregoing appropriation item 440-416, Child and Family 87947  
Health Services, \$25,000 in each fiscal year shall be allocated to 87948  
Clermont County's Comprehensive Community Suicide Prevention 87949  
Program. 87950

**Section 206.42.06. WOMEN'S HEALTH SERVICES** 87951

None of the funds received through grants for women's health 87952  
services under this section from the foregoing appropriation item 87953  
440-416, Child and Family Health Services, shall be used to 87954  
provide abortion services. None of the funds received through 87955  
these grants shall be used for counseling for or referrals for 87956  
abortion, except in the case of a medical emergency. These funds 87957  
shall be distributed by the Director of Health to programs that 87958  
the Department of Health determines will provide services that are 87959  
physically and financially separate from abortion-providing and 87960  
abortion-promoting activities, and that do not include counseling 87961  
for or referrals for abortion, other than in the case of medical 87962  
emergency. 87963

These women's health services include and are limited to the 87964  
following: pelvic examinations and laboratory testing; breast 87965  
examinations and patient education on breast cancer; screening for 87966  
cervical cancer; screening and treatment for Sexually Transmitted 87967  
Diseases (STDs) and HIV screening; voluntary choice of 87968  
contraception, including abstinence and natural family planning; 87969  
patient education and pre-pregnancy counseling on the dangers of 87970  
smoking, alcohol, and drug use during pregnancy; education on 87971  
sexual coercion and violence in relationships; and prenatal care 87972  
or referral for prenatal care. These health care services shall be 87973  
provided by licensed doctors, licensed nurses, licensed medical 87974  
assistants, licensed counselors, and licensed social workers in a 87975  
medical clinic setting. 87976

The Director of Health shall adopt rules under Chapter 119. 87977  
of the Revised Code specifying reasonable eligibility standards 87978  
that must be met to receive the state funding and provide 87979  
reasonable methods by which a grantee wishing to be eligible for 87980  
federal funding may comply with these requirements for state 87981  
funding without losing its eligibility for federal funding. 87982

Each applicant for these funds shall provide sufficient 87983  
assurance to the Director of Health of all of the following: 87984

(A) The program shall not discriminate in the provision of 87985  
services based on an individual's religion, race, national origin, 87986  
handicapping condition, age, sex, number of pregnancies, or 87987  
marital status; 87988

(B) The program shall provide services without subjecting 87989  
individuals to any coercion to accept services or to employ any 87990  
particular methods of family planning; 87991

(C) Acceptance of services shall be solely on a voluntary 87992  
basis and may not be made a prerequisite to eligibility for, or 87993  
receipt of, any other service, assistance from, or participation 87994

in, any other program of the service provider;

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(D) The costs for services provided by the program, if any are charged, shall be based on the patient's ability to pay and priority in the provision of services shall be given to persons from low-income families.

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In distributing these grant funds, the Director of Health shall give priority to grant requests from local departments of health for women's health services to be provided directly by personnel of the local department of health. The Director of Health shall issue a single request for proposals for all grants under this set-aside. The Director of Health shall send a notification of this request for proposals to every local department of health in this state and shall place a notification on the department's web site. The Director shall allow at least 30 days after issuing this notification before closing the period to receive applications.

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After the closing date for receiving grant applications, the Director of Health shall first consider grant applications from local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health. Local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among local departments of health that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no local department of health shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

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If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

**Section 206.42.09. IMMUNIZATIONS** 88034

Of the foregoing appropriation item 440-418, Immunizations, \$800,000 in fiscal year 2007 shall be used for the purchase of varicella vaccines.

**FREE CLINIC LIABILITY INSURANCE** 88038

Of the foregoing appropriation item 440-431, Free Clinic Liability Insurance, up to \$20,000 in each fiscal year may be used by the Department of Health for administrative expenses related to the Medical Liability Insurance Reimbursement Program. The remainder in each fiscal year shall be used to pay for medical liability insurance for free clinics, including the clinics' staff and volunteer health care professionals and volunteer health care workers. The necessity and feasibility of the program shall be reviewed as part of the next biennial budget.

**HIV/AIDS PREVENTION/TREATMENT** 88048

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, not more than \$6.7 million per fiscal year shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

**INFECTIOUS DISEASE PREVENTION** 88053

The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually

transmitted diseases. 88056

HELP ME GROW 88057

The foregoing appropriation item 440-459, Help Me Grow, shall 88058  
be used by the Department of Health to distribute subsidies to 88059  
counties to implement the Help Me Grow Program. Appropriation item 88060  
440-459, Help Me Grow, may be used in conjunction with Temporary 88061  
Assistance for Needy Families from the Department of Job and 88062  
Family Services, Early Intervention funding from the Department of 88063  
Mental Retardation and Developmental Disabilities, and in 88064  
conjunction with other early childhood funds and services to 88065  
promote the optimal development of young children. Local contracts 88066  
shall be developed between local departments of job and family 88067  
services and family and children first councils for the 88068  
administration of TANF funding for the Help Me Grow Program. The 88069  
Department of Health shall enter into an interagency agreement 88070  
with the Department of Education, Department of Mental Retardation 88071  
and Developmental Disabilities, Department of Job and Family 88072  
Services, and Department of Mental Health to ensure that all early 88073  
childhood programs and initiatives are coordinated and school 88074  
linked. 88075

TARGETED HEALTH CARE SERVICES OVER 21 88076

In each fiscal year, of the foregoing appropriation item 88077  
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 88078  
used to administer the cystic fibrosis program and implement the 88079  
Hemophilia Insurance Premium Payment Program. 88080

Of the foregoing appropriation item 440-507, Targeted Health 88081  
Care Services Over 21, \$900,000 in each fiscal year shall be used 88082  
to provide essential medications for the cystic fibrosis program. 88083

MATERNAL CHILD HEALTH BLOCK GRANT 88084

Of the foregoing appropriation item 440-601, Maternal Child 88085



Health Block Grant (Fund 320), \$2,091,299 shall be used in each 88086  
fiscal year for the purposes of abstinence-only education. The 88087  
Director of Health shall develop guidelines for the establishment 88088  
of abstinence programs for teenagers with the purpose of 88089  
decreasing unplanned pregnancies and abortion. The guidelines 88090  
shall be developed under Title V of the "Social Security Act," 42 88091  
U.S.C. 510, and shall include, but are not limited to, advertising 88092  
campaigns and direct training in schools and other locations. 88093

GENETICS SERVICES 88094

The foregoing appropriation item 440-608, Genetics Services 88095  
(Fund 4D6), shall be used by the Department of Health to 88096  
administer programs authorized by sections 3701.501 and 3701.502 88097  
of the Revised Code. None of these funds shall be used to counsel 88098  
or refer for abortion, except in the case of a medical emergency. 88099

SAFETY AND QUALITY OF CARE STANDARDS 88100

The Department of Health may use Fund 471, Certificate of 88101  
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 88102  
the Revised Code in each fiscal year. 88103

MEDICALLY HANDICAPPED CHILDREN AUDIT 88104

The Medically Handicapped Children Audit Fund (Fund 477) 88105  
shall receive revenue from audits of hospitals and recoveries from 88106  
third-party payers. Moneys may be expended for payment of audit 88107  
settlements and for costs directly related to obtaining recoveries 88108  
from third-party payers and for encouraging Medically Handicapped 88109  
Children's Program recipients to apply for third-party benefits. 88110  
Moneys also may be expended for payments for diagnostic and 88111  
treatment services on behalf of medically handicapped children, as 88112  
defined in division (A) of section 3701.022 of the Revised Code, 88113  
and Ohio residents who are twenty-one or more years of age and who 88114  
are suffering from cystic fibrosis or hemophilia. Moneys may also 88115  
be expended for administrative expenses incurred in operating the 88116

Medically Handicapped Children's Program.	88117
CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND	88118
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The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.	88120
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The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) created in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.	88126
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MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS	88130
The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.	88131
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<b>Section 206.42.12.</b> MEDICALLY HANDICAPPED CHILDREN - FUTURE FUNDING	88135
	88136
(A) There is hereby created the Legislative Committee on the Future Funding of the Bureau for Children with Medical Handicaps. The Speaker of the House of Representatives shall appoint three members of the House of Representatives, not more than two of whom shall belong to the same political party as the Speaker. The President of the Senate shall appoint three members of the Senate, not more than two of whom shall belong to the same political party as the President. The Speaker of the House of Representatives and the President of the Senate shall each appoint three members of the general public who suffer from a disease or disorder covered	88137
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by the Program for Medically Handicapped Children (otherwise known  
as the Bureau for Children with Medical Handicaps) in the Ohio  
Department of Health, or family members of such individuals. The  
following also shall serve on the Committee:

(1) The Director of Health, or the Director's designee;

(2) The Superintendent of Insurance, or the Superintendent's  
designee;

(3) The Director of Job and Family Services, or the  
Director's designee;

(4) One person designated by the County Commissioners  
Association of Ohio;

(5) One person designated by the Ohio Children's Hospital  
Association;

(6) One person designated by the Ohio Association of Health  
Plans;

(7) One person designated by the American Academy of  
Pediatrics;

(8) One person designated by the Ohio hospital association;

(9) One person designated by the Ohio association of health  
commissioners;

(10) One person designated by the Ohio nurses association.

Members of the Committee shall elect a chairperson. A  
majority of the members of the Committee constitutes a quorum for  
the conduct of Committee meetings.

(B) Members of the Committee shall receive no compensation.

(C) The Committee shall do all of the following:

(1) Examine the current status of the Program and recommend  
best practices to be used in assisting working parents who have

children with special health needs;	88175
(2) Review all existing statutes and rules in Ohio pertaining to the Program;	88176 88177
(3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;	88178 88179 88180
(4) Review all funding sources for the Program, including funding received from county levies, the General Revenue Fund and other state-based sources, and the Maternal and Child Health Block Grant of Title V of the "Social Security Act," 40 Stat. 620 (1935), 42 U.S.C. 301;	88181 88182 88183 88184 88185
(5) Request testimony from parents of children with special health needs and the children themselves and from health care professionals and other individuals who provide services to Bureau patients;	88186 88187 88188 88189
(D) Not later than December 31, 2006, the Committee shall make recommendations and submit a report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report shall include an analysis of the current system of services covered by the Program and may include determinations and recommendations regarding how the state can best address the current and future needs of patients served by the Program. On submission of the report, the Committee shall cease to exist.	88190 88191 88192 88193 88194 88195 88196 88197 88198
<b>Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR MEDICALLY HANDICAPPED CHILDREN</b>	88199 88200
Not later than December 1, 2005, the Public Health Council shall revise rule 3701-43-16 of the Administrative Code regarding financial eligibility for payment for treatment under the Program for Medically Handicapped Children. As part of the revision, the	88201 88202 88203 88204

Public Health Council shall return the financial eligibility 88205  
levels for fiscal years 2006 and 2007 to the levels in effect 88206  
prior to October 13, 2003. 88207

Beginning July 1, 2005, the Department of Health shall 88208  
contact all persons who lost eligibility for the Program for 88209  
Medically Handicapped Children or their parents or guardians to 88210  
inform them of revisions made to the Program's eligibility rules. 88211

**Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE** 88212  
PROGRAM 88213

The Director of Budget and Management shall transfer, by 88214  
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 88215  
Resident Protection Fund, in the Ohio Department of Job and Family 88216  
Services, to Fund 5L1, Nursing Facility Technical Assistance 88217  
Program Fund, in the Ohio Department of Health, to be used under 88218  
section 3721.026 of the Revised Code. The transfers shall equal 88219  
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007. 88220

**Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND** 88221  
(FUND 546) TO THE POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT 88222  
OF HEALTH 88223

Notwithstanding section 3737.71 of the Revised Code, on July 88224  
1, 2005, or as soon as possible thereafter, the Director of Budget 88225  
and Management shall transfer \$200,000 cash from the State Fire 88226  
Marshal's Fund (Fund 546) in the Department of Commerce to the 88227  
Poison Control Fund (Fund 5CB) in the Department of Health, which 88228  
is hereby created. Notwithstanding section 3737.71 of the Revised 88229  
Code, on July 1, 2006, or as soon as possible thereafter, the 88230  
Director of Budget and Management shall transfer \$200,000 cash 88231  
from the State Fire Marshal's Fund (Fund 546) in the Department of 88232  
Commerce to the Poison Control Fund (Fund 5CB) in the Department 88233  
of Health. 88234

POISON CONTROL CENTERS				88235
Of the foregoing appropriation item 440-640, Poison Control Centers, in each fiscal year, the poison control centers in the municipal corporations of Cleveland, Cincinnati, Columbus, and Dayton shall each receive an allocation of \$50,000.				88236 88237 88238 88239
<b>Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION</b>				88240
Agency Fund Group				88241
461 372-601 Operating Expenses	\$	16,819	\$ 16,819	88242
TOTAL AGY Agency Fund Group	\$	16,819	\$ 16,819	88243
TOTAL ALL BUDGET FUND GROUPS	\$	16,819	\$ 16,819	88244
<b>Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS</b>				88246
General Revenue Fund				88247
GRF 148-100 Personal Services	\$	145,880	\$ 145,880	88248
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	88249
TOTAL GRF General Revenue Fund	\$	181,781	\$ 181,781	88250
General Services Fund Group				88251
601 148-602 Gifts and	\$	20,000	\$ 20,000	88252
Miscellaneous				
TOTAL GSF General Services				88253
Fund Group	\$	20,000	\$ 20,000	88254
TOTAL ALL BUDGET FUND GROUPS	\$	201,781	\$ 201,781	88255
<b>Section 206.51. OHS OHIO HISTORICAL SOCIETY</b>				88257
General Revenue Fund				88258
GRF 360-501 Operating Subsidy	\$	3,288,274	\$ 3,288,274	88259
GRF 360-502 Site Operations	\$	8,388,725	\$ 8,388,725	88260
GRF 360-504 Ohio Preservation	\$	281,041	\$ 281,041	88261
Office				
GRF 360-505 Afro-American Museum	\$	754,884	\$ 754,884	88262

GRF 360-506 Hayes Presidential Center	\$	509,231	\$	509,231	88263
GRF 360-508 Historical Grants	\$	1,172,500	\$	1,172,500	88264
TOTAL GRF General Revenue Fund	\$	14,394,655	\$	14,394,655	88265
TOTAL ALL BUDGET FUND GROUPS	\$	14,394,655	\$	14,394,655	88266

SUBSIDY APPROPRIATION 88267

Upon approval by the Director of Budget and Management, the 88268  
foregoing appropriation items shall be released to the Ohio 88269  
Historical Society in quarterly amounts that in total do not 88270  
exceed the annual appropriations. The funds and fiscal records of 88271  
the society for fiscal years 2006 and 2007 shall be examined by 88272  
independent certified public accountants approved by the Auditor 88273  
of State, and a copy of the audited financial statements shall be 88274  
filed with the Office of Budget and Management. The society shall 88275  
prepare and submit to the Office of Budget and Management the 88276  
following: 88277

(A) An estimated operating budget for each fiscal year of the 88278  
biennium. The operating budget shall be submitted at or near the 88279  
beginning of each calendar year. 88280

(B) Financial reports, indicating actual receipts and 88281  
expenditures for the fiscal year to date. These reports shall be 88282  
filed at least semiannually during the fiscal biennium. 88283

The foregoing appropriations shall be considered to be the 88284  
contractual consideration provided by the state to support the 88285  
state's offer to contract with the Ohio Historical Society under 88286  
section 149.30 of the Revised Code. 88287

HAYES PRESIDENTIAL CENTER 88288

If a United States government agency, including, but not 88289  
limited to, the National Park Service, chooses to take over the 88290  
operations or maintenance of the Hayes Presidential Center, in 88291  
whole or in part, the Ohio Historical Society shall make 88292

arrangements with the National Park Service or other United States 88293  
government agency for the efficient transfer of operations or 88294  
maintenance. 88295

HISTORICAL GRANTS 88296

Of the foregoing appropriation item 360-508, Historical 88297  
Grants, \$250,000 in each fiscal year shall be distributed to the 88298  
Western Reserve Historical Society in Cleveland. 88299

Of the foregoing appropriation item 360-508, Historical 88300  
Grants, \$225,000 in each fiscal year shall be distributed to the 88301  
Great Lakes Historical Society in Vermilion. 88302

Of the foregoing appropriation item 360-508, Historical 88303  
Grants, \$75,000 in each fiscal year shall be distributed to the 88304  
Hebrew Union College in Cincinnati for the Center for Holocaust 88305  
and Humanity Education, \$100,000 in each fiscal year shall be 88306  
distributed to Art Academy of Cincinnati, and \$250,000 in each 88307  
fiscal year shall be distributed to the Cincinnati Museum Center. 88308

Of the foregoing appropriation item 360-508, Historical 88309  
Grants, \$12,500 in each fiscal year shall be distributed to the 88310  
Roseville Historical Society. 88311

Of the foregoing appropriation item 360-508, Historical 88312  
Grants, \$125,000 in each fiscal year shall be distributed to the 88313  
Harbor Heritage Society Steamship Mather in Cleveland. 88314

Of the foregoing appropriation item 360-508, Historical 88315  
Grants, \$35,000 in each fiscal year shall be distributed to the 88316  
Castle Farm project in the City of Mason. 88317

**Section 206.54.** REP OHIO HOUSE OF REPRESENTATIVES 88318

General Revenue Fund 88319

GRF 025-321 Operating Expenses \$ 20,169,168 \$ 20,370,859 88320

TOTAL GRF General Revenue Fund \$ 20,169,168 \$ 20,370,859 88321



General Services Fund Group				88322	
103 025-601 House Reimbursement	\$	1,419,469	\$	1,419,469	88323
4A4 025-602 Miscellaneous Sales	\$	37,474	\$	37,474	88324
TOTAL GSF General Services				88325	
Fund Group	\$	1,456,943	\$	1,456,943	88326
TOTAL ALL BUDGET FUND GROUPS	\$	21,626,111	\$	21,827,802	88327

OPERATING EXPENSES 88328

On July 1, 2005, or as soon as possible thereafter, the Chief 88329  
Administrative Officer of the House of Representatives shall 88330  
certify to the Director of Budget and Management the total fiscal 88331  
year 2005 unencumbered appropriations in appropriation item 88332  
025-321, Operating Expenses. The Chief Administrative Officer may 88333  
direct the Director of Budget and Management to transfer an amount 88334  
not to exceed the total fiscal year 2005 unencumbered 88335  
appropriations to fiscal year 2006 for use within appropriation 88336  
item 025-321, Operating Expenses. Additional appropriation 88337  
authority equal to the amount certified by the Chief 88338  
Administrative Officer is hereby appropriated to appropriation 88339  
item 025-321, Operating Expenses, in fiscal year 2006. 88340

On July 1, 2006, or as soon as possible thereafter, the Chief 88341  
Administrative Officer of the House of Representatives shall 88342  
certify to the Director of Budget and Management the total fiscal 88343  
year 2006 unencumbered appropriations in appropriation item 88344  
025-321, Operating Expenses. The Chief Administrative Officer may 88345  
direct the Director of Budget and Management to transfer an amount 88346  
not to exceed the total fiscal year 2006 unencumbered 88347  
appropriations to fiscal year 2007 for use within appropriation 88348  
item 025-321, Operating Expenses. Additional appropriation 88349  
authority equal to the amount certified by the Chief 88350  
Administrative Officer is hereby appropriated to appropriation 88351  
item 025-321, Operating Expenses, in fiscal year 2007. 88352

<b>Section 206.57.</b>	HFA OHIO HOUSING FINANCE AGENCY			88353
	General Services Fund Group			88354
	5AZ 997-601 Housing Finance Agency	\$ 8,100,000	\$ 8,100,000	88355
	Personal Services			
	TOTAL GSF General Services Fund	\$ 8,100,000	\$ 8,100,000	88356
	Group			
	TOTAL ALL BUDGET FUND GROUPS	\$ 8,100,000	\$ 8,100,000	88357
<b>Section 206.60.</b>	IGO OFFICE OF THE INSPECTOR GENERAL			88359
	General Revenue Fund			88360
	GRF 965-321 Operating Expenses	\$ 950,868	\$ 979,085	88361
	TOTAL GRF General Revenue Fund	\$ 950,868	\$ 979,085	88362
	General Services Fund Group			88363
	4Z3 965-602 Special Investigations	\$ 100,000	\$ 100,000	88364
	TOTAL GSF General Services Fund	\$ 100,000	\$ 100,000	88365
	Group			
	TOTAL ALL BUDGET FUND GROUPS	\$ 1,050,868	\$ 1,079,085	88366
	SPECIAL INVESTIGATIONS			88367
	Of the foregoing appropriation item 965-602, Special			88368
	Investigations, up to \$100,000 in each fiscal year may be used for			88369
	investigative costs, pursuant to section 121.481 of the Revised			88370
	Code.			88371
<b>Section 206.63.</b>	INS DEPARTMENT OF INSURANCE			88372
	Federal Special Revenue Fund Group			88373
	3U5 820-602 OSHIIP Operating Grant	\$ 1,080,000	\$ 1,080,000	88374
	TOTAL FED Federal Special			88375
	Revenue Fund Group	\$ 1,080,000	\$ 1,080,000	88376
	State Special Revenue Fund Group			88377
	554 820-601 Operating Expenses -	\$ 564,754	\$ 571,772	88378

OSHIIP

554 820-606 Operating Expenses	\$	22,654,232	\$	22,832,214	88379
555 820-605 Examination	\$	7,639,581	\$	7,639,581	88380
TOTAL SSR State Special Revenue					88381
Fund Group	\$	30,858,567	\$	31,043,567	88382
TOTAL ALL BUDGET FUND GROUPS	\$	31,938,567	\$	32,123,567	88383

MARKET CONDUCT EXAMINATION 88384

When conducting a market conduct examination of any insurer 88385  
 doing business in this state, the Superintendent of Insurance may 88386  
 assess the costs of the examination against the insurer. The 88387  
 superintendent may enter into consent agreements to impose 88388  
 administrative assessments or fines for conduct discovered that 88389  
 may be violations of statutes or rules administered by the 88390  
 superintendent. All costs, assessments, or fines collected shall 88391  
 be deposited to the credit of the Department of Insurance 88392  
 Operating Fund (Fund 554). 88393

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 88394

The Director of Budget and Management, at the request of the 88395  
 Superintendent of Insurance, may transfer funds from the 88396  
 Department of Insurance Operating Fund (Fund 554), created by 88397  
 section 3901.021 of the Revised Code, to the Superintendent's 88398  
 Examination Fund (Fund 555), created by section 3901.071 of the 88399  
 Revised Code, only for expenses incurred in examining domestic 88400  
 fraternal benefit societies as required by section 3921.28 of the 88401  
 Revised Code. 88402

**Section 206.66.** JFS DEPARTMENT OF JOB AND FAMILY SERVICES 88403

General Revenue Fund					88404
GRF 600-321 Support Services					88405
State	\$	62,709,350	\$	59,977,736	88406
Federal	\$	8,103,050	\$	8,442,202	88407

	Support Services Total	\$	70,812,400	\$	68,419,938	88408
GRF 600-410	TANF State	\$	272,619,061	\$	272,619,061	88409
GRF 600-413	Child Care	\$	84,120,596	\$	84,120,596	88410
	Match/Maintenance of Effort					
GRF 600-416	Computer Projects					88411
	State	\$	114,516,710	\$	117,226,021	88412
	Federal	\$	37,579,198	\$	34,255,465	88413
	Computer Projects Total	\$	152,095,908	\$	151,481,486	88414
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446	88415
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932	88416
GRF 600-423	Office of Children and Families	\$	5,408,020	\$	5,431,690	88417
GRF 600-425	Office of Ohio Health Plans					88418
	State	\$	24,803,631	\$	24,054,873	88419
	Federal	\$	26,539,544	\$	25,810,409	88420
	Office of Ohio Health Plans Total	\$	51,343,175	\$	49,865,282	88421
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	88422
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	88423
GRF 600-512	Non-TANF Disaster Assistance	\$	1,000,000	\$	1,000,000	88424
GRF 600-521	Entitlement Administration - Local	\$	151,206,401	\$	151,206,401	88425
GRF 600-523	Children and Families Subsidy	\$	69,438,543	\$	69,438,543	88426
GRF 600-525	Health Care/Medicaid State					88427
		\$	3,777,442,629	\$	3,795,940,675	88428

	Federal	\$ 5,652,650,287	\$ 5,731,692,576	88429
	Health Care Total	\$ 9,430,092,916	\$ 9,527,633,251	88430
GRF 600-526	Medicare Part D	\$ 155,349,266	\$ 339,578,325	88431
GRF 600-528	Adoption Services			88432
	State	\$ 33,698,298	\$ 35,516,130	88433
	Federal	\$ 40,331,807	\$ 43,022,485	88434
	Adoption Services	\$ 74,030,105	\$ 78,538,615	88435
	Total			
TOTAL GRF	General Revenue Fund			88436
	State	\$ 4,801,922,357	\$ 5,005,719,903	88437
	Federal	\$ 5,765,203,886	\$ 5,843,223,137	88438
	GRF Total	\$10,567,126,243	\$10,848,943,040	88439
	General Services Fund Group			88440
4A8 600-658	Child Support	\$ 26,680,794	\$ 26,680,794	88441
	Collections			
4R4 600-665	BCII Services/Fees	\$ 36,974	\$ 36,974	88442
5C9 600-671	Medicaid Program	\$ 73,015,021	\$ 63,947,536	88443
	Support			
5N1 600-677	County Technologies	\$ 1,000,000	\$ 1,000,000	88444
613 600-645	Training Activities	\$ 135,000	\$ 135,000	88445
TOTAL GSF	General Services			88446
Fund Group		\$ 100,867,789	\$ 91,800,304	88447
	Federal Special Revenue Fund Group			88448
3AW 600-675	Faith Based	\$ 750,000	\$ 750,000	88449
	Initiatives			
3A2 600-641	Emergency Food	\$ 2,600,000	\$ 2,800,000	88450
	Distribution			
3BB 600-635	Children's Hospitals -	\$ 9,000,000	\$ 9,000,000	88451
	Federal			
3D3 600-648	Children's Trust Fund	\$ 2,040,524	\$ 2,040,524	88452
	Federal			
3F0 600-623	Health Care Federal	\$ 616,011,784	\$ 771,889,193	88453

3F0	600-650	Hospital Care	\$	343,239,047	\$	343,239,047	88454
		Assurance Match					
3G5	600-655	Interagency	\$	1,364,802,369	\$	1,426,954,440	88455
		Reimbursement					
3H7	600-617	Child Care Federal	\$	208,000,000	\$	208,000,000	88456
3N0	600-628	IV-E Foster Care	\$	153,963,142	\$	153,963,142	88457
		Maintenance					
3S5	600-622	Child Support Projects	\$	534,050	\$	534,050	88458
3V0	600-688	Workforce Investment	\$	208,322,037	\$	208,097,948	88459
		Act					
3V4	600-678	Federal Unemployment	\$	153,435,545	\$	157,202,750	88460
		Programs					
3V4	600-679	Unemployment	\$	3,829,430	\$	3,800,573	88461
		Compensation Review					
		Commission - Federal					
3V6	600-689	TANF Block Grant	\$	767,104,142	\$	792,483,200	88462
3W3	600-659	TANF/Title XX Transfer	\$	8,000,000	\$	5,400,000	88463
327	600-606	Child Welfare	\$	33,160,190	\$	33,090,786	88464
331	600-686	Federal Operating	\$	43,966,134	\$	44,929,546	88465
384	600-610	Food Stamps and State	\$	188,238,706	\$	181,250,799	88466
		Administration					
385	600-614	Refugee Services	\$	6,083,829	\$	6,542,439	88467
395	600-616	Special	\$	4,567,112	\$	4,564,877	88468
		Activities/Child and					
		Family Services					
396	600-620	Social Services Block	\$	120,993,012	\$	121,004,222	88469
		Grant					
397	600-626	Child Support	\$	287,468,576	\$	287,468,576	88470
398	600-627	Adoption Maintenance/	\$	314,639,519	\$	314,639,519	88471
		Administration					
TOTAL FED Federal Special Revenue							88472
Fund Group			\$	4,840,749,148	\$	5,079,645,631	88473
State Special Revenue Fund Group							88474

198	600-647	Children's Trust Fund	\$	6,788,522	\$	6,788,522	88475
4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527	88476
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	88477
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914	88478
4E7	600-604	Child and Family Services Collections	\$	1,237,500	\$	300,000	88479
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420	88480
4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984	88481
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	88482
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131	88483
4R3	600-687	Banking Fees	\$	800,000	\$	800,000	88484
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	88485
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000	88486
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000	88487
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121	88488
5CR	600-636	Children's Hospitals - State	\$	6,000,000	\$	6,000,000	88489
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000	88490
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000	88491
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761	88492
5Q9	600-619	Supplemental Inpatient	\$	56,125,998	\$	56,125,998	88493

		Hospital Payments				
5R2	600-608	Medicaid-Nursing	\$	160,192,055	\$	176,632,090 88494
		Facilities				
5S3	600-629	MR/DD Medicaid	\$	1,620,960	\$	1,620,960 88495
		Administration and				
		Oversight				
5U3	600-654	Health Care Services	\$	10,115,870	\$	15,474,709 88496
		Administration				
5U6	600-663	Children and Family	\$	4,929,717	\$	4,929,717 88497
		Support				
5Z9	600-672	TANF Quality Control	\$	647,409	\$	688,421 88498
		Reinvestments				
651	600-649	Hospital Care	\$	231,893,404	\$	231,893,404 88499
		Assurance Program Fund				
TOTAL SSR		State Special Revenue				88500
Fund Group			\$	1,438,194,267	\$	1,249,415,152 88501
Agency Fund Group						88502
192	600-646	Support Intercept -	\$	110,000,000	\$	110,000,000 88503
		Federal				
5B6	600-601	Food Stamp Intercept	\$	2,000,000	\$	2,000,000 88504
583	600-642	Support Intercept -	\$	16,000,000	\$	16,000,000 88505
		State				
TOTAL AGY		Agency Fund Group	\$	128,000,000	\$	128,000,000 88506
Holding Account Redistribution Fund Group						88507
R12	600-643	Refunds and Audit	\$	3,600,000	\$	3,600,000 88508
		Settlements				
R13	600-644	Forgery Collections	\$	10,000	\$	10,000 88509
TOTAL 090		Holding Account	\$	3,610,000	\$	3,610,000 88510
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	17,078,547,447	\$	17,401,414,127 88511
Section 206.66.03.		APPROPRIATION ITEM RESTRUCTURING				88513



(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from appropriation items 600-321, Support Services, and 600-416, Computer Projects, to any other General Revenue Fund appropriation items in Section 312.03 of this act. If the plan is approved by the Office of Budget and Management, the Director of Budget and Management shall transfer appropriations as requested in the plan. Dollars spent pursuant to appropriations transferred in accordance with this division shall be for the same purposes for which the original appropriations were made.

(C) In fiscal year 2007, the Department of Job and Family Services, with the approval of the Office of Budget and Management, shall utilize a method for determining the payments from applicable appropriation items into the Support Services State Operating Fund (Fund 230). The method shall contain characteristics of administrative ease and uniform application. Payments to the Support Services State Operating Fund (Fund 230) shall be made by intrastate transfer voucher. Amounts transferred in accordance with this division are hereby appropriated to appropriation item 600-661, Support Services State Operating (Fund

230).	88546
<b>Section 206.66.06.</b> GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES	88547 88548
Of the foregoing appropriation item 600-321, Support Services, up to \$312,500 per fiscal year may be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.	88549 88550 88551 88552
<b>Section 206.66.09.</b> TANF OHIO WORKS FIRST CASH ASSISTANCE PAYMENTS	88553 88554
The Department of Job and Family Services shall use a portion of the moneys appropriated for the TANF program in appropriation items 600-410, TANF State; 600-658, Child Support Collections; and 600-689, TANF Block Grant, to increase the cash assistance provided to recipients of benefits under the TANF Ohio Works First program by up to 10 per cent as compared to the cash assistance provided prior to July 1, 2005. The increased TANF cash assistance benefit shall be effective October 1, 2005.	88555 88556 88557 88558 88559 88560 88561 88562
<b>Section 206.66.10.</b> MEDICAID DATA SYSTEM	88563
Upon receipt of federal approval and assured ninety per cent reimbursement for the project, up to \$6,000,000 in state and federal funds in fiscal year 2006 and up to \$4,000,000 in state and federal funds in fiscal year 2007 shall be used to fund the computer system specified in section 5111.915 of the Revised Code.	88564 88565 88566 88567 88568
<b>Section 206.66.12.</b> OHIO'S BEST RX START-UP COSTS	88569
An amount equal to the remaining unencumbered balance in appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2005 is hereby appropriated for fiscal year 2006 into appropriation item 600-440, Ohio's Best Rx Start-Up Costs. An	88570 88571 88572 88573

amount equal to the remaining unencumbered balance in 88574  
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 88575  
fiscal year 2006 is hereby appropriated for fiscal year 2007 into 88576  
appropriation item 600-440, Ohio's Best Rx Start-up Costs. The 88577  
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, shall 88578  
be used by the Department of Job and Family Services to pay for 88579  
the administrative and operational expenses for the Ohio's Best Rx 88580  
Program in accordance with Chapter 5110. of the Revised Code, 88581  
including costs associated with the duties assigned by the 88582  
Department to the Ohio's Best Rx Program Administrator and for 88583  
making payments to participating terminal distributors until 88584  
sufficient cash exists to make payments from the accounts created 88585  
in sections 5110.32 and 5110.33 of the Revised Code. Of 88586  
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, not 88587  
more than \$750,000 per fiscal year may be used by the department 88588  
for administrative and operational costs, excluding outreach, that 88589  
are not associated with the Ohio's Best Rx Program Administrator 88590  
or the payments to participating terminal distributors. 88591

If the Director of Job and Family Services estimates that the 88592  
appropriation is insufficient to fully cover start-up costs, the 88593  
Director shall, in consultation with the Director of Budget and 88594  
Management, submit a letter to the Governor, President of the 88595  
Senate, Speaker of the House of Representatives, and the minority 88596  
leaders of the Senate and House of Representatives. The letter 88597  
shall declare the additional appropriation estimated to be needed 88598  
and shall show a breakdown of how the additional appropriation 88599  
will be used. The Director of Job and Family Services shall obtain 88600  
the approval of the Controlling Board for any supplemental 88601  
appropriation, if required. The amount approved by the Controlling 88602  
Board is hereby appropriated. The use of state funds for program 88603  
costs as provided in this section shall in no way obligate the 88604  
state to fund further program costs, as the program is a discount 88605

program, not an entitlement program. 88606

OHIO'S BEST RX ADMINISTRATION 88607

The foregoing appropriation item 600-673, Ohio's Best Rx 88608  
Administration, shall be used on an ongoing basis to cover 88609  
expenses associated with the Ohio's Best Rx Program defined in 88610  
section 5110.33 of the Revised Code. If receipts to the fund 88611  
exceed the appropriated amount, the Director of Job and Family 88612  
Services may request that the Director of Budget and Management 88613  
increase the appropriation of this fund. Upon approval from the 88614  
Director of Budget and Management, the additional amounts are 88615  
hereby appropriated. 88616

**Section 206.66.21. TANF TRANSFERS** 88617

(A) Notwithstanding any provision of law to the contrary, 88618  
through June 30, 2007, if the Director of Budget and Management 88619  
determines that the estimated ending fund balance of the General 88620  
Revenue Fund will be greater than the amounts assumed in this act 88621  
for either fiscal year, the director may transfer the excess 88622  
balance, up to a total of \$96,000,000 to Fund 5AX, Public 88623  
Assistance Reconciliation Fund, to pay the state's outstanding 88624  
TANF liability to the federal government. Upon transfer, these 88625  
amounts are hereby appropriated. This division does not apply to 88626  
division (A) of Section 312.09, Budget Stabilization Fund 88627  
Transfers, of this act. 88628

(B) In executing division (A) of this section and division 88629  
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is 88630  
intended that these divisions be applied and construed so that 88631  
both of the transfers authorized under these divisions may be made 88632  
through June 30, 2007. 88633

**Section 206.66.22. FISCAL YEAR 2006 AND FISCAL YEAR 2007** 88634  
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 88635

(A) As used in this section: 88636

"2003 cost report" means a complete and adequate Medicaid 88637  
cost report covering calendar year 2003 filed with the Department 88638  
of Job and Family Services under section 5111.26 of the Revised 88639  
Code. 88640

"Intermediate care facility for the mentally retarded" has 88641  
the same meaning as in section 5111.20 of the Revised Code. 88642

"ICF/MR services" means intermediate care facility for the 88643  
mentally retarded services covered by the Medicaid program that an 88644  
intermediate care facility for the mentally retarded provides to a 88645  
resident of the facility who is a Medicaid recipient eligible for 88646  
Medicaid-covered intermediate care facility for the mentally 88647  
retarded services. 88648

(B) Except as provided in division (C) of this section, an 88649  
intermediate care facility for the mentally retarded that has a 88650  
valid Medicaid provider agreement on June 30, 2005, and a valid 88651  
Medicaid provider agreement for fiscal years 2006 and 2007 shall 88652  
be paid, for ICF/MR services the facility provides during fiscal 88653  
years 2006 and 2007, the per diem rate the facility is paid for 88654  
providing ICF/MR services on June 30, 2005. 88655

(C) If an intermediate care facility for the mentally 88656  
retarded undergoes a change of provider during fiscal year 2006 or 88657  
2007, the facility shall be paid, for ICF/MR services the facility 88658  
provides during the period beginning on the effective date of the 88659  
change of provider and ending June 30, 2007, the per diem rate 88660  
paid to the previous provider for ICF/MR services that the 88661  
previous provider provided on the day immediately before the 88662  
effective date of the change of provider. 88663

(D) If, during fiscal year 2006 or 2007, an intermediate care 88664  
facility for the mentally retarded obtains certification as an 88665  
intermediate care facility for the mentally retarded from the 88666

Director of Health and begins participation in the Medicaid 88667  
program, the facility shall be paid, for ICF/MR services the 88668  
facility provides during the period beginning on the date the 88669  
facility begins participation in the Medicaid program and ending 88670  
June 30, 2007, a per diem rate that is the median of all per diem 88671  
rates paid to intermediate care facilities for the mentally 88672  
retarded on July 1, 2005. 88673

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 88674  
certified beds are added to an intermediate care facility for the 88675  
mentally retarded with a valid Medicaid provider agreement for the 88676  
time that the beds are added, the facility shall be paid a per 88677  
diem rate for the new beds that is the same as the facility's per 88678  
diem rate for the Medicaid certified beds that are in the facility 88679  
on the day before the new beds are added. 88680

(F) An adjustment necessitated by an audit of an intermediate 88681  
care facility for the mentally retarded's 2003 cost report may be 88682  
applied to a per diem rate established under this section for the 88683  
facility. 88684

(G) The Department of Job and Family Services shall follow 88685  
this section in determining the per diem rate to be paid an 88686  
intermediate care facility for the mentally retarded under the 88687  
Medicaid program for ICF/MR services provided during fiscal years 88688  
2006 and 2007 notwithstanding anything to the contrary in sections 88689  
5111.20 to 5111.33 of the Revised Code. 88690

**Section 206.66.23. FISCAL YEAR 2006 MEDICAID REIMBURSEMENT** 88691  
**SYSTEM FOR NURSING FACILITIES** 88692

(A) As used in this section: 88693

"2003 cost report" means a complete and adequate Medicaid 88694  
cost report covering calendar year 2003 filed with the Department 88695  
of Job and Family Services under section 5111.26 of the Revised 88696

Code. 88697

"Direct care peer group" means the peer group specified in 88698  
rules adopted under division (E) of section 5111.23 of the Revised 88699  
Code, as that section existed on June 30, 2005, into which a 88700  
nursing facility is placed as part of the calculation of the 88701  
nursing facility's rate for direct care costs. 88702

"Franchise permit fee" means the fee imposed by sections 88703  
3721.50 to 3721.58 of the Revised Code. 88704

"Medicaid days" means all days during which a resident who is 88705  
a Medicaid recipient eligible for nursing facility services 88706  
occupies a bed in a nursing facility that is included in the 88707  
nursing facility's certified capacity under Title XIX of the 88708  
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as 88709  
amended. Therapeutic or hospital leave days for which payment is 88710  
made under section 5111.33 of the Revised Code are considered 88711  
Medicaid days proportionate to the percentage of the nursing 88712  
facility's per resident per day rate paid for those days. 88713

"Nursing facility" has the same meaning as in section 5111.20 88714  
of the Revised Code. 88715

"Nursing facility services" means nursing facility services 88716  
covered by the Medicaid program that a nursing facility provides 88717  
to a resident of the nursing facility who is a Medicaid recipient 88718  
eligible for Medicaid-covered nursing facility services. 88719

(B) Except as provided in division (C) of this section, a 88720  
nursing facility with a valid Medicaid provider agreement for 88721  
fiscal year 2006 shall be paid the following rate for nursing 88722  
facility services the nursing facility provides during fiscal year 88723  
2006: 88724

(1) If the nursing facility had a valid Medicaid provider 88725  
agreement on June 30, 2005, and a 2003 cost report, the rate shall 88726

be determined as follows: 88727

(a) Calculate the nursing facility's rate using the method 88728  
that was used to calculate the nursing facility's rate for nursing 88729  
facility services provided on July 1, 2004, with the following 88730  
modifications: 88731

(i) Use the nursing facility's 2003 cost report; 88732

(ii) Set the maximum cost per case-mix unit for the nursing 88733  
facility's peer group at an amount equal to ninety-eight per cent 88734  
of the maximum cost per case-mix unit that, under division 88735  
(B)(2)(a) of section 5111.23 of the Revised Code, as that section 88736  
existed on June 30, 2005, was set for the nursing facility's peer 88737  
group for direct care costs for nursing facility services provided 88738  
on July 1, 2004; 88739

(iii) For the average case-mix score that is used in the 88740  
multiplication performed under division (C)(1) of section 5111.23 88741  
of the Revised Code, as that section existed on June 30, 2005, use 88742  
the nursing facility's quarterly case-mix score that is based on 88743  
the data the nursing facility submitted to the Department under 88744  
division (B) of section 5111.231 of the Revised Code, as that 88745  
section existed on June 30, 2005, for the quarter ending December 88746  
31, 2004; 88747

(iv) For the inflation rate that is used in the calculation 88748  
made under division (C)(2) of section 5111.23 of the Revised Code, 88749  
as that section existed on June 30, 2005, use an inflation rate of 88750  
six and twenty-eight-hundredths per cent; 88751

(v) Use the annual average case-mix score that was calculated 88752  
under division (B) of section 5111.231 of the Revised Code, as 88753  
that section existed on June 30, 2005, and used to calculate the 88754  
nursing facility's rate for direct care costs for nursing facility 88755  
services provided on June 30, 2005; 88756



(vi) For the inflation rate used in the calculation of the nursing facility's other protected costs under section 5111.235 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of seventy-nine-hundredths per cent;

(vii) For the inflation rate used in the calculation of the nursing facility's indirect care costs under division (A)(1) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of ninety-one-hundredths per cent;

(viii) Set the pre-inflation adjusted maximum rate for indirect care costs for the nursing facility's peer group at an amount equal to ninety-eight per cent of the pre-inflation adjusted maximum rate for indirect care costs that, under division (B) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, was set for the nursing facility's peer group for nursing facility services provided on July 1, 2004;

(ix) For the inflation rate used in the calculation of the maximum rate for indirect care costs for the nursing facility's peer group under division (B)(1) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of negative seven-hundredths per cent;

(x) For the inflation rate used in the calculations made under divisions (A)(1)(b)(iii) and (D)(2)(b) and the second to last paragraph of division (E) of section 5111.25 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of one and seventy-nine-hundredths per cent.

(b) Reduce the rate calculated under division (B)(1)(a) of this section by six and sixty-two hundredths per cent;

(c) Adjust the rate calculated under division (B)(1)(b) of this section by an amount equal to any rate adjustment implemented during fiscal year 2005 pursuant to section 5111.28 or 5111.29 of

the Revised Code, as those sections existed on June 30, 2005; 88788

(d) Determine the nursing facility's rate per case-mix unit 88789  
by dividing the nursing facility's rate determined under division 88790  
(B)(1)(b) of this section by the nursing facility's annual average 88791  
case-mix score that was used for the nursing facility under 88792  
division (B)(1)(a)(v) of this section; 88793

(e) Array from low rate per case-mix unit to high rate per 88794  
case-mix unit each of the nursing facilities that are in the 88795  
nursing facility's direct care peer group and for which a rate is 88796  
determined under division (B)(1) of this section; 88797

(f) Determine the nursing facility's facility-specific 88798  
estimated Medicaid costs by multiplying the nursing facility's 88799  
rate determined under division (B)(1)(c) of this section by the 88800  
number of the nursing facility's Medicaid days for calendar year 88801  
2003 as reported to the Department on May 31, 2004, in the 88802  
Medicaid Management Information System; 88803

(g) Determine the total estimated Medicaid costs for all of 88804  
the nursing facilities that are in the nursing facility's direct 88805  
care peer group and for which a rate is determined under division 88806  
(B)(1) of this section by calculating the sum of all of those 88807  
nursing facilities' facility-specific estimated Medicaid costs 88808  
determined under division (B)(1)(f) of this section; 88809

(h) Divide the nursing facilities included in the array made 88810  
under division (B)(1)(e) of this section into three sub-peer 88811  
groups such that each of the following is the case: 88812

(i) The first sub-peer group consists of those nursing 88813  
facilities with the lowest rate per case-mix unit whose combined 88814  
facility-specific estimated Medicaid costs equals, as close as 88815  
possible, one-third of the total estimated Medicaid costs 88816  
determined under division (B)(1)(g) of this section; 88817

(ii) The second sub-peer group consists of those nursing facilities with the middle rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(g) of this section;

(iii) The third sub-peer group consists of those nursing facilities with the highest rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(g) of this section.

(i) If the nursing facility is part of the first sub-peer group created under division (B)(1)(h)(i) of this section, increase the nursing facility's rate determined under division (B)(1)(c) of this section by two and one-half per cent;

(j) If the nursing facility is part of the second sub-peer group created under division (B)(1)(h)(ii) of this section, do not increase or decrease the nursing facility's rate determined under division (B)(1)(c) of this section;

(k) If the nursing facility is part of the third sub-peer group created under division (B)(1)(h)(iii) of this section, decrease the nursing facility's rate determined under division (B)(1)(c) of this section by two and one-half per cent;

(1) Unless the nursing facility is exempt from paying the franchise permit fee, increase the nursing facility's rate determined under division (B)(1)(i), (j), or (k) of this section by one dollar and ninety-five cents.

(2) If the nursing facility had a valid Medicaid provider agreement on June 30, 2005, and was not required to file a cost report covering calendar year 2003, the rate shall be determined as follows:

(a) Reduce the rate the nursing facility was paid for nursing facility services provided on June 30, 2005, by three per cent; 88848  
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(b) Unless the nursing facility is exempt from paying the franchise permit fee, increase the nursing facility's rate determined under division (B)(2)(a) of this section by one dollar and ninety-five cents. 88850  
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(C) If a nursing facility undergoes a change of operator on July 1, 2005, the nursing facility shall be paid, for nursing facility services the nursing facility provides during fiscal year 2006, the rate that would have been paid to the exiting operator of the nursing facility for nursing facility services provided on July 1, 2005. 88854  
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If a nursing facility undergoes a change of operator during the period beginning July 2, 2005, and ending June 30, 2006, the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the effective date of the change of operator and ending June 30, 2006, the rate paid to the exiting operator for nursing facility services that the exiting operator provided on the day immediately before the effective date of the change of operator. 88860  
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(D) If, during fiscal year 2006, a nursing facility obtains certification as a nursing facility from the Director of Health and begins participation in the Medicaid program, the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the date the nursing facility begins participation in the Medicaid program and ending June 30, 2006, a rate that is the median of all rates paid to nursing facilities on July 1, 2005. 88868  
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(E) If, during fiscal year 2006, one or more Medicaid certified beds are added to a nursing facility with a valid Medicaid provider agreement for fiscal year 2006, the nursing 88876  
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facility shall be paid a rate for the new beds that is the same as 88879  
the nursing facility's rate for the Medicaid certified beds that 88880  
are in the nursing facility on the day before the new beds are 88881  
added. 88882

(F) If the United States Centers for Medicare and Medicaid 88883  
Services requires that the franchise permit fee be reduced or 88884  
eliminated, the Department of Job and Family Services shall reduce 88885  
the amount it pays nursing facilities under this section as 88886  
necessary to reflect the loss to the state of the revenue and 88887  
federal financial participation generated from the franchise 88888  
permit fee. 88889

(G) A nursing facility's rate established under this section 88890  
shall not be subject to any adjustments except as follows: 88891

(1) An adjustment resulting from an audit of the nursing 88892  
facility's 2003 cost report may be applied to a rate established 88893  
under this section for the nursing facility not later than three 88894  
years after the first day of the fiscal year for which the rate is 88895  
established. 88896

(2) The nursing facility's rate established under this 88897  
section may be adjusted pursuant to a process established in rules 88898  
adopted under section 5111.02 of the Revised Code to reflect a 88899  
change in the nursing facility's capital costs due to either of 88900  
the following: 88901

(a) A change of provider agreement that goes into effect 88902  
before July 1, 2005, and for which a rate adjustment is not 88903  
implemented before June 30, 2005; 88904

(b) A reviewable activity, as defined in section 3702.51 of 88905  
the Revised Code, for which a certificate of need application is 88906  
filed with the Director of Health before July 1, 2005, costs are 88907  
incurred before June 30, 2005, and a rate adjustment is not 88908  
implemented before June 30, 2005. 88909

(H) The Department of Job and Family Services shall follow 88910  
this section in determining the rate to be paid a nursing facility 88911  
under the Medicaid program for nursing facility services provided 88912  
during fiscal year 2006 notwithstanding anything to the contrary 88913  
in sections 5111.20 to 5111.33 of the Revised Code. 88914

**Section 206.66.24. FISCAL YEAR 2007 MEDICAID REIMBURSEMENT** 88915  
**SYSTEM FOR NURSING FACILITIES** 88916

(A) As used in this section: 88917

"2003 cost report" means a complete and adequate Medicaid 88918  
cost report covering calendar year 2003 filed with the Department 88919  
of Job and Family Services under section 5111.26 of the Revised 88920  
Code. 88921

"Franchise permit fee" means the fee imposed by sections 88922  
3721.50 to 3721.58 of the Revised Code. 88923

"Nursing facility" has the same meaning as in section 5111.20 88924  
of the Revised Code. 88925

"Nursing facility services" means nursing facility services 88926  
covered by the Medicaid program that a nursing facility provides 88927  
to a resident of the nursing facility who is a Medicaid recipient 88928  
eligible for Medicaid-covered nursing facility services. 88929

(B) Except as provided in division (C) of this section, a 88930  
nursing facility that has a valid Medicaid provider agreement on 88931  
June 30, 2006, and a valid Medicaid provider agreement for fiscal 88932  
year 2007 shall be paid, for nursing facility services the nursing 88933  
facility provides during fiscal year 2007, the rate the nursing 88934  
facility is paid for providing nursing facility services on June 88935  
30, 2006. 88936

(C) If a nursing facility undergoes a change of operator 88937  
during fiscal year 2007, the nursing facility shall be paid, for 88938  
nursing facility services the nursing facility provides during the 88939

period beginning on the effective date of the change of operator 88940  
and ending June 30, 2007, the rate paid to the exiting operator 88941  
for nursing facility services that the exiting operator provided 88942  
on the day immediately before the effective date of the change of 88943  
operator. 88944

(D) If, during fiscal year 2007, a nursing facility obtains 88945  
certification as a nursing facility from the Director of Health 88946  
and begins participation in the Medicaid program, the nursing 88947  
facility shall be paid, for nursing facility services the nursing 88948  
facility provides during the period beginning on the date the 88949  
nursing facility begins participation in the Medicaid program and 88950  
ending June 30, 2007, a rate that is the median of all rates paid 88951  
to nursing facilities on July 1, 2006. 88952

(E) If, during fiscal year 2007, one or more Medicaid 88953  
certified beds are added to a nursing facility with a valid 88954  
Medicaid provider agreement for fiscal year 2007, the nursing 88955  
facility shall be paid a rate for the new beds that is the same as 88956  
the nursing facility's rate for the Medicaid certified beds that 88957  
are in the nursing facility on the day before the new beds are 88958  
added. 88959

(F) If the United States Centers for Medicare and Medicaid 88960  
Services requires that the franchise permit fee be reduced or 88961  
eliminated, the Department of Job and Family Services shall reduce 88962  
the amount it pays nursing facilities under this section as 88963  
necessary to reflect the loss to the state of the revenue and 88964  
federal financial participation generated from the franchise 88965  
permit fee. 88966

(G) A nursing facility's rate established under this section 88967  
shall not be subject to any adjustments except as follows: 88968

(1) An adjustment resulting from an audit of the nursing 88969  
facility's 2003 cost report may be applied to a rate established 88970

under this section for the nursing facility not later than three 88971  
years after the first day of the fiscal year for which the rate is 88972  
established. 88973

(2) The nursing facility's rate established under this 88974  
section may be adjusted pursuant to a process established in rules 88975  
adopted under section 5111.02 of the Revised Code to reflect a 88976  
change in the nursing facility's capital costs due to either of 88977  
the following: 88978

(a) A change of provider agreement that goes into effect 88979  
before July 1, 2005, and for which a rate adjustment is not 88980  
implemented before June 30, 2006; 88981

(b) A reviewable activity, as defined in section 3702.51 of 88982  
the Revised Code, for which a certificate of need application is 88983  
filed with the Director of Health before July 1, 2005, costs are 88984  
incurred before June 30, 2005, and a rate adjustment is not 88985  
implemented before June 30, 2006. 88986

(H) The Department of Job and Family Services shall follow 88987  
this section in determining the rate to be paid a nursing facility 88988  
under the Medicaid program for nursing facility services provided 88989  
during fiscal year 2007 notwithstanding anything to the contrary 88990  
in sections 5111.20 to 5111.33 of the Revised Code. 88991

**Section 209.66.25. TRANSITION METHODOLOGY FOR MEDICAID 88992**  
REIMBURSEMENT FOR NURSING FACILITIES 88993

The Department of Job and Family Services shall prepare a 88994  
report that includes a recommendation on the methodology that 88995  
should be used to transition paying providers of nursing 88996  
facilities the rate determined for nursing facilities for fiscal 88997  
year 2007 pursuant to the section of this act entitled "FISCAL 88998  
YEAR 2007 MEDICAID REIMBURSEMNT SYSTEM FOR NURISNG FACILITIES" to 88999  
the rate determined for nursing facilities for fiscal years 2008 89000



and thereafter pursuant to sections 5111.20 to 5111.33 of the  
Revised Code. The Department shall submit the report to the  
Governor, President and Minority Leader of the Senate, and Speaker  
and Minority Leader of the House of Representatives not later than  
June 30, 2006.

**Section 206.66.27. FISCAL YEARS 2006 AND 2007 INCREASED**  
PAYMENT TO ICFs/MR

(A) As used in this section:

"Active treatment" has the same meaning as in section 5126.12  
of the Revised Code.

"Community alternative funding system" means the former  
system under which habilitation center services were reimbursed  
under the Medicaid program pursuant to former section 5111.041 of  
the Revised Code and former rules adopted under that section.

(B) The Director of Job and Family Services may increase the  
rate paid to intermediate care facilities for the mentally  
retarded under Section 206.66.28 of this act for fiscal years 2006  
and 2007 by an amount specified in rules adopted under section  
5111.02 of the Revised Code to reimburse the facilities for active  
treatment day programming because of the termination of the  
community alternative funding system.

**\*Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM**

(A) As used in this section, "Assisted Living Program" has  
the same meaning as in section 5111.89 of the Revised Code.

(B) After the Department of Job and Family Services enters  
into a contract with the Department of Aging under section 5111.91  
of the Revised Code for the Department of Aging to administer the  
Assisted Living Program, the Director of Job and Family Services  
shall quarterly certify to the Director of Budget and Management

the estimated costs of the Assisted Living Program for the 89030  
upcoming quarter. The estimate shall include the state and federal 89031  
share of the costs. On receipt of the certified estimated costs 89032  
for an upcoming quarter, the Director of Budget and Management 89033  
shall do all of the following: 89034

(1) Transfer the state share of the amount of the estimated 89035  
costs from GRF appropriation item 600-525, Health Care/Medicaid, 89036  
to GRF appropriation item 490-422, Assisted Living; 89037

(2) Transfer the federal share of the amount of the estimated 89038  
costs from GRF appropriation item 600-525, Health Care/Medicaid, 89039  
to Fund 3C4, appropriation item 490-622, Assisted Living - 89040  
Federal; 89041

(3) Increase the appropriation in JFS Fund 3G5, appropriation 89042  
item 600-655, Interagency Reimbursement, by the federal share of 89043  
the amount of the estimated costs. 89044

(C) The funds that the Director of Budget and Management 89045  
transfers and increases under this section are hereby 89046  
appropriated. 89047

**\*Section 206.66.37.** Section 206.66.36 of this act takes 89048  
effect October 1, 2005. 89049

**Section 206.66.38. MEDICAID VOUCHER PILOT PROGRAM** 89050

Each quarter, the Department of Aging shall certify to the 89051  
Director of Budget and Management the estimated costs of the 89052  
Medicaid voucher pilot program for the individuals enrolled 89053  
pursuant to section 5111.971 of the Revised Code. 89054

On a quarterly basis, on receipt of the certified costs, the 89055  
Director of Budget and Management shall do all of the following: 89056

(1) Transfer the state share of the amount of the estimated 89057  
costs from the GRF appropriation item 600-525, Health 89058

Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for	89059
the remainder of the biennium;	89060
(2) Increase the appropriation in Department of Aging Fund	89061
3C4, appropriation item 490-607, PASSPORT, by the federal share of	89062
the amount of the estimated costs;	89063
(3) Reduce the federal share of GRF appropriation item	89064
600-525, Health Care/Medicaid, by the federal share of the amount	89065
of the estimated costs;	89066
(4) Increase the appropriation in Department of Job and	89067
Family Services Fund 3G5, appropriation item 600-655, Interagency	89068
Reimbursement, by the federal share of the amount of the estimated	89069
costs.	89070
The funds that the Director of Budget and Management	89071
transfers and increases under this section are hereby	89072
appropriated.	89073
<b>Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS</b>	89074
The Director of Job and Family Services shall, not later than	89075
ninety days after the effective date of this section, submit to	89076
the United States Secretary of Health and Human Services an	89077
amendment to the state Medicaid plan to reduce to ninety per cent	89078
of the federal poverty guidelines the amount specified in division	89079
(A)(2) of section 5111.019 of the Revised Code as it existed	89080
immediately prior to the amendment made by this act. The reduction	89081
shall be implemented not earlier than ninety days after the	89082
effective date of this section and not later than the effective	89083
date of federal approval.	89084
<b>Section 206.66.42. TERMINATION OF THE DISABILITY MEDICAL</b>	89085
ASSISTANCE PROGRAM	89086
(A) The Department of Job and Family Services shall terminate	89087

the Disability Medical Assistance Program effective October 1, 89088  
2005. All rules, standards, guidelines, or orders adopted or 89089  
issued by the Director of Job and Family Services to govern the 89090  
Disability Medical Assistance Program before its termination shall 89091  
remain in effect on and after October 1, 2005, for the following 89092  
purposes: 89093

(1) To establish the legal obligations of the Department for 89094  
claims arising from the Program; 89095

(2) To determine an individual's previous eligibility for the 89096  
Program; 89097

(3) To determine the validity of a claim for services under 89098  
the Program; 89099

(4) To recover erroneous payments, as defined in section 89100  
5115.23 of the Revised Code, made before October 1, 2005. 89101

(B) The Department may use funds appropriated to it to 89102  
satisfy Program claims or contingent claims existing before 89103  
October 1, 2005. The Department shall not pay claims for services 89104  
rendered on or after October 1, 2005. 89105

(C) The Department shall pay a claim for services rendered by 89106  
a medical provider to a Disability Medical Assistance Program 89107  
recipient before October 1, 2005, only if the claim is received by 89108  
the Department not later than April 1, 2006. 89109

(D) A judge or other person designated to make a decision in 89110  
a state hearing, administrative appeal, or judicial proceeding 89111  
initiated under section 5101.35 of the Revised Code may adjudicate 89112  
an appeal of a determination made by the Department under the 89113  
Program before October 1, 2005. No person may adjudicate an appeal 89114  
of a determination made by the Department under the Program on or 89115  
after October 1, 2005. 89116

(E) Notwithstanding the termination of the Disability Medical 89117

Assistance Program, the following remain effective on and after 89118  
October 1, 2005: 89119

(1) As described in section 5101.58 of the Revised Code, the 89120  
Department's and a county's right of recovery against the 89121  
liability of a third party for the cost of medical services and 89122  
care; 89123

(2) As described in section 5101.59 of the Revised Code, the 89124  
assignment of a Program recipient's right to medical support made 89125  
by court or administrative order or payments from a third party. 89126

(F) The Department may take reasonable steps to inform 89127  
Program recipients about the termination of the Program. A county 89128  
department of job and family services shall take action with 89129  
respect to these activities when requested by the Department. 89130

(G) An action taken under division (F) of this section shall 89131  
not be the basis for requiring the Department to extend the 89132  
Program or to approve or extend a person's eligibility for the 89133  
Program on or after October 1, 2005. 89134

(H) The Director may adopt rules in accordance with section 89135  
111.15 of the Revised Code to implement this section. 89136

**Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES** 89137

For fiscal years 2006 and 2007, the Medicaid program shall do 89138  
the following: 89139

(A) For Medicaid recipients under twenty-one years of age, 89140  
the Medicaid program shall cover dental services. This section 89141  
does not limit the ability of the Department of Job and Family 89142  
Services to adopt, amend, or rescind rules applicable to dental 89143  
services, including rules that limit or reduce covered services, 89144  
reduce reimbursement levels, or subject covered services to 89145  
co-payments. 89146

(B) For Medicaid recipients twenty-one years of age or older, 89147  
the Medicaid program shall cover dental services in an amount, 89148  
duration, and scope specified in rules that the Director of Job 89149  
and Family Services shall adopt under section 5111.02 of the 89150  
Revised Code but shall be less in amount, duration, and scope than 89151  
the Medicaid program covered those services immediately before the 89152  
effective date of this amendment. 89153

**Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES** 89154

For fiscal years 2006 and 2007, the Medicaid program shall 89155  
cover vision services. This section does not limit the ability of 89156  
the Department of Job and Family Services to adopt, amend, or 89157  
rescind rules applicable to vision services, including rules that 89158  
limit or reduce covered services, reduce reimbursement levels, or 89159  
subject covered services to copayments. 89160

**Section 206.66.46. DISABILITY DETERMINATIONS** 89161

(A) A study shall be conducted by the state and local 89162  
government entities actively engaged in providing programs or 89163  
services for which disability is an eligibility requirement, 89164  
including the Department of Job and Family Services, county 89165  
departments of job and family services, and Rehabilitation 89166  
Services Commission. The study shall consider all of the 89167  
following: 89168

(1) The feasibility of an interagency agreement among the 89169  
state and local government entities actively engaged in providing 89170  
programs or services for which disability is an eligibility 89171  
requirement, including the Department of Job and Family Services, 89172  
county departments of job and family services, and the 89173  
Rehabilitation Services Commission whereby one of these state or 89174  
local government entities would perform disability determinations 89175  
for all programs and services provided by a state or local 89176

government entity in which disability is an eligibility  
requirement; 89177  
89178

(2) Which of the state and local government entities engaged 89179  
in providing programs or services for which disability is an 89180  
eligibility requirement should perform disability determinations 89181  
under an interagency agreement described in division (A)(1) of 89182  
this section. 89183

(3) Potential cost-savings and other advantages, as well as 89184  
any potential disadvantages, that might result from the 89185  
interagency agreement; 89186

(4) Processes by which the interagency agreement could be 89187  
implemented, including an estimate of the approximate time needed 89188  
to implement it. 89189

(B) Not later than six months after the effective date of 89190  
this section, a written report of the results of the study results 89191  
shall be prepared and submitted to the Speaker of the House of 89192  
Representatives and the President of the Senate. 89193

**Section 206.66.47. HEALTH CARE/MEDICAID** 89194

The foregoing appropriation item 600-525, Health 89195  
Care/Medicaid, shall not be limited by section 131.33 of the 89196  
Revised Code. 89197

**Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING** 89198  
**ESTATE RECOVERY** 89199

The Director of Job and Family Services shall submit a state 89200  
Medicaid plan amendment to the United States Secretary of Health 89201  
and Human Services as necessary for the implementation of the 89202  
amendments by this act to sections 5111.11 and 5111.111 of the 89203  
Revised Code. 89204

**Section 206.66.49.** SINGLE AUDIT OF MEDICAID DURING FY 2006 89205  
AND 2007 89206

The auditor of state may, during fiscal years 2006 and 2007, 89207  
conduct a single performance audit of the medicaid program, as 89208  
defined in section 5111.01 of the Revised Code, to determine ways 89209  
of reducing or eliminating fraud, waste, and abuse in the program, 89210  
making the program more efficient, and enhancing the program's 89211  
results. An audit conducted under this section shall be conducted 89212  
in accordance with generally accepted government auditing 89213  
standards. Expenses incurred by the Auditor of State to conduct 89214  
the performance audit shall be reimbursed by the Department of Job 89215  
and Family Services. 89216

**Section 206.66.51.** MEDICAID PAYMENT FOR GRADUATE MEDICAL 89217  
EDUCATION COSTS 89218

The Director of Job and Family Service may submit to the 89219  
United States Secretary of Health and Human Services an amendment 89220  
to the state Medicaid plan to implement section 5111.191 of the 89221  
Revised Code. The Department may implement that section upon the 89222  
Secretary's approval of the amendment. 89223

MEDICARE PART D 89224

The foregoing appropriation item 600-526, Medicare Part D, 89225  
may be used by the Department of Job and Family Services for the 89226  
implementation and operation of the Medicare Part D requirements 89227  
contained in the "Medicare Prescription Drug, Improvement, and 89228  
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 89229  
the request of the Department of Job and Family Services, the 89230  
Director of Budget and Management may increase the state share of 89231  
appropriations in either appropriation item 600-525, Health 89232  
Care/Medicaid, or appropriation item 600-526, Medicare Part D, 89233  
with a corresponding decrease in the state share of the other 89234



appropriation item to allow the Department of Job and Family Services to implement and operate the new Medicare Part D requirements. If the state share of appropriation item 600-525, Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly.

**Section 206.66.52. MEDICAID ADMINISTRATIVE STUDY COUNCIL**

(A) There is hereby created the Medicaid Administrative Study Council to make recommendations as to the most effective organization of all executive agencies that administer services under Ohio's Medicaid program. The Council shall be composed of the following:

(1) The Director of Job and Family Services or the Director's designee;

(2) The Director of Aging or the Director's designee;

(3) The Director of Drug and Alcohol Addiction Services or the Director's designee;

(4) The Director of Health or the Director's designee;

(5) The Director of Mental Health or the Director's designee;

(6) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;

(7) The Director of Budget and Management or the Director's designee;

(8) The State Chief Information Officer or the Officer's designee;

(9) An individual appointed by the Speaker of the House of Representatives;

(10) An individual appointed by the President of the Senate;

(11) A representative of the Governor, appointed by the

Governor. 89263

The Governor shall appoint a member of the Council to serve 89264  
as the chairperson of the Council. 89265

(B) The Council shall make recommendations regarding all of 89266  
the following: 89267

(1) The optimal administrative structure for the 89268  
administration of the Medicaid program, including recommendations 89269  
on whether the fiscal and operational objectives of the Medicaid 89270  
program would be best achieved through creation of a new 89271  
department, utilization of existing executive agencies, or some 89272  
other administrative structure. The Council shall include in its 89273  
considerations of an optimal administrative structure the role of 89274  
local government entities that administer Medicaid services in 89275  
such a structure. 89276

(2) A centralized financing function to coordinate the 89277  
activities of all executive agencies that deliver Medicaid 89278  
services; 89279

(3) If the recommendations of division (B)(1) of this section 89280  
include the future creation of a Medicaid department, 89281  
recommendations regarding all of the following: 89282

(a) The scope and structure of the department; 89283

(b) A business plan to direct the transition of the Medicaid 89284  
program from the Department of Job and Family Services and other 89285  
executive agencies to the new department including a plan to 89286  
address the fiscal and operational impact of the transition; 89287

(c) Resources required to implement the business plan 89288  
described in division (B)(3)(b) of this section. 89289

89290

(C) In developing the recommendations specified in division 89291  
(B) of this section, the Council shall consider the following: 89292

(1) The fiscal and operational impact on county departments 89293  
of job and family services and other local government entities 89294  
that perform Medicaid administrative functions; 89295

(2) The fiscal and operational impact on the remaining duties 89296  
and functions of the Department of Job and Family Services and 89297  
other state agencies; 89298

(3) The recommendations of the Ohio Commission to Reform 89299  
Medicaid. 89300

(D) The Council may study the feasibility of developing a 89301  
plan to create a unified long-term care budget managed across all 89302  
state and local agencies and service settings, as recommended by 89303  
the Ohio Commission to Reform Medicaid. The plan shall designate 89304  
the Department of Aging as the state agency responsible for the 89305  
unified budget. The plan shall require the Director of Aging, in 89306  
consultation with the Director of Job and Family Services, to 89307  
designate a unified long-term care budget officer to manage the 89308  
unified budget. 89309

(E) By not later than July 1, 2006, the Council shall submit 89310  
to the Governor a written report of the Council's recommendations. 89311

(F) The Department of Job and Family Services may provide 89312  
staff support and up to \$500,000 for contractual services and 89313  
other resources necessary for the Medicaid Administrative Study 89314  
Council to develop the recommendations set forth in division (B) 89315  
of this section. 89316

**Section 206.66.57. ODJFS FUNDS** 89317

AGENCY FUND GROUP 89318

The Agency Fund Group and Holding Account Redistribution Fund 89319  
Group shall be used to hold revenues until the appropriate fund is 89320  
determined or until the revenues are directed to the appropriate 89321  
governmental agency other than the Department of Job and Family 89322

Services. If it is determined that additional appropriation 89323  
authority is necessary, such amounts are hereby appropriated. 89324

**Section 206.66.60. EMPLOYER SURCHARGE** 89325

The surcharge and the interest on the surcharge amounts due 89326  
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 89327  
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 89328  
118th General Assembly, and section 4141.251 of the Revised Code 89329  
as it existed prior to its repeal by Sub. H.B. 478 of the 122nd 89330  
General Assembly, again shall be assessed and collected by, 89331  
accounted for, and made available to the Department of Job and 89332  
Family Services in the same manner as set forth in section 89333  
4141.251 of the Revised Code as it existed prior to its repeal by 89334  
Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the 89335  
repeal of the surcharge for calendar years after 1990, pursuant to 89336  
Sub. H.B. 478 of the 122nd General Assembly, except that amounts 89337  
received by the Director on or after July 1, 2001, shall be 89338  
deposited into the Unemployment Compensation Special 89339  
Administrative Fund (Fund 4A9) established pursuant to section 89340  
4141.11 of the Revised Code. 89341

**Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF** 89342  
**AGING** 89343

The Department of Job and Family Services shall transfer, 89344  
through intrastate transfer vouchers, cash from Fund 4J5, Home and 89345  
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in 89346  
the Department of Aging. The sum of the transfers shall be 89347  
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 89348  
2007. The transfer may occur on a quarterly basis or on a schedule 89349  
developed and agreed to by both departments. 89350

**Section 206.66.64. INDIVIDUALS MOVED FROM NURSING FACILITIES** 89351

TO PASSPORT	89352
(A) As used in this section:	89353
(1) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.	89354 89355
(2) "Long-Term Care Consultation Program" means the program the Department of Aging is required to develop under section 173.42 of the Revised Code.	89356 89357 89358
(3) "Long-Term Care Consultation Program administrator" or "administrator" means the Department of Aging or, if the Department contracts with an area agency on aging or other entity to administer the Long-Term Care Consultation Program for a particular area, that agency or entity.	89359 89360 89361 89362 89363
(4) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	89364 89365
(5) "PASSPORT program" means the program created under section 173.40 of the Revised Code.	89366 89367
(B) Each month during fiscal years 2006 and 2007, each area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the Long-Term Care Consultation Program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the	89368 89369 89370 89371 89372 89373 89374 89375 89376 89377 89378 89379 89380 89381

PASSPORT program than continue residing in the nursing facility, 89382  
the administrator shall so notify the Department of Aging. On 89383  
receipt of the notice from the administrator, the Department of 89384  
Aging shall approve the enrollment of the individual in the 89385  
PASSPORT program regardless of whether other individuals who are 89386  
not in a nursing facility are ahead of the individual on the 89387  
PASSPORT program's waiting list. Each quarter, the Department of 89388  
Aging shall certify to the Director of Budget and Management the 89389  
estimated increase in costs of the PASSPORT program for the 89390  
individuals enrolled in the PASSPORT program pursuant to this 89391  
section. 89392

(C) On a quarterly basis, on receipt of the certified costs, 89393  
the Director of Budget and Management shall do all of the 89394  
following: 89395

(1) Transfer the state share of the amount of the estimated 89396  
costs from GRF appropriation item 450-525, Health Care/Medicaid, 89397  
to GRF appropriation item 490-403, PASSPORT, for the remainder of 89398  
the biennium; 89399

(2) Increase the appropriation in Ohio Department of Aging 89400  
Fund 3C4, appropriation item 490-607, PASSPORT, by the federal 89401  
share of the amount of the estimated costs; 89402

(3) Increase the appropriation in JFS Fund 3G5, appropriation 89403  
item 600-655, Interagency Reimbursement, by the federal share of 89404  
the amount of the estimated costs. 89405

The funds that the Director of Budget and Management 89406  
transfers and increases under this division are hereby 89407  
appropriated. 89408

(D) The individuals placed in the PASSPORT program pursuant 89409  
to this section shall be in addition to the individuals placed in 89410  
the PASSPORT program during fiscal years 2006 and 2007 based on 89411  
the amount of money that is in GRF appropriation item 490-403, 89412

PASSPORT; Fund 4J4, appropriation item 490-610, 89413  
PASSPORT/Residential State Supplement; Fund 4U9, appropriation 89414  
item 490-602, PASSPORT Fund; and Fund 3C4, appropriation item 89415  
490-607, PASSPORT, before any transfers to GRF appropriation item 89416  
490-403, PASSPORT, and Fund 3C4, appropriation item 490-607, 89417  
PASSPORT, are made under this section. 89418

(E) The Director of Job and Family Services shall submit to 89419  
the United States Secretary of Health and Human Services an 89420  
amendment to the Medicaid waiver authorizing the PASSPORT program 89421  
as necessary for the implementation of this section. 89422

**Section 206.66.66. OHIO ACCESS SUCCESS PROJECT** 89423

Notwithstanding any limitations in sections 3721.51 and 89424  
3721.56 of the Revised Code, in each fiscal year, cash from Fund 89425  
4J5, Home and Community-Based Services for the Aged, in excess of 89426  
the amounts needed for the transfers may be used by the Department 89427  
of Job and Family Services for the following purposes: (A) up to 89428  
\$1.0 million in each fiscal year to fund the state share of audits 89429  
of Medicaid cost reports filed with the Department of Job and 89430  
Family Services by nursing facilities and intermediate care 89431  
facilities for the mentally retarded; and (B) up to \$350,000 in 89432  
fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 89433  
one-time transitional benefits under the Ohio Access Success 89434  
Project that the Director of Job and Family Services may establish 89435  
under section 5111.88 of the Revised Code. 89436

**Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD** 89437  
**BANKS** 89438

As used in this section, "federal poverty guidelines" has the 89439  
same meaning as in section 5101.46 of the Revised Code. 89440

Notwithstanding section 5101.46 of the Revised Code, and 89441  
prior to making any allocation to county departments of job and 89442

family services, the Department of Job and Family Services shall 89443  
provide \$5,500,000 in each fiscal year from the foregoing 89444  
appropriation item 600-620, Social Services Block Grant, for use 89445  
in funding a grant agreement with the Ohio Association of Second 89446  
Harvest Food Banks. The Department shall enter into a grant 89447  
agreement with the Ohio Association of Second Harvest Food Banks 89448  
to reimburse it for costs incurred in the purchase of food 89449  
products and the distribution of those food products to agencies 89450  
participating in the emergency food distribution program. 89451  
Notwithstanding section 5101.46 of the Revised Code, the grant may 89452  
permit the Ohio Association of Second Harvest Food Banks to use up 89453  
to 5 per cent of the annual funding for administrative costs. The 89454  
Department may advance funds to the grantee under section 5101.10 89455  
of the Revised Code. 89456

Prior to entering into the grant agreement, the Ohio 89457  
Association of Second Harvest Food Banks shall submit to the 89458  
Department for approval a plan for the distribution of the food 89459  
products to local food distribution agencies. If the plan meets 89460  
the requirements and conditions established by the Department, the 89461  
plan shall be incorporated into the grant agreement. The grant 89462  
agreement shall also require the Ohio Association of Second 89463  
Harvest Food Banks to ensure that local agencies will limit 89464  
participation of individuals and families who receive any of the 89465  
food products purchased with these funds to those who have an 89466  
income at or below 200 per cent of the federal poverty guidelines. 89467  
The Department and the Ohio Association of Second Harvest Food 89468  
Banks shall agree on reporting requirements to be incorporated 89469  
into the grant agreement, including a statement of expected 89470  
performance outcomes from the Ohio Association of Second Harvest 89471  
Food Banks and a requirement for their evaluation of their success 89472  
in achieving those outcomes. 89473



**Section 206.66.72.** TRANSFER OF FUNDS TO THE DEPARTMENT OF 89474  
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 89475

The Department of Job and Family Services shall transfer, 89476  
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 89477  
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 89478  
in the Department of Mental Retardation and Developmental 89479  
Disabilities. The amount transferred shall equal \$12,000,000 in 89480  
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 89481  
may occur on a quarterly basis or on a schedule developed and 89482  
agreed to by both departments. 89483

**Section 206.66.75.** FUNDING FOR HABILITATIVE SERVICES 89484

Notwithstanding any limitations contained in sections 5112.31 89485  
and 5112.37 of the Revised Code, in each fiscal year, cash from 89486  
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 89487  
for transfers to Fund 4K8, Home and Community-Based Services, in 89488  
the Department of Mental Retardation and Developmental 89489  
Disabilities, may be used by the Department of Job and Family 89490  
Services to cover costs of care provided to participants in a 89491  
waiver with an ICF/MR level of care requirement administered by 89492  
the Department of Job and Family Services. 89493

**Section 206.66.78.** COMMUNITY ALTERNATIVE FUNDING SYSTEM 89494

(A) As used in this section, "habilitation center services" 89495  
has the same meaning as in former section 5111.041 of the Revised 89496  
Code as that section existed on June 30, 2005. 89497

(B) The Director of Job and Family Services may adopt rules 89498  
under section 111.15 of the Revised Code as necessary to terminate 89499  
the community alternative funding system on July 1, 2005. 89500

(C) The Department of Job and Family Services may inform 89501  
individuals who received habilitation center services under the 89502

community alternative funding system on June 30, 2005, and such  
individuals' representatives about alternative services that may  
be available for the individuals. The Department may require  
county departments of job and family services to provide such  
information to the individuals and their representatives.

(D) Habilitation center services provided before July 1,  
2005, are subject to the laws, rules, standards, guidelines, and  
orders regarding habilitation center services that were in effect  
at the time the services were provided. This includes such laws,  
rules, standards, guidelines, and orders regarding the  
responsibility for the nonfederal share of the services, the fee  
assessed under division (D) of section 5123.041 of the Revised  
Code as that section existed on the day the services were  
provided, cost reports, audits, and the recovery of erroneous  
payments.

(E) The Department of Job and Family Services may use funds  
appropriated to the Department for the purpose of habilitation  
center services to satisfy a claim or contingent claim for  
habilitation center services provided before July 1, 2005, if the  
Department receives the claim or contingent claim before July 1,  
2006. The Department has no liability to satisfy either of the  
following:

(1) A claim for habilitation center services provided before  
July 1, 2005, if the Department receives the claim on or after  
July 1, 2006.

(2) A claim for habilitation center services provided on or  
after July 1, 2005.

(F) To the extent authorized by section 5101.35 of the  
Revised Code, an individual may initiate or continue a state  
hearing, administrative appeal, or appeal to a court of common  
pleas regarding a decision or order concerning habilitation center

services that were available before July 1, 2005. A decision 89534  
resulting from a state hearing, administrative appeal, or appeal 89535  
to a court of common pleas may not extend an individual's 89536  
eligibility for habilitation center services beyond June 30, 2005. 89537  
No individual may utilize section 5101.35 of the Revised Code to 89538  
contest the July 1, 2005, termination of the community alternative 89539  
funding system. 89540

(G) Neither of the following are abrogated by the termination 89541  
of the community alternative funding system: 89542

(1) The right of recovery given to the Department of Job and 89543  
Family Services or a county department of job and family services 89544  
under section 5101.58 of the Revised Code for habilitation center 89545  
services provided before July 1, 2005. 89546

(2) The right to medical support or payments from a third 89547  
party that is assigned to the Department under section 5101.59 of 89548  
the Revised Code for habilitation center services provided before 89549  
July 1, 2005. 89550

**Section 206.66.79. CHILDREN'S HOSPITALS** 89551

The foregoing appropriation items 600-635, Children's 89552  
Hospitals - Federal, and 600-636, Children's Hospitals - State, 89553  
shall be used by the Department of Job and Family Services to 89554  
create a program under which it makes supplemental Medicaid 89555  
payments to children's hospitals for inpatient services based on 89556  
federal upper payment limits for children's hospitals. The 89557  
Department shall submit to the United States Secretary of Health 89558  
and Human Services an amendment to the State Medicaid Plan for the 89559  
purpose of requesting federal approval to implement the program. 89560  
On receipt of federal approval, the Department shall implement the 89561  
program. Under the program, the Department shall pay children's 89562  
hospitals the federally allowable supplemental payment for 89563

hospital discharges qualifying for the program and occurring in 89564  
fiscal year 2006 and fiscal year 2007, except that the amount used 89565  
for the program shall not exceed \$6 million (state share) plus the 89566  
corresponding federal match, if available, for the qualifying 89567  
discharges in fiscal year 2006 and fiscal year 2007. 89568

**Section 206.66.84. CHILDREN'S TRUST FUND** 89569

Notwithstanding sections 3109.13 to 3109.18 of the Revised 89570  
Code, in fiscal year 2006, the Director of Budget and Management 89571  
shall transfer \$1,500,000 cash from the Children's Trust Fund 89572  
(Fund 198 in the Department of Job and Family Services) to the 89573  
Partnerships for Success Fund (Fund 5BH in the Department of Youth 89574  
Services). On or before January 1, 2007, the Director of Budget 89575  
and Management shall transfer to the Children's Trust Fund (Fund 89576  
198) any amount of cash that remains unspent in the Partnerships 89577  
for Success Fund (Fund 5BH). 89578

**Section 206.66.85. HOSPITAL CARE ASSURANCE MATCH FUND** 89579

Appropriation item 600-650, Hospital Care Assurance Match, 89580  
shall be used by the Department of Job and Family Services in 89581  
accordance with division (B) of section 5112.18 of the Revised 89582  
Code. 89583

**Section 206.66.87. HEALTH CARE SERVICES ADMINISTRATION** 89584

The foregoing appropriation item 600-654, Health Care 89585  
Services Administration, shall be used by the Department of Job 89586  
and Family Services for costs associated with the administration 89587  
of the Medicaid program. 89588

**Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND** 89589

Of the amount received by the Department of Job and Family 89590  
Services during fiscal year 2006 and fiscal year 2007 from the 89591

first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

**Section 206.66.91.** The Department of Job and Family Services shall retain \$1,820,000 of the federal incentives that are described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services to reimburse the Department of Job and Family Services for the state share of payments made by the Department of Job and Family Services for mandatory contracts utilized by county child support enforcement agencies in the program of child support enforcement authorized by sections 3125.03 and 3125.11 of the Revised Code. This revenue shall be deposited in the Child Support Operating Fund 5BE in the Department of job and Family Services).

**Section 206.66.92.** Based on the actual usage of optional contracts by each county, the Department of Job and Family Services shall retain a portion of the federal incentives described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services that are paid to the county child support enforcement agencies each month based on the Department's estimate of what the county child support enforcement agency will earn in federal incentives. The portion retained by the Department of Job and Family Services shall reimburse the Department for the state share of the contractual obligation for the monthly utilization of optional contracts by each county child support enforcement agency

in the program of child support enforcement authorized by sections 89623  
3125.03 and 3125.11 of the Revised Code. This revenue shall be 89624  
deposited in the Child Support Operating Fund (Fund 5BE in the 89625  
Department of Job and Family Services). 89626

**Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE** 89627

The foregoing appropriation item 600-658, Child Support 89628  
Collections, shall be used by the Department of Job and Family 89629  
Services to meet the TANF maintenance of effort requirements of 89630  
Pub. L. No. 104-193. Once the state is assured that it will meet 89631  
the maintenance of effort requirement, the Department of Job and 89632  
Family Services may use funds from appropriation item 600-658, 89633  
Child Support Collections, to support public assistance 89634  
activities. 89635

**Section 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE** 89636

The foregoing appropriation item 600-671, Medicaid Program 89637  
Support, shall be used by the Department of Job and Family 89638  
Services to pay for Medicaid services and contracts. The 89639  
Department may also deposit to Fund 5C9 revenues received from 89640  
other state agencies for Medicaid services under the terms of 89641  
interagency agreements between the Department and other state 89642  
agencies, and all funds the Department recovers because the 89643  
benefits a person received under the disability medical assistance 89644  
program established in section 5115.10 of the Revised Code were 89645  
determined to be covered by the medical assistance program 89646  
established under Chapter 5111. of the Revised Code. 89647

**Section 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE** 89648  
**DEPARTMENT OF MENTAL HEALTH** 89649

The Department of Job and Family Services shall transfer, 89650  
through intrastate transfer voucher, cash from Fund 5C9, Medicaid 89651

Program Support, to the Department of Mental Health's Fund 4X5, 89652  
OhioCare, in accordance with an interagency agreement that 89653  
delegates authority from the Department of Job and Family Services 89654  
to the Department of Mental Health to administer specified 89655  
Medicaid services. 89656

**Section 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS** 89657

All unexpended funds remaining at the end of fiscal year 2005 89658  
that were appropriated and made available to the state under 89659  
section 903(d) of the Social Security Act, as amended, in the 89660  
foregoing appropriation item 600-678, Federal Unemployment 89661  
Programs (Fund 3V4), are hereby appropriated to the Department of 89662  
Job and Family Services. Upon the request of the Director of Job 89663  
and Family Services, the Director of Budget and Management shall 89664  
increase the appropriation for fiscal year 2006 by the amount 89665  
remaining unspent from the fiscal year 2005 appropriation and 89666  
shall increase the appropriation for fiscal year 2007 by the 89667  
amount remaining unspent from the fiscal year 2006 appropriation. 89668  
The appropriation shall be used under the direction of the 89669  
Department of Job and Family Services to pay for administrative 89670  
activities for the Unemployment Insurance Program, employment 89671  
services, and other allowable expenditures under section 903(d) of 89672  
the Social Security Act, as amended. 89673

The amounts obligated pursuant to this section shall not 89674  
exceed at any time the amount by which the aggregate of the 89675  
amounts transferred to the account of the state under section 89676  
903(d) of the Social Security Act, as amended, exceeds the 89677  
aggregate of the amounts obligated for administration and paid out 89678  
for benefits and required by law to be charged against the amounts 89679  
transferred to the account of the state. 89680

**Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT** 89681

The Department of Job and Family Services may use 89682  
appropriations from appropriation item 600-688, Workforce 89683  
Investment Act, to provide financial assistance for workforce 89684  
development activities included in a grant agreement entered into 89685  
by the department in accordance with section 5101.20 of the 89686  
Revised Code. 89687

**Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER** 89688

Of the foregoing appropriation item 600-689, TANF Block 89689  
Grant, \$1 million in each fiscal year shall be allocated to 89690  
Accountability and Credibility Together (ACT) to continue its 89691  
welfare diversion program for TANF eligible individuals. 89692

**Section 206.67.08. KINSHIP PERMANENCY INCENTIVE PROGRAM** 89693

Of the foregoing appropriation item 600-689, TANF Block Grant 89694  
(Fund 3V6), \$10 million per fiscal year shall be used to support 89695  
the activities of the Kinship Permanency Incentive Program created 89696  
under section 5101.802 of the Revised Code. 89697

The Department of Job and Family Services shall prepare 89698  
reports concerning both of the following: 89699

(A) Stability and permanency outcomes for children for whom 89700  
incentive payments are made under the Kinship Permanency Incentive 89701  
Program; 89702

(B) The total amount of payments made under the Program, 89703  
patterns of expenditures made per child under the Program, and 89704  
cost savings realized through the Program from placement with 89705  
kinship caregivers rather than other out-of-home placements. 89706

The Department shall submit a report to the Governor, the 89707  
Speaker and Minority Leader of the House of Representatives, and 89708  
the President and Minority Leader of the Senate not later than 89709  
December 31, 2008, and December 31, 2010. 89710



**Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS** 89711

Of the foregoing appropriation item 600-689, TANF Block Grant 89712  
(Fund 3V6), the Department of Job and Family Services shall use 89713  
\$600,000 in each fiscal year to support expenditures of the Ohio 89714  
Alliance of Boys and Girls Clubs to provide after-school programs 89715  
that protect at-risk children and enable youth to become 89716  
responsible adults. The Ohio Alliance of Boys and Girls Clubs 89717  
shall provide nutritional meals, snacks, and educational, youth 89718  
development, and career development services to TANF eligible 89719  
children participating in programs and activities operated by 89720  
eligible Boys and Girls Clubs. 89721

The Department shall provide an annual grant of \$600,000 in 89722  
each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As 89723  
soon as possible after entering into a grant agreement at the 89724  
beginning of each fiscal year, the Department of Job and Family 89725  
Services shall distribute the grant funds in one single payment. 89726  
The Department of Job and Family Services and the Ohio Alliance of 89727  
Boys and Girls Clubs shall agree on reporting requirements to be 89728  
incorporated into the grant agreement. 89729

The Ohio Alliance of Boys and Girls Clubs shall return any 89730  
fiscal year 2006 funds from this grant remaining unspent on June 89731  
30, 2006, to the Ohio Department of Job and Family Services not 89732  
later than November 1, 2006. The Ohio Alliance of Boys and Girls 89733  
Clubs shall return any fiscal year 2007 funds from this grant 89734  
remaining unspent on June 30, 2007, to the Ohio Department of Job 89735  
and Family Services not later than November 1, 2007. 89736

**CHILD WELFARE TRAINING INITIATIVE** 89737

Of the foregoing appropriation item 600-689, TANF Block Grant 89738  
(Fund 3V6), \$200,000 per fiscal year shall be provided to the 89739  
National Center for Adoption Law and Policy to fund a 89740

multi-disciplinary child welfare training initiative. The 89741  
Department of Job and Family Services shall coordinate with the 89742  
National Center for Adoption Law and Policy to determine the focus 89743  
of the training provided each year and to ensure that the training 89744  
is designed to meet one of the four purposes of the Temporary 89745  
Assistance to Needy Families program. 89746

PEOPLE WORKING COOPERATIVELY 89747

Of the foregoing appropriation item 600-689, TANF Block Grant 89748  
(Fund 3V6), \$50,000 in each fiscal year shall be allocated to 89749  
People Working Cooperatively in Cincinnati to fund services for 89750  
TANF eligible individuals. The Department of Job and Family 89751  
Services shall coordinate with People Working Cooperatively to 89752  
ensure that the services provided meet one of the four purposes of 89753  
the Temporary Assistance for Needy Families Program. 89754

TALBERT HOUSE 89755

Of the foregoing appropriation item 600-689, TANF Block Grant 89756  
(Fund 3V6), \$75,000 in each fiscal year shall be distributed 89757  
directly to the Talbert House to provide TANF eligible non-medical 89758  
substance or alcohol abuse services. 89759

CHILDREN'S HUNGER ALLIANCE 89760

Of the foregoing appropriation item 600-689, TANF Block Grant 89761  
(Fund 3V6), \$500,000 in each fiscal year shall be allocated to the 89762  
Children's Hunger Alliance for Child Nutrition Program outreach 89763  
efforts. 89764

PROJECT GRAD 89765

Of the foregoing appropriation item 600-689, TANF Block Grant 89766  
(Fund 3V6), up to \$185,000 in each fiscal year shall be used in 89767  
TANF eligible activities to reduce the dropout rate by addressing 89768  
the academic and social problems of inner-city students through 89769  
Project GRAD. 89770

*Section 206.67.10. EMPLOYMENT RETENTION INCENTIVE PROGRAM	89771
(A) As used in this section:	89772
(1) "Assistance group" has the same meaning as in section 5107.02 of the Revised Code.	89773 89774
(2) "Ohio Works First" means the program established under Chapter 5107. of the Revised Code.	89775 89776
(B) Subject to section 5101.801 of the Revised Code, in fiscal year 2007 the Department of Job and Family Services may establish and administer the Employment Retention Incentive Program under which the Department provides cash payments to eligible assistance groups. The Department shall use the foregoing appropriation item 600-689, TANF Block Grant, to fund the program.	89777 89778 89779 89780 89781 89782
To be eligible for the Employment Retention Incentive Program, an assistance group must meet all of the following requirements:	89783 89784 89785
(1) The assistance group must apply using an application that contains all of the information that rules specified in this section require in accordance with the application process established in those rules;	89786 89787 89788 89789
(2) The assistance group must have ceased to participate in Ohio Works First in accordance with rules specified in this section;	89790 89791 89792
(3) The assistance group must include a member who was employed during the last month the assistance group participated in Ohio Works First in accordance with rules specified in this section;	89793 89794 89795 89796
(4) That member of the assistance group must remain employed in accordance with rules specified in this section;	89797 89798
(5) The assistance group must meet all other eligibility	89799

requirements established in rules specified in this section.	89800
(C) If the Department establishes the Employment Retention Incentive Program, the Department shall provide cash payments under the program in a manner that enables the cash payments to be excluded from the definition of "assistance" in 45 C.F.R. 260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) excludes from the definition of assistance. Each county Department of Job and Family Services shall make eligibility determinations for the program and perform other administrative duties for the program in accordance with rules specified in this section.	89801 89802 89803 89804 89805 89806 89807 89808 89809
(D) If the Department establishes the Employment Retention Incentive Program, the Department shall adopt rules under division (C) of section 5101.801 of the Revised Code to establish all of the following for the program:	89810 89811 89812 89813
(1) The information that an application for the program must contain;	89814 89815
(2) The application process for the program, including the process to verify eligibility for the program;	89816 89817
(3) The manner in which an assistance group must have ceased to participate in Ohio Works First for the assistance group to qualify for the program;	89818 89819 89820
(4) The manner in which an assistance group member must have been employed during the last month the assistance group participated in Ohio Works First for the assistance group to qualify for the program;	89821 89822 89823 89824
(5) The manner in which an assistance group member must remain employed for the assistance group to qualify for the program;	89825 89826 89827
(6) Other eligibility requirements for the program;	89828
(7) The amounts that eligible assistance groups are to	89829

receive as cash payments under the program;	89830
(8) The frequency and duration that eligible assistance groups are to receive cash payments under the program;	89831 89832
(9) Requirements governing county departments' administrative duties regarding the program.	89833 89834
(E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services.	89835 89836 89837 89838
*Section 206.67.11. Section 206.67.10 of this act takes effect July 1, 2006.	89839 89840
<b>Section 206.67.12. EARLY LEARNING INITIATIVE</b>	89841
(A) As used in this section:	89842
(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).	89843 89844 89845 89846 89847 89848 89849
(2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.	89850 89851 89852 89853
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	89854 89855
(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in	89856 89857

kindergarten, is eligible for Title IV-A services, and whose  
family income does not exceed one hundred eighty-five per cent of  
the federal poverty line at application. If the family income of a  
child receiving early learning services under this section exceeds  
one hundred ninety-five per cent of the federal poverty line, the  
child ceases to be eligible for an early learning program.

(5) "Early learning program" means a program for eligible  
children that is funded with Title IV-A funds and provides Title  
IV-A services that are both of the following:

(a) Early learning services, as defined by the Department of  
Education pursuant to division (C)(1) of Section 206.09.54 of this  
act;

(b) Child care.

(6) "Early learning provider" means an entity that is  
receiving Title IV-A funds to operate an early learning program.

(7) "Early learning agency" means an early learning provider  
or an entity that has entered into an agreement with an early  
learning provider requiring the early learning provider to operate  
an early learning program on behalf of the entity.

(8) "Federal poverty line" has the same meaning as in section  
5104.01 of the Revised Code.

(9) "Of compulsory school age" has the same meaning as in  
section 3321.01 of the Revised Code.

(B) The Department of Job and Family Services and the  
Department of Education shall administer the Early Learning  
Initiative, established under Section 206.09.54 of this act, in  
accordance with sections 5101.80 and 5101.801 of the Revised Code.  
The Initiative shall provide early learning programs and child  
care to eligible children. Early learning programs may provide  
early learning services on a full-day basis, a part-day basis, or

both a full-day and part-day basis. 89888

(C) The Department of Job and Family Services shall do all of 89889  
the following: 89890

(1) Enter into a contract with each early learning agency in 89891  
accordance with Section 206.09.54 of this act; 89892

(2) Reimburse early learning agencies for Title IV-A services 89893  
provided to eligible children according to the terms of the 89894  
contract and the rules adopted under division (C)(3) of this 89895  
section; 89896

(3) In consultation with the Department of Education, adopt 89897  
rules in accordance with Chapter 119. of the Revised Code to 89898  
implement the Early Learning Initiative. The rules shall include 89899  
all of the following: 89900

(a) Provisions regarding the establishment of co-payments for 89901  
families of eligible children whose family income is more than one 89902  
hundred sixty-five per cent of the federal poverty line but equal 89903  
to or less than one hundred ninety-five per cent of the federal 89904  
poverty line; 89905

(b) An exemption from co-payment requirements for families 89906  
whose family income is equal to or less than one hundred 89907  
sixty-five per cent of the federal poverty line; 89908

(c) A definition of "weekly attendance rate" for the purpose 89909  
of reimbursing early learning agencies; 89910

(d) Provisions that establish the following reimbursement 89911  
rates for early learning agencies based on the attendance of 89912  
eligible children: 89913

(i) If an eligible child attends twenty-five or more hours in 89914  
a given week, the weekly reimbursement shall not be less than two 89915  
hundred dollars and seventy-three cents; 89916

(ii) If an eligible child attends fifteen or more hours but 89917

less than twenty-five hours in a given week, the weekly 89918  
reimbursement rate shall not be less than one hundred sixty 89919  
dollars and fifty-eight cents; 89920

(iii) If an eligible child attends less than fifteen hours in 89921  
a given week, the hourly reimbursement rate shall not be less than 89922  
eight dollars and three cents. 89923

(4) If, on the effective date of this section and Section 89924  
206.09.54 of this act, no early learning agencies have been 89925  
approved for a given county, the Department of Job and Family 89926  
Services, in consultation with the Department of Education, shall 89927  
establish a deadline for the submission of applications to be an 89928  
early learning agency that occurs after the effective date of this 89929  
section. 89930

(5)(a) Subject to division (C)(6)(b) of this Section and in 89931  
consultation with the Department of Education, establish a 89932  
caretaker employment eligibility requirement for participation in 89933  
the Early Learning Initiative that specifies the minimum number of 89934  
hours that the caretaker of the eligible child must be employed 89935  
and the time period over which the minimum number of hours is to 89936  
be measured. These minimum hours may, but are not required to, 89937  
overlap the period during the day or week in which the child 89938  
participates in the early learning program. This caretaker 89939  
employment eligibility requirement shall permit the child to be 89940  
determined to be, and to remain, an eligible child for up to 89941  
thirty days if the county department of job and family services 89942  
determines that the caretaker is expected to begin engaging in an 89943  
approved activity within that thirty-day period. The county 89944  
department of job and family services shall inform both the early 89945  
learning provider and the Department of Job and Family Services of 89946  
this determination. The Department of Job and Family Services 89947  
shall designate by rule the activities that constitute approved 89948  
activities for purposes of this requirement. 89949



(b) The Department shall periodically review the requirement 89950  
described in division (C)(6)(a) of this Section to ensure that it 89951  
complies with federal law and regulations. 89952

(D) Each early learning provider shall determine eligibility 89953  
for Title IV-A services for children seeking to enroll in an early 89954  
learning program. 89955

(E) Each county department of job and family services shall 89956  
establish co-payment requirements in accordance with the rules 89957  
adopted under division (C)(3) of this section. 89958

(F)(1) The Department of Job and Family Services shall ensure 89959  
that all reimbursements paid to an early learning agency under 89960  
this section are only for Title IV-A services provided to eligible 89961  
children. 89962

(2) In calculating reimbursements, the Department shall 89963  
reimburse the early learning agency for up to twenty-five days per 89964  
year in which an eligible child is absent from the early learning 89965  
program on a day the child is scheduled to attend the program. 89966

(G) The provision of early learning services in an early 89967  
learning program shall not prohibit or otherwise prevent an 89968  
individual from obtaining certificates for payment under division 89969  
(C) of section 5104.32 of the Revised Code that the individual may 89970  
use to purchase services from any provider qualified to provide 89971  
publicly funded child care under section 5104.31 of the Revised 89972  
Code for periods during which the child is not in an early 89973  
learning program. If the individual must meet employment and 89974  
training requirements for a certificate for payment, the 89975  
individual may, but shall not be required to, meet these 89976  
requirements concurrently with the time the child is participating 89977  
in an early learning program or receiving child care as a result 89978  
of the certificate. 89979

(H) Upon the transfer of appropriation from Department of 89980

Education appropriation line 200-663, Early Learning Initiative 89981  
(Fund 5W2), to Department of Job and Family Services appropriation 89982  
item 600-689, TANF Block Grant (Fund 3V6), up to \$104,380,000 in 89983  
fiscal year 2006 and up to \$125,256,000 in fiscal year 2007 shall 89984  
be used to reimburse early learning agencies under this section. 89985  
The Department of Job and Family Services shall provide up to 89986  
10,000 slots of services for eligible children in fiscal year 2006 89987  
and up to 12,000 slots of services for eligible children in fiscal 89988  
year 2007 through the Early Learning Initiative. In each fiscal 89989  
year, the Department shall allocate at least seventeen slots of 89990  
services to each county in the state. 89991

If, on or after the thirty-first day of December of each 89992  
fiscal year, the Director of Budget and Management, in 89993  
consultation with the Director of Job and Family Services and the 89994  
Superintendent of Public Instruction, determines that there is a 89995  
balance of funds in the Early Learning Initiative in either fiscal 89996  
year 2006 or fiscal year 2007, the Director of Budget and 89997  
Management may approve the use of the funds by the Department of 89998  
Job and Family Services to provide publicly funded child care, as 89999  
defined in section 5104.01 of the Revised Code. 90000

Of the foregoing appropriation item 600-689, TANF Block Grant 90001  
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 90002  
Department of Job and Family Services for administration of the 90003  
Early Learning Initiative. 90004

The Director of Budget and Management, at the request of the 90005  
Director of Job and Family Services, may transfer in each fiscal 90006  
year up to \$2,200,000 cash from the Temporary Assistance for Needy 90007  
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 90008  
(Fund 5W2) for administration of the Early Learning Initiative by 90009  
the Department of Education. 90010

(I) Any contract executed prior to July 1, 2005, between an 90011

early learning agency, the Department of Job and Family Services, 90012  
and the Department of Education shall be deemed to be effective as 90013  
of July 1, 2005, upon issuance of a state purchase order even if 90014  
such purchase order is approved at some later date, unless the 90015  
executed contract expressly provides for a start date after July 90016  
1, 2005. 90017

REIMBURSEMENT CEILINGS FOR PUBLICLY FUNDED CHILD CARE 90018  
PROVIDERS 90019

The Department of Job and Family Services shall estimate the 90020  
monthly average of children the Department expects to enroll in 90021  
publicly funded child care from December 2005 through March 2006. 90022  
The Department shall then determine the actual monthly average of 90023  
children enrolled in publicly funded child care for that period. 90024  
If the estimated monthly average exceeds the actual monthly 90025  
average by at least two thousand, the Department may increase, for 90026  
fiscal year 2007, the reimbursement ceilings for providers of 90027  
publicly funded child care to not less than sixty-five per cent of 90028  
the market's usual and customary cost to the public based on the 90029  
most recently conducted market rate survey required by 48 C.F.R. 90030  
98.16. 90031

**Section 206.67.13. MARKET RATE SURVEY** 90032

The Department of Job and Family Services shall conduct a 90033  
study of the market rates for the provision of child care to 90034  
establish new rates for the funding of publicly funded child care. 90035  
The Department shall complete this study and establish new rates 90036  
for reimbursement not later than July 1, 2006. 90037

Each child care provider shall cooperate with the Department 90038  
on this study. A provider that fails to cooperate with the 90039  
Department shall not receive publicly funded child care funds in 90040  
fiscal year 2006. 90041

**Section 206.67.15.** PRESCRIPTION DRUG REBATE FUND 90042

The foregoing appropriation item 600-692, Health Care 90043  
Services, shall be used by the Department of Job and Family 90044  
Services in accordance with section 5111.081 of the Revised Code. 90045  
Moneys recovered by the Department for either hospital settlements 90046  
or pursuant to the Department's rights of recovery under section 90047  
5101.58 of the Revised Code, that are not directed to the Health 90048  
Care Services Administration Fund (Fund 5U3) under section 5111.94 90049  
of the Revised Code, shall also be deposited into Fund 5P5. 90050

**Section 206.67.18.** MEDICAID COVERAGE OF ALCOHOL, DRUG 90051  
ADDICTION, AND MENTAL HEALTH SERVICES 90052

(A) To the maximum extent possible, the amendments to section 90053  
5111.911 of the Revised Code shall be implemented in a manner that 90054  
is consistent with the "State of Ohio Community Behavioral Health 90055  
Medicaid Business Plan" finalized in August 2004, by the 90056  
Departments of Job and Family Services, Mental Health, and Alcohol 90057  
and Drug Addiction Services and the Ohio Association of Behavioral 90058  
Health Authorities. 90059

(B) As soon as practicable, the Departments of Job and Family 90060  
Services, Mental Health, and Alcohol and Drug Addiction Services, 90061  
in conjunction with behavioral health providers, shall specify 90062  
procedures that are consistent with federal law for the 90063  
implementation of the "State of Ohio Community Behavioral Health 90064  
Medicaid Business Plan." If it is determined that any portion of 90065  
the Plan does not comply with federal law, the Departments, in 90066  
conjunction with behavioral health providers, shall specify 90067  
procedures to work toward implementation of that portion of the 90068  
Plan. 90069

(C) A report of the progress of the implementation of the 90070  
"State of Ohio Community Behavioral Health Medicaid Business Plan" 90071

shall be submitted to the Speaker of the House of Representatives 90072  
and the President of the Senate not later than the first day of 90073  
March and first day of October of each year until all components 90074  
of the Plan have been fully implemented. 90075

**Section 206.67.21.** TRANSFER OF TOBACCO MASTER SETTLEMENT 90076  
AGREEMENT FUNDS TO SUPPORT THE AGED, BLIND, AND DISABLED MANAGED 90077  
CARE PILOT PROGRAMS 90078

(A) Not later than June 30, 2006, the Director of Job and 90079  
Family Services, in conjunction with the Office of Budget and 90080  
Management, shall determine the amounts necessary to implement the 90081  
Aged, Blind, and Disabled Managed Care Pilot Programs established 90082  
under sections 5111.163 and 5111.164 of the Revised Code. 90083

(B)(1) Notwithstanding section 183.02 of the Revised Code, on 90084  
July 1, 2006, or as soon as possible thereafter, the Director of 90085  
Budget and Management shall transfer cash equal to the state share 90086  
of the amount determined pursuant to division (A) of this section 90087  
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 90088  
the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ in the 90089  
Department of Job and Family Services), which is hereby created. 90090  
Of the tobacco revenue that is credited to the Tobacco Master 90091  
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the 90092  
share that is determined pursuant to section 183.02 of the Revised 90093  
Code to be the amount transferred by the Director of Budget and 90094  
Management from the Tobacco Master Settlement Agreement Fund (Fund 90095  
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund 90096  
H87) shall be reduced by the amount that is transferred from the 90097  
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 90098  
Managed Care Pilot Programs - State Fund (Fund 5BZ) in accordance 90099  
with this section. The amounts transferred under this division are 90100  
hereby appropriated to appropriation item 600-698, ABD Managed 90101  
Care Pilot Programs - State. 90102

(2) Not later than ninety days after the Department of Job and Family Services terminates the pilot programs, the Director of Budget and Management shall transfer the unencumbered cash balance of the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87).

(C) The Department of Job and Family Services shall deposit federal reimbursement received for the Aged, Blind, and Disabled Managed Care Pilot Programs into the ABD Managed Care Pilot Programs - Federal Fund (Fund 3AZ), which is hereby created. Amounts deposited into Fund 3AZ are hereby appropriated to appropriation item 600-699, ABD Managed Care Pilot Programs - Federal.

**Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS**

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food stamp benefit recipients who reside in a county of this state that the Department determines has an unemployment rate of over 10 per cent or does not have a sufficient number of jobs to provide employment for the recipients. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of twelve months beginning July 1, 2005, and ending June 30, 2007.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate on receipt or rejection of the waiver sought under this section.

**Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO**

General Revenue Fund				90133
GRF 018-321 Operating Expenses	\$	957,000	\$ 957,000	90134
TOTAL GRF General Revenue Fund	\$	957,000	\$ 957,000	90135
General Services Fund Group				90136
403 018-601 Ohio Jury Instructions	\$	225,000	\$ 225,000	90137
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	90138
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,182,000	\$ 1,182,000	90139
STATE COUNCIL OF UNIFORM STATE LAWS				90140
Notwithstanding section 105.26 of the Revised Code, of the				90141
foregoing appropriation item 018-321, Operating Expenses, up to				90142
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007				90143
may be used to pay the expenses of the State Council of Uniform				90144
State Laws, including membership dues to the National Conference				90145
of Commissioners on Uniform State Laws.				90146
OHIO JURY INSTRUCTIONS FUND				90147
The Ohio Jury Instructions Fund (Fund 403) shall consist of				90148
grants, royalties, dues, conference fees, bequests, devises, and				90149
other gifts received for the purpose of supporting costs incurred				90150
by the Judicial Conference of Ohio in dispensing educational and				90151
informational data to the state's judicial system. Fund 403 shall				90152
be used by the Judicial Conference of Ohio to pay expenses				90153
incurred in dispensing educational and informational data to the				90154
state's judicial system. All moneys accruing to Fund 403 in excess				90155
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in				90156
fiscal year 2007 are hereby appropriated for the purposes				90157
authorized.				90158
No money in the Ohio Jury Instructions Fund shall be				90159
transferred to any other fund by the Director of Budget and				90160
Management or the Controlling Board.				90161

<b>Section 206.75. JSC THE JUDICIARY/SUPREME COURT</b>				90162
General Revenue Fund				90163
GRF 005-321	Operating Expenses -	\$ 118,855,655	\$ 121,441,259	90164
	Judiciary/Supreme			
	Court			
GRF 005-401	State Criminal	\$ 328,676	\$ 343,730	90165
	Sentencing Council			
GRF 005-406	Law-Related Education	\$ 216,131	\$ 222,615	90166
GRF 005-502	Commission for Legal	\$ 435,000	\$ 875,000	90167
	Education Opportunity			
TOTAL GRF	General Revenue Fund	\$ 119,835,462	\$ 122,882,604	90168
General Services Fund Group				90169
672 005-601	Continuing Judicial	\$ 130,000	\$ 130,000	90170
	Education			
TOTAL GSF	General Services Fund	\$ 130,000	\$ 130,000	90171
Group				
Federal Special Revenue Fund Group				90172
3J0 005-603	Federal Grants	\$ 848,070	\$ 861,382	90173
TOTAL FED	Federal Special Revenue	\$ 848,070	\$ 861,382	90174
Fund Group				
State Special Revenue Fund Group				90175
4C8 005-605	Attorney Registration	\$ 3,169,774	\$ 3,264,867	90176
5T8 005-609	Grants and Awards	\$ 10,000	\$ 10,000	90177
6A8 005-606	Supreme Court	\$ 1,410,718	\$ 1,453,042	90178
	Admissions			
643 005-607	Commission on	\$ 569,203	\$ 586,261	90179
	Continuing Legal			
	Education			
TOTAL SSR	State Special Revenue	\$ 5,159,695	\$ 5,314,170	90180
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 125,973,227	\$ 129,188,156	90181



LAW-RELATED EDUCATION 90182

The foregoing appropriation item 005-406, Law-Related 90183  
Education, shall be distributed directly to the Ohio Center for 90184  
Law-Related Education for the purposes of providing continuing 90185  
citizenship education activities to primary and secondary 90186  
students, expanding delinquency prevention programs, increasing 90187  
activities for at-risk youth, and accessing additional public and 90188  
private money for new programs. 90189

COMMISSION FOR LEGAL EDUCATION OPPORTUNITY 90190

The foregoing appropriation item 005-502, Commission for 90191  
Legal Education Opportunity, shall be used to fund activities of 90192  
the Commission for Legal Education Opportunity created by the 90193  
Chief Justice of the Supreme Court of Ohio for purposes of 90194  
assisting minority, low-income, and educationally disadvantaged 90195  
college graduates in transition to legal education. Moneys 90196  
appropriated to the Commission for Legal Education Opportunity may 90197  
be used to establish and provide intensive course study designed 90198  
to prepare eligible college graduates for law education, provide 90199  
annual stipends for students who successfully complete the course 90200  
of study and are admitted to and maintain satisfactory academic 90201  
standing in an Ohio law school, and pay the administrative costs 90202  
associated with the program. 90203

CONTINUING JUDICIAL EDUCATION 90204

The Continuing Judicial Education Fund (Fund 672) shall 90205  
consist of fees paid by judges and court personnel for attending 90206  
continuing education courses and other gifts and grants received 90207  
for the purpose of continuing judicial education. The foregoing 90208  
appropriation item 005-601, Continuing Judicial Education, shall 90209  
be used to pay expenses for continuing education courses for 90210  
judges and court personnel. If it is determined by the 90211  
Administrative Director of the Supreme Court that additional 90212

appropriations are necessary, the amounts are hereby appropriated. 90213

No money in the Continuing Judicial Education Fund shall be 90214  
transferred to any other fund by the Director of Budget and 90215  
Management or the Controlling Board. Interest earned on moneys in 90216  
the Continuing Judicial Education Fund shall be credited to the 90217  
fund. 90218

FEDERAL GRANTS 90219

The Federal Grants Fund (Fund 3J0) shall consist of grants 90220  
and other moneys awarded to the Supreme Court (The Judiciary) by 90221  
the United States Government or other entities that receive the 90222  
moneys directly from the United States Government and distribute 90223  
those moneys to the Supreme Court (The Judiciary). The foregoing 90224  
appropriation item 005-603, Federal Grants, shall be used in a 90225  
manner consistent with the purpose of the grant or award. If it is 90226  
determined by the Administrative Director of the Supreme Court 90227  
that additional appropriations are necessary, the amounts are 90228  
hereby appropriated. 90229

No money in the Federal Grants Fund shall be transferred to 90230  
any other fund by the Director of Budget and Management or the 90231  
Controlling Board. However, interest earned on moneys in the 90232  
Federal Grants Fund shall be credited or transferred to the 90233  
General Revenue Fund. 90234

ATTORNEY REGISTRATION 90235

In addition to funding other activities considered 90236  
appropriate by the Supreme Court, the foregoing appropriation item 90237  
005-605, Attorney Registration, may be used to compensate 90238  
employees and to fund appropriate activities of the following 90239  
offices established by the Supreme Court under the Rules for the 90240  
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 90241  
the Board of Commissioners on Grievances and Discipline, the 90242  
Clients' Security Fund, the Board of Commissioners on the 90243

Unauthorized Practice of Law, and the Office of Attorney 90244  
Registration. If it is determined by the Administrative Director 90245  
of the Supreme Court that additional appropriations are necessary, 90246  
the amounts are hereby appropriated. 90247

No moneys in the Attorney Registration Fund shall be 90248  
transferred to any other fund by the Director of Budget and 90249  
Management or the Controlling Board. Interest earned on moneys in 90250  
the Attorney Registration Fund shall be credited to the fund. 90251

GRANTS AND AWARDS 90252

The Grants and Awards Fund (Fund 5T8) shall consist of grants 90253  
and other moneys awarded to the Supreme Court (The Judiciary) by 90254  
the State Justice Institute, the Division of Criminal Justice 90255  
Services, or other entities. The foregoing appropriation item 90256  
005-609, Grants and Awards, shall be used in a manner consistent 90257  
with the purpose of the grant or award. If it is determined by the 90258  
Administrative Director of the Supreme Court that additional 90259  
appropriations are necessary, the amounts are hereby appropriated. 90260

No moneys in the Grants and Awards Fund shall be transferred 90261  
to any other fund by the Director of Budget and Management or the 90262  
Controlling Board. However, interest earned on moneys in the 90263  
Grants and Awards Fund shall be credited or transferred to the 90264  
General Revenue Fund. 90265

SUPREME COURT ADMISSIONS 90266

The foregoing appropriation item 005-606, Supreme Court 90267  
Admissions, shall be used to compensate Supreme Court employees 90268  
who are primarily responsible for administering the attorney 90269  
admissions program under the Rules for the Government of the Bar 90270  
of Ohio, and to fund any other activities considered appropriate 90271  
by the court. Moneys shall be deposited into the Supreme Court 90272  
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 90273  
Government of the Bar of Ohio. If it is determined by the 90274



year, the Executive Director of the Ohio Lake Erie Office, with  
the approval of the Lake Erie Commission, shall certify to the  
Director of Budget and Management the cash balance in the Lake  
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet  
operating expenses of the Lake Erie Office. The Lake Erie Office  
may request the Director of Budget and Management to transfer up  
to the certified amount from the Lake Erie Resources Fund (Fund  
5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of  
Budget and Management may transfer the requested amount, or the  
Director may transfer a different amount up to the certified  
amount. Cash transferred shall be used for the purposes described  
in division (A) of section 1506.23 of the Revised Code. The amount  
transferred by the director is hereby appropriated to the  
foregoing appropriation item 780-601, Lake Erie Protection Fund,  
which shall be increased by the amount transferred.

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**Section 206.81. LRS LEGAL RIGHTS SERVICE**

90318

General Revenue Fund				90319
GRF 054-100 Personal Services	\$	162,281	\$ 162,281	90320
GRF 054-200 Maintenance	\$	33,938	\$ 33,938	90321
GRF 054-300 Equipment	\$	1,856	\$ 1,856	90322
GRF 054-401 Ombudsman	\$	291,247	\$ 291,247	90323
TOTAL GRF General Revenue Fund	\$	489,322	\$ 489,322	90324
General Services Fund Group				90325
416 054-601 Gifts and Donations	\$	1,352	\$ 1,352	90326
5M0 054-610 Settlements	\$	75,000	\$ 75,000	90327
TOTAL GSF General Services				90328
Fund Group	\$	76,352	\$ 76,352	90329
Federal Special Revenue Fund Group				90330
3AG 054-613 Protection and Advocacy - Voter Accessibility	\$	114,089	\$ 114,089	90331

3B8	054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041	90332
3N3	054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283	90333
3N9	054-607	Assistive Technology	\$	141,686	\$	141,686	90334
3R9	054-604	Family Support Collaborative	\$	50,000	\$	50,000	90335
3T2	054-609	Client Assistance Program	\$	400,553	\$	400,553	90336
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	90337
3Z6	054-612	Traumatic Brain Injury	\$	65,138	\$	65,138	90338
305	054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082	90339
TOTAL FED Federal Special Revenue							90340
Fund Group			\$	3,937,656	\$	3,937,656	90341
State Special Revenue Fund Group							90342
5AE	054-614	Grants and Contracts	\$	75,000	\$	75,000	90343
TOTAL SSR State Special Revenue			\$	75,000	\$	75,000	90344
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	4,578,330	\$	4,578,330	90345
 <b>Section 206.84.</b> JLE JOINT LEGISLATIVE ETHICS COMMITTEE							90347
General Revenue Fund							90348
GRF	028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	90349

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	90350
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	90351

**Section 206.87.** LSC LEGISLATIVE SERVICE COMMISSION 90353

General Revenue Fund 90354

GRF 035-321 Operating Expenses	\$	14,870,000	\$	14,870,000	90355
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GRF 035-402 Legislative Interns	\$	1,012,000	\$	1,012,000	90356
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GRF 035-404 Legislative Office of	\$	1,256,427	\$	1,256,427	90357
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Education Oversight

GRF 035-405 Correctional	\$	375,000	\$	390,000	90358
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Institution Inspection

Committee

GRF 035-409 National Associations	\$	445,000	\$	456,000	90359
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GRF 035-410 Legislative	\$	3,625,000	\$	3,625,000	90360
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Information Systems

TOTAL GRF General Revenue Fund	\$	21,583,427	\$	21,609,427	90361
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General Services Fund Group 90362

4F6 035-603 Legislative Budget	\$	152,000	\$	152,500	90363
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Services

410 035-601 Sale of Publications	\$	25,000	\$	25,000	90364
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TOTAL GSF General Services 90365

Fund Group	\$	177,000	\$	177,500	90366
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TOTAL ALL BUDGET FUND GROUPS	\$	21,760,427	\$	21,786,927	90367
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JOINT LEGISLATIVE COMMITTEE ON MEDICAID TECHNOLOGY AND REFORM 90368

Of the foregoing appropriation item 035-321, Operating 90369

Expenses, \$100,000 in each fiscal year shall be used for costs 90370

associated with employing an executive director for the Joint 90371

Legislative Committee on Medicaid Technology and Reform as 90372

authorized by division (C) of section 101.391 of the Revised Code. 90373

**Section 206.90.** LIB STATE LIBRARY BOARD 90374

General Revenue Fund 90375

GRF 350-321	Operating Expenses	\$	6,298,677	\$	6,298,677	90376
GRF 350-400	Ohio Public Library	\$	4,330,000	\$	4,330,000	90377
	Information Network					
GRF 350-401	Ohioana Rental	\$	124,816	\$	124,816	90378
	Payments					
GRF 350-501	Library for the	\$	535,615	\$	535,615	90379
	Blind-Cincinnati					
GRF 350-502	Regional Library	\$	1,010,441	\$	1,010,441	90380
	Systems					
GRF 350-503	Library for the	\$	805,642	\$	805,642	90381
	Blind-Cleveland					
TOTAL GRF	General Revenue Fund	\$	13,105,191	\$	13,105,191	90382
	General Services Fund Group					90383
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	90384
	Charges					
4S4 350-604	OPLIN Technology	\$	3,000,000	\$	3,000,000	90385
459 350-602	Interlibrary Service	\$	2,469,925	\$	2,708,092	90386
	Charges					
TOTAL GSF	General Services					90387
	Fund Group	\$	5,478,925	\$	5,717,092	90388
	Federal Special Revenue Fund Group					90389
313 350-601	LSTA Federal	\$	5,643,905	\$	5,643,905	90390
TOTAL FED	Federal Special Revenue					90391
	Fund Group	\$	5,643,905	\$	5,643,905	90392
TOTAL ALL BUDGET FUND GROUPS		\$	24,228,021	\$	24,466,188	90393
	OHIOANA RENTAL PAYMENTS					90394
	The foregoing appropriation item 350-401, Ohioana Rental					90395
	Payments, shall be used to pay the rental expenses of the Martha					90396
	Kinney Cooper Ohioana Library Association pursuant to section					90397
	3375.61 of the Revised Code.					90398
	LIBRARY FOR THE BLIND-CINCINNATI					90399



The foregoing appropriation item 350-501, Library for the  
Blind-Cincinnati, shall be used for the Talking Book program,  
which assists the blind and disabled.

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REGIONAL LIBRARY SYSTEMS

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The foregoing appropriation item 350-502, Regional Library  
Systems, shall be used to support regional library systems  
eligible for funding under sections 3375.83 and 3375.90 of the  
Revised Code.

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LIBRARY FOR THE BLIND-CLEVELAND

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The foregoing appropriation item 350-503, Library for the  
Blind-Cleveland, shall be used for the Talking Book program, which  
assists the blind and disabled.

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OHIO PUBLIC LIBRARY INFORMATION NETWORK

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The foregoing appropriation items 350-604, OPLIN Technology,  
and 350-400, Ohio Public Library Information Network, shall be  
used for an information telecommunications network linking public  
libraries in the state and such others as may be certified as  
participants by the Ohio Public Library Information Network Board.

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The Ohio Public Library Information Network Board shall  
consist of eleven members appointed by the State Library Board  
from among the staff of public libraries and past and present  
members of boards of trustees of public libraries, based on the  
recommendations of the Ohio library community. The Ohio Public  
Library Information Network Board, in consultation with the State  
Library, shall develop a plan of operations for the network. The  
board may make decisions regarding use of the foregoing  
appropriation items 350-400, Ohio Public Library Information  
Network, and 350-604, OPLIN Technology, may receive and expend  
grants to carry out the operations of the network in accordance  
with state law, and may appoint and fix the compensation of a

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director and necessary staff. The State Library shall be the  
fiscal agent for the network and shall have fiscal accountability  
for the expenditure of funds. The Ohio Public Library Information  
Network Board members shall be reimbursed for actual travel and  
necessary expenses incurred in carrying out their  
responsibilities.

In order to limit access to obscene and illegal materials  
through internet use at Ohio Public Library Information Network  
(OPLIN) terminals, local libraries with OPLIN computer terminals  
shall adopt and implement policies that control access to obscene  
and illegal materials. These policies may include use of  
technological systems to select or block certain internet access.  
The OPLIN shall condition provision of its funds, goods, and  
services on compliance with these policies. The OPLIN Board shall  
also adopt and communicate specific recommendations, including  
recommendations related to computer filtering, to local libraries  
on methods to control such improper usage. These methods may  
include each library implementing a written policy controlling  
such improper use of library terminals and requirements for  
parental involvement or written authorization for juvenile  
internet usage.

Of the foregoing appropriation item 350-400, Ohio Public  
Library Information Network, up to \$100,000 in each fiscal year  
shall be used to help local libraries purchase or maintain filters  
to screen out obscene and illegal internet materials. At least 50  
per cent of the funds used for these purposes in each fiscal year  
shall be used for the purchase of filters.

The OPLIN Board shall research and assist or advise local  
libraries with regard to emerging technologies and methods that  
may be effective means to control access to obscene and illegal  
materials. The OPLIN Executive Director shall biannually provide  
written reports to the Governor, the Speaker and Minority Leader

of the House of Representatives, and the President and Minority 90462  
 Leader of the Senate on any steps being taken by OPLIN and public 90463  
 libraries in the state to limit and control such improper usage as 90464  
 well as information on technological, legal, and law enforcement 90465  
 trends nationally and internationally affecting this area of 90466  
 public access and service. 90467

The Ohio Public Library Information Network, INFOhio, and 90468  
 OhioLINK shall, to the extent feasible, coordinate and cooperate 90469  
 in their purchase or other acquisition of the use of electronic 90470  
 databases for their respective users and shall contribute funds in 90471  
 an equitable manner to such effort. 90472

**Section 206.93. LCO LIQUOR CONTROL COMMISSION** 90473

Liquor Control Fund Group				90474
043 970-321 Operating Expenses	\$	781,181	\$ 803,348	90475
TOTAL LCF Liquor Control Fund Group	\$	781,181	\$ 803,348	90476
TOTAL ALL BUDGET FUND GROUPS	\$	781,181	\$ 803,348	90477

**Section 206.96. LOT STATE LOTTERY COMMISSION** 90479

General Services Fund Group				90480
231 950-604 Charitable Gaming	\$	1,200,000	\$ 1,200,000	90481
Oversight				
TOTAL GSF General Services Fund	\$	1,200,000	\$ 1,200,000	90482
Group				
State Lottery Fund Group				90483
044 950-100 Personal Services	\$	24,969,422	\$ 25,457,016	90484
044 950-200 Maintenance	\$	17,642,894	\$ 17,954,156	90485
044 950-300 Equipment	\$	2,517,533	\$ 2,494,718	90486
044 950-402 Game and Advertising	\$	70,524,000	\$ 70,024,000	90487
Contracts				
044 950-500 Problem Gambling	\$	335,000	\$ 335,000	90488
Subsidy				

044 950-601 Prizes, Bonuses, and	\$	150,952,466	\$	147,716,286	90489
Commissions					
871 950-602 Annuity Prizes	\$	148,680,031	\$	138,918,557	90490
TOTAL SLF State Lottery Fund					90491
Group	\$	415,621,346	\$	402,899,733	90492
TOTAL ALL BUDGET FUND GROUPS	\$	416,821,346	\$	404,099,733	90493

OPERATING EXPENSES 90494

Notwithstanding sections 127.14 and 131.35 of the Revised 90495  
Code, the Controlling Board may, at the request of the State 90496  
Lottery Commission, authorize additional appropriations for 90497  
operating expenses of the State Lottery Commission from the State 90498  
Lottery Fund up to a maximum of 15 per cent of anticipated total 90499  
revenue accruing from the sale of lottery tickets. 90500

PRIZES, BONUSSES, AND COMMISSIONS 90501

Any amounts, in addition to the amounts appropriated in 90502  
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 90503  
the Director of the State Lottery Commission determines to be 90504  
necessary to fund prizes, bonuses, and commissions are hereby 90505  
appropriated. 90506

ANNUITY PRIZES 90507

With the approval of the Office of Budget and Management, the 90508  
State Lottery Commission shall transfer cash from the State 90509  
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 90510  
(Fund 871) in an amount sufficient to fund deferred prizes. The 90511  
Treasurer of State, from time to time, shall credit the Deferred 90512  
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 90513  
by the Treasurer of State on invested balances. 90514

Any amounts, in addition to the amounts appropriated in 90515  
appropriation item 950-602, Annuity Prizes, that the Director of 90516  
the State Lottery Commission determines to be necessary to fund 90517  
deferred prizes and interest earnings are hereby appropriated. 90518

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 90519

The Ohio Lottery Commission shall transfer an amount greater 90520  
than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 90521  
in fiscal year 2007 to the Lottery Profits Education Fund. 90522  
Transfers from the Commission to the Lottery Profits Education 90523  
Fund shall represent the estimated net income from operations for 90524  
the Commission in fiscal year 2006 and fiscal year 2007. Transfers 90525  
by the Commission to the Lottery Profits Education Fund shall be 90526  
administered as the statutes direct. 90527

**Section 206.99.** MHC MANUFACTURED HOMES COMMISSION 90528

General Services Fund Group 90529  
4K9 996-609 Operating Expenses \$ 272,500 \$ 0 90530  
TOTAL GSF General Services 90531  
Fund Group \$ 272,500 \$ 0 90532  
TOTAL ALL BUDGET FUND GROUPS \$ 272,500 \$ 0 90533

INCREASED APPROPRIATION THROUGH CONTROLLING BOARD 90534

The Manufactured Homes Commission shall seek Controlling 90535  
Board approval in fiscal year 2006 for a planned increase of at 90536  
least \$356,250 in appropriation item 996-609, Operating Expenses. 90537

**Section 209.03.** MED STATE MEDICAL BOARD 90538

General Services Fund Group 90539  
5C6 883-609 Operating Expenses \$ 7,467,317 \$ 7,467,317 90540  
TOTAL GSF General Services 90541  
Fund Group \$ 7,467,317 \$ 7,467,317 90542  
TOTAL ALL BUDGET FUND GROUPS \$ 7,467,317 \$ 7,467,317 90543

**Section 209.04.** AMB MEDICAL TRANSPORTATION BOARD 90545

General Services Fund Group 90546  
4N1 915-601 Operating Expenses \$ 388,450 \$ 0 90547

TOTAL GSF General Services				90548
Fund Group	\$	388,450	\$	0 90549
TOTAL ALL BUDGET FUND GROUPS	\$	388,450	\$	0 90550

**Section 209.06.** DMH DEPARTMENT OF MENTAL HEALTH 90552

General Services Fund Group 90553

151 235-601 General Administration	\$	89,614,180	\$	93,898,713	90554
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TOTAL ISF Intragovernmental 90555

Service Fund Group	\$	89,614,180	\$	93,898,713	90556
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Division of Mental Health-- 90557

Psychiatric Services to Correctional Facilities 90558

General Revenue Fund 90559

GRF 332-401 Forensic Services	\$	4,338,858	\$	4,338,858	90560
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TOTAL GRF General Revenue Fund	\$	4,338,858	\$	4,338,858	90561
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FORENSIC SERVICES 90562

The foregoing appropriation item 332-401, Forensic Services, 90563

shall be used to provide psychiatric services to courts of common 90564

pleas. The appropriation shall be allocated through community 90565

mental health boards to certified community agencies and shall be 90566

distributed according to the criteria delineated in rule 90567

5122:4-1-01 of the Administrative Code. These community forensic 90568

funds may also be used to provide forensic training to community 90569

mental health boards and to forensic psychiatry residency programs 90570

in hospitals operated by the Department of Mental Health and to 90571

provide evaluations of patients of forensic status in facilities 90572

operated by the Department of Mental Health prior to conditional 90573

release to the community. 90574

In addition, appropriation item 332-401, Forensic Services, 90575

may be used to support projects involving mental health, substance 90576

abuse, courts, and law enforcement to identify and develop 90577

appropriate alternative services to institutionalization for 90578

nonviolent mentally ill offenders, and to provide linkage to 90579  
community services for severely mentally disabled offenders 90580  
released from institutions operated by the Department of 90581  
Rehabilitation and Correction. Funds may also be utilized to 90582  
provide forensic monitoring and tracking in addition to community 90583  
programs serving persons of forensic status on conditional release 90584  
or probation. 90585

Division of Mental Health-- 90586  
Administration and Statewide Programs 90587

General Revenue Fund 90588

GRF 333-321	Central Administration	\$	23,853,669	\$	23,853,669	90589
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919	90590
GRF 333-403	Pre-Admission	\$	650,135	\$	650,135	90591

Screening Expenses

GRF 333-415	Lease-Rental Payments	\$	23,296,200	\$	23,833,600	90592
GRF 333-416	Research Program	\$	1,001,551	\$	1,001,551	90593

Evaluation

TOTAL GRF	General Revenue Fund	\$	50,166,474	\$	50,703,874	90594
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General Services Fund Group 90595

149 333-609	Central Office Rotary	\$	883,773	\$	893,786	90596
	- Operating					

232 333-621	Family and Children	\$	625,000	\$	625,000	90597
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First Administration

TOTAL	General Services Fund Group	\$	1,508,773	\$	1,518,786	90598
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Federal Special Revenue Fund Group 90599

3A6 333-608	Community & Hospital	\$	65,000	\$	0	90600
	Services					

3A8 333-613	Federal Grant -	\$	562,417	\$	512,417	90601
	Administration					

3A9 333-614	Mental Health Block	\$	748,740	\$	748,470	90602
	Grant					

3B1 333-635	Community Medicaid	\$	3,671,537	\$	3,691,683	90603
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Expansion						
324	333-605	Medicaid/Medicare	\$ 150,000	\$ 150,000	90604	
TOTAL Federal Special Revenue					90605	
Fund Group				\$ 5,197,694	\$ 5,102,570	90606
State Special Revenue Fund Group					90607	
4X5	333-607	Behavioral Health	\$ 3,000,634	\$ 3,000,634	90608	
Medicaid Services						
5V2	333-611	Non-Federal	\$ 35,000	\$ 35,000	90609	
Miscellaneous						
485	333-632	Mental Health	\$ 134,233	\$ 134,233	90610	
Operating						
TOTAL State Special Revenue					90611	
Fund Group				\$ 3,169,867	\$ 3,169,867	90612
TOTAL ALL BUDGET FUND GROUPS				\$ 60,042,808	\$ 60,495,097	90613
RESIDENCY TRAINEESHIP PROGRAMS					90614	
The foregoing appropriation item 333-402, Resident Trainees,					90615	
shall be used to fund training agreements entered into by the					90616	
Department of Mental Health for the development of curricula and					90617	
the provision of training programs to support public mental health					90618	
services.					90619	
PRE-ADMISSION SCREENING EXPENSES					90620	
The foregoing appropriation item 333-403, Pre-Admission					90621	
Screening Expenses, shall be used to pay for costs to ensure that					90622	
uniform statewide methods for pre-admission screening are in place					90623	
to perform assessments for persons in need of mental health					90624	
services or for whom institutional placement in a hospital or in					90625	
another inpatient facility is sought. Pre-admission screening					90626	
includes the following activities: pre-admission assessment,					90627	
consideration of continued stay requests, discharge planning and					90628	
referral, and adjudication of appeals and grievance procedures.					90629	
LEASE-RENTAL PAYMENTS					90630	



The foregoing appropriation item 333-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Mental Health under leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$47,129,800. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued under section 154.20 of the Revised Code.

BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

**Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS**

General Revenue Fund				90650
GRF 334-408 Community and Hospital	\$ 390,424,545	\$ 400,324,545		90651
Mental Health Services				
GRF 334-506 Court Costs	\$ 976,652	\$ 976,652		90652
TOTAL GRF General Revenue Fund	\$ 391,401,197	\$ 401,301,197		90653
General Services Fund Group				
149 334-609 Hospital Rotary -	\$ 24,408,053	\$ 24,408,053		90655
Operating Expenses				
150 334-620 Special Education	\$ 120,930	\$ 120,930		90656
TOTAL GSF General Services				90657
Fund Group	\$ 24,528,983	\$ 24,528,983		90658

Federal Special Revenue Fund Group					90659
3A6 334-608 Subsidy for Federal	\$	586,224	\$	586,224	90660
Grants					
3A8 334-613 Federal Letter of	\$	200,000	\$	200,000	90661
Credit					
3B0 334-617 Elementary and	\$	171,930	\$	178,807	90662
Secondary Education					
Act					
3B1 334-635 Hospital Medicaid	\$	2,000,000	\$	2,000,000	90663
Expansion					
324 334-605 Medicaid/Medicare	\$	11,764,280	\$	11,873,408	90664
TOTAL FED Federal Special Revenue					90665
Fund Group	\$	14,722,434	\$	14,838,439	90666
State Special Revenue Fund Group					90667
485 334-632 Mental Health	\$	2,476,297	\$	2,476,297	90668
Operating					
692 334-636 Community Mental	\$	80,000	\$	80,000	90669
Health Board Risk Fund					
TOTAL SSR State Special Revenue					90670
Fund Group	\$	2,556,297	\$	2,556,297	90671
TOTAL ALL BUDGET FUND GROUPS	\$	433,208,911	\$	443,224,916	90672
COMMUNITY MENTAL HEALTH BOARD RISK FUND					90673
The foregoing appropriation item 334-636, Community Mental					90674
Health Board Risk Fund, shall be used to make payments under					90675
section 5119.62 of the Revised Code.					90676
<b>Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY</b>					90677
SUPPORT SERVICES					90678
General Revenue Fund					90679
GRF 335-404 Behavioral Health	\$	5,865,265	\$	6,865,265	90680
Services-Children					

GRF 335-405	Family & Children	\$	2,260,000	\$	2,260,000	90681
	First					
GRF 335-419	Community Medication	\$	7,959,798	\$	7,959,798	90682
	Subsidy					
GRF 335-505	Local Mental Health	\$	94,687,868	\$	99,687,868	90683
	Systems of Care					
TOTAL GRF	General Revenue Fund	\$	110,772,931	\$	116,772,931	90684
	General Services Fund Group					90685
4P9 335-604	Community Mental	\$	250,000	\$	250,000	90686
	Health Projects					
TOTAL GSF	General Services					90687
Fund Group		\$	250,000	\$	250,000	90688
	Federal Special Revenue Fund Group					90689
3A6 335-608	Federal Miscellaneous	\$	1,089,699	\$	678,699	90690
3A7 335-612	Social Services Block	\$	8,657,288	\$	8,657,288	90691
	Grant					
3A8 335-613	Federal Grant -	\$	2,407,040	\$	2,407,040	90692
	Community Mental					
	Health Board Subsidy					
3A9 335-614	Mental Health Block	\$	14,969,400	\$	14,969,400	90693
	Grant					
3B1 335-635	Community Medicaid	\$	264,088,404	\$	282,807,902	90694
	Expansion					
TOTAL FED	Federal Special Revenue	\$	291,211,831	\$	309,520,329	90695
	Fund Group					
	State Special Revenue Fund Group					90696
5AU 335-615	Behavioral Healthcare	\$	4,690,000	\$	4,690,000	90697
5CH 335-622	Residential State	\$	1,500,000	\$	1,500,000	90698
	Supplement					
5CS 335-624	Adult Emergency	\$	4,000,000	\$	4,000,000	90699
	Assistance					
632 335-616	Community Capital	\$	350,000	\$	350,000	90700

Replacement

TOTAL SSR State Special Revenue	\$	10,540,000	\$	10,540,000	90701
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	412,774,762	\$	437,083,260	90702
DEPARTMENT TOTAL					90703
GENERAL REVENUE FUND	\$	556,679,460	\$	573,116,860	90704
DEPARTMENT TOTAL					90705
GENERAL SERVICES FUND GROUP	\$	115,901,936	\$	120,196,482	90706
DEPARTMENT TOTAL					90707
FEDERAL SPECIAL REVENUE					90708
FUND GROUP	\$	311,131,959	\$	329,461,338	90709
DEPARTMENT TOTAL					90710
STATE SPECIAL REVENUE FUND GROUP	\$	16,266,164	\$	16,266,164	90711
DEPARTMENT TOTAL					90712
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	999,979,519	\$	1,039,040,844	90713

**Section 209.06.09. COMMUNITY MEDICATION SUBSIDY** 90715

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. 90716  
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**LOCAL MENTAL HEALTH SYSTEMS OF CARE** 90721

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted under section 340.03 of the Revised Code and as approved by the Department of Mental Health. 90722  
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Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards. 90727  
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Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.

BEHAVIORAL HEALTH - CHILDREN

The foregoing appropriation item 335-404, Behavioral Health Services-Children, shall be used to provide behavioral health services for children and their families. Behavioral health services include mental health and alcohol and other drug treatment services and other necessary supports.

Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$5.0 million in fiscal year 2006 and \$6.0 million in fiscal year 2007 shall be distributed to local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards, based upon a formula and an approved children's behavioral health transformation plan developed and endorsed by the local Family and Children First Council with the leadership from the Alcohol, Drug Addiction, and Mental Health Board, or the Community Mental Health Board, and the Alcohol and Drug Addiction Services Board. The use of these funds shall be approved by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council. This team shall be appointed not later than July 1, 2005, and shall include, but not be limited to, all of the following:

(A) At least one representative from each of the Departments of Alcohol and Drug Addiction Services, Mental Health, Education, Health, Job and Family Services, Mental Retardation and Developmental Disabilities, and the Department of Youth Services;

(B) At least one person representing local public children's services agencies;

(C) At least one person representing juvenile courts;

(D) At least one person representing local Alcohol, Drug	90761
Addiction, and Mental Health Boards; Community Mental Health	90762
Boards; and Alcohol and Drug Addiction Boards;	90763
(E) At least one person representing local Family and	90764
Children First Council Coordinators;	90765
(F) At least one family representative.	90766
Children's behavioral health transformation plans shall be	90767
congruent with the development and implementation of the process	90768
described in division (B)(2)(b) of section 121.37 of the Revised	90769
Code and shall address all of the following as determined by a	90770
team of state and local stakeholders appointed by the Ohio Family	90771
and Children First Cabinet Council:	90772
(A) Specific strategies and actions for use of all funds	90773
allocated for the Access to Better Care Initiative by all Ohio	90774
Family and Children First Cabinet Council agencies that will	90775
further the transformation of the local Children's Behavioral	90776
Health Care System;	90777
(B) Providing services to children with behavioral health	90778
disorders, particularly those with intensive needs, and their	90779
families, across all child-serving systems, including child	90780
welfare and juvenile justice and for those youth whose parents	90781
would otherwise have to relinquish custody to obtain needed	90782
behavioral health services;	90783
(C) Assuring that families are included in all service	90784
planning activities and have access to advocates to assist them if	90785
they choose;	90786
(D) Implementation of home-based services and other	90787
alternatives to out-of-home placement;	90788
(E) Assuring that all individual service plans for children	90789
and their families address the academic achievement of the child;	90790

(F) Coordinating the most efficient and effective use of 90791  
federal, state, and local funds to meet the needs of children and 90792  
their families. 90793

Funds may be used to support the following services and 90794  
activities: 90795

(A) Mental health services provided by the Ohio Department of 90796  
Mental Health certified agencies and alcohol and other drug 90797  
services provided by Department of Alcohol and Drug Addiction 90798  
Services certified agencies; 90799

(B) Services and supports for children and their families 90800  
that further the implementation of their individual service plans; 90801

(C) Treatment services in out-of-home settings, including 90802  
residential facilities, when other alternatives are not available 90803  
or feasible; 90804

(D) Administrative support for efforts associated with this 90805  
initiative; 90806

(E) These funds shall not be used to supplant existing 90807  
efforts. 90808

The Ohio Family and Children First Cabinet Council appointed 90809  
team shall approve the plans for local behavioral health services 90810  
and ensure the plans are components of and properly coordinated 90811  
with the county service coordination plan as defined in section 90812  
121.37 of the Revised Code. In addition to approving the plans for 90813  
new behavioral health funding, this team shall design a mechanism 90814  
to provide technical assistance to local communities, monitor the 90815  
plans, and may, as part of the monitoring role, conduct site 90816  
visits. 90817

Of the foregoing appropriation item 335-404, Behavioral 90818  
Health Services-Children, an amount up to \$1.0 million in fiscal 90819  
year 2006 and \$1.0 million in fiscal year 2007 shall be used to 90820

support projects, as determined by the Ohio Family and Children  
First Cabinet Council, in select areas around the state to focus  
on improving behavioral health services for children involved in  
the child welfare and juvenile justice systems. At least one of  
these projects shall focus on services for adolescent girls that  
are involved in or at risk of involvement with the juvenile  
justice system.

Of the foregoing appropriation item 335-405, Family &  
Children First, an amount up to \$500,000 in fiscal year 2006 and  
\$500,000 in fiscal year 2007 shall be used for children who do not  
have behavioral health disorders but require assistance through  
the County Family and Children First Council.

RESIDENTIAL STATE SUPPLEMENT

The foregoing appropriation item 335-622, Residential State  
Supplement, shall be used to provide subsidized support for  
licensed adult care facilities which serve individuals with mental  
illness.

ADULT EMERGENCY ASSISTANCE

The foregoing appropriation item 335-624, Adult Emergency  
Assistance, shall be used by the Department of Mental Health to  
provide pharmaceuticals for adults who are not eligible for  
Medicaid and whose income is below seventy-five per cent of the  
federal poverty guideline.

**Section 209.06.15.** The Department of Mental Health, with the  
Bureau of Workers' Compensation, Department of Rehabilitation and  
Correction, the Department of Youth Services, and any other state  
or local government agency that purchases prescription drugs,  
other than the Department of Job and Family Services for the  
purposes of the Medicaid program shall do all of the following:

(A) Study intrastate consolidated prescription drug



purchasing systems currently in effect in other states under which 90851  
a single entity administers the state's prescription drug 90852  
purchases; 90853

(B) Estimate potential cost-savings and other advantages, as 90854  
well as any potential disadvantages, that might result if Ohio 90855  
were to consolidate its executive agencies' prescription drug 90856  
purchases under a prescription drug purchasing program; 90857

(C) Design a consolidated prescription drug purchasing 90858  
program appropriate to the prescription drug purchasing needs of 90859  
the state, including the following elements: 90860

(1) The scope and structure of the consolidated prescription 90861  
drug purchasing program; 90862

(2) A business plan to direct the implementation of the 90863  
program and the transition of prescription drug purchasing from 90864  
the state's executive agencies to the consolidated prescription 90865  
drug purchasing program; 90866

(3) Identification of the resources required to implement the 90867  
business plan described in division (C)(2) of this section; 90868

(4) A schedule of the amount of time required to implement 90869  
the business plan described in division (C)(2) of this section. 90870

(D) By not later than January 1, 2006, prepare and submit a 90871  
written report of its findings to the Governor, the Speaker and 90872  
Minority Leader of the House of Representatives, and the President 90873  
and Minority Leader of the Senate. The report shall include an 90874  
analysis of any costs Ohio may incur in creating a consolidated 90875  
prescription drug purchasing program. 90876

**Section 209.09.** DMR DEPARTMENT OF MENTAL RETARDATION AND 90877  
DEVELOPMENTAL DISABILITIES 90878

**Section 209.09.03.** GENERAL ADMINISTRATION AND STATEWIDE 90879

SERVICES				90880
General Revenue Fund				90881
GRF 320-321 Central Administration	\$	9,357,877	\$ 9,357,874	90882
GRF 320-412 Protective Services	\$	2,463,000	\$ 2,463,000	90883
GRF 320-415 Lease-Rental Payments	\$	23,296,200	\$ 23,833,600	90884
TOTAL GRF General Revenue Fund	\$	35,117,077	\$ 35,654,474	90885
General Services Fund Group				90886
4B5 320-640 Conference/Training	\$	300,000	\$ 300,000	90887
TOTAL GSF General Services				90888
Fund Group	\$	300,000	\$ 300,000	90889
Federal Special Revenue Fund Group				90890
3A4 320-605 Administrative Support	\$	13,492,892	\$ 13,492,892	90891
3A5 320-613 DD Council Operating	\$	895,440	\$ 895,440	90892
Expenses				90893
325 320-634 Protective Services	\$	100,000	\$ 100,000	90894
TOTAL FED Federal Special Revenue				90895
Fund Group	\$	14,488,332	\$ 14,488,332	90896
State Special Revenue Fund Group				90897
5S2 590-622 Medicaid	\$	8,000,000	\$ 8,000,000	90898
Administration &				
Oversight				
TOTAL SSR State Special Revenue				90899
Fund Group	\$	8,000,000	\$ 8,000,000	90900
TOTAL ALL GENERAL ADMINISTRATION				90901
AND STATEWIDE SERVICES				90902
BUDGET FUND GROUPS	\$	57,905,409	\$ 58,442,806	90903
LEASE-RENTAL PAYMENTS				90904
The foregoing appropriation item 320-415, Lease-Rental				90905
Payments, shall be used to meet all payments at the times they are				90906
required to be made during the period from July 1, 2005, to June				90907
30, 2007, by the Department of Mental Retardation and				90908

Developmental Disabilities under leases and agreements made under 90909  
section 154.20 of the Revised Code, but limited to the aggregate 90910  
amount of \$47,129,800. Nothing in this act shall be deemed to 90911  
contravene the obligation of the state to pay, without necessity 90912  
for further appropriation, from the sources pledged thereto, the 90913  
bond service charges on obligations issued under section 154.20 of 90914  
the Revised Code. 90915

**Section 209.09.06. COMMUNITY SERVICES**

90916

General Revenue Fund 90917

GRF 322-405 State Use Program \$ 20,000 \$ 0 90918

GRF 322-413 Residential and \$ 7,423,021 \$ 7,423,021 90919

Support Services

GRF 322-416 Waiver State Match \$ 103,090,738 \$ 104,397,504 90920

GRF 322-417 Supported Living \$ 43,160,198 \$ 43,160,198 90921

GRF 322-451 Family Support \$ 6,938,898 \$ 6,938,898 90922

Services

GRF 322-452 Service and Support \$ 8,672,730 \$ 8,672,730 90923

Administration

GRF 322-501 County Boards \$ 32,193,542 \$ 32,193,542 90924

Subsidies

GRF 322-503 Tax Equity \$ 14,500,000 \$ 14,500,000 90925

TOTAL GRF General Revenue Fund \$ 215,999,127 \$ 217,285,893 90926

General Services Fund Group 90927

4J6 322-645 Intersystem Services \$ 300,000 \$ 0 90928

for Children

4U4 322-606 Community MR and DD \$ 300,000 \$ 50,000 90929

Trust

488 322-603 Provider Audit Refunds \$ 350,000 \$ 350,000 90930

TOTAL GSF General Services 90931

Fund Group \$ 950,000 \$ 400,000 90932

Federal Special Revenue Fund Group 90933

3A4	322-605	Community Program	\$	1,500,000	\$	1,500,000	90934
		Support					
3A5	322-613	DD Council Grants	\$	3,204,240	\$	3,204,240	90935
3G6	322-639	Medicaid Waiver	\$	373,772,814	\$	373,772,814	90936
3M7	322-650	CAFS Medicaid	\$	125,924,299	\$	103,773,730	90937
325	322-608	Grants for Infants and	\$	1,763,165	\$	1,763,165	90938
		Families with					
		Disabilities					
325	322-612	Community Social	\$	11,500,000	\$	11,500,000	90939
		Service Programs					
TOTAL FED Federal Special Revenue							90940
Fund Group			\$	517,664,518	\$	495,513,949	90941
State Special Revenue Fund Group							90942
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	90943
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	90944
5Z1	322-624	County Board Waiver	\$	82,000,000	\$	82,000,000	90945
		Match					
TOTAL SSR State Special Revenue							90946
Fund Group			\$	94,025,000	\$	94,025,000	90947
TOTAL ALL COMMUNITY SERVICES							90948
BUDGET FUND GROUPS			\$	828,638,645	\$	807,224,842	90949
RESIDENTIAL AND SUPPORT SERVICES							90950
The Department of Mental Retardation and Developmental							90951
Disabilities may designate a portion of appropriation item							90952
322-413, Residential and Support Services, for the following:							90953
(A) Sermak Class Services used to implement the requirements							90954
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,							90955
Case No. c-2-80-220, United States District Court for the Southern							90956
District of Ohio, Eastern Division;							90957
(B) Medicaid-reimbursed programs other than home and							90958
community-based waiver services, in an amount not to exceed							90959

\$1,000,000 in each fiscal year, that enable persons with mental  
retardation and developmental disabilities to live in the  
community.

WAIVER STATE MATCH

The purposes for which the foregoing appropriation item  
322-416, Waiver State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX  
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301,  
as amended.

(B) Services contracted by county boards of mental  
retardation and developmental disabilities.

(C) To pay the nonfederal share of the cost of one or more  
new intermediate-care-facility-for-the-mentally-retarded certified  
beds in a county where the county board of mental retardation and  
developmental disabilities does not initiate or support the  
development or certification of such beds, if the Director of  
Mental Retardation and Developmental Disabilities is required by  
this act to transfer to the Director of Job and Family Services  
funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental  
Disabilities may designate a portion of appropriation item  
322-416, Waiver State Match, to county boards of mental  
retardation and developmental disabilities that have greater need  
for various residential and support services because of a low  
percentage of residential and support services development in  
comparison to the number of individuals with mental retardation or  
developmental disabilities in the county.

Of the foregoing appropriation item 322-416, Waiver State  
Match, \$9,850,000 in each year of the biennium shall be  
distributed by the Department to county boards of mental

retardation and developmental disabilities to support existing 90990  
residential facilities waiver and individual options waiver 90991  
related to Medicaid activities provided for in the component of a 90992  
county board's plan developed under division (A)(2) of section 90993  
5126.054 of the Revised Code and approved under section 5123.046 90994  
of the Revised Code. Up to \$3,000,000 of these funds in each 90995  
fiscal year may be used to implement day-to-day program management 90996  
services under division (A)(2) of section 5126.054 of the Revised 90997  
Code. Up to \$4,200,000 in each fiscal year may be used to 90998  
implement the program and health and welfare requirements of 90999  
division (A)(2) of section 5126.054 of the Revised Code. 91000

In fiscal years 2006 and 2007 not less than \$2,650,000 of 91001  
these funds shall be used to recruit and retain, under division 91002  
(A)(2) of section 5126.054 of the Revised Code, the direct care 91003  
staff necessary to implement the services included in an 91004  
individualized service plan in a manner that ensures the health 91005  
and welfare of the individuals being served. 91006

The method utilized by the department to determine each 91007  
residential facilities waiver and individual options provider's 91008  
allocation of such funds in fiscal year 2005 shall be used for 91009  
allocation purposes to such providers in fiscal years 2006 and 91010  
2007, respectively. 91011

SUPPORTED LIVING 91012

The purposes for which the foregoing appropriation item 91013  
322-417, Supported Living, shall be used include supported living 91014  
services contracted by county boards of mental retardation and 91015  
developmental disabilities under sections 5126.40 to 5126.47 of 91016  
the Revised Code and paying the nonfederal share of the cost of 91017  
one or more new 91018  
intermediate-care-facility-for-the-mentally-retarded certified 91019  
beds in a county where the county board of mental retardation and 91020

developmental disabilities does not initiate or support the 91021  
development or certification of such beds, if the Director of 91022  
Mental Retardation and Developmental Disabilities is required by 91023  
this act to transfer to the Director of Job and Family Services 91024  
funds to pay such nonfederal share. 91025

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 91026

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 91027  
the Department of Mental Retardation and Developmental 91028  
Disabilities may develop residential and support service programs 91029  
funded by appropriation item 322-413, Residential and Support 91030  
Services; appropriation item 322-416, Waiver State Match; or 91031  
appropriation item 322-417, Supported Living, that enable persons 91032  
with mental retardation and developmental disabilities to live in 91033  
the community. Notwithstanding Chapter 5121. and section 5123.122 91034  
of the Revised Code, the Department may waive the support 91035  
collection requirements of those statutes for persons in community 91036  
programs developed by the Department under this section. The 91037  
Department shall adopt rules under Chapter 119. of the Revised 91038  
Code or may use existing rules for the implementation of these 91039  
programs. 91040

FAMILY SUPPORT SERVICES 91041

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 91042  
5126.11 of the Revised Code, the Department of Mental Retardation 91043  
and Developmental Disabilities may implement programs funded by 91044  
appropriation item 322-451, Family Support Services, to provide 91045  
assistance to persons with mental retardation or developmental 91046  
disabilities and their families who are living in the community. 91047  
The department shall adopt rules to implement these programs. The 91048  
department may also use the foregoing appropriation item 322-451, 91049  
Family Support Services, to pay the nonfederal share of the cost 91050  
of one or more new 91051

intermediate-care-facility-for-the-mentally-retarded certified 91052  
beds in a county where the county board of mental retardation and 91053  
developmental disabilities initiates or supports the development 91054  
or certification of such beds, if the Director of Mental 91055  
Retardation and Developmental Disabilities is required by this act 91056  
to transfer to the Director of Job and Family Services funds to 91057  
pay such nonfederal share. 91058

SERVICE AND SUPPORT ADMINISTRATION 91059

The foregoing appropriation item 322-452, Service and Support 91060  
Administration, shall be allocated to county boards of mental 91061  
retardation and developmental disabilities for the purpose of 91062  
providing service and support administration services and to 91063  
assist in bringing state funding for all department-approved 91064  
service and support administrators within county boards of mental 91065  
retardation and developmental disabilities to the level authorized 91066  
in division (C) of section 5126.15 of the Revised Code. The 91067  
department may request approval from the Controlling Board to 91068  
transfer any unobligated appropriation authority from other state 91069  
General Revenue Fund appropriation items within the department's 91070  
budget to appropriation item 322-452, Service and Support 91071  
Administration, to be used to meet the statutory funding level in 91072  
division (C) of section 5126.15 of the Revised Code. 91073

Notwithstanding division (C) of section 5126.15 of the 91074  
Revised Code and subject to funding in appropriation item 322-452, 91075  
Service and Support Administration, no county may receive less 91076  
than its allocation in fiscal year 1995. Wherever case management 91077  
services are referred to in any law, contract, or other document, 91078  
the reference shall be deemed to refer to service and support 91079  
administration. No action or proceeding pending on the effective 91080  
date of this section is affected by the renaming of case 91081  
management services as service and support administration. 91082



The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The Department also may use the foregoing appropriation item 322-452, Service and Support Administration, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

STATE SUBSIDIES TO MR/DD BOARDS

Notwithstanding section 5126.12 of the Revised Code, for fiscal year 2006, the Department shall, if sufficient funds as determined by the Department are available, use the foregoing appropriation item 322-501, County Boards Subsidies, to pay each county board of mental retardation and developmental disabilities an amount that is equal to the amount such board received in fiscal year 2005. If the Department determines that there are not sufficient funds available in appropriation item 322-501, County Boards Subsidies, for this purpose, the Department shall pay to each county board an amount that is proportionate to the amount such board received in fiscal year 2005. Proportionality shall be determined by comparing the payment a county board received in a

category in fiscal year 2005 to the total payments distributed to 91115  
all county boards for such category in fiscal year 2005. For 91116  
fiscal year 2007, the Department shall pay to each county board an 91117  
amount that is determined by an allocation formula to be developed 91118  
by the Department that considers the applicable factors in section 91119  
5126.12 of the Revised Code. 91120

The Department also may use the foregoing appropriation item 91121  
322-501, County Boards Subsidies, to pay the nonfederal share of 91122  
the cost of one or more new 91123  
intermediate-care-facility-for-the-mentally-retarded certified 91124  
beds in a county where the county board of mental retardation and 91125  
developmental disabilities initiates or supports the development 91126  
or certification of such beds, if the Director of Mental 91127  
Retardation and Developmental Disabilities is required by this act 91128  
to transfer to the Director of Job and Family Services funds to 91129  
pay such nonfederal share. 91130

WAIVER - MATCH 91131

The foregoing appropriation item 322-604, Waiver - Match 91132  
(Fund 4K8), shall be used as state matching funds for the home and 91133  
community-based waivers. 91134

COUNTY BOARD WAIVER MATCH 91135

The Director of Mental Retardation and Developmental 91136  
Disabilities shall transfer, through intrastate transfer vouchers, 91137  
cash from any allowable General Revenue Fund appropriation item to 91138  
Fund 5Z1, appropriation item 322-624, County Board Waiver Match. 91139  
(The amounts being transferred reflect the amounts that county 91140  
boards pledge from their state General Revenue Funds allocations 91141  
to cover the cost of providing the non-federal match for waiver 91142  
services.) 91143

TRANSFER OF FUNDS FOR THE FAMILY AND CHILDREN FIRST CABINET 91144  
COUNCIL TO THE DEPARTMENT OF MENTAL HEALTH 91145

On July 1, 2005, or as soon as possible thereafter, the 91146  
Director of Mental Retardation and Developmental Disabilities 91147  
shall certify the remaining cash balance in Fund 4V1, 91148  
Miscellaneous Use, to the Director of Budget and Management. Upon 91149  
receipt of the certification, the Director of Budget and 91150  
Management shall transfer that amount and re-establish existing 91151  
encumbrances in the Department of Mental Health, Fund 232, Family 91152  
and Children First Administration Fund. When this transfer has 91153  
been completed, Fund 4V1 shall be abolished. 91154

On November 1, 2005, or as soon as possible thereafter, the 91155  
Director of Mental Retardation and Developmental Disabilities 91156  
shall certify the remaining cash balance in Fund 4J6, Youth 91157  
Cluster, to the Director of Budget and Management, who upon 91158  
receipt shall transfer that amount to the General Revenue Fund and 91159  
increase the Department of Mental Health's GRF appropriation item 91160  
335-404, Behavioral Health Services-Children, by the same amount. 91161  
When this transfer has been completed, Fund 4J6 shall be 91162  
abolished. 91163

**Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM** 91164

(A) As used in this section, "habilitation center services" 91165  
has the same meaning as in former section 5111.041 of the Revised 91166  
Code as that section existed on June 30, 2005. 91167

(B) The Department of Mental Retardation and Developmental 91168  
Disabilities may use funds appropriated to the Department for the 91169  
purpose of habilitation center services to satisfy a claim or 91170  
contingent claim for habilitation center services provided before 91171  
July 1, 2005, if the Department receives the claim or contingent 91172  
claim before July 1, 2006. The Department has no liability to 91173  
satisfy either of the following: 91174

(1) A claim for habilitation center services provided before 91175

July 1, 2005, if the Department receives the claim on or after	91176
July 1, 2006.	91177
(2) A claim for habilitation center services provided on or	91178
after July 1, 2005.	91179
(C) The Department of Mental Retardation and Developmental	91180
Disabilities may inform individuals who received habilitation	91181
center services under the community alternative funding system on	91182
June 30, 2005, and such individuals' representatives about	91183
alternative services that may be available for the individuals.	91184
The Department may require county boards of mental retardation and	91185
developmental disabilities to provide such information to the	91186
individuals and their representatives.	91187
<b>Section 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A</b>	91188
<b>MODEL BILLING FOR SERVICES RENDERED</b>	91189
Developmental centers of the Department of Mental Retardation	91190
and Developmental Disabilities may provide services to persons	91191
with mental retardation or developmental disabilities living in	91192
the community or to providers of services to these persons. The	91193
department may develop a method for recovery of all costs	91194
associated with the provisions of these services.	91195
<b>Section 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER</b>	91196
<b>PHARMACY PROGRAMS</b>	91197
The Department of Mental Retardation and Developmental	91198
Disabilities shall pay the Department of Job and Family Services	91199
quarterly, through intrastate transfer voucher, the nonfederal	91200
share of Medicaid prescription drug claim costs for all	91201
developmental centers paid by the Department of Job and Family	91202
Services.	91203
<b>Section 209.09.16. TRANSFER OF ADMINISTRATION OF FAMILY AND</b>	91204

CHILDREN FIRST	91205
The Department of Mental Retardation and Developmental	91206
Disabilities shall transfer the administrative duties related to	91207
the operation of the Ohio Family and Children First Cabinet	91208
Council to the Department of Mental Health. As part of the	91209
transfer, all of the following shall occur on July 1, 2005, or as	91210
soon as possible thereafter as the Departments of Mental	91211
Retardation and Developmental Disabilities and Mental Health are	91212
able to make the transfers:	91213
(A) Individuals employed by the Department of Mental	91214
Retardation and Developmental Disabilities on June 30, 2005, to	91215
perform administrative functions for the Ohio Family and Children	91216
First Cabinet Council shall be transferred to the Department of	91217
Mental Health.	91218
(B) The assets, liabilities, equipment, and records,	91219
irrespective of form or medium, related to the administrative	91220
duties of the Ohio Family and Children First Cabinet Council shall	91221
transfer or be transferred to the Department of Mental Health;	91222
(C) The Department of Mental Health shall assume the	91223
obligations of the Ohio Family and Children First Cabinet	91224
Council's administrative duties.	91225
<b>Section 209.09.18. RESIDENTIAL FACILITIES</b>	91226
General Revenue Fund	91227
GRF 323-321 Residential Facilities \$ 101,764,366 \$ 100,457,600	91228
Operations	91229
TOTAL GRF General Revenue Fund \$ 101,764,366 \$ 100,457,600	91230
General Services Fund Group	91231
152 323-609 Residential Facilities \$ 912,177 \$ 912,177	91232
Support	91233
TOTAL GSF General Services	91234

Fund Group	\$	912,177	\$	912,177	91235
Federal Special Revenue Fund Group					91236
3A4 323-605 Developmental Center	\$	120,000,000	\$	120,000,000	91237
Operation Expenses					
325 323-608 Foster Grandparent	\$	575,000	\$	575,000	91238
Program					
TOTAL FED Federal Special Revenue					91239
Fund Group	\$	120,575,000	\$	120,575,000	91240
State Special Revenue Fund Group					91241
221 322-620 Supplement Service	\$	150,000	\$	150,000	91242
Trust					
489 323-632 Developmental Center	\$	12,125,628	\$	12,125,628	91243
Direct Care Support					
TOTAL SSR State Special Revenue					91244
Fund Group	\$	12,275,628	\$	12,275,628	91245
TOTAL ALL RESIDENTIAL FACILITIES					91246
BUDGET FUND GROUPS	\$	235,527,171	\$	234,220,405	91247
DEPARTMENT TOTAL					91248
GENERAL REVENUE FUND	\$	352,880,570	\$	353,397,967	91249
DEPARTMENT TOTAL					91250
GENERAL SERVICES FUND GROUP	\$	2,162,177	\$	1,612,177	91251
DEPARTMENT TOTAL					91252
FEDERAL SPECIAL REVENUE FUND GROUP	\$	652,727,850	\$	630,577,281	91253
DEPARTMENT TOTAL					91254
STATE SPECIAL REVENUE FUND GROUP	\$	114,300,628	\$	114,300,628	91255
TOTAL DEPARTMENT OF MENTAL					91256
RETARDATION AND DEVELOPMENTAL					91257
DISABILITIES	\$	1,122,071,225	\$	1,099,888,053	91258
<b>Section 209.09.21.</b> (A) As used in this section:					91260
(1) "Family support services," "home and community-based					91261
services," "service and support administration," and "supported					91262

living" have the same meaning as in section 5126.01 of the Revised Code. 91263  
91264

(2) "Intermediate care facility for the mentally retarded" 91265  
has the same meaning as in section 5111.20 of the Revised Code. 91266

(B) If one or more new beds obtain certification as an 91267  
intermediate-care-facility-for-the-mentally-retarded bed on or 91268  
after the effective date of this section, the Director of Mental 91269  
Retardation and Developmental Disabilities shall transfer funds to 91270  
the Department of Job and Family Services to pay the nonfederal 91271  
share of the cost under the Medicaid Program for those beds. The 91272  
Director shall use only the following funds for the transfer: 91273

(1) If the beds are located in a county served by a county 91274  
board of mental retardation and developmental disabilities that 91275  
does not initiate or support the beds' certification, funds 91276  
appropriated to the Department of Mental Retardation and 91277  
Developmental Disabilities for home and community-based services 91278  
and supported living for which the Director is authorized to make 91279  
allocations to county boards; 91280

(2) If the beds are located in a county served by a county 91281  
board that initiates or supports the beds' certification, funds 91282  
appropriated to the Department for family support services, 91283  
service and support administration, and other services for which 91284  
the Director is authorized to make allocations to counties. 91285

(C) The funds that the Director transfers under division 91286  
(B)(2) of this section shall be funds that the Director has 91287  
allocated to the county board serving the county in which the beds 91288  
are located unless the amount of the allocation is insufficient to 91289  
pay the entire nonfederal share of the cost under the Medicaid 91290  
Program for those beds. If the allocation is insufficient, the 91291  
Director shall use as much of such funds allocated to other 91292  
counties as is needed to make up the difference. 91293

**Section 209.09.24.** HABILITATION CENTERS PROVIDING MEDICAID 91294  
CASE MANAGEMENT SERVICES 91295

A habilitation center holding on June 30, 2005, a valid 91296  
certificate issued under former section 5123.041 of the Revised 91297  
Code may provide Medicaid case management services until the 91298  
earlier of the following: 91299

(A) The date the United States Secretary of Health and Human 91300  
Services approves an amendment to the state Medicaid plan that 91301  
provides that only county boards of mental retardation and 91302  
developmental disabilities may provide Medicaid case management 91303  
services; 91304

(B) The habilitation center ceases to meet the requirements 91305  
that were in effect on June 30, 2005, for the certificate issued 91306  
under former section 5123.041 of the Revised Code. 91307

**Section 209.09.27.** INTENT OF SECTION 5123.045 OF THE REVISED 91308  
CODE 91309

The legislative intent of section 5123.045 of the Revised 91310  
Code is to continue the requirement that payment for home and 91311  
community-based waiver services is limited to settings of not more 91312  
than four individuals and/or the owner of the residence is not the 91313  
provider of the services to the individuals living in that 91314  
residence. 91315

**Section 209.12.** MIH COMMISSION ON MINORITY HEALTH 91316

General Revenue Fund 91317  
GRF 149-321 Operating Expenses \$ 539,319 \$ 539,319 91318  
GRF 149-501 Minority Health Grants \$ 670,965 \$ 670,965 91319  
GRF 149-502 Lupus Program \$ 136,126 \$ 136,126 91320  
TOTAL GRF General Revenue Fund \$ 1,346,410 \$ 1,346,410 91321



Federal Special Revenue Fund Group				91322
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	91323
TOTAL FED Federal Special Revenue				91324
Fund Group	\$	150,000	\$ 150,000	91325
State Special Revenue Fund Group				91326
4C2 149-601 Minority Health	\$	250,000	\$ 150,000	91327
Conference				
TOTAL SSR State Special Revenue				91328
Fund Group	\$	250,000	\$ 150,000	91329
TOTAL ALL BUDGET FUND GROUPS	\$	1,746,410	\$ 1,646,410	91330
LUPUS PROGRAM				91331
The foregoing appropriation item 149-502, Lupus Program,				91332
shall be used to provide grants for programs in patient, public,				91333
and professional education on the subject of systemic lupus				91334
erythematosus; to encourage and develop local centers on lupus				91335
information gathering and screening; and to provide outreach to				91336
minority women.				91337
<b>Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR</b>				91338
REGISTRATION BOARD				91339
General Service Fund Group				91340
5H9 865-609 Operating Expenses -	\$	325,047	\$ 0	91341
CRB				
TOTAL GSF General Services				91342
Fund Group	\$	325,047	\$ 0	91343
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$ 0	91344
<b>Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES</b>				91346
General Revenue Fund				91347
GRF 725-401 Wildlife-GRF Central	\$	1,000,000	\$ 1,000,000	91348
Support				

GRF 725-404	Fountain Square Rental Payments - OBA	\$ 1,025,300	\$ 1,092,000	91349
GRF 725-407	Conservation Reserve Enhancement Program	\$ 1,000,000	\$ 1,000,000	91350
GRF 725-413	OPFC Lease Rental Payments	\$ 18,699,100	\$ 20,962,800	91351
GRF 725-423	Stream and Ground Water Gauging	\$ 311,910	\$ 311,910	91352
GRF 725-425	Wildlife License Reimbursement	\$ 646,319	\$ 646,319	91353
GRF 725-456	Canal Lands	\$ 332,859	\$ 332,859	91354
GRF 725-502	Soil and Water Districts	\$ 9,836,436	\$ 9,836,436	91355
GRF 725-903	Natural Resources General Obligation Debt Service	\$ 25,866,000	\$ 24,359,100	91356
GRF 727-321	Division of Forestry	\$ 8,541,511	\$ 8,541,511	91357
GRF 728-321	Division of Geological Survey	\$ 1,630,000	\$ 1,630,000	91358
GRF 729-321	Office of Information Technology	\$ 440,895	\$ 440,895	91359
GRF 730-321	Division of Parks and Recreation	\$ 37,924,841	\$ 39,874,841	91360
GRF 731-321	Office of Coastal Management	\$ 259,707	\$ 259,707	91361
GRF 733-321	Division of Water	\$ 3,207,619	\$ 3,207,619	91362
GRF 736-321	Division of Engineering	\$ 3,118,703	\$ 3,118,703	91363
GRF 737-321	Division of Soil and Water	\$ 4,074,788	\$ 4,074,788	91364
GRF 738-321	Division of Real Estate and Land Management	\$ 2,291,874	\$ 2,291,874	91365

GRF 741-321	Division of Natural Areas and Preserves	\$ 3,009,505	\$ 3,009,505	91366
GRF 744-321	Division of Mineral Resources Management	\$ 3,068,167	\$ 3,068,167	91367
TOTAL GRF	General Revenue Fund	\$ 126,285,534	\$ 129,059,034	91368
General Services Fund Group				91369
155 725-601	Departmental Projects	\$ 3,135,821	\$ 3,011,726	91370
157 725-651	Central Support Indirect	\$ 6,528,675	\$ 6,528,675	91371
204 725-687	Information Services	\$ 4,676,627	\$ 4,676,627	91372
206 725-689	REALM Support Services	\$ 475,000	\$ 475,000	91373
207 725-690	Real Estate Services	\$ 64,000	\$ 64,000	91374
223 725-665	Law Enforcement Administration	\$ 2,096,225	\$ 2,096,225	91375
227 725-406	Parks Projects Personnel	\$ 175,000	\$ 110,000	91376
4D5 725-618	Recycled Materials	\$ 50,000	\$ 50,000	91377
4S9 725-622	NatureWorks Personnel	\$ 472,648	\$ 307,648	91378
4X8 725-662	Water Resources Council	\$ 125,000	\$ 125,000	91379
430 725-671	Canal Lands	\$ 797,582	\$ 847,582	91380
508 725-684	Natural Resources Publications	\$ 157,792	\$ 157,792	91381
510 725-631	Maintenance - State-owned Residences	\$ 260,849	\$ 260,849	91382
516 725-620	Water Management	\$ 2,442,956	\$ 2,459,120	91383
635 725-664	Fountain Square Facilities Management	\$ 3,182,223	\$ 3,190,223	91384
697 725-670	Submerged Lands	\$ 542,011	\$ 542,011	91385
TOTAL GSF	General Services Fund Group	\$ 25,182,409	\$ 24,902,478	91387
Federal Special Revenue Fund Group				91388

3B3	725-640	Federal Forest Pass-Thru	\$	150,000	\$	150,000	91389
3B4	725-641	Federal Flood Pass-Thru	\$	350,000	\$	350,000	91390
3B5	725-645	Federal Abandoned Mine Lands	\$	14,310,497	\$	14,307,666	91391
3B6	725-653	Federal Land and Water Conservation Grants	\$	5,000,000	\$	5,000,000	91392
3B7	725-654	Reclamation - Regulatory	\$	2,107,292	\$	2,107,291	91393
3P0	725-630	Natural Areas and Preserves - Federal	\$	315,000	\$	315,000	91394
3P1	725-632	Geological Survey - Federal	\$	479,651	\$	479,651	91395
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912	91396
3P3	725-650	Coastal Management - Federal	\$	1,592,923	\$	1,607,686	91397
3P4	725-660	Water - Federal	\$	419,766	\$	420,525	91398
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	2,225,000	\$	2,225,000	91399
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	91400
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081	91401
332	725-669	Federal Mine Safety Grant	\$	258,102	\$	258,102	91402
TOTAL FED Federal Special Revenue							91403
Fund Group			\$	30,963,862	\$	31,395,785	91404
State Special Revenue Fund Group							91405
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957	91406
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	91407
4U6	725-668	Scenic Rivers Protection	\$	407,100	\$	407,100	91408
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850	91409
5BV	725-683	Soil and Water	\$	1,850,000	\$	1,850,000	91410

		Districts					
5P2	725-634	Wildlife Boater Angler	\$	4,200,000	\$	3,500,000	91411
		Administration					
509	725-602	State Forest	\$	2,291,664	\$	2,591,664	91412
511	725-646	Ohio Geological	\$	549,310	\$	549,310	91413
		Mapping					
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288	91414
512	725-680	Parks Facilities	\$	2,576,240	\$	2,576,240	91415
		Maintenance					
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113	91416
518	725-643	Oil and Gas Permit	\$	2,674,377	\$	2,674,378	91417
		Fees					
518	725-677	Oil and Gas Well	\$	1,200,000	\$	1,200,000	91418
		Plugging					
521	725-627	Off-Road Vehicle	\$	143,490	\$	143,490	91419
		Trails					
522	725-656	Natural Areas Checkoff	\$	1,550,670	\$	1,550,670	91420
		Funds					
526	725-610	Strip Mining	\$	1,932,492	\$	1,932,492	91421
		Administration Fee					
527	725-637	Surface Mining	\$	2,312,815	\$	2,322,702	91422
		Administration					
529	725-639	Unreclaimed Land Fund	\$	623,356	\$	631,257	91423
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$	2,062,237	91424
532	725-644	Litter Control and	\$	7,100,000	\$	7,100,000	91425
		Recycling					
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	91426
615	725-661	Dam Safety	\$	365,223	\$	365,223	91427
		TOTAL SSR State Special Revenue					91428
		Fund Group	\$	60,487,768	\$	60,136,971	91429
		Clean Ohio Fund Group					91430
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	91431
		TOTAL CLF Clean Ohio Fund Group	\$	155,000	\$	155,000	91432

Wildlife Fund Group					91433
015 740-401 Division of Wildlife	\$	49,447,500	\$	50,447,500	91434
Conservation					
815 725-636 Cooperative Management	\$	120,449	\$	120,449	91435
Projects					
816 725-649 Wetlands Habitat	\$	966,885	\$	966,885	91436
817 725-655 Wildlife Conservation	\$	5,000,000	\$	5,000,000	91437
Checkoff Fund					
818 725-629 Cooperative Fisheries	\$	1,500,000	\$	1,500,000	91438
Research					
819 725-685 Ohio River Management	\$	128,584	\$	128,584	91439
TOTAL WLF Wildlife Fund Group	\$	57,163,418	\$	58,163,418	91440
Waterways Safety Fund Group					91441
086 725-414 Waterways Improvement	\$	3,792,343	\$	3,792,343	91442
086 725-418 Buoy Placement	\$	52,182	\$	52,182	91443
086 725-501 Waterway Safety Grants	\$	137,867	\$	137,867	91444
086 725-506 Watercraft Marine	\$	576,153	\$	576,153	91445
Patrol					
086 725-513 Watercraft Educational	\$	366,643	\$	366,643	91446
Grants					
086 739-401 Division of Watercraft	\$	20,027,909	\$	20,086,681	91447
5AW 725-682 Watercraft Revolving	\$	3,000,000	\$	1,000,000	91448
Loans					
TOTAL WSF Waterways Safety Fund					91449
Group	\$	27,953,097	\$	26,011,869	91450
Holding Account Redistribution Fund Group					91451
R17 725-659 Performance Cash Bond	\$	374,263	\$	374,263	91452
Refunds					
R43 725-624 Forestry	\$	2,500,000	\$	1,500,000	91453
TOTAL 090 Holding Account					91454
Redistribution Fund Group	\$	2,874,263	\$	1,874,263	91455
Accrued Leave Liability Fund Group					91456

4M8 725-675 FOP Contract	\$	20,844	\$	20,844	91457
TOTAL ALF Accrued Leave					91458
Liability Fund Group	\$	20,844	\$	20,844	91459
TOTAL ALL BUDGET FUND GROUPS	\$	331,086,195	\$	331,719,662	91460

**Section 209.18.03. CENTRAL SUPPORT INDIRECT** 91462

With the exception of the Division of Wildlife, whose direct 91463  
and indirect central support charges shall be paid out of the 91464  
General Revenue Fund from the foregoing appropriation item 91465  
725-401, Wildlife-GRF Central Support, the Department of Natural 91466  
Resources, with approval of the Director of Budget and Management, 91467  
shall utilize a methodology for determining each division's 91468  
payments into the Central Support Indirect Fund (Fund 157). The 91469  
methodology used shall contain the characteristics of 91470  
administrative ease and uniform application in compliance with 91471  
federal grant requirements. It may include direct cost charges for 91472  
specific services provided. Payments to the Central Support 91473  
Indirect Fund (Fund 157) shall be made using an intrastate 91474  
transfer voucher. 91475

**Section 209.18.06. FOUNTAIN SQUARE** 91476

The foregoing appropriation item 725-404, Fountain Square 91477  
Rental Payments - OBA, shall be used by the Department of Natural 91478  
Resources to meet all payments required to be made to the Ohio 91479  
Building Authority during the period from July 1, 2005, to June 91480  
30, 2007, pursuant to leases and agreements with the Ohio Building 91481  
Authority under section 152.241 of the Revised Code, but limited 91482  
to the aggregate amount of \$2,117,300. 91483

The Director of Natural Resources, using intrastate transfer 91484  
vouchers, shall make payments to the General Revenue Fund from 91485  
funds other than the General Revenue Fund to reimburse the General 91486  
Revenue Fund for the other funds' shares of the lease rental 91487

payments to the Ohio Building Authority. The transfers from the 91488  
non-General Revenue funds shall be made within 10 days of the 91489  
payment to the Ohio Building Authority for the actual amounts 91490  
necessary to fulfill the leases and agreements pursuant to section 91491  
152.241 of the Revised Code. 91492

The foregoing appropriation item 725-664, Fountain Square 91493  
Facilities Management (Fund 635), shall be used for payment of 91494  
repairs, renovation, utilities, property management, and building 91495  
maintenance expenses for the Fountain Square Complex. Cash 91496  
transferred by intrastate transfer vouchers from various 91497  
department funds and rental income received by the Department of 91498  
Natural Resources shall be deposited into the Fountain Square 91499  
Facilities Management Fund (Fund 635). 91500

LEASE RENTAL PAYMENTS 91501

The foregoing appropriation item 725-413, OPFC Lease Rental 91502  
Payments, shall be used to meet all payments at the times they are 91503  
required to be made during the period from July 1, 2005, to June 91504  
30, 2007, by the Department of Natural Resources pursuant to 91505  
leases and agreements made under section 154.22 of the Revised 91506  
Code, but limited to the aggregate amount of \$50,375,100. Nothing 91507  
in this act shall be deemed to contravene the obligation of the 91508  
state to pay, without necessity for further appropriation, from 91509  
the sources pledged thereto, the bond service charges on 91510  
obligations issued pursuant to section 154.22 of the Revised Code. 91511

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 91512

The foregoing appropriation item 725-903, Natural Resources 91513  
General Obligation Debt Service, shall be used to pay all debt 91514  
service and related financing costs at the times they are required 91515  
to be made pursuant to sections 151.01 and 151.05 of the Revised 91516  
Code during the period from July 1, 2005, to June 30, 2007. The 91517  
Office of the Sinking Fund or the Director of Budget and 91518



Management shall effectuate the required payments by an intrastate  
transfer voucher. 91519  
91520

**Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT** 91521

Notwithstanding the limits of the transfer from the General 91522  
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 91523  
of the Revised Code, up to the amount available in appropriation 91524  
item 725-425, Wildlife License Reimbursement, may be transferred 91525  
from the General Revenue Fund to the Wildlife Fund (Fund 015). 91526  
Pursuant to the certification of the Director of Budget and 91527  
Management of the amount of foregone revenue in accordance with 91528  
section 1533.15 of the Revised Code, the foregoing appropriation 91529  
item in the General Revenue Fund, appropriation item 725-425, 91530  
Wildlife License Reimbursement, shall be used to reimburse the 91531  
Wildlife Fund (Fund 015) for the cost of hunting and fishing 91532  
licenses and permits issued after June 30, 1990, to individuals 91533  
who are exempted under the Revised Code from license, permit, and 91534  
stamp fees. 91535

**CANAL LANDS** 91536

The foregoing appropriation item 725-456, Canal Lands, shall 91537  
be used to transfer funds to the Canal Lands Fund (Fund 430) to 91538  
provide operating expenses for the State Canal Lands Program. The 91539  
transfer shall be made using an intrastate transfer voucher and 91540  
shall be subject to the approval of the Director of Budget and 91541  
Management. 91542

**SOIL AND WATER DISTRICTS** 91543

In addition to state payments to soil and water conservation 91544  
districts authorized by section 1515.10 of the Revised Code, the 91545  
Department of Natural Resources may pay to any soil and water 91546  
conservation district, from authority in appropriation item 91547  
725-502, Soil and Water Districts, an annual amount not to exceed 91548

\$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district. The foregoing appropriation item 725-683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be a fee applied on the disposal of construction and demolition debris as provided in section 1515.14 of the Revised Code, as amended by this act.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$25,000 in each fiscal year shall be used for the Conservation Action Project.

Of the foregoing appropriation item, 725-683, Soil and Water Districts, \$200,000 in each fiscal year shall be used to support the Heidelberg College Water Quality Laboratory.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Muskingum Watershed Conservancy District.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Indian Lake Watershed in Logan County.

**PARKS AND RECREATION**

Of the foregoing appropriation item 730-321, Division of Parks and Recreation, \$50,000 in fiscal year 2006 shall be used for the Fairport Harbor Port Authority boat launch in Lake County.

**FUND CONSOLIDATION**

The Director of Budget and Management shall transfer an

amount certified by the Director of Natural Resources from the 91579  
Central Support Indirect Fund (Fund 157) to the Law Enforcement 91580  
Administration Fund (Fund 223) and the Information Services Fund 91581  
(Fund 204) to implement a direct cost recovery plan. 91582

STATE PARK DEPRECIATION RESERVE 91583

The foregoing appropriation item 725-680, Parks Facilities 91584  
Maintenance, shall be used by the Division of Parks and Recreation 91585  
to maintain state park revenue producing facilities in the best 91586  
economic operating condition and to repair and replace equipment 91587  
used in the operation of state park revenue producing facilities. 91588

Upon certification of the Director of Natural Resources, the 91589  
Director of Budget and Management shall transfer the cash balance 91590  
in the Depreciation Reserve Fund (Fund 161), which is abolished in 91591  
section 1541.221 of the Revised Code, as amended by this act, to 91592  
the State Park Fund (Fund 512), which is created in section 91593  
1541.22 of the Revised Code. All outstanding encumbrances shall be 91594  
cancelled on October 1, 2005. 91595

OIL AND GAS WELL PLUGGING 91596

The foregoing appropriation item 725-677, Oil and Gas Well 91597  
Plugging, shall be used exclusively for the purposes of plugging 91598  
wells and to properly restore the land surface of idle and orphan 91599  
oil and gas wells pursuant to section 1509.071 of the Revised 91600  
Code. No funds from the appropriation item shall be used for 91601  
salaries, maintenance, equipment, or other administrative 91602  
purposes, except for those costs directly attributed to the 91603  
plugging of an idle or orphan well. Appropriation authority from 91604  
this appropriation item shall not be transferred to any other fund 91605  
or line item. 91606

CLEAN OHIO OPERATING EXPENSES 91607

The foregoing appropriation item 725-405, Clean Ohio 91608

Operating, shall be used by the Department of Natural Resources in 91609  
administering section 1519.05 of the Revised Code. 91610

WATERCRAFT MARINE PATROL 91611

Of the foregoing appropriation item 739-401, Division of 91612  
Watercraft, not more than \$200,000 in each fiscal year shall be 91613  
expended for the purchase of equipment for marine patrols 91614  
qualifying for funding from the Department of Natural Resources 91615  
pursuant to section 1547.67 of the Revised Code. Proposals for 91616  
equipment shall accompany the submission of documentation for 91617  
receipt of a marine patrol subsidy pursuant to section 1547.67 of 91618  
the Revised Code and shall be loaned to eligible marine patrols 91619  
pursuant to a cooperative agreement between the Department of 91620  
Natural Resources and the eligible marine patrol. 91621

WATERCRAFT REVOLVING LOAN PROGRAM 91622

Upon certification by the Director of Natural Resources, the 91623  
Director of Budget and Management shall transfer an amount not to 91624  
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 91625  
in fiscal year 2007 so certified from the Waterways Safety Fund 91626  
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 91627  
moneys shall be used pursuant to section 1547.721 of the Revised 91628  
Code. 91629

PARKS CAPITAL EXPENSES FUND 91630

There is hereby created in the state treasury the Parks 91631  
Capital Expenses Fund (Fund 227). The fund shall be used to pay 91632  
for design, engineering, and planning costs incurred by the 91633  
Department of Natural Resources for capital parks projects. 91634

The Director of Natural Resources shall submit to the 91635  
Director of Budget and Management the estimated design, 91636  
engineering, and planning costs of capital-related work to be done 91637  
by Department of Natural Resources staff for parks projects. If 91638

the Director of Budget and Management approves the estimated 91639  
costs, the Director may release appropriations from appropriation 91640  
item 725-406, Parks Projects Personnel, for those purposes. Upon 91641  
release of the appropriations, the Department of Natural Resources 91642  
shall pay for these expenses from the Parks Capital Expenses Fund 91643  
(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the 91644  
Parks and Recreation Improvement Fund (Fund 035) using an 91645  
intrastate transfer voucher. 91646

**Section 209.21.** NUR STATE BOARD OF NURSING 91647

General Services Fund Group 91648

4K9 884-609 Operating Expenses	\$	5,661,280	\$	5,661,280	91649
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5P8 884-601 Nursing Special Issues	\$	5,000	\$	5,000	91650
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TOTAL GSF General Services 91651

Fund Group	\$	5,666,280	\$	5,666,280	91652
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TOTAL ALL BUDGET FUND GROUPS	\$	5,666,280	\$	5,666,280	91653
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NURSING SPECIAL ISSUES 91654

The foregoing appropriation item 884-601, Nursing Special 91655  
Issues (Fund 5P8), shall be used to pay the costs the Board of 91656  
Nursing incurs in implementing section 4723.062 of the Revised 91657  
Code. 91658

**Section 209.24.** PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 91659  
AND ATHLETIC TRAINERS BOARD 91660

General Services Fund Group 91661

4K9 890-609 Operating Expenses	\$	824,057	\$	0	91662
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TOTAL GSF General Services Fund	\$	824,057	\$	0	91663
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	824,057	\$	0	91664
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**Section 209.27.** OLA OHIOANA LIBRARY ASSOCIATION 91666

General Revenue Fund				91667
GRF 355-501 Library Subsidy	\$	100,000	\$ 100,000	91668
TOTAL GRF General Revenue Fund	\$	100,000	\$ 100,000	91669
TOTAL ALL BUDGET FUND GROUPS	\$	100,000	\$ 100,000	91670

**Section 209.30.** ODB OHIO OPTICAL DISPENSERS BOARD 91672

General Services Fund Group				91673
4K9 894-609 Operating Expenses	\$	316,517	\$ 0	91674
TOTAL GSF General Services				91675
Fund Group	\$	316,517	\$ 0	91676
TOTAL ALL BUDGET FUND GROUPS	\$	316,517	\$ 0	91677

**Section 209.33.** OPT STATE BOARD OF OPTOMETRY 91679

General Services Fund Group				91680
4K9 885-609 Operating Expenses	\$	336,771	\$ 0	91681
TOTAL GSF General Services				91682
Fund Group	\$	336,771	\$ 0	91683
TOTAL ALL BUDGET FUND GROUPS	\$	336,771	\$ 0	91684

**Section 209.36.** OPP STATE BOARD OF ORTHOTICS, PROSTHETICS,  
AND PEDORTHICS 91686  
91687

General Services Fund Group				91688
4K9 973-609 Operating Expenses	\$	99,571	\$ 0	91689
TOTAL GSF General Services				91690
Fund Group	\$	99,571	\$ 0	91691
TOTAL ALL BUDGET FUND GROUPS	\$	99,571	\$ 0	91692

**Section 209.39.** PBR STATE PERSONNEL BOARD OF REVIEW 91693

General Revenue Fund				91694
GRF 124-321 Operating	\$	1,116,170	\$ 1,148,000	91695
TOTAL GRF General Revenue Fund	\$	1,116,170	\$ 1,148,000	91696

General Services Fund Group				91697
636 124-601 Transcript and Other	\$	12,000	\$ 15,000	91698
TOTAL GSF General Services				91699
Fund Group	\$	12,000	\$ 15,000	91700
TOTAL ALL BUDGET FUND GROUPS	\$	1,128,170	\$ 1,163,000	91701

**TRANSCRIPT AND OTHER** 91702

The foregoing appropriation item 124-601, Transcript and 91703  
Other, may be used to defray the costs of producing an 91704  
administrative record. 91705

**Section 209.42. PRX STATE BOARD OF PHARMACY** 91706

General Services Fund Group				91707
4A5 887-605 Drug Law Enforcement	\$	75,550	\$ 75,550	91708
4K9 887-609 Operating Expenses	\$	5,650,537	\$ 5,400,537	91709
TOTAL GSF General Services				91710
Fund Group	\$	5,726,087	\$ 5,476,087	91711
TOTAL ALL BUDGET FUND GROUPS	\$	5,726,087	\$ 5,476,087	91712

**Section 209.45. PSY STATE BOARD OF PSYCHOLOGY** 91714

General Services Fund Group				91715
4K9 882-609 Operating Expenses	\$	566,112	\$ 0	91716
TOTAL GSF General Services				91717
Fund Group	\$	566,112	\$ 0	91718
TOTAL ALL BUDGET FUND GROUPS	\$	566,112	\$ 0	91719

**Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION** 91721

General Revenue Fund				91722
GRF 019-321 Public Defender	\$	1,295,570	\$ 1,262,439	91723
Administration				
GRF 019-401 State Legal Defense	\$	5,744,601	\$ 5,704,117	91724
Services				

GRF 019-403	Multi-County: State Share	\$	823,620	\$	823,620	91725
GRF 019-404	Trumbull County - State Share	\$	256,380	\$	256,380	91726
GRF 019-405	Training Account	\$	31,324	\$	31,324	91727
GRF 019-501	County Reimbursement	\$	30,000,000	\$	30,000,000	91728
TOTAL GRF	General Revenue Fund	\$	38,151,495	\$	38,077,880	91729
	General Services Fund Group					91730
101 019-602	Inmate Legal Assistance	\$	53,086	\$	32,338	91731
406 019-603	Training and Publications	\$	16,000	\$	16,000	91732
407 019-604	County Representation	\$	186,146	\$	188,810	91733
408 019-605	Client Payments	\$	614,027	\$	762,106	91734
TOTAL GSF	General Services Fund Group	\$	869,259	\$	999,254	91735 91736
	Federal Special Revenue Fund Group					91737
3S8 019-608	Federal Representation	\$	380,484	\$	315,287	91738
TOTAL FED	Federal Special Revenue Fund Group	\$	380,484	\$	315,287	91739 91740
	State Special Revenue Fund Group					91741
4C7 019-601	Multi-County: County Share	\$	2,028,309	\$	2,104,367	91742
4X7 019-610	Trumbull County - County Share	\$	642,106	\$	665,860	91743
574 019-606	Legal Services Corporation	\$	16,575,000	\$	21,300,000	91744
XXX 019-XXX	Civil Case Filing Fee	\$	417,600	\$	556,800	91745
TOTAL SSR	State Special Revenue Fund Group	\$	19,663,015	\$	24,627,027	91746 91747
TOTAL ALL BUDGET FUND GROUPS		\$	59,064,253	\$	64,019,448	91748
	INDIGENT DEFENSE OFFICE					91749



The foregoing appropriation items 019-404, Trumbull County - 91750  
State Share, and 019-610, Trumbull County - County Share, shall be 91751  
used to support an indigent defense office for Trumbull County. 91752

MULTI-COUNTY OFFICE 91753

The foregoing appropriation items 019-403, Multi-County: 91754  
State Share, and 019-601, Multi-County: County Share, shall be 91755  
used to support the Office of the Ohio Public Defender's 91756  
Multi-County Branch Office Program. 91757

TRAINING ACCOUNT 91758

The foregoing appropriation item 019-405, Training Account, 91759  
shall be used by the Ohio Public Defender to provide legal 91760  
training programs at no cost for private appointed counsel who 91761  
represent at least one indigent defendant at no cost and for state 91762  
and county public defenders and attorneys who contract with the 91763  
Ohio Public Defender to provide indigent defense services. 91764

FEDERAL REPRESENTATION 91765

The foregoing appropriation item 019-608, Federal 91766  
Representation, shall be used to receive reimbursements from the 91767  
federal courts when the Ohio Public Defender provides 91768  
representation in federal court cases and to support 91769  
representation in such cases. 91770

**Section 209.51.** DHS DEPARTMENT OF PUBLIC SAFETY 91771

General Revenue Fund 91772

GRF 763-403 Operating Expenses - \$ 4,214,697 \$ 4,214,697 91773

EMA

GRF 763-507 Individual and \$ 650,000 \$ 650,000 91774

Households Program -

State

GRF 768-424 Operating Expenses - \$ 965,899 \$ 1,276,192 91775

CJS

GRF 769-321 Food Stamp Trafficking	\$	752,000	\$	752,000	91776
Enforcement Operations					
TOTAL GRF General Revenue Fund	\$	6,582,596	\$	6,892,889	91777
General Services Fund Group					
4P6 768-601 Justice Program	\$	100,000	\$	100,000	91779
Services					
TOTAL GSF General Services Fund	\$	100,000	\$	100,000	91780
Group					
Federal Special Revenue Fund Group					
3AY 768-606 Federal Justice Grants	\$	11,200,000	\$	11,500,000	91782
3L5 768-604 Justice Program	\$	31,019,750	\$	25,214,623	91783
3V8 768-605 Federal Program	\$	50,000	\$	0	91784
Purposes FFY01					
TOTAL FED Federal Special Revenue	\$	42,269,750	\$	36,714,623	91785
Fund Group					
State Special Revenue Fund Group					
5BK 768-689 Family Violence	\$	500,000	\$	650,000	91787
Shelter Programs					
5B9 766-632 PI & Security Guard	\$	1,188,716	\$	1,188,716	91788
Provider					
5CC 768-607 Public Safety Services	\$	375,000	\$	325,000	91789
TOTAL SSR State Special Revenue	\$	2,063,716	\$	2,163,716	91790
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	51,016,062	\$	45,871,228	91791
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT					
Of the foregoing appropriation item 763-403, Operating					
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund					
the Ohio Task Force One - Urban Search and Rescue Unit and other					
urban search and rescue programs around the state to create a					
stronger search and rescue capability statewide.					
BACK-UP POWER GENERATION DEVICES					

Of the foregoing appropriation item 763-403, Operating 91799  
Expenses - EMA, \$50,000 in each fiscal year shall be used to fund 91800  
back-up power generation devices to be used for training purposes. 91801  
These power generation devices shall include one reciprocating 91802  
engine, one portable microturbine generator for demonstration 91803  
purposes, and one stationary fuel cell device. 91804

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 91805

The foregoing appropriation item 763-507, Individual and 91806  
Households Program - State, shall be used to fund the state share 91807  
of costs to provide grants to individuals and households in cases 91808  
of disaster. 91809

TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE 91810  
DEPARTMENT OF PUBLIC SAFETY 91811

(A) On July 1, 2005: 91812

(1) The Office of Criminal Justice Services shall cease to 91813  
exist. Subject to the layoff provisions of sections 124.321 to 91814  
124.328 of the Revised Code, the employees of the Office of 91815  
Criminal Justice Services who were employed by that Office on June 91816  
30, 2005, are transferred on that date to the Department of Public 91817  
Safety. The vehicles and equipment assigned to those employees are 91818  
transferred to the Department of Public Safety. 91819

(2) The assets, liabilities, other equipment not provided 91820  
for, and records, irrespective of form or medium, of the Office of 91821  
Criminal Justice Services are transferred to the Division of 91822  
Criminal Justice Services. The Division of Criminal Justice 91823  
Services is the successor to, assumes the obligations of, and 91824  
otherwise constitutes the continuation of the Office of Criminal 91825  
Justice Services. 91826

(3) Business commenced but not completed by the Office of 91827  
Criminal Justice Services on July 1, 2005, shall be completed by 91828

the Division of Criminal Justice Services, in the same manner, and 91829  
with the same effect, as if completed by the Office of Criminal 91830  
Justice Services. No validation, cure, right, privilege, remedy, 91831  
obligation, or liability is lost or impaired by reason of the 91832  
transfer required by this section but shall be administered by the 91833  
Division of Criminal Justice Services. 91834

(4) The rules, orders, and determinations pertaining to the 91835  
Office of Criminal Justice Services continue in effect as rules, 91836  
orders, and determinations of the Division of Criminal Justice 91837  
Services until modified or rescinded by that Division. 91838

(5) No judicial or administrative action or proceeding 91839  
pending on July 1, 2005, is affected by the transfer of functions 91840  
from the Office of Criminal Justice Services to the Division of 91841  
Criminal Justice Services and shall be prosecuted or defended in 91842  
the name of the Executive Director or Division of Criminal Justice 91843  
Services. On application to the court or other tribunal, the 91844  
Executive Director or Division of Criminal Justice Services shall 91845  
be substituted as a party in those actions and proceedings. 91846

(6) When the Director or Office of Criminal Justice Services 91847  
is referred to in any statute, rule, contract, grant, or other 91848  
document, the reference is hereby deemed to refer to the Executive 91849  
Director or Division of Criminal Justice Services. 91850

(B) On and after July 1, 2005, if necessary to ensure the 91851  
integrity of the numbering of the Administrative Code, the 91852  
Director of the Legislative Service Commission shall renumber the 91853  
rules of the Office of Criminal Justice Services to reflect their 91854  
transfer to the Division of Criminal Justice Services in the 91855  
Department of Public Safety. 91856

(C) On and after July 1, 2005, notwithstanding any provision 91857  
of law to the contrary, the Director of Budget and Management is 91858  
authorized to take the actions described in this section with 91859

respect to budget changes made necessary by administrative 91860  
reorganization, program transfers, the creation of new funds, and 91861  
the consolidation of funds as authorized by this act. The Director 91862  
may make any transfer of cash balances between funds. At the 91863  
request of the Director of Budget and Management, the 91864  
administering agency head shall certify to the Director an 91865  
estimate of the amount of the cash balance to be transferred to 91866  
the receiving fund. The Director may transfer the estimated amount 91867  
when needed to make payments. Not more than thirty days after 91868  
certifying the estimated amount, the administering agency head 91869  
shall certify the final amount to the Director. The Director shall 91870  
transfer the difference between any amount previously transferred 91871  
and the certified final amount. The Director may cancel 91872  
encumbrances and re-establish encumbrances or parts of 91873  
encumbrances as needed in fiscal year 2006 in the appropriate fund 91874  
and appropriation item for the same purpose and to the same 91875  
vendor. As determined by the Director, the appropriation authority 91876  
necessary to re-establish those encumbrances in fiscal year 2006 91877  
in a different fund or appropriation item within an agency or 91878  
between agencies is hereby authorized. The Director shall reduce 91879  
each year's appropriation balances by the amount of the 91880  
encumbrances canceled in their respective funds and appropriation 91881  
items. Any fiscal year 2005 unencumbered or unallocated 91882  
appropriation balances may be transferred to the appropriate item 91883  
to be used for the same purposes, as determined by the Director. 91884

(D) Any advisory committees appointed by the Governor to 91885  
assist the Office of Criminal Justice Services pursuant to section 91886  
181.53 and existing on June 30, 2005, shall continue to exist as 91887  
advisory committees to the Division of Criminal Justice Services 91888  
in the Department of Public Safety beginning on July 1, 2005, 91889  
subject to section 121.13 of the Revised Code. 91890

TRANSFER OF FAMILY VIOLENCE PREVENTION CENTER 91891

The Family Violence Prevention Center is transferred from the 91892  
Office of Criminal Justice Services to the Department of Public 91893  
Safety. The Family Violence Prevention Center shall operate as 91894  
part of the Division of Criminal Justice Services in the 91895  
Department of Public Safety in the same manner as it operated 91896  
under the Office of Criminal Justice Services. 91897

STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY 91898  
SERVICES 91899

Notwithstanding section 3737.71 of the Revised Code, in 91900  
fiscal year 2006, the Director of Budget and Management shall 91901  
transfer \$375,000 in cash from the Department of Commerce's State 91902  
Fire Marshal's Fund (Fund 546) to the Department of Public 91903  
Safety's Public Safety Services Fund (Fund 5CC), which is hereby 91904  
created in the state treasury, and in fiscal year 2007, the 91905  
Director of Budget and Management shall transfer \$325,000 in cash 91906  
from the Department of Commerce's State Fire Marshal's Fund (Fund 91907  
546) to the Department of Public Safety's Public Safety Services 91908  
Fund (Fund 5CC). 91909

Of the foregoing appropriation item 768-607, Public Safety 91910  
Services, \$100,000 in fiscal year 2006 and \$200,000 in fiscal year 91911  
2007 shall be distributed by the Department of Public Safety's 91912  
Division of Criminal Justice Services to the City of Warren to 91913  
assist the city in providing essential public safety services to 91914  
its citizens. 91915

Of the foregoing appropriation item 768-607, Public Safety 91916  
Services, \$125,000 in each fiscal year shall be distributed by the 91917  
Department of Public Safety's Division of Criminal Justice 91918  
Services directly to the Southern Ohio Drug Task Force. 91919

Of the foregoing appropriation item 768-607, Public Safety 91920  
Services, \$150,000 in fiscal year 2006 shall be distributed by the 91921  
Department of Public Safety's Division of Criminal Justice 91922

Services to the City of Eastlake to assist the city in providing 91923  
essential public safety services to its citizens. 91924

**Section 209.54.** PUC PUBLIC UTILITIES COMMISSION OF OHIO 91925

General Services Fund Group 91926

5F6 870-622 Utility and Railroad \$ 31,272,222 \$ 31,272,223 91927  
Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 91928

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,238 91929  
Regulation

TOTAL GSF General Services 91930

Fund Group \$ 36,800,694 \$ 36,800,694 91931

Federal Special Revenue Fund Group 91932

3V3 870-604 Commercial Vehicle \$ 300,000 \$ 300,000 91933  
Information  
Systems/Networks

333 870-601 Gas Pipeline Safety \$ 597,957 \$ 597,957 91934

350 870-608 Motor Carrier Safety \$ 7,027,712 \$ 7,027,712 91935

TOTAL FED Federal Special Revenue 91936

Fund Group \$ 7,925,669 \$ 7,925,669 91937

State Special Revenue Fund Group 91938

4A3 870-614 Grade Crossing \$ 1,349,757 \$ 1,349,757 91939  
Protection  
Devices-State

4L8 870-617 Pipeline Safety-State \$ 187,621 \$ 187,621 91940

4S6 870-618 Hazardous Material \$ 464,325 \$ 464,325 91941  
Registration

4S6 870-621 Hazardous Materials \$ 373,346 \$ 373,346 91942  
Base State  
Registration

4U8 870-620 Civil Forfeitures \$ 284,986 \$ 284,986 91943

559 870-605 Public Utilities \$ 4,000 \$ 4,000 91944

		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 91945
561	870-606	Power Siting Board	\$	337,210	\$	337,210 91946
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 91947
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 91948
		Transportation				
		TOTAL SSR State Special Revenue				91949
		Fund Group	\$	4,041,245	\$	4,041,245 91950
		Agency Fund Group				91951
4G4	870-616	Base State	\$	5,600,000	\$	5,600,000 91952
		Registration Program				
		TOTAL AGY Agency Fund Group	\$	5,600,000	\$	5,600,000 91953
		TOTAL ALL BUDGET FUND GROUPS	\$	54,367,608	\$	54,367,608 91954
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				91955
		The Commercial Vehicle Information Systems and Networks Fund				91956
		is hereby created in the state treasury. The fund shall receive				91957
		funding from the United States Department of Transportation's				91958
		Commercial Vehicle Intelligent Transportation System				91959
		Infrastructure Deployment Program and shall be used to deploy the				91960
		Ohio Commercial Vehicle Information Systems and Networks Project				91961
		and to expedite and improve the safety of motor carrier operations				91962
		through electronic exchange of data by means of on-highway				91963
		electronic systems.				91964
		<b>Section 209.57. PWC PUBLIC WORKS COMMISSION</b>				91965
		General Revenue Fund				91966
GRF	150-904	Conservation General	\$	13,687,300	\$	17,168,800 91967
		Obligation Debt				
		Service				
GRF	150-907	State Capital	\$	160,731,400	\$	172,145,100 91968
		Improvements				



General Obligation				91969
Debt Service				
TOTAL GRF General Revenue Fund	\$	174,418,700	\$	189,313,900
Clean Ohio Fund Group				91971
056 150-403 Clean Ohio Operating	\$	298,245	\$	311,509
Expenses				
TOTAL 056 Clean Ohio Fund Group	\$	298,245	\$	311,509
TOTAL ALL BUDGET FUND GROUPS	\$	174,716,945	\$	189,625,409
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				91975
The foregoing appropriation item 150-904, Conservation				91976
General Obligation Debt Service, shall be used to pay all debt				91977
service and related financing costs at the times they are required				91978
to be made under sections 151.01 and 151.09 of the Revised Code				91979
during the period from July 1, 2005, to June 30, 2007. The Office				91980
of the Sinking Fund or the Director of Budget and Management shall				91981
effectuate the required payments by intrastate transfer voucher.				91982
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE				91983
The foregoing appropriation item 150-907, State Capital				91984
Improvements General Obligation Debt Service, shall be used to pay				91985
all debt service and related financing costs at the times they are				91986
required to be made under sections 151.01 and 151.08 of the				91987
Revised Code during the period from July 1, 2005, to June 30,				91988
2007. The Office of the Sinking Fund or the Director of Budget and				91989
Management shall effectuate the required payments by intrastate				91990
transfer voucher.				91991
REIMBURSEMENT TO THE GENERAL REVENUE FUND				91992
(A) On or before June 1, 2007, the Director of the Public				91993
Works Commission shall certify to the Director of Budget and				91994
Management the following:				91995
(1) The total amount disbursed from appropriation item				91996

700-409, Farmland Preservation, during the 2005-2007 biennium; and				91997
(2) The amount of interest earnings that have been credited				91998
to the Clean Ohio Conservation Fund (Fund 056) that are in excess				91999
of the amount needed for other purposes as calculated by the				92000
Director of the Public Works Commission.				92001
(B) If the Director of Budget and Management determines under				92002
division (A)(2) of this section that there are excess interest				92003
earnings, the Director of Budget and Management shall, on or				92004
before June 1, 2007, transfer the excess interest earnings to the				92005
General Revenue Fund in an amount equal to the total amount				92006
disbursed under division (A)(1) of this section from the Clean				92007
Ohio Conservation Fund.				92008
CLEAN OHIO OPERATING EXPENSES				92009
The foregoing appropriation item 150-403, Clean Ohio				92010
Operating Expenses, shall be used by the Ohio Public Works				92011
Commission in administering sections 164.20 to 164.27 of the				92012
Revised Code.				92013
<b>Section 209.60. RAC STATE RACING COMMISSION</b>				92014
State Special Revenue Fund Group				92015
5C4 875-607 Simulcast Horse Racing \$ 17,061,489 \$ 17,063,948				92016
Purse				
562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378				92017
563 875-602 Standardbred \$ 3,161,675 \$ 3,161,675				92018
Development Fund				
564 875-603 Quarterhorse \$ 2,000 \$ 2,000				92019
Development Fund				
565 875-604 Racing Commission \$ 4,000,000 \$ 4,000,000				92020
Operating				
TOTAL SSR State Special Revenue				92021
Fund Group \$ 28,867,542 \$ 28,870,001				92022

Holding Account Redistribution Fund Group				92023
R21 875-605 Bond Reimbursements	\$	212,900	\$ 212,900	92024
TOTAL 090 Holding Account				92025
Redistribution				
Fund Group	\$	212,900	\$ 212,900	92026
TOTAL ALL BUDGET FUND GROUPS	\$	29,080,442	\$ 29,082,901	92027

**Section 209.63.** BOR BOARD OF REGENTS 92029

General Revenue Fund				92030
GRF 235-321 Operating Expenses	\$	2,897,659	\$ 2,966,351	92031
GRF 235-401 Lease Rental Payments	\$	200,619,200	\$ 200,795,300	92032
GRF 235-402 Sea Grants	\$	231,925	\$ 231,925	92033
GRF 235-406 Articulation and Transfer	\$	2,900,000	\$ 2,900,000	92034
GRF 235-408 Midwest Higher Education Compact	\$	90,000	\$ 90,000	92035
GRF 235-409 Information System	\$	1,146,510	\$ 1,175,172	92036
GRF 235-414 State Grants and Scholarship Administration	\$	1,352,811	\$ 1,382,881	92037
GRF 235-415 Jobs Challenge	\$	9,348,300	\$ 9,348,300	92038
GRF 235-417 Ohio Learning Network	\$	3,119,496	\$ 3,119,496	92039
GRF 235-418 Access Challenge	\$	73,513,302	\$ 73,004,671	92040
GRF 235-420 Success Challenge	\$	52,601,934	\$ 52,601,934	92041
GRF 235-428 Appalachian New Economy Partnership	\$	1,176,068	\$ 1,176,068	92042
GRF 235-433 Economic Growth Challenge	\$	20,343,097	\$ 23,186,194	92043
GRF 235-434 College Readiness and Access	\$	6,375,975	\$ 7,655,425	92044
GRF 235-435 Teacher Improvement Initiatives	\$	2,597,506	\$ 2,597,506	92045

GRF 235-451	Eminent Scholars	\$	0	\$	1,370,988	92046
GRF 235-455	EnterpriseOhio Network	\$	1,373,941	\$	1,373,941	92047
GRF 235-474	Area Health Education Centers Program Support	\$	1,571,756	\$	1,571,756	92048
GRF 235-501	State Share of Instruction	\$	1,559,096,031	\$	1,559,096,031	92049
GRF 235-502	Student Support Services	\$	795,790	\$	795,790	92050
GRF 235-503	Ohio Instructional Grants	\$	121,151,870	\$	92,496,969	92051
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321	92052
GRF 235-507	OhioLINK	\$	6,887,824	\$	6,887,824	92053
GRF 235-508	Air Force Institute of Technology	\$	1,925,345	\$	1,925,345	92054
GRF 235-510	Ohio Supercomputer Center	\$	4,021,195	\$	4,021,195	92055
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863	92056
GRF 235-513	Ohio University Voinovich Center	\$	336,082	\$	336,082	92057
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,011,271	\$	3,011,271	92058
GRF 235-518	Capitol Scholarship Program	\$	125,000	\$	125,000	92059
GRF 235-519	Family Practice	\$	4,548,470	\$	4,548,470	92060
GRF 235-520	Shawnee State Supplement	\$	1,918,830	\$	1,822,889	92061
GRF 235-521	The Ohio State University Glenn Institute	\$	286,082	\$	286,082	92062

GRF 235-524	Police and Fire Protection	\$	171,959	\$	171,959	92063
GRF 235-525	Geriatric Medicine	\$	750,110	\$	750,110	92064
GRF 235-526	Primary Care Residencies	\$	2,245,688	\$	2,245,688	92065
GRF 235-527	Ohio Aerospace Institute	\$	1,764,957	\$	1,764,957	92066
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	92067
GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376	92068
GRF 235-534	Student Workforce Development Grants	\$	2,137,500	\$	2,137,500	92069
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188	92070
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,565,885	\$	13,565,885	92071
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,157,756	\$	11,157,756	92072
GRF 235-538	Medical University of Ohio at Toledo Clinical Teaching	\$	8,696,866	\$	8,696,866	92073
GRF 235-539	Wright State University Clinical Teaching	\$	4,225,107	\$	4,225,107	92074
GRF 235-540	Ohio University Clinical Teaching	\$	4,084,540	\$	4,084,540	92075
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,200,945	\$	4,200,945	92076
GRF 235-543	Ohio College of	\$	250,000	\$	250,000	92077

	Podiatric Medicine Clinic Subsidy				
GRF 525-547	School of	\$	250,000	\$	250,000 92078
	International Business				
GRF 235-549	Part-time Student	\$	14,457,721	\$	10,534,617 92079
	Instructional Grants				
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863 92080
GRF 235-553	Dayton Area Graduate	\$	2,806,599	\$	2,806,599 92081
	Studies Institute				
GRF 235-554	Priorities in	\$	2,355,548	\$	2,355,548 92082
	Collaborative Graduate Education				
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458 92083
GRF 235-556	Ohio Academic	\$	3,727,223	\$	3,727,223 92084
	Resources Network				
GRF 235-558	Long-term Care	\$	211,047	\$	211,047 92085
	Research				
GRF 235-561	Bowling Green State	\$	100,015	\$	100,015 92086
	University Canadian Studies Center				
GRF 235-563	Ohio College	\$	0	\$	58,144,139 92087
	Opportunity Grant				
GRF 235-572	The Ohio State	\$	1,277,019	\$	1,277,019 92088
	University Clinic Support				
GRF 235-583	Urban University	\$	4,992,937	\$	4,992,937 92089
	Program				
GRF 235-587	Rural University	\$	1,147,889	\$	1,147,889 92090
	Projects				
GRF 235-596	Hazardous Materials	\$	360,435	\$	360,435 92091
	Program				
GRF 235-599	National Guard	\$	15,128,472	\$	16,611,063 92092
	Scholarship Program				

GRF 235-909	Higher Education	\$ 137,600,300	\$ 152,114,100	92093
	General Obligation			
	Debt Service			
TOTAL GRF	General Revenue Fund	\$ 2,468,585,757	\$ 2,517,472,869	92094
	General Services Fund Group			92095
220 235-614	Program Approval and	\$ 400,000	\$ 400,000	92096
	Reauthorization			
456 235-603	Sales and Services	\$ 700,000	\$ 900,000	92097
TOTAL GSF	General Services			92098
Fund Group		\$ 1,100,000	\$ 1,300,000	92099
	Federal Special Revenue Fund Group			92100
3H2 235-608	Human Services Project	\$ 1,500,000	\$ 1,500,000	92101
3H2 235-622	Medical Collaboration	\$ 3,346,143	\$ 3,346,143	92102
	Network			
3N6 235-605	State Student	\$ 2,196,680	\$ 2,196,680	92103
	Incentive Grants			
3T0 235-610	National Health	\$ 150,001	\$ 150,001	92104
	Service Corps - Ohio			
	Loan Repayment			
312 235-609	Tech Prep	\$ 183,850	\$ 183,850	92105
312 235-611	Gear-up Grant	\$ 1,370,691	\$ 1,370,691	92106
312 235-612	Carl D. Perkins	\$ 112,960	\$ 112,960	92107
	Grant/Plan			
	Administration			
312 235-615	Professional	\$ 523,129	\$ 523,129	92108
	Development			
312 235-617	Improving Teacher	\$ 2,900,000	\$ 2,900,000	92109
	Quality Grant			
312 235-619	Ohio Supercomputer	\$ 6,000,000	\$ 6,000,000	92110
	Center			
312 235-621	Science Education	\$ 1,686,970	\$ 1,686,970	92111
	Network			

312 235-631 Federal Grants	\$	250,590	\$	250,590	92112
TOTAL FED Federal Special Revenue					92113
Fund Group	\$	20,221,014	\$	20,221,014	92114
State Special Revenue Fund Group					92115
4E8 235-602 Higher Educational	\$	55,000	\$	55,000	92116
Facility Commission					
Administration					
4P4 235-604 Physician Loan	\$	476,870	\$	476,870	92117
Repayment					
649 235-607 The Ohio State	\$	760,000	\$	760,000	92118
University					
Highway/Transportation					
Research					
682 235-606 Nursing Loan Program	\$	893,000	\$	893,000	92119
TOTAL SSR State Special Revenue					92120
Fund Group	\$	2,184,870	\$	2,184,870	92121
TOTAL ALL BUDGET FUND GROUPS	\$	2,492,091,641	\$	2,541,178,753	92122

**Section 209.63.03. OPERATING EXPENSES** 92124

Of the foregoing appropriation item 235-321, Operating 92125  
Expenses, up to \$150,000 in each fiscal year shall be used in 92126  
conjunction with funding provided in the Department of Education 92127  
budget under appropriation item 200-427, Academic Standards, to 92128  
create Ohio's Partnership for Continued Learning, in consultation 92129  
with the Governor's Office. The Partnership, which replaces and 92130  
broadens the former Joint Council of the Department of Education 92131  
and the Board of Regents, shall advise and make recommendations to 92132  
promote collaboration among relevant state entities in an effort 92133  
to help local communities develop coherent and successful "P-16" 92134  
learning systems. The Director of Budget and Management may 92135  
transfer any unencumbered fiscal year 2006 balance to fiscal year 92136  
2007 to support the activities of the Partnership. 92137



**Section 209.63.06. LEASE RENTAL PAYMENTS** 92138

The foregoing appropriation item 235-401, Lease Rental 92139  
Payments, shall be used to meet all payments at the times they are 92140  
required to be made during the period from July 1, 2005, to June 92141  
30, 2007, by the Board of Regents under leases and agreements made 92142  
under section 154.21 of the Revised Code, but limited to the 92143  
aggregate amount of \$401,414,500. Nothing in this act shall be 92144  
deemed to contravene the obligation of the state to pay, without 92145  
necessity for further appropriation, from the sources pledged 92146  
thereto, the bond service charges on obligations issued pursuant 92147  
to section 154.21 of the Revised Code. 92148

**Section 209.63.09. SEA GRANTS** 92149

The foregoing appropriation item 235-402, Sea Grants, shall 92150  
be disbursed to the Ohio State University and shall be used to 92151  
conduct research on fish in Lake Erie. 92152

**Section 209.63.12. ARTICULATION AND TRANSFER** 92153

The foregoing appropriation item 235-406, Articulation and 92154  
Transfer, shall be used by the Board of Regents to maintain and 92155  
expand the work of the Articulation and Transfer Council to 92156  
develop a system of transfer policies to ensure that students at 92157  
state institutions of higher education can transfer and have 92158  
coursework apply to their majors and degrees at any other state 92159  
institution of higher education without unnecessary duplication or 92160  
institutional barriers under sections 3333.16, 3333.161, and 92161  
3333.162 of the Revised Code. 92162

Of the foregoing appropriation item 235-406, Articulation and 92163  
Transfer, \$200,000 in each fiscal year shall be used to support 92164  
the work of the Articulation and Transfer Council under division 92165  
(B) of section 3333.162 of the Revised Code. 92166

**Section 209.63.15.** MIDWEST HIGHER EDUCATION COMPACT 92167

The foregoing appropriation item 235-408, Midwest Higher 92168  
Education Compact, shall be distributed by the Board of Regents 92169  
under section 3333.40 of the Revised Code. 92170

**Section 209.63.18.** INFORMATION SYSTEM 92171

The foregoing appropriation item 235-409, Information System, 92172  
shall be used by the Board of Regents to operate the higher 92173  
education information data system known as the Higher Education 92174  
Information System. 92175

**Section 209.63.21.** STATE GRANTS AND SCHOLARSHIP 92176  
ADMINISTRATION 92177

The foregoing appropriation item 235-414, State Grants and 92178  
Scholarship Administration, shall be used by the Board of Regents 92179  
to administer the following student financial aid programs: Ohio 92180  
Instructional Grant, Part-time Student Instructional Grant, Ohio 92181  
College Opportunity Grant, Ohio Student Choice Grant, Ohio 92182  
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 92183  
Education Assistance Loan Program, Student Workforce Development 92184  
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 92185  
Officers College Memorial Fund, Capitol Scholarship Program, and 92186  
any other student financial aid programs created by the General 92187  
Assembly. The appropriation item also shall be used to administer 92188  
the federal Leveraging Educational Assistance Partnership (LEAP) 92189  
and Special Leveraging Educational Assistance Partnership (SLEAP) 92190  
programs and other student financial aid programs created by 92191  
Congress and to provide fiscal services for the Ohio National 92192  
Guard Scholarship Program and the Physician Loan Repayment 92193  
Program. 92194

**Section 209.63.24. JOBS CHALLENGE** 92195

Funds appropriated to the foregoing appropriation item 92196  
235-415, Jobs Challenge, shall be distributed to state-assisted 92197  
community and technical colleges, regional campuses of 92198  
state-assisted universities, and other organizationally distinct 92199  
and identifiable member campuses of the EnterpriseOhio Network in 92200  
support of noncredit job-related training. In each fiscal year, 92201  
\$2,770,773 shall be distributed as performance grants to 92202  
EnterpriseOhio Network campuses based upon each campus's 92203  
documented performance according to criteria established by the 92204  
Board of Regents for increasing training and related services to 92205  
businesses, industries, and public sector organizations. 92206

Of the foregoing appropriation item 235-415, Jobs Challenge, 92207  
\$2,819,345 in each fiscal year shall be allocated to the Targeted 92208  
Industries Training Grant Program to attract, develop, and retain 92209  
business and industry strategically important to the state's 92210  
economy. 92211

Also, in each fiscal year, \$3,758,182 shall be allocated to 92212  
the Higher Skills Incentives Program to promote and deliver 92213  
coordinated, comprehensive training to local employers and to 92214  
reward EnterpriseOhio Network campuses for increasing the amount 92215  
of non-credit skill upgrading services provided to Ohio employers 92216  
and employees. The funds shall be distributed to campuses in 92217  
proportion to each campus's share of noncredit job-related 92218  
training revenues received by all campuses for the previous fiscal 92219  
year. It is the intent of the General Assembly that this Higher 92220  
Skills Incentives component of the Jobs Challenge Program reward 92221  
campus noncredit job-related training efforts in the same manner 92222  
that the Research Incentive Program rewards campuses for their 92223  
ability to obtain sponsored research revenues. 92224

**Section 209.63.27. OHIO LEARNING NETWORK** 92225

The foregoing appropriation item 235-417, Ohio Learning 92226  
Network, shall be used by the Board of Regents to support the 92227  
continued implementation of the Ohio Learning Network, a statewide 92228  
electronic collaborative effort designed to promote degree 92229  
completion of students, workforce training of employees, and 92230  
professional development through the use of advanced 92231  
telecommunications and distance education initiatives. 92232

**Section 209.63.30. ACCESS CHALLENGE** 92233

In each fiscal year, the foregoing appropriation item 92234  
235-418, Access Challenge, shall be distributed to Ohio's 92235  
state-assisted access colleges and universities. For the purposes 92236  
of this allocation, "access campuses" includes state-assisted 92237  
community colleges, state community colleges, technical colleges, 92238  
Shawnee State University, Central State University, Cleveland 92239  
State University, the regional campuses of state-assisted 92240  
universities, and, where they are organizationally distinct and 92241  
identifiable, the community-technical colleges located at the 92242  
University of Cincinnati, Youngstown State University, and the 92243  
University of Akron. 92244

The purpose of Access Challenge is to reduce the student 92245  
share of costs for resident undergraduates enrolled in lower 92246  
division undergraduate courses at Ohio's access campuses. The 92247  
long-term goal is to make the student share of costs for these 92248  
students equivalent to the student share of costs for resident 92249  
undergraduate students enrolled throughout Ohio's public colleges 92250  
and universities. Access Challenge appropriations shall be used in 92251  
both years of the biennium to sustain, as much as possible, the 92252  
tuition restraint or tuition reduction that was achieved with 92253  
Access Challenge allocations in prior years. 92254

In fiscal year 2006, Access Challenge subsidies shall be 92255  
distributed by the Board of Regents to eligible access campuses on 92256  
the basis of the average of each campus's share of fiscal year 92257  
2003 and 2004 all-terms subsidy-eligible General Studies FTEs. In 92258  
fiscal year 2007, Access Challenge subsidies shall be distributed 92259  
by the Board of Regents to eligible access campuses on the basis 92260  
of the average of each campus's share of fiscal year 2004 and 2005 92261  
all-terms subsidy-eligible General Studies FTEs. 92262

For purposes of this calculation, Cleveland State 92263  
University's enrollments shall be adjusted by the ratio of the sum 92264  
of subsidy-eligible lower-division FTE student enrollments 92265  
eligible for access funding to the sum of subsidy-eligible General 92266  
Studies FTE student enrollments at Central State University and 92267  
Shawnee State University, and for the following universities and 92268  
their regional campuses: the Ohio State University, Ohio 92269  
University, Kent State University, Bowling Green State University, 92270  
Miami University, the University of Cincinnati, the University of 92271  
Akron, and Wright State University. 92272

Of the foregoing appropriation item 235-418, Access 92273  
Challenge, \$10,172,626 in fiscal year 2006 and \$9,663,995 in 92274  
fiscal year 2007 shall be used by Central State University to keep 92275  
undergraduate fees below the statewide average, consistent with 92276  
its mission of service to many first-generation college students 92277  
from groups historically underrepresented in higher education and 92278  
from families with limited incomes. 92279

**Section 209.63.33. SUCCESS CHALLENGE** 92280

The foregoing appropriation item 235-420, Success Challenge, 92281  
shall be used by the Board of Regents to promote degree completion 92282  
by students enrolled at a main campus of a state-assisted 92283  
university. 92284

Of the foregoing appropriation item 235-420, Success 92285  
Challenge, 66.67 per cent of the appropriation in each fiscal year 92286  
shall be distributed to state-assisted university main campuses in 92287  
proportion to each campus's share of the total statewide 92288  
bachelor's degrees granted by university main campuses to 92289  
"at-risk" students. In fiscal years 2006 and 2007, an "at-risk" 92290  
student means any undergraduate student who was eligible to 92291  
receive an Ohio need-based financial aid award during the past ten 92292  
years. An eligible institution shall not receive its share of this 92293  
distribution until it has submitted a plan that addresses how the 92294  
subsidy will be used to better serve at-risk students and increase 92295  
their likelihood of successful completion of a bachelor's degree 92296  
program. The Board of Regents shall disseminate to all 92297  
state-supported institutions of higher education all such plans 92298  
submitted by institutions that received Success Challenge funds. 92299

Of the foregoing appropriation item 235-420, Success 92300  
Challenge, 33.33 per cent of the appropriation in each fiscal year 92301  
shall be distributed to university main campuses in proportion to 92302  
each campus's share of the total bachelor's degrees granted by 92303  
university main campuses to undergraduate students who completed 92304  
their bachelor's degrees in a "timely manner" in the previous 92305  
fiscal year. For purposes of this section, "timely manner" means 92306  
the normal time it would take for a full-time degree-seeking 92307  
undergraduate student to complete the student's degree. Generally, 92308  
for such students pursuing a bachelor's degree, "timely manner" 92309  
means four years. Exceptions to this general rule shall be 92310  
permitted for students enrolled in programs specifically designed 92311  
to be completed in a longer time period. The Board of Regents 92312  
shall collect data to assess the timely completion statistics by 92313  
university main campuses. 92314

**Section 209.63.36.** APPALACHIAN NEW ECONOMY PARTNERSHIP 92315

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

**Section 209.63.39. ECONOMIC GROWTH CHALLENGE**

The foregoing appropriation item 235-433, Economic Growth Challenge, shall be used to enhance the basic research capabilities of Ohio's public and private institutions of higher education, support improved graduate programs throughout the state, and promote the transfer of technology developed by colleges and universities to private industry to further the economic goals of the state.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$18,000,000 in each fiscal year shall be used for the Research Incentive Program to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Incentive Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional

allocation of state dollars received through the program. The 92347  
institutional plans shall provide the rationale for the allocation 92348  
in terms of the strategic targeting of funds for academic and 92349  
state purposes, for strengthening research programs, for 92350  
increasing the amount of external research funds, and shall 92351  
include an evaluation process to provide results of the increased 92352  
support. Institutional plans for the use of Research Incentive 92353  
funding must demonstrate a significant investment in Third 92354  
Frontier activities funded at the institution. For a college or 92355  
university with multiple Third Frontier grants, as much as ten per 92356  
cent of that institution's Research Incentive funding may be 92357  
invested in Third Frontier Project-related activities. Each 92358  
institutional plan for the investment of Research Incentive moneys 92359  
shall report on existing, planned, or possible relationships with 92360  
other state science and technology programs and funding recipients 92361  
in order to further ongoing statewide science and technology 92362  
collaboration objectives. The Board of Regents shall submit a 92363  
biennial report of progress to the General Assembly. 92364

In fiscal year 2006, each state-assisted doctoral 92365  
degree-granting university and those accredited Ohio institutions 92366  
of higher education holding certificates of authorization under 92367  
section 1713.02 of the Revised Code electing to participate in the 92368  
Innovation Incentive Program shall initiate a comprehensive 92369  
Innovation Incentive Plan designed to enhance doctoral programs 92370  
and areas of research that have the greatest potential to attract 92371  
preeminent researchers and build research capacity; enhance 92372  
regional or state economic growth by creating new products and 92373  
services to be commercialized; and complement Ohio's Third 92374  
Frontier Project. 92375

Funding for the Innovation Incentive Program shall be 92376  
generated from those state-assisted universities electing to set 92377  
aside a portion of their allocation of the current doctoral 92378



reserve as provided in appropriation item 235-501, State Share of Instruction, and state matching funds provided in appropriation item 235-433, Economic Growth Challenge. Additionally, those accredited Ohio institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program shall be required to set aside an amount comparable to the state-assisted universities. The criteria for the determination of this amount shall be developed by the Board of Regents.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$2,343,097 in fiscal year 2006 and \$4,686,194 in fiscal year 2007 shall match funds set aside by the state-assisted universities for the Innovation Incentive Program. The set aside begins in fiscal year 2006 and is intended to increase incrementally over a period of ten years with the goal of setting aside a total of fifteen per cent of the doctoral reserve from appropriation item 235-501, State Share of Instruction, by 2016.

The Board of Regents shall use the combined amount of each participating state-assisted university's set aside of the doctoral reserve that has been withheld, the state matching funds earmarked under appropriation item 235-433, Economic Growth Challenge, and the amount set aside by each accredited Ohio institution of higher education holding a certificate of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program to make awards through a competitive process under the Innovation Incentive Program. Only universities electing to set aside the prescribed amount shall be eligible to compete for and receive Innovation Incentive awards. The participating universities shall use these awards to restructure their array of doctoral programs.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$500,000 in fiscal year 2007 shall be distributed for

the Technology Commercialization Incentive. The purpose of the  
Technology Commercialization Incentive is to reward public and  
private colleges and universities for successful technology  
transfer to Ohio-based business and industry resulting in the  
commercialization of new products, processes, and services and the  
establishment of new business start-ups within the state. The  
Third Frontier Commission, with counsel from the Third Frontier  
Advisory Board, shall establish the eligibility criteria for  
public and private colleges and universities interested in  
applying for Technology Commercialization Incentive funding. To  
qualify for the funds, public and private colleges and  
universities must maintain a significant investment in their own  
technology-transfer and commercialization operation and  
capabilities, and possess a significant history of successful  
research partnerships with Ohio-based business and industry.

**Section 209.63.42. COLLEGE READINESS AND ACCESS**

Appropriation item 235-434, College Readiness and Access,  
shall be used by the Board of Regents to support programs designed  
to improve the academic preparation and increase the number of  
students that enroll and succeed in higher education such as the  
Ohio College Access Network, the state match for the federal  
Gaining Early Awareness and Readiness for Undergraduate Program,  
and early awareness initiatives. The appropriation item shall also  
be used to support innovative statewide strategies to increase  
student access and retention for specialized populations, and to  
provide for pilot projects that will contribute to improving  
access to higher education by specialized populations. The funds  
may be used for projects that improve access for nonpublic  
secondary students.

Of the foregoing appropriation item 235-434, College  
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in

fiscal year 2007 shall be distributed to the Ohio Appalachian  
Center for Higher Education at Shawnee State University. The board  
of directors of the Center shall consist of the presidents of  
Shawnee State University, Ohio University, Belmont Technical  
College, Hocking College, Jefferson Community College, Zane State  
College, Rio Grande Community College, Southern State Community  
College, and Washington State Community College; the dean of one  
of the Salem, Tuscarawas, and East Liverpool regional campuses of  
Kent State University, as designated by the president of Kent  
State University; and a representative of the Board of Regents  
designated by the Chancellor.

Of the foregoing appropriation item 235-434, College  
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in  
fiscal year 2007 shall be distributed to Miami University for the  
Student Achievement in Research and Scholarship (STARS) Program.

Of the foregoing appropriation item 235-434, College  
Readiness and Access, \$1,574,535 in fiscal year 2006 and  
\$2,753,985 in fiscal year 2007 shall be used in conjunction with  
funding provided in the Ohio Department of Education budget under  
appropriation item 200-431, School Improvement Initiatives, to  
support the Early College High School Pilot Program.

**Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES**

Appropriation item 235-435, Teacher Improvement Initiatives,  
shall be used by the Board of Regents to support programs such as  
OSI - Discovery and the Centers of Excellence in Mathematics and  
Science designed to raise the quality of mathematics and science  
teaching in primary and secondary education.

Of the foregoing appropriation item 235-435, Teacher  
Improvement Initiatives, \$204,049 in each fiscal year shall be  
distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-435, Teacher 92472  
Improvement Initiatives, \$81,619 in each fiscal year shall be 92473  
distributed to the Ohio Mathematics and Science Coalition. 92474

Of the foregoing appropriation item 234-435, Teacher 92475  
Improvement Initiatives, \$100,000 in each fiscal year shall be 92476  
distributed to the Teacher Quality Partnerships study. 92477

Of the foregoing appropriation item 235-435, Teacher 92478  
Improvement Initiatives, \$799,871 in each fiscal year shall be 92479  
distributed to the Ohio Resource Center for Mathematics, Science, 92480  
and Reading. The funds shall be used to support a resource center 92481  
for mathematics, science, and reading to be located at a 92482  
state-assisted university for the purpose of identifying best 92483  
educational practices in primary and secondary schools and 92484  
establishing methods for communicating them to colleges of 92485  
education and school districts. The Ohio Resource Center for 92486  
Mathematics, Science, and Reading shall not make available 92487  
resources that are inconsistent with the K-12 science standards 92488  
and policies as adopted by the State Board of Education. 92489

**Section 209.63.48. EMINENT SCHOLARS** 92490

The foregoing appropriation item 235-451, Eminent Scholars, 92491  
shall be used by the Ohio Board of Regents to continue the Ohio 92492  
Eminent Scholars Program, the purpose of which is to invest 92493  
educational resources to address problems that are of vital 92494  
statewide significance while fostering the growth in eminence of 92495  
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 92496  
shall allow Ohio universities to recruit senior faculty members 92497  
from outside Ohio who are nationally and internationally 92498  
recognized scholars in areas of science and technology that 92499  
provide the basic research platforms on which the state's 92500  
technology and commercialization efforts are built. Endowment 92501  
grants of approximately \$685,494 to state colleges and 92502

universities and nonprofit Ohio institutions of higher education 92503  
holding certificates of authorization issued under section 1713.02 92504  
of the Revised Code to match endowment gifts from nonstate sources 92505  
may be made in accordance with a plan established by the Ohio 92506  
Board of Regents. Matching nonstate endowment gifts shall be equal 92507  
to the state's endowment grant of approximately \$685,494. The 92508  
grants shall have as their purpose attracting and sustaining in 92509  
Ohio scholar-leaders of national or international prominence; each 92510  
grant shall assist in accelerating state economic growth through 92511  
research that provides an essential basic science platform for 92512  
commercialization efforts. Such scholar-leaders shall, among their 92513  
duties, share broadly the benefits and knowledge unique to their 92514  
fields of scholarship to the betterment of Ohio and its people and 92515  
collaborate with other state technology programs and program 92516  
recipients. 92517

All new Eminent Scholar awards made by the Board of Regents 92518  
shall be associated with a Wright Center of Innovation, a 92519  
Partnership Award from the Biomedical Research and Technology 92520  
Transfer Trust Fund, or a Wright Capital Project. 92521

**Section 209.63.51. ENTERPRISEOHIO NETWORK** 92522

The foregoing appropriation item 235-455, EnterpriseOhio 92523  
Network, shall be allocated by the Board of Regents to continue 92524  
increasing the capabilities of the EnterpriseOhio Network to meet 92525  
the ongoing training needs of Ohio employers. Funds shall support 92526  
multicampus collaboration, best practice dissemination, and 92527  
capacity building projects. The Regents Advisory Committee for 92528  
Workforce Development, in its advisory role, shall advise in the 92529  
development of plans and activities. 92530

Of the foregoing appropriation item 235-455, EnterpriseOhio 92531  
Network, \$165,300 in each fiscal year shall be used by the Dayton 92532  
Business/Sinclair College Jobs Profiling Program. 92533

**Section 209.63.54. AREA HEALTH EDUCATION CENTERS** 92534

The foregoing appropriation item 235-474, Area Health 92535  
Education Centers Program Support, shall be used by the Board of 92536  
Regents to support the medical school regional area health 92537  
education centers' educational programs for the continued support 92538  
of medical and other health professions education and for support 92539  
of the Area Health Education Center Program. 92540

Of the foregoing appropriation item 235-474, Area Health 92541  
Education Centers Program Support, \$159,158 in each fiscal year 92542  
shall be disbursed to the Ohio University College of Osteopathic 92543  
Medicine to operate a mobile health care unit to serve the 92544  
southeastern area of the state. 92545

Of the foregoing appropriation item 235-474, Area Health 92546  
Education Centers Program Support, \$119,369 in each fiscal year 92547  
shall be used to support the Ohio Valley Community Health 92548  
Information Network (OVCHIN) project. 92549

**Section 209.63.57. STATE SHARE OF INSTRUCTION** 92550

As soon as practicable during each fiscal year of the 92551  
biennium ending June 30, 2007, in accordance with instructions of 92552  
the Board of Regents, each state-assisted institution of higher 92553  
education shall report its actual enrollment to the Board of 92554  
Regents. 92555

The Board of Regents shall establish procedures required by 92556  
the system of formulas set out below and for the assignment of 92557  
individual institutions to categories described in the formulas. 92558  
The system of formulas establishes the manner in which aggregate 92559  
expenditure requirements shall be determined for each of the three 92560  
components of institutional operations. In addition to other 92561  
adjustments and calculations described below, the subsidy 92562  
entitlement of an institution shall be determined by subtracting 92563

from the institution's aggregate expenditure requirements income 92564  
to be derived from the local contributions assumed in calculating 92565  
the subsidy entitlements. The local contributions for purposes of 92566  
determining subsidy support shall not limit the authority of the 92567  
individual boards of trustees to establish fee levels. 92568

The General Studies and Technical models shall be adjusted by 92569  
the Board of Regents so that the share of state subsidy earned by 92570  
those models is not altered by changes in the overall local share. 92571  
A lower-division fee differential shall be used to maintain the 92572  
relationship that would have occurred between these models and the 92573  
baccalaureate models had an assumed share of 37.5 per cent been 92574  
funded. 92575

In defining the number of full-time equivalent (FTE) students 92576  
for state subsidy purposes, the Board of Regents shall exclude all 92577  
undergraduate students who are not residents of Ohio, except those 92578  
charged in-state fees in accordance with reciprocity agreements 92579  
made under section 3333.17 of the Revised Code or employer 92580  
contracts entered into under section 3333.32 of the Revised Code. 92581

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 92582

(1) INSTRUCTION AND SUPPORT SERVICES 92583

MODEL	FY 2006	FY 2007	
General Studies I	\$ 4,655	\$ 4,655	92584
General Studies II	\$ 5,135	\$ 5,135	92585
General Studies III	\$ 6,365	\$ 6,365	92586
Technical I	\$ 5,926	\$ 5,926	92587
Technical III	\$ 9,107	\$ 9,107	92588
Baccalaureate I	\$ 7,160	\$ 7,160	92589
Baccalaureate II	\$ 8,235	\$ 8,235	92590
Baccalaureate III	\$ 11,841	\$ 11,841	92591
Masters and Professional I	\$ 19,088	\$ 19,088	92592
Masters and Professional II	\$ 20,984	\$ 20,984	92593

Masters and Professional III	\$ 27,234	\$ 27,234	92595
Medical I	\$ 29,143	\$ 29,143	92596
Medical II	\$ 37,172	\$ 37,172	92597
MPD I	\$ 13,645	\$ 13,645	92598

(2) STUDENT SERVICES 92599

For this purpose, FTE counts shall be weighted to reflect 92600  
differences among institutions in the numbers of students enrolled 92601  
on a part-time basis. The student services subsidy per FTE shall 92602  
be \$890 in each fiscal year for all models. 92603

(B) PLANT OPERATION AND MAINTENANCE (POM) 92604

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 92605

Space undergoing renovation shall be funded at the rate 92606  
allowed for storage space. 92607

In the calculation of square footage for each campus, square 92608  
footage shall be weighted to reflect differences in space 92609  
utilization. 92610

The space inventories for each campus shall be those 92611  
determined in the fiscal year 2003 state share of instruction 92612  
calculation, adjusted for changes attributable to the construction 92613  
or renovation of facilities for which state appropriations were 92614  
made or local commitments were made prior to January 1, 1995. 92615

Only 50 per cent of the space permanently taken out of 92616  
operation in fiscal year 2006 or fiscal year 2007 that is not 92617  
otherwise replaced by a campus shall be deleted from the plant 92618  
operation and maintenance space inventory. 92619

The square-foot-based plant operation and maintenance subsidy 92620  
for each campus shall be determined as follows: 92621

(a) For each standard room type category shown below, the 92622  
subsidy-eligible net assignable square feet (NASF) for each campus 92623  
shall be multiplied by the following rates, and the amounts summed 92624



for each campus to determine the total gross square-foot-based POM expenditure requirement: 92625  
92626

	FY 2006	FY 2007	
Classrooms	\$5.86	\$5.86	92628
Laboratories	\$7.31	\$7.31	92629
Offices	\$5.86	\$5.86	92630
Audio Visual Data Processing	\$7.31	\$7.31	92631
Storage	\$2.59	\$2.59	92632
Circulation	\$7.39	\$7.39	92633
Other	\$5.86	\$5.86	92634

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to each campus's activity-based POM weight multiplied by the two- or five-year average subsidy-eligible FTEs for all models. 92635  
92636  
92637  
92638

(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, which shall also be multiplied by the ratio of subsidy-eligible FTE students to total FTEs reported for each model. From this total amount, the amounts for Doctoral I and Doctoral II shall be subtracted to produce the square-foot-based POM subsidy. 92639  
92640  
92641  
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92646  
92647

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 92648

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year. 92649  
92650  
92651

	FY 2006	FY 2007	
General Studies I	\$ 512	\$ 512	92653
General Studies II	\$ 662	\$ 662	92654
General Studies III	\$1,464	\$1,464	92655

Technical I	\$ 752	\$ 752	92656
Technical III	\$1,343	\$1,343	92657
Baccalaureate I	\$ 639	\$ 639	92658
Baccalaureate II	\$1,149	\$1,149	92659
Baccalaureate III	\$1,262	\$1,262	92660
Masters and Professional I	\$1,258	\$1,258	92661
Masters and Professional II	\$2,446	\$2,446	92662
Masters and Professional III	\$3,276	\$3,276	92663
Medical I	\$1,967	\$1,967	92664
Medical II	\$3,908	\$3,908	92665
MPD I	\$1,081	\$1,081	92666

(b) The sum of the products for each campus determined in 92667  
division (B)(2)(a) of this section for all models except Doctoral 92668  
I and Doctoral II for each fiscal year shall be weighted by a 92669  
factor to reflect sponsored research activity and job 92670  
training-related public services expenditures to determine the 92671  
total activity-based POM subsidy. 92672

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 92673

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 92674

The calculation of the core subsidy entitlement shall consist 92675  
of the following components: 92676

(a) For each campus in each fiscal year, the core subsidy 92677  
entitlement shall be determined by multiplying the amounts listed 92678  
above in divisions (A)(1) and (2) and (B)(2) of this section less 92679  
assumed local contributions, by (i) average subsidy-eligible FTEs 92680  
for the two-year period ending in the prior year for all models 92681  
except Doctoral I and Doctoral II; and (ii) average 92682  
subsidy-eligible FTEs for the five-year period ending in the prior 92683  
year for all models except Doctoral I and Doctoral II. 92684

(b) In calculating the core subsidy entitlements for Medical 92685  
II models only, the Board of Regents shall use the following count 92686

of FTE students: 92687

(i) For those medical schools whose current year enrollment, 92688  
including students repeating terms, is below the base enrollment, 92689  
the Medical II FTE enrollment shall equal: 65 per cent of the base 92690  
enrollment plus 35 per cent of the current year enrollment 92691  
including students repeating terms, where the base enrollment is: 92692

The Ohio State University	1010	92693
University of Cincinnati	833	92694
Medical University of Ohio at Toledo	650	92695
Wright State University	433	92696
Ohio University	433	92697
Northeastern Ohio Universities College of Medicine	433	92698

(ii) For those medical schools whose current year enrollment, 92699  
excluding students repeating terms, is equal to or greater than 92700  
the base enrollment, the Medical II FTE enrollment shall equal the 92701  
base enrollment plus the FTE for repeating students. 92702

(iii) Students repeating terms may be no more than five per 92703  
cent of current year enrollment. 92704

(c) The Board of Regents shall compute the sum of the two 92705  
calculations listed in division (C)(1)(a) of this section and use 92706  
the greater sum as the core subsidy entitlement. 92707

The POM subsidy for each campus shall equal the greater of 92708  
the square-foot-based subsidy or the activity-based POM subsidy 92709  
component of the core subsidy entitlement. 92710

(d) The state share of instruction provided for doctoral 92711  
students shall be based on a fixed percentage of the total 92712  
appropriation. In each fiscal year of the biennium not more than 92713  
10.34 per cent of the total state share of instruction shall be 92714  
reserved to implement the recommendations of the Graduate Funding 92715  
Commission. It is the intent of the General Assembly that the 92716

doctoral reserve not exceed 10.34 per cent of the total state  
share of instruction to implement the recommendations of the  
Graduate Funding Commission. The Board of Regents may reallocate  
up to two per cent in each fiscal year of the reserve among the  
state-assisted universities on the basis of a quality review as  
specified in the recommendations of the Graduate Funding  
Commission. No such reallocation shall occur unless the Board of  
Regents, in consultation with representatives of state-assisted  
universities, determines that sufficient funds are available for  
this purpose.

The amount so reserved shall be allocated to universities in  
proportion to their share of the total number of Doctoral I  
equivalent FTEs as calculated on an institutional basis using the  
greater of the two-year or five-year FTEs for the period fiscal  
year 1994 through fiscal year 1998 with annualized FTEs for fiscal  
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as  
adjusted to reflect the effects of doctoral review and subsequent  
changes in Doctoral I equivalent enrollments. For the purposes of  
this calculation, Doctoral I equivalent FTEs shall equal the sum  
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

If a university participates in the Innovation Incentive  
Program outlined in appropriation item 235-433, Economic Growth  
Challenge, then the Board of Regents shall withhold 1.5 per cent  
in fiscal year 2006 and three per cent in fiscal year 2007 of the  
participating university's allocation of the doctoral reserve.  
This withholding is intended to increase incrementally with a goal  
of setting aside 15 per cent of the total doctoral reserve by  
fiscal year 2016.

The Board of Regents shall use the combined amount of each  
participating state-assisted university's set aside of the  
doctoral reserve that has been withheld, the state matching funds  
earmarked under appropriation item 235-433, Economic Growth

Challenge, and the amount set aside by each accredited Ohio  
institution of higher education holding a certificate of  
authorization under section 1713.02 of the Revised Code electing  
to participate in the Innovation Incentive Program to make awards  
through a competitive process under the Innovation Incentive  
Program. Only universities electing to set aside the prescribed  
amount shall be eligible to compete for and receive Innovation  
Incentive awards. The participating universities shall use these  
awards to restructure their array of doctoral programs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 92758

In addition to and after the other adjustment noted above, in  
each fiscal year, no campus shall receive a state share of  
instruction allocation that is less than 97 per cent of the prior  
year's state share of instruction amount.

(3) REDUCTIONS IN EARNINGS 92763

If the total state share of instruction earnings in any  
fiscal year exceeds the total appropriations available for such  
purposes, the Board of Regents shall proportionately reduce the  
state share of instruction earnings for all campuses by a uniform  
percentage so that the system wide sum equals available  
appropriations.

(4) CAPITAL COMPONENT DEDUCTION 92770

After all other adjustments have been made, state share of  
instruction earnings shall be reduced for each campus by the  
amount, if any, by which debt service charged in Am. H.B. No. 748  
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd  
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General  
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am.  
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds  
that campus's capital component earnings. The sum of the amounts  
deducted shall be transferred to appropriation item 235-552,

Capital Component, in each fiscal year.	92780
(D) EXCEPTIONAL CIRCUMSTANCES	92781
Adjustments may be made to the state share of instruction	92782
payments and other subsidies distributed by the Board of Regents	92783
to state-assisted colleges and universities for exceptional	92784
circumstances. No adjustments for exceptional circumstances may be	92785
made without the recommendation of the Chancellor and the approval	92786
of the Controlling Board.	92787
(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF	92788
INSTRUCTION	92789
The standard provisions of the state share of instruction	92790
calculation as described in the preceding sections of temporary	92791
law shall apply to any reductions made to appropriation item	92792
235-501, State Share of Instruction, before the Board of Regents	92793
has formally approved the final allocation of the state share of	92794
instruction funds for any fiscal year.	92795
Any reductions made to appropriation item 235-501, State	92796
Share of Instruction, after the Board of Regents has formally	92797
approved the final allocation of the state share of instruction	92798
funds for any fiscal year, shall be uniformly applied to each	92799
campus in proportion to its share of the final allocation.	92800
(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION	92801
The state share of instruction payments to the institutions	92802
shall be in substantially equal monthly amounts during the fiscal	92803
year, unless otherwise determined by the Director of Budget and	92804
Management pursuant to section 126.09 of the Revised Code.	92805
Payments during the first six months of the fiscal year shall be	92806
based upon the state share of instruction appropriation estimates	92807
made for the various institutions of higher education according to	92808
Board of Regents enrollment estimates. Payments during the last	92809

six months of the fiscal year shall be distributed after approval 92810  
of the Controlling Board upon the request of the Board of Regents. 92811

(G) LAW SCHOOL SUBSIDY 92812

The state share of instruction to state-supported 92813  
universities for students enrolled in law schools in fiscal year 92814  
2006 and fiscal year 2007 shall be calculated by using the number 92815  
of subsidy-eligible FTE law school students funded by state 92816  
subsidy in fiscal year 1995 or the actual number of 92817  
subsidy-eligible FTE law school students at the institution in the 92818  
fiscal year, whichever is less. 92819

**Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES** 92820

Funds appropriated for instructional subsidies at colleges 92821  
and universities may be used to provide such branch or other 92822  
off-campus undergraduate courses of study and such master's degree 92823  
courses of study as may be approved by the Board of Regents. 92824

In providing instructional and other services to students, 92825  
boards of trustees of state-assisted institutions of higher 92826  
education shall supplement state subsidies by income from charges 92827  
to students. Each board shall establish the fees to be charged to 92828  
all students, including an instructional fee for educational and 92829  
associated operational support of the institution and a general 92830  
fee for noninstructional services, including locally financed 92831  
student services facilities used for the benefit of enrolled 92832  
students. The instructional fee and the general fee shall 92833  
encompass all charges for services assessed uniformly to all 92834  
enrolled students. Each board may also establish special purpose 92835  
fees, service charges, and fines as required; such special purpose 92836  
fees and service charges shall be for services or benefits 92837  
furnished individual students or specific categories of students 92838  
and shall not be applied uniformly to all enrolled students. 92839

Except for the board of trustees of Miami University, in 92840  
implementing the pilot tuition restructuring plan recognized in 92841  
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 92842  
and again recognized by this act, a tuition surcharge shall be 92843  
paid by all students who are not residents of Ohio. 92844

The boards of trustees of each state institution of higher 92845  
education as defined in section 3345.011 of the Revised Code shall 92846  
limit in-state undergraduate instructional and general fee 92847  
increases for an academic year over the amounts charged in the 92848  
prior academic year to not more than the lesser of six per cent 92849  
or, for a full-time student, five hundred dollars. A board of 92850  
trustees shall not authorize combined instructional and general 92851  
fee increases of more than six per cent in a single vote. The 92852  
limitations on fee increases prescribed in this section apply to 92853  
an academic year even if, prior to the effective date of this 92854  
section, a board of trustees has voted to increase fees beyond the 92855  
amount permitted under this section. In such case, the board shall 92856  
reduce the fees in an amount that results in combined in-state 92857  
undergraduate instructional and general fees that comply with this 92858  
section. These limitations shall not apply to increases required 92859  
to comply with institutional covenants related to their 92860  
obligations or to meet unfunded legal mandates or legally binding 92861  
obligations incurred or commitments made prior to the effective 92862  
date of this section with respect to which the institution had 92863  
identified such fee increases as the source of funds. Any increase 92864  
required by such covenants and any such mandates, obligations, or 92865  
commitments shall be reported by the Board of Regents to the 92866  
Controlling Board. These limitations may also be modified by the 92867  
Board of Regents, with the approval of the Controlling Board, to 92868  
respond to exceptional circumstances as identified by the Board of 92869  
Regents. 92870

The board of trustees of a state-assisted institution of 92871



higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees. This prohibition is not intended to limit the authority of the board of trustees of Miami University in providing financial assistance to students in implementing the pilot tuition restructuring plan recognized in Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly and again recognized by this act.

Except for Miami University, in implementing the pilot tuition restructuring plan recognized in Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly and again recognized by this act, each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

In providing the appropriations in support of instructional services at state-assisted institutions of higher education and the appropriations for other instruction it is the intent of the General Assembly that faculty members shall devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Board of Regents.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

**Section 209.63.63. STUDENT SUPPORT SERVICES**

The foregoing appropriation item 235-502, Student Support Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

**Section 209.63.66. OHIO INSTRUCTIONAL GRANTS**

In fiscal year 2006, instructional grants for all eligible full-time students shall be made using the tables under section 3333.12 of the Revised Code. In fiscal year 2007, instructional grants for all eligible full-time students who have attended a college, university, or proprietary school and have completed coursework for college credit, excluding early college high school and post-secondary enrollment option students, prior to academic

year 2006-2007, shall be made using the tables under section 92934  
3333.12 of the Revised Code. 92935

Of the foregoing appropriation item 235-503, Ohio 92936  
Instructional Grants, an amount in each fiscal year shall be used 92937  
to make the payments authorized by division (C) of section 3333.26 92938  
of the Revised Code to the institutions described in that 92939  
division. In addition, an amount in each fiscal year shall be used 92940  
to reimburse the institutions described in division (B) of section 92941  
3333.26 of the Revised Code for the cost of the waivers required 92942  
by that division. 92943

The unencumbered balance of appropriation item 235-503, Ohio 92944  
Instructional Grants, at the end of fiscal year 2006 shall be 92945  
transferred to fiscal year 2007 for use under the same 92946  
appropriation item. The amounts transferred are hereby 92947  
appropriated. 92948

**Section 209.63.69. WAR ORPHANS SCHOLARSHIPS** 92949

The foregoing appropriation item 235-504, War Orphans 92950  
Scholarships, shall be used to reimburse state-assisted 92951  
institutions of higher education for waivers of instructional fees 92952  
and general fees provided by them, to provide grants to 92953  
institutions that have received a certificate of authorization 92954  
from the Ohio Board of Regents under Chapter 1713. of the Revised 92955  
Code, in accordance with the provisions of section 5910.04 of the 92956  
Revised Code, and to fund additional scholarship benefits provided 92957  
by section 5910.032 of the Revised Code. 92958

**Section 209.63.72. OHIOLINK** 92959

The foregoing appropriation item 235-507, OhioLINK, shall be 92960  
used by the Board of Regents to support OhioLINK, the state's 92961  
electronic library information and retrieval system, which 92962  
provides access statewide to the library holdings of all of Ohio's 92963

public colleges and universities, 40 private colleges, and the State Library of Ohio. 92964  
92965

**Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY** 92966

The foregoing appropriation item 235-508, Air Force Institute of Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio. Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$1,233,588 in each fiscal year shall be used for research projects that connect the Air Force Research Laboratories with university partners. The institute shall provide annual reports to the Third Frontier Commission, that discuss existing, planned, or possible collaborations between programs and funding recipients related to technology, research development, commercialization, and support for Ohio's economic development. 92967  
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Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$691,757 in each fiscal year shall be used to match federal dollars to support technology commercialization and job creation. The Development Research Corporation shall use the funds to create or expand Ohio-based technology and commercial development collaborations in areas that are a priority in Ohio's third frontier initiative between industry, academia, and government. 92979  
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**Section 209.63.78. OHIO SUPERCOMPUTER CENTER** 92987

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the 92988  
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center shall be established by a governance committee, 92994  
representative of Ohio's research universities and private 92995  
industry, to be appointed by the Chancellor of the Board of 92996  
Regents and established for this purpose. 92997

The Ohio Supercomputer Center shall report on expanding 92998  
solutions-oriented, computational science services to industrial 92999  
and other customers, including alignment programs and recipients, 93000  
and develop a plan for a computational science initiative in 93001  
collaboration with the Wright Centers of Innovation Program. 93002

**Section 209.63.81. COOPERATIVE EXTENSION SERVICE** 93003

The foregoing appropriation item 235-511, Cooperative 93004  
Extension Service, shall be disbursed through the Board of Regents 93005  
to The Ohio State University in monthly payments, unless otherwise 93006  
determined by the Director of Budget and Management under section 93007  
126.09 of the Revised Code. 93008

Of the foregoing appropriation item 235-511, Cooperative 93009  
Extension Service, \$178,271 in each fiscal year shall be used for 93010  
additional staffing for county agents for expanded 4-H activities. 93011  
Of the foregoing appropriation item 235-511, Cooperative Extension 93012  
Service, \$178,271 in each fiscal year shall be used by the 93013  
Cooperative Extension Service, through the Enterprise Center for 93014  
Economic Development in cooperation with other agencies, for a 93015  
public-private effort to create and operate a small business 93016  
economic development program to enhance the development of 93017  
alternatives to the growing of tobacco, and implement, through 93018  
applied research and demonstration, the production and marketing 93019  
of other high-value crops and value-added products. Of the 93020  
foregoing appropriation item 235-511, Cooperative Extension 93021  
Service, \$55,179 in each fiscal year shall be used for farm labor 93022  
mediation and education programs, \$182,515 in each fiscal year 93023  
shall be used to support the Ohio State University Marion 93024

Enterprise Center, and \$772,931 in each fiscal year shall be used 93025  
to support the Ohio Watersheds Initiative. 93026

**Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER** 93027

The foregoing appropriation item 235-513, Ohio University 93028  
Voinovich Center, shall be used by the Board of Regents to support 93029  
the operations of Ohio University's Voinovich Center. 93030

**Section 209.63.90. PERFORMANCE STANDARDS FOR MEDICAL** 93031  
**EDUCATION** 93032

The Board of Regents, in consultation with the state-assisted 93033  
medical colleges, shall develop performance standards for medical 93034  
education. Special emphasis in the standards shall be placed on 93035  
attempting to ensure that at least 50 per cent of the aggregate 93036  
number of students enrolled in state-assisted medical colleges 93037  
continue to enter residency as primary care physicians. Primary 93038  
care physicians are general family practice physicians, general 93039  
internal medicine practitioners, and general pediatric care 93040  
physicians. The Board of Regents shall monitor medical school 93041  
performance in relation to their plans for reaching the 50 per 93042  
cent systemwide standard for primary care physicians. 93043

**Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF** 93044  
**MEDICINE** 93045

The foregoing appropriation item 235-515, Case Western 93046  
Reserve University School of Medicine, shall be disbursed to Case 93047  
Western Reserve University through the Board of Regents in 93048  
accordance with agreements entered into under section 3333.10 of 93049  
the Revised Code, provided that the state support per full-time 93050  
medical student shall not exceed that provided to full-time 93051  
medical students at state universities. 93052

**Section 209.63.94. CAPITOL SCHOLARSHIP PROGRAM** 93053

The foregoing appropriation item 235-518, Capitol Scholarship 93054  
Program, shall be used by the Board of Regents to provide 93055  
scholarships to undergraduates of Ohio's four-year public and 93056  
private institutions of higher education participating in the 93057  
Washington Center Internship Program. A scholarship of \$1,800 93058  
shall be awarded to students enrolled in an institution operating 93059  
on a quarter system, and a scholarship of \$2,300 shall be awarded 93060  
to students enrolled in an institution operating on a semester 93061  
system. The number of scholarships awarded shall be limited by the 93062  
amounts appropriated in fiscal years 2006 and 2007. The Washington 93063  
Center shall match the scholarships awarded to students as 93064  
follows: \$1,200 for students enrolled in an institution operating 93065  
on a quarter system, and \$1,700 for students enrolled in an 93066  
institution operating on a semester system. 93067

**Section 209.63.95. FAMILY PRACTICE** 93068

The Board of Regents shall develop plans consistent with 93069  
existing criteria and guidelines as may be required for the 93070  
distribution of appropriation item 235-519, Family Practice. 93071

**Section 209.63.96. SHAWNEE STATE SUPPLEMENT** 93072

The foregoing appropriation item 235-520, Shawnee State 93073  
Supplement, shall be used by Shawnee State University as detailed 93074  
by both of the following: 93075

(A) To allow Shawnee State University to keep its 93076  
undergraduate fees below the statewide average, consistent with 93077  
its mission of service to an economically depressed Appalachian 93078  
region; 93079

(B) To allow Shawnee State University to employ new faculty 93080  
to develop and teach in new degree programs that meet the needs of 93081

Appalachians.	93082
<b>Section 209.63.99. OSU GLENN INSTITUTE</b>	93083
The foregoing appropriation item 235-521, The Ohio State	93084
University Glenn Institute, shall be used by the Board of Regents	93085
to support the operations of the Ohio State University's Glenn	93086
Institute.	93087
<b>Section 209.64.03. POLICE AND FIRE PROTECTION</b>	93088
The foregoing appropriation item 235-524, Police and Fire	93089
Protection, shall be used for police and fire services in the	93090
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green,	93091
Portsmouth, Xenia Township (Greene County), Rootstown Township,	93092
and the City of Nelsonville that may be used to assist these local	93093
governments in providing police and fire protection for the	93094
central campus of the state-affiliated university located therein.	93095
Each participating municipality and township shall receive at	93096
least \$5,000 in each fiscal year. Funds shall be distributed	93097
according to the method employed by the Board of Regents in the	93098
previous biennium.	93099
<b>Section 209.64.06. GERIATRIC MEDICINE</b>	93100
The Board of Regents shall develop plans consistent with	93101
existing criteria and guidelines as may be required for the	93102
distribution of appropriation item 235-525, Geriatric Medicine.	93103
<b>Section 209.64.07. PRIMARY CARE RESIDENCIES</b>	93104
The Board of Regents shall develop plans consistent with	93105
existing criteria and guidelines as may be required for the	93106
distribution of appropriation item 235-526, Primary Care	93107
Residencies.	93108



The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

**Section 209.64.09. OHIO AEROSPACE INSTITUTE** 93117

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

The Board of Regents, in consultation with the Third Frontier Commission, shall develop a plan for providing for appropriate, value-added participation of the Ohio Aerospace Institute in Third Frontier Project proposals and grants.

**Section 209.64.12. ACADEMIC SCHOLARSHIPS** 93125

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

**Section 209.64.15. STUDENT CHOICE GRANTS** 93129

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item to maintain grant award amounts in fiscal year 2007 equal to the awards provided in fiscal year 2006. The amounts transferred are hereby appropriated.

**Section 209.64.18.** STUDENT WORKFORCE DEVELOPMENT GRANTS 93138

The foregoing appropriation item 235-534, Student Workforce 93139  
Development Grants, shall be used to support the Student Workforce 93140  
Development Grant Program. The Board of Regents shall distribute 93141  
grants to each eligible student in an academic year. The size of 93142  
each grant award shall be determined by the Board of Regents based 93143  
on the amount of funds available for the program. The unencumbered 93144  
balance of appropriation item 235-534, Student Workforce 93145  
Development Grants, at the end of fiscal year 2006 shall be 93146  
transferred to fiscal year 2007 for use under the same 93147  
appropriation item. The amounts transferred are hereby 93148  
appropriated. 93149

**Section 209.64.21.** OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 93150  
CENTER 93151

The foregoing appropriation item 235-535, Ohio Agricultural 93152  
Research and Development Center, shall be disbursed through the 93153  
Board of Regents to The Ohio State University in monthly payments, 93154  
unless otherwise determined by the Director of Budget and 93155  
Management under section 126.09 of the Revised Code. The Ohio 93156  
Agricultural Research and Development Center shall not be required 93157  
to remit payment to The Ohio State University during the biennium 93158  
ending June 30, 2007, for cost reallocation assessments. The cost 93159  
reallocation assessments include, but are not limited to, any 93160  
assessment on state appropriations to the Center. 93161

The Ohio Agricultural Research and Development Center, an 93162  
entity of the College of Food, Agricultural, and Environmental 93163  
Sciences of The Ohio State University, shall further its mission 93164  
of enhancing Ohio's economic development and job creation by 93165  
continuing to internally allocate on a competitive basis 93166  
appropriated funding of programs based on demonstrated 93167

performance. Academic units, faculty, and faculty-driven programs 93168  
shall be evaluated and rewarded consistent with agreed-upon 93169  
performance expectations as called for in the College's 93170  
Expectations and Criteria for Performance Assessment. 93171

Of the foregoing appropriation item 235-535, Ohio 93172  
Agricultural Research and Development Center, \$458,410 in each 93173  
fiscal year shall be used to purchase equipment. 93174

Of the foregoing appropriation item 235-535, Ohio 93175  
Agricultural Research and Development Center, \$806,463 in each 93176  
fiscal year shall be distributed to the Piketon Agricultural 93177  
Research and Extension Center. 93178

Of the foregoing appropriation item 235-535, Ohio 93179  
Agricultural Research and Development Center, \$212,227 in each 93180  
fiscal year shall be distributed to the 93181  
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio 93182  
State University Medical College in cooperation with The Ohio 93183  
State University College of Agriculture. 93184

Of the foregoing appropriation item 235-535, Ohio 93185  
Agricultural Research and Development Center, \$42,445 in each 93186  
fiscal year shall be used to support the Ohio Berry Administrator. 93187

Of the foregoing appropriation item 235-535, Ohio 93188  
Agricultural Research and Development Center, \$84,890 in each 93189  
fiscal year shall be used for the development of agricultural 93190  
crops and products not currently in widespread production in Ohio, 93191  
in order to increase the income and viability of family farmers. 93192

Of the foregoing appropriation item 235-535, Ohio 93193  
Agricultural Research and Development Center, \$125,000 in each 93194  
fiscal year shall be distributed to Wilmington College for the 93195  
commercialization of agricultural products. 93196

**Section 209.64.22. STATE UNIVERSITY CLINICAL TEACHING** 93197

The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical University of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

The Board of Regents, in consultation with representatives of each of the six state-assisted colleges of medicine, shall study and propose recommendations for a formula to allocate appropriations for clinical teaching support. The consultation shall consider factors that reward medical schools for serving Ohio's health care needs in an equitable and efficient manner. Recommendations shall be submitted to the Office of Budget and Management and the General Assembly for consideration by November 15, 2006. A new method, approved by the Office of Budget and Management and the General Assembly, shall be implemented in fiscal years 2008 and 2009 for distributing funds for clinical teaching support.

**Section 209.64.23. SCHOOL OF INTERNATIONAL BUSINESS**

The foregoing appropriation item 235-547, School of International Business, shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located

at the University of Akron. It may confer with Kent State 93229  
University, Youngstown State University, and Cleveland State 93230  
University as to the curriculum and other matters regarding the 93231  
school. 93232

**Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS** 93233

The foregoing appropriation item 235-549, Part-time Student 93234  
Instructional Grants, shall be used to support a grant program for 93235  
part-time undergraduate students who are Ohio residents and who 93236  
were enrolled in degree granting programs prior to academic year 93237  
2006-2007. 93238

Eligibility for participation in the program shall include 93239  
degree granting educational institutions that hold a certificate 93240  
of registration from the State Board of Career Colleges and 93241  
Schools, and nonprofit institutions that have a certificate of 93242  
authorization issued under Chapter 1713. of the Revised Code, as 93243  
well as state-assisted colleges and universities. Grants shall be 93244  
given to students on the basis of need, as determined by the 93245  
college, which, in making these determinations, shall give special 93246  
consideration to single-parent heads-of-household and displaced 93247  
homemakers who enroll in an educational degree program that 93248  
prepares the individual for a career. In determining need, the 93249  
college also shall consider the availability of educational 93250  
assistance from a student's employer. It is the intent of the 93251  
General Assembly that these grants not supplant such assistance. 93252

**Section 209.64.27. CAPITAL COMPONENT** 93253

The foregoing appropriation item 235-552, Capital Component, 93254  
shall be used by the Board of Regents to implement the capital 93255  
funding policy for state-assisted colleges and universities 93256  
established in Am. H.B. No. 748 of the 121st General Assembly. 93257  
Appropriations from this item shall be distributed to all campuses 93258

for which the estimated campus debt service attributable to new 93259  
qualifying capital projects is less than the campus's 93260  
formula-determined capital component allocation. Campus 93261  
allocations shall be determined by subtracting the estimated 93262  
campus debt service attributable to new qualifying capital 93263  
projects from the campus's formula-determined capital component 93264  
allocation. Moneys distributed from this appropriation item shall 93265  
be restricted to capital-related purposes. 93266

Any campus for which the estimated campus debt service 93267  
attributable to qualifying capital projects is greater than the 93268  
campus's formula-determined capital component allocation shall 93269  
have the difference subtracted from its State Share of Instruction 93270  
allocation in each fiscal year. The sum of all such amounts shall 93271  
be transferred from appropriation item 235-501, State Share of 93272  
Instruction, to appropriation item 235-552, Capital Component. 93273

**Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE** 93274

The foregoing appropriation item 235-553, Dayton Area 93275  
Graduate Studies Institute, shall be used by the Board of Regents 93276  
to support the Dayton Area Graduate Studies Institute, an 93277  
engineering graduate consortium of three universities in the 93278  
Dayton area: Wright State University, the University of Dayton, 93279  
and the Air Force Institute of Technology, with the participation 93280  
of the University of Cincinnati and The Ohio State University. 93281

Of the foregoing appropriation item 235-553, Dayton Area 93282  
Graduate Studies Institute, \$350,000 in each fiscal year shall be 93283  
used by the Development Research Corporation to support 93284  
collaborative research and technology commercialization 93285  
initiatives in Ohio. 93286

**Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE** 93287  
**EDUCATION** 93288

The foregoing appropriation item 235-554, Priorities in Collaborative Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs at state-assisted universities that the Board of Regents identifies as vital to the state's economic strategy. Up to \$169,782 in each fiscal year shall be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Board of Regents.

**Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET)** 93297

The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

**Section 209.64.39. LONG-TERM CARE RESEARCH** 93305

The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

**Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER** 93309  
93310

The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

**Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN** 93316

The foregoing appropriation item 235-563, Ohio College Opportunity Grant, shall be used by the Board of Regents to begin to award needs-based financial aid to students based on the United States Department of Education's method of determining financial need. Beginning in fiscal year 2007, students who enrolled in a public, private, or proprietary post-secondary institution of higher education for the first time in academic year 2006-2007, excluding early college high school and post-secondary enrollment option participants, shall be eligible to receive aid based on their expected family contributions as calculated by the United State Department of Education, according to section 3333.122 of the Revised Code.

**Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT** 93329

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

**Section 209.64.57. URBAN UNIVERSITY PROGRAM** 93334

Universities receiving funds from the foregoing appropriation item 235-583, Urban University Program, that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program



representative. 93347

Of the foregoing appropriation item 235-583, Urban University 93348  
Program, \$117,215 in each fiscal year shall be used to support the 93349  
Center for the Interdisciplinary Study of Education and the Urban 93350  
Child at Cleveland State University. These funds shall be 93351  
distributed according to rules adopted by the Board of Regents and 93352  
shall be used by the center for interdisciplinary activities 93353  
targeted toward increasing the chance of lifetime success of the 93354  
urban child, including interventions beginning with the prenatal 93355  
period. The primary purpose of the center is to study issues in 93356  
urban education and to systematically map directions for new 93357  
approaches and new solutions by bringing together a cadre of 93358  
researchers, scholars, and professionals representing the social, 93359  
behavioral, education, and health disciplines. 93360

Of the foregoing appropriation item 235-583, Urban University 93361  
Program, \$1,433,037 in each fiscal year shall be distributed by 93362  
the Board of Regents to Cleveland State University in support of 93363  
the Maxine Goodman Levin College of Urban Affairs. 93364

Of the foregoing appropriation item 235-583, Urban University 93365  
Program, \$1,433,037 in each fiscal year shall be distributed to 93366  
the Northeast Ohio Research Consortium, the Urban Linkages 93367  
Program, and the Urban Research Technical Assistance Grant 93368  
Program. The distribution among the three programs shall be 93369  
determined by the chair of the Urban University Program. 93370

Of the foregoing appropriation item 235-583, Urban University 93371  
Program, \$247,453 in each fiscal year shall be used to support a 93372  
public communication outreach program (WCPN). The primary purpose 93373  
of the program shall be to develop a relationship between 93374  
Cleveland State University and nonprofit communications entities. 93375

Of the foregoing appropriation item 235-583, Urban University 93376  
Program, \$169,310 in each fiscal year shall be used to support the 93377

Kent State University Learning and Technology Project. This 93378  
project is a kindergarten through university collaboration between 93379  
schools surrounding Kent State University's eight campuses in 93380  
northeast Ohio and corporate partners who will assist in 93381  
development and delivery. 93382

The Kent State University Project shall provide a faculty 93383  
member who has a full-time role in the development of 93384  
collaborative activities and teacher instructional programming 93385  
between Kent State University and the K-12th grade schools that 93386  
surround its eight campuses; appropriate student support staff to 93387  
facilitate these programs and joint activities; and hardware and 93388  
software to schools that will make possible the delivery of 93389  
instruction to pre-service and in-service teachers, and their 93390  
students, in their own classrooms or school buildings. This shall 93391  
involve the delivery of low-bandwidth streaming video and 93392  
web-based technologies in a distributed instructional model. 93393

Of the foregoing appropriation item 235-583, Urban University 93394  
Program, \$65,119 in each fiscal year shall be used to support the 93395  
Ameritech Classroom/Center for Research at Kent State University. 93396

Of the foregoing appropriation item 235-583, Urban University 93397  
Program, \$723,547 in each fiscal year shall be used to support the 93398  
Polymer Distance Learning Project at the University of Akron. 93399

Of the foregoing appropriation item 235-583, Urban University 93400  
Program, \$32,560 in each fiscal year shall be distributed to the 93401  
Kent State University/Cleveland Design Center program. 93402

Of the foregoing appropriation item 235-583, Urban University 93403  
Program, \$180,886 in each fiscal year shall be used to support the 93404  
Bliss Institute of Applied Politics at the University of Akron. 93405

Of the foregoing appropriation item 235-583, Urban University 93406  
Program, \$10,851 in each fiscal year shall be used for the 93407  
Advancing-Up Program at the University of Akron. 93408

Of the foregoing appropriation item 235-583, Urban University 93409  
Program, \$139,777 in each fiscal year shall be used to support the 93410  
Strategic Economic Research Collaborative at the University of 93411  
Toledo Urban Affairs Center. 93412

Of the foregoing appropriation item 235-583, Urban University 93413  
Program, \$139,777 in each fiscal year shall be used to support the 93414  
Institute for Collaborative Research and Public Humanities at The 93415  
Ohio State University. 93416

Of the foregoing appropriation item 235-583, Urban University 93417  
Program, \$300,368 in each fiscal year shall be used to support the 93418  
Medina County University Center. 93419

**Section 209.64.60. RURAL UNIVERSITY PROJECTS** 93420

Of the foregoing appropriation item 235-587, Rural University 93421  
Projects, Bowling Green State University shall receive \$263,783 in 93422  
each fiscal year, Miami University shall receive \$245,320 in each 93423  
fiscal year, and Ohio University shall receive \$575,015 in each 93424  
fiscal year. These funds shall be used to support the Institute 93425  
for Local Government Administration and Rural Development at Ohio 93426  
University, the Center for Public Management and Regional Affairs 93427  
at Miami University, and the Center for Policy Analysis and Public 93428  
Service at Bowling Green State University. 93429

A small portion of the funds provided to Ohio University 93430  
shall also be used for the Institute for Local Government 93431  
Administration and Rural Development State and Rural Policy 93432  
Partnership with the Governor's Office of Appalachia and the 93433  
Appalachian delegation of the General Assembly. 93434

Of the foregoing appropriation item 235-587, Rural University 93435  
Projects, \$15,942 in each fiscal year shall be used to support the 93436  
Washington State Community College day care center. 93437

Of the foregoing appropriation item 235-587, Rural University 93438

Projects, \$47,829 in each fiscal year shall be used to support the 93439  
COAD/ILGARD/GOA Appalachian Leadership Initiative. 93440

**Section 209.64.63. HAZARDOUS MATERIALS PROGRAM** 93441

The foregoing appropriation item 235-596, Hazardous Materials 93442  
Program, shall be disbursed to Cleveland State University for the 93443  
operation of a program to certify firefighters for the handling of 93444  
hazardous materials. Training shall be available to all Ohio 93445  
firefighters. 93446

Of the foregoing appropriation item 235-596, Hazardous 93447  
Materials Program, \$177,337 in each fiscal year shall be used to 93448  
support the Center for the Interdisciplinary Study of Education 93449  
and Leadership in Public Service at Cleveland State University. 93450  
These funds shall be distributed by the Board of Regents and shall 93451  
be used by the center targeted toward increasing the role of 93452  
special populations in public service and not-for-profit 93453  
organizations. The primary purpose of the center is to study 93454  
issues in public service and to guide strategies for attracting 93455  
new communities into public service occupations by bringing 93456  
together a cadre of researchers, scholars, and professionals 93457  
representing the public administration, social behavioral, and 93458  
education disciplines. 93459

**Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM** 93460

The Board of Regents shall disburse funds from appropriation 93461  
item 235-599, National Guard Scholarship Program, at the direction 93462  
of the Adjutant General. Upon the request of the Adjutant General, 93463  
the Board of Regents shall seek Controlling Board approval to 93464  
establish appropriations in item 235-623, National Guard 93465  
Scholarship Reserve Fund. The Board of Regents shall disburse 93466  
funds from appropriation item 235-623, National Guard Scholarship 93467  
Reserve Fund, at the direction of the Adjutant General. 93468

**\*Section 209.64.69. PLEDGE OF FEES** 93469

Any new pledge of fees, or new agreement for adjustment of 93470  
fees, made in the biennium ending June 30, 2007, to secure bonds 93471  
or notes of a state-assisted institution of higher education for a 93472  
project for which bonds or notes were not outstanding on the 93473  
effective date of this section shall be effective only after 93474  
approval by the Board of Regents, unless approved in a previous 93475  
biennium. 93476

**Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT** 93477  
**SERVICE** 93478

The foregoing appropriation item 235-909, Higher Education 93479  
General Obligation Debt Service, shall be used to pay all debt 93480  
service and related financing costs at the times they are required 93481  
to be made under sections 151.01 and 151.04 of the Revised Code 93482  
during the period from July 1, 2005, to June 30, 2007. The Office 93483  
of the Sinking Fund or the Director of Budget and Management shall 93484  
effectuate the required payments by intrastate transfer voucher. 93485

**Section 209.64.75. SALES AND SERVICES** 93486

The Board of Regents is authorized to charge and accept 93487  
payment for the provision of goods and services. Such charges 93488  
shall be reasonably related to the cost of producing the goods and 93489  
services. No charges may be levied for goods or services that are 93490  
produced as part of the routine responsibilities or duties of the 93491  
Board. All revenues received by the Board of Regents shall be 93492  
deposited into Fund 456, and may be used by the Board of Regents 93493  
to pay for the costs of producing the goods and services. 93494

**Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY** 93495  
**COMMISSION SUPPORT** 93496

The foregoing appropriation item 235-602, Higher Educational Facility Commission Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the chancellor, the Director of Budget and Management shall transfer up to \$55,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

**Section 209.64.78. PHYSICIAN LOAN REPAYMENT** 93504

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code.

**Section 209.64.81. NURSING LOAN PROGRAM** 93508

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2006 and \$167,580 in fiscal year 2007 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

**Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION** 93516

The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

"Alignment Programs" means: appropriation items 195-401, 93526  
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 93527  
Third Frontier Action Fund; 898-604, Coal Research and Development 93528  
Fund; 235-433, Economic Growth Challenge; 235-451, Eminent 93529  
Scholars; 235-508, Air Force Institute of Technology; 235-510, 93530  
Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 93531  
235-535, Ohio Agricultural Research and Development Center; 93532  
235-553, Dayton Area Graduate Studies Institute; 235-554, 93533  
Priorities in Collaborative Graduate Education; 235-556, Ohio 93534  
Academic Resources Network; and 195-435, Biomedical Research and 93535  
Technology Transfer Trust. 93536

Consistent with the recommendations of the Governor's 93537  
Commission on Higher Education and the Economy, Alignment Programs 93538  
shall be managed and administered (1) to build on existing 93539  
competitive research strengths; (2) to encourage new and emerging 93540  
discoveries and commercialization of products and ideas that will 93541  
benefit the Ohio economy; and (3) to assure improved collaboration 93542  
among Alignment Programs, with programs administered by the Third 93543  
Frontier Commission, and with other state programs that are 93544  
intended to improve economic growth and job creation. 93545

If requested by the Third Frontier Commission, Alignment 93546  
Programs managers shall report to the Commission or the Third 93547  
Frontier Advisory Board, as directed by the Commission, on the 93548  
contributions of their programs to achieving the objectives stated 93549  
in the preceding paragraph of this section. 93550

Each alignment program shall be reviewed annually by the 93551  
Third Frontier Commission with respect to its development of 93552  
complementary relationships within a combined state science and 93553  
technology investment portfolio and its overall contribution to 93554  
the state's science and technology strategy, including the 93555  
adoption of appropriately consistent criteria for: (1) the 93556  
scientific merit of activities supported by the program; (2) the 93557

relevance of the program's activities to commercial opportunities 93558  
in the private sector; (3) the private sector's involvement in a 93559  
process that continually evaluates commercial opportunities to use 93560  
the work supported by the program; and (4) the ability of the 93561  
program and recipients of grant funding from the program to engage 93562  
in activities that are collaborative, complementary, and efficient 93563  
with respect to the expenditure of state funds. All programs 93564  
listed above shall provide annual reports to the Third Frontier 93565  
Commission discussing existing, planned, or possible 93566  
collaborations between programs and recipients of grant funding 93567  
related to technology, development, commercialization, and 93568  
supporting Ohio's economic development. The annual review by the 93569  
Third Frontier Commission shall be a comprehensive review of the 93570  
entire state science and technology program portfolio rather than 93571  
a review of individual programs. 93572

Applicants for Third Frontier and Alignment Programs funding 93573  
shall identify their requirements for high-performance computing 93574  
facilities and services, including both hardware and software, in 93575  
the proposals. If an applicant's requirements exceed approximately 93576  
\$100,000 for a proposal, the Ohio Supercomputer Center shall 93577  
convene a panel of experts. The panel shall review the proposal to 93578  
determine whether the proposal's requirements can be met through 93579  
Ohio Supercomputer Center facilities or through other means and 93580  
report such information to the Third Frontier Commission. 93581

To ensure that the state receives the maximum benefit from 93582  
its investment in the Third Frontier Project and the Third 93583  
Frontier Network, organizations receiving Third Frontier awards 93584  
and Alignment Programs awards shall, as appropriate, be expected 93585  
to have a connection to the Third Frontier Network that enables 93586  
them and their collaborators to achieve award objectives through 93587  
the Third Frontier Network. 93588



**Section 209.64.87.** REPAYMENT OF RESEARCH FACILITY INVESTMENT 93589  
FUND MONEYS 93590

Notwithstanding any provision of law to the contrary, all 93591  
repayments of Research Facility Investment Fund loans shall be 93592  
made to the Bond Service Trust Fund. All Research Facility 93593  
Investment Fund loan repayments made prior to the effective date 93594  
of this section shall be transferred by the Director of Budget and 93595  
Management to the Bond Service Trust Fund within sixty days after 93596  
the effective date of this section. 93597

Campuses shall make timely repayments of Research Facility 93598  
Investment Fund loans, according to the schedule established by 93599  
the Board of Regents. In the case of late payments, the Board of 93600  
Regents may deduct from an institution's periodic subsidy 93601  
distribution an amount equal to the amount of the overdue payment 93602  
for that institution, transfer such amount to the Bond Service 93603  
Trust Fund, and credit the appropriate institution for the 93604  
repayment. 93605

**Section 209.64.90.** VETERANS' PREFERENCES 93606

The Board of Regents shall work with the Governor's Office of 93607  
Veterans' Affairs to develop specific veterans' preference 93608  
guidelines for higher education institutions. These guidelines 93609  
shall ensure that the institutions' hiring practices are in 93610  
accordance with the intent of Ohio's veterans' preference laws. 93611

**Section 209.64.93.** STATE NEED-BASED FINANCIAL AID 93612  
RECONCILIATION 93613

By the first day of August in each fiscal year, or as soon 93614  
thereafter as possible, the Ohio Board of Regents shall certify to 93615  
the Director of Budget and Management the amount necessary to pay 93616  
any outstanding prior year obligations to higher education 93617

institutions for the state's need-based financial aid programs. 93618  
The amounts certified are hereby appropriated to appropriation 93619  
item 235-618, State Need-based Financial Aid Reconciliation, from 93620  
revenues received in the State Need-based Financial Aid 93621  
Reconciliation Fund (Fund 5Y5). 93622

**Section 209.64.96.** STUDY ON DISTRIBUTING STATE SHARE OF 93623  
INSTRUCTION FUNDS BASED ON CAMPUS ADMINISTRATIVE AND OPERATIONAL 93624  
EFFICIENCY 93625

The Board of Regents, in consultation with representatives of 93626  
the higher education community, shall conduct a study on the 93627  
feasibility of distributing a portion of GRF appropriation item 93628  
235-501, State Share of Instruction, based on campus 93629  
administrative and operational efficiency. The Board of Regents 93630  
shall consider what statistic or statistics would be appropriate 93631  
to measure administrative and operational efficiency and also 93632  
shall consider what an adequate level of administrative support 93633  
should be. The Board of Regents shall submit the results of the 93634  
study to the General Assembly not later than September 15, 2006. 93635

**Section 209.64.99.** STUDY ON DISTRIBUTING STATE SHARE OF 93636  
INSTRUCTION FUNDS BASED ON THE NUMBER OF DEGREES AND CERTIFICATES 93637  
AWARDED 93638

The Board of Regents, in consultation with representatives 93639  
from the higher education community, shall conduct a study on the 93640  
feasibility of distributing a portion of GRF appropriation item 93641  
235-501, State Share of Instruction, based on the number of 93642  
Ohioans who are awarded certificates or associate's, 93643  
baccalaureate, master's, or doctoral degrees. The study shall 93644  
examine whether it is feasible to retain a portion of the State 93645  
Share of Instruction distributed to the campuses until such times 93646  
as the certificates or degrees are conferred, whether the existing 93647

appropriation is sufficient to fund such an initiative, and how 93648  
much in additional funds might be necessary to significantly 93649  
increase the number of certificates and degrees earned by Ohioans 93650  
each year. The Board of Regents shall submit the results of the 93651  
study to the General Assembly not later than September 15, 2006. 93652

**Section 209.65.03. STUDY ON PROVIDING INCENTIVES FOR 93653**  
CERTIFICATE AND ASSOCIATE DEGREES 93654

The Board of Regents, in consultation with representatives 93655  
from the higher education community, shall conduct a study on the 93656  
feasibility of devising a performance-based grant to provide 93657  
incentives to university branch campuses, community colleges, 93658  
state community colleges, technical colleges, and the community 93659  
and technical colleges at Youngstown State University, the 93660  
University of Cincinnati, and The University of Akron to increase 93661  
the number and proportion of Ohio students who receive a 93662  
certificate or an associate degree. In consultation with 93663  
representatives from the higher education community, the Board of 93664  
Regents shall develop a measure of certification or degree 93665  
completion. The Board of Regents shall recommend a formula, using 93666  
the Success Challenge formula as a model, that will reward the 93667  
public two-year campuses for the academic success of their 93668  
undergraduate students. The Board of Regents shall submit the 93669  
results of the study to the General Assembly not later than 93670  
September 15, 2006. 93671

**Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 93672**  
CORRECTION 93673

General Revenue Fund 93674

GRF 501-321 Institutional \$ 857,371,490 \$ 873,888,880 93675  
Operations

GRF 501-403 Prisoner Compensation \$ 8,599,255 \$ 8,599,255 93676

GRF 501-405	Halfway House	\$	38,104,924	\$	38,105,128	93677
GRF 501-406	Lease Rental Payments	\$	132,370,500	\$	120,600,600	93678
GRF 501-407	Community Nonresidential Programs	\$	15,383,471	\$	15,404,522	93679
GRF 501-408	Community Misdemeanor Programs	\$	8,041,489	\$	8,041,489	93680
GRF 501-501	Community Residential Programs - CBCF	\$	55,054,445	\$	55,054,445	93681
GRF 502-321	Mental Health Services	\$	64,897,564	\$	66,055,754	93682
GRF 503-321	Parole and Community Operations	\$	78,887,219	\$	80,708,911	93683
GRF 504-321	Administrative Operations	\$	27,559,389	\$	28,147,730	93684
GRF 505-321	Institution Medical Services	\$	159,926,575	\$	176,500,628	93685
GRF 506-321	Institution Education Services	\$	22,727,366	\$	23,114,615	93686
GRF 507-321	Institution Recovery Services	\$	6,946,286	\$	7,090,212	93687
TOTAL GRF	General Revenue Fund	\$	1,475,869,973	\$	1,501,312,169	93688
	General Services Fund Group					93689
148 501-602	Services and Agricultural	\$	95,207,653	\$	95,207,653	93690
200 501-607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000	93691
4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$	1,758,177	\$	1,758,177	93692
4D4 501-603	Prisoner Programs	\$	20,967,703	\$	20,967,703	93693
4L4 501-604	Transitional Control	\$	1,593,794	\$	1,593,794	93694
4S5 501-608	Education Services	\$	4,564,072	\$	4,564,072	93695
483 501-605	Property Receipts	\$	393,491	\$	393,491	93696
5AF 501-609	State and Non-Federal	\$	262,718	\$	262,718	93697

		Awards					
5H8	501-617	Offender Financial	\$	2,000,000	\$	2,000,000	93698
		Responsibility					
5L6	501-611	Information Technology	\$	3,741,980	\$	3,741,980	93699
		Services					
571	501-606	Training Academy	\$	75,190	\$	75,190	93700
		Receipts					
593	501-618	Laboratory Services	\$	5,799,999	\$	5,799,999	93701
TOTAL	GSF	General Services Fund	\$	174,364,777	\$	174,364,777	93702
		Group					
		Federal Special Revenue Fund Group					93703
3S1	501-615	Truth-In-Sentencing	\$	26,127,427	\$	26,127,427	93704
		Grants					
323	501-619	Federal Grants	\$	12,198,353	\$	12,198,353	93705
TOTAL	FED	Federal Special Revenue					93706
		Fund Group	\$	38,325,780	\$	38,325,780	93707
		State Special Revenue Fund Group					93708
5CL	501-616	Sex Offender	\$	100,000	\$	75,000	93709
		Supervision					
Total	SSR	State Special Revenue	\$	100,000	\$	75,000	93710
		Fund Group					
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,688,660,530	\$	1,714,077,726	93711
		HALFWAY HOUSE TRANSFERS					93712
		The Department of Rehabilitation and Correction shall seek					93713
		the approval of the Controlling Board to transfer in each of					93714
		fiscal years 2006 and 2007 from the unexpended, unobligated GRF					93715
		appropriations made to the Department for fiscal years 2006 and					93716
		2007 at least \$500,000 per fiscal year in appropriation authority					93717
		to appropriation item 501-405, Halfway House.					93718
		OHIO BUILDING AUTHORITY LEASE PAYMENTS					93719
		The foregoing appropriation item 501-406, Lease Rental					93720

Payments, shall be used for payments to the Ohio Building 93721  
Authority for the period July 1, 2005, to June 30, 2007, under the 93722  
primary leases and agreements for those buildings made under 93723  
Chapter 152. of the Revised Code but limited to the aggregate 93724  
amount of \$252,971,100. This appropriation amount is the source of 93725  
funds pledged for bond service charges on related obligations 93726  
issued under Chapter 152. of the Revised Code. 93727

PRISONER COMPENSATION 93728

Money from the foregoing appropriation item 501-403, Prisoner 93729  
Compensation, shall be transferred on a quarterly basis by 93730  
intrastate transfer voucher to the Services and Agricultural Fund 93731  
(Fund 148) for the purposes of paying prisoner compensation. 93732

SEX OFFENDER SUPERVISION 93733

On July 1, 2005, or as soon as practicable thereafter, the 93734  
Director of Budget and Management shall transfer \$100,000 in cash 93735  
from the Reparations Fund (Fund 402) to the Sex Offender 93736  
Supervision Fund (Fund 5CL). On July 1, 2006, or as soon as 93737  
practicable thereafter, the Director of Budget and Management 93738  
shall transfer \$75,000 in cash from the Reparations Fund (Fund 93739  
402) to the Sex Offender Supervision Fund (Fund 5CL). 93740

The foregoing appropriation item 501-616, Sex Offender 93741  
Supervision, shall be used by the Department of Rehabilitation and 93742  
Correction solely to pay for the costs incurred by the Adult 93743  
Parole Authority in supervising sexually violent predators 93744  
released from prison as required by section 2971.05 of the Revised 93745  
Code. At the end of each fiscal year, or as soon as possible 93746  
thereafter, the Director of Budget and Management shall transfer 93747  
back to the Reparations Fund any unexpended, unencumbered cash in 93748  
the Sex Offender Supervision Fund not needed in that fiscal year 93749  
for the sole purpose of paying for the costs of supervising 93750  
sexually violent predators released from prison. 93751

					93752	
	LOCATION AND TRACKING TECHNOLOGY				93753	
	The Director of Rehabilitation and Correction may expend from				93754	
	the appropriate fund or funds a total of \$3,000,000 in each of				93755	
	fiscal years 2006 and 2007 for the purchase, installation, and				93756	
	operation of radio frequency identification and tracking				93757	
	technology, providing real-time identification and tracking of				93758	
	inmates and staff in the state's adult correctional institutions.				93759	
	<b>Section 209.72.</b> RSC REHABILITATION SERVICES COMMISSION				93760	
	General Revenue Fund				93761	
GRF 415-100	Personal Services	\$	8,851,468	\$	8,851,468	93762
GRF 415-402	Independent Living	\$	12,280	\$	12,280	93763
	Council					
GRF 415-403	Mental Health Services	\$	717,221	\$	717,221	93764
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816	93765
GRF 415-405	Vocational	\$	536,912	\$	536,912	93766
	Rehabilitation/Job and					
	Family Services					
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531	93767
GRF 415-431	Office for People with	\$	226,012	\$	226,012	93768
	Brain Injury					
GRF 415-506	Services for People	\$	12,185,215	\$	12,185,215	93769
	with Disabilities					
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000	93770
GRF 415-509	Services for the	\$	359,377	\$	359,377	93771
	Elderly					
GRF 415-520	Independent Living	\$	50,000	\$	50,000	93772
	Services					
TOTAL GRF	General Revenue Fund	\$	24,296,832	\$	24,296,832	93773
	General Services Fund Group					93774

4W5	415-606	Program Management Expenses	\$	18,557,040	\$	18,557,040	93775
467	415-609	Business Enterprise Operating Expenses	\$	1,632,082	\$	1,632,082	93776
TOTAL GSF General Services							93777
Fund Group			\$	20,189,122	\$	20,189,122	93778
Federal Special Revenue Fund Group							93779
3L1	415-601	Social Security Personal Care Assistance	\$	3,743,740	\$	3,743,740	93780
3L1	415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	93781
3L1	415-607	Social Security Administration Cost	\$	175,860	\$	175,860	93782
3L1	415-608	Social Security Special Programs/Assistance	\$	2,246,991	\$	131,716	93783
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,336,324	\$	1,338,324	93784
3L1	415-614	Social Security Independent Living	\$	154,942	\$	0	93785
3L4	415-612	Federal Independent Living Centers or Services	\$	894,662	\$	686,520	93786
3L4	415-615	Federal - Supported Employment	\$	1,338,191	\$	1,338,191	93787
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,508,885	\$	1,608,885	93788
317	415-620	Disability	\$	82,870,347	\$	87,999,369	93789



Determination					
379	415-616	Federal - Vocational	\$ 123,565,158	\$ 119,998,470	93790
Rehabilitation					
TOTAL FED Federal Special					93791
Revenue Fund Group			\$ 218,935,588	\$ 218,121,563	93792
State Special Revenue Fund Group					93793
4L1	415-619	Services for	\$ 4,500,000	\$ 4,500,000	93794
Rehabilitation					
468	415-618	Third Party Funding	\$ 1,055,407	\$ 1,105,407	93795
TOTAL SSR State Special					93796
Revenue Fund Group			\$ 5,555,407	\$ 5,605,407	93797
TOTAL ALL BUDGET FUND GROUPS			\$ 268,976,949	\$ 268,212,924	93798
INDEPENDENT LIVING COUNCIL					93799
The foregoing appropriation item 415-402, Independent Living					93800
Council, shall be used to fund the operations of the State					93801
Independent Living Council.					93802
MENTAL HEALTH SERVICES					93803
The foregoing appropriation item 415-403, Mental Health					93804
Services, shall be used for the provision of vocational					93805
rehabilitation services to mutually eligible consumers of the					93806
Rehabilitation Services Commission and the Department of Mental					93807
Health.					93808
The Rehabilitation Services Commission shall provide the					93809
Department of Mental Health a quarterly report stating the numbers					93810
served, numbers placed in employment, average hourly wage, and					93811
average hours worked.					93812
MR/DD SERVICES					93813
The foregoing appropriation item 415-404, MR/DD Services,					93814
shall be used as state matching funds to provide vocational					93815
rehabilitation services to mutually eligible clients between the					93816

Rehabilitation Services Commission and the Department of Mental  
Retardation and Developmental Disabilities. The Rehabilitation  
Services Commission shall report to the Department of Mental  
Retardation and Developmental Disabilities, as outlined in an  
interagency agreement, on the number and status of mutually  
eligible clients and the status of the funds and expenditures for  
these clients.

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 93824

The foregoing appropriation item 415-405, Vocational  
Rehabilitation/Job and Family Services, shall be used as state  
matching funds to provide vocational rehabilitation services to  
mutually eligible clients between the Rehabilitation Services  
Commission and the Department of Job and Family Services. The  
Rehabilitation Services Commission shall report to the Department  
of Job and Family Services, as outlined in an interagency  
agreement, on the number and status of mutually eligible clients  
and the status of the funds and expenditures for these clients.

ASSISTIVE TECHNOLOGY 93834

The foregoing appropriation item 415-406, Assistive  
Technology, shall be provided to Assistive Technology of Ohio and  
shall be used only to provide grants under that program. No amount  
of the appropriation may be used for administrative costs.

OFFICE FOR PEOPLE WITH BRAIN INJURY 93839

Of the foregoing appropriation item 415-431, Office for  
People with Brain Injury, up to \$50,000 in each fiscal year shall  
be used for the state match for a federal grant awarded through  
the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to  
\$50,000 in each fiscal year shall be provided to the Brain Injury  
Trust Fund. The remaining appropriation shall be used to plan and  
coordinate head-injury-related services provided by state agencies  
and other government or private entities, to assess the needs for

such services, and to set priorities in this area.	93848
SERVICES FOR THE DEAF	93849
The foregoing appropriation item 415-508, Services for the Deaf, shall be used to supplement Social Security reimbursement funds used to provide grants to community centers for the deaf.	93850 93851 93852
These funds shall not be used in lieu of Social Security reimbursement funds.	93853 93854
SERVICES FOR THE ELDERLY	93855
The foregoing appropriation item 415-509, Services for the Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.	93856 93857 93858 93859
INDEPENDENT LIVING SERVICES	93860
The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal - Independent Living Centers or Services, shall be used to support state independent living centers or independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.	93861 93862 93863 93864 93865 93866 93867
PROGRAM MANAGEMENT EXPENSES	93868
The foregoing appropriation item 415-606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.	93869 93870 93871 93872 93873
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	93874
The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not	93875 93876 93877

limited to, high tech high schools, training, and brain injury grants.	93878 93879
SOCIAL SECURITY REIMBURSEMENT FUNDS	93880
Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:	93881 93882 93883 93884 93885
(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;	93886 93887 93888
(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments;	93889 93890 93891 93892
(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program;	93893 93894 93895
(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87.	93896 93897 93898 93899 93900 93901 93902 93903
(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to enable them to achieve a noncompetitive employment goal.	93904 93905 93906 93907

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 93908

During fiscal years 2006 and 2007, the Rehabilitation 93909  
 Services Commission may conduct a pilot program to provide 93910  
 vocational rehabilitation and related services to entities, 93911  
 employers, or individuals that are not eligible for state- or 93912  
 federally-supported services through the commission. The 93913  
 commission shall propose fees to be collected from the entities, 93914  
 employers, or individuals served by the pilot program to support 93915  
 the costs for vocational rehabilitation and related services 93916  
 provided under the pilot program. Fee revenues collected under the 93917  
 program shall be credited to Fund 468 (Third Party Funding). 93918  
 During implementation of the pilot program, the Rehabilitation 93919  
 Services Commission shall investigate and determine the 93920  
 possibility of utilizing this source of revenue to match federal 93921  
 funds. The Rehabilitation Services Commission shall evaluate the 93922  
 progress of the pilot program and issue a report of its findings 93923  
 to the Governor not later than December 15, 2007. The report shall 93924  
 include a recommendation to either continue or discontinue the 93925  
 pilot program in the next biennium. 93926

**Section 209.75. RCB RESPIRATORY CARE BOARD 93927**

General Services Fund Group				93928
4K9 872-609 Operating Expenses	\$	441,987	\$ 0	93929
TOTAL GSF General Services				93930
Fund Group	\$	441,987	\$ 0	93931
TOTAL ALL BUDGET FUND GROUPS	\$	441,987	\$ 0	93932

**Section 209.78. REVENUE DISTRIBUTION FUNDS 93934**

Volunteer Firefighters' Dependents Fund				93935
085 800-900 Volunteer	\$	280,000	\$ 280,000	93936
Firefighters'				
Dependents Fund				

TOTAL 085 Volunteer Firefighters'				93937
Dependents Fund	\$	280,000	\$ 280,000	93938
Agency Fund Group				93939
062 110-900 Resort Area Excise Tax	\$	1,000,000	\$ 1,075,000	93940
063 110-900 Permissive Tax	\$	1,627,628,631	\$ 1,706,969,960	93941
Distribution				
067 110-900 School District Income	\$	185,000,000	\$ 195,000,000	93942
Tax				
4P8 001-698 Cash Management	\$	2,500,000	\$ 3,000,000	93943
Improvement Fund				
608 001-699 Investment Earnings	\$	85,000,000	\$ 85,000,000	93944
TOTAL AGY Agency Fund Group	\$	1,901,128,631	\$ 1,991,044,960	93945
Holding Account Redistribution				93946
R45 110-617 International Fuel Tax	\$	6,292,029	\$ 0	93947
Distribution				
TOTAL 090 Holding Account	\$	6,292,029	\$ 0	93948
Redistribution Fund				
Revenue Distribution Fund Group				93949
049 038-900 Indigent Drivers	\$	1,865,000	\$ 1,865,000	93950
Alcohol Treatment				
050 762-900 International	\$	55,000,000	\$ 55,000,000	93951
Registration Plan				
Distribution				
051 762-901 Auto Registration	\$	475,000,000	\$ 475,000,000	93952
Distribution				
054 110-900 Local Government	\$	90,000,000	\$ 90,000,000	93953
Property Tax				
Replacement - Utility				
060 110-900 Gasoline Excise Tax	\$	325,000,000	\$ 349,000,000	93954
Fund				
064 110-900 Local Government	\$	87,100,747	\$ 82,623,833	93955
Revenue Assistance				
065 110-900 Library/Local	\$	444,372,980	\$ 435,584,650	93956

	Government Support				
	Fund				
066	800-900 Undivided Liquor	\$ 14,300,000	\$ 14,300,000		93957
	Permits				
068	110-900 State and Local	\$ 612,195,011	\$ 582,437,898		93958
	Government Highway				
	Distribution				
069	110-900 Local Government Fund	\$ 612,195,011	\$ 582,437,898		93959
081	110-900 Local Government	\$ 20,490,000	\$ 154,290,000		93960
	Property Tax				
	Replacement-Business				
082	110-900 Horse Racing Tax	\$ 130,000	\$ 130,000		93961
083	700-900 Ohio Fairs Fund	\$ 2,450,000	\$ 2,450,000		93962
TOTAL RDF Revenue Distribution					93963
Fund Group		\$ 2,358,979,738	\$ 2,478,223,381		93964
TOTAL ALL BUDGET FUND GROUPS		\$ 4,266,680,398	\$ 4,469,548,341		93965

ADDITIONAL APPROPRIATIONS 93966

Appropriation items in this section shall be used for the 93967  
purpose of administering and distributing the designated revenue 93968  
distribution funds according to the Revised Code. If it is 93969  
determined that additional appropriations are necessary for this 93970  
purpose, such amounts are appropriated. 93971

**Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL 93972**  
GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081) 93973

Notwithstanding any provision of law to the contrary, the 93974  
Director of Budget and Management shall transfer \$4,290,000 in 93975  
fiscal year 2006 and \$30,090,000 in fiscal year 2007 from the 93976  
General Revenue Fund to appropriation item 110-900, Local 93977  
Government Property Tax Replacement - Business (Fund 081) in the 93978  
Revenue Distribution Fund. The funds shall be used to reimburse 93979  
local taxing units under section 5751.22 of the Revised Code. 93980

<b>Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION</b>				93981
General Services Fund Group				93982
4K9 893-609 Operating Expenses	\$	134,279	\$	0 93983
TOTAL GSF General Services				93984
Fund Group	\$	134,279	\$	0 93985
TOTAL ALL BUDGET FUND GROUPS				0 93986
 <b>Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND</b>				93988
General Revenue Fund				93989
GRF 226-100 Personal Services	\$	6,469,841	\$	6,594,261 93990
GRF 226-200 Maintenance	\$	704,162	\$	704,162 93991
GRF 226-300 Equipment	\$	113,289	\$	113,289 93992
TOTAL GRF General Revenue Fund	\$	7,287,292	\$	7,411,712 93993
General Services Fund Group				93994
4H8 226-602 Education Reform	\$	21,620	\$	21,620 93995
Grants				
TOTAL GSF General Services				93996
Fund Group	\$	21,620	\$	21,620 93997
Federal Special Revenue Fund Group				93998
3P5 226-643 Medicaid Professional	\$	180,000	\$	210,000 93999
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,639,000	\$	1,639,000 94000
TOTAL FED Federal Special				94001
Revenue Fund Group	\$	1,819,000	\$	1,849,000 94002
State Special Revenue Fund Group				94003
4M5 226-601 Student Activity and	\$	217,397	\$	217,397 94004
Work Study				
TOTAL SSR State Special Revenue				94005
Fund Group	\$	217,397	\$	217,397 94006
TOTAL ALL BUDGET FUND GROUPS				\$ 9,345,309 \$ 9,499,729 94007



<b>Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF</b>				94009
General Revenue Fund				94010
GRF 221-100 Personal Services	\$	8,401,704	\$ 8,401,704	94011
GRF 221-200 Maintenance	\$	1,032,751	\$ 1,032,751	94012
GRF 221-300 Equipment	\$	222,500	\$ 222,500	94013
TOTAL GRF General Revenue Fund	\$	9,656,955	\$ 9,656,955	94014
General Services Fund Group				94015
4M1 221-602 Education Reform	\$	27,575	\$ 27,575	94016
Grants				
TOTAL GSF General Services				94017
Fund Group	\$	27,575	\$ 27,575	94018
Federal Special Revenue Fund Group				94019
3AD 221-604 VREAL Ohio	\$	1,000,000	\$ 1,000,000	94020
3R0 221-684 Medicaid Professional	\$	35,000	\$ 35,000	94021
Services Reimbursement				94022
3Y1 221-686 Early Childhood Grant	\$	250,000	\$ 250,000	94023
311 221-625 Coordinating Unit	\$	1,062,426	\$ 1,062,426	94024
TOTAL FED Federal Special				94025
Revenue Fund Group	\$	2,347,426	\$ 2,347,426	94026
State Special Revenue Fund Group				94027
4M0 221-601 Educational Program	\$	32,688	\$ 32,688	94028
Expenses				94029
5H6 221-609 Even Start Fees &	\$	59,800	\$ 59,800	94030
Gifts				
TOTAL SSR State Special Revenue				94031
Fund Group	\$	92,488	\$ 92,488	94032
TOTAL ALL BUDGET FUND GROUPS	\$	12,124,444	\$ 12,124,444	94033
EQUIPMENT				94034
Of the foregoing appropriation item 221-300, Equipment, up to				94035
\$15,000 in fiscal year 2006 may be used by the Ohio School for the				94036

Deaf to purchase software for the documentation and tracking of 94037  
students for increased accountability and data analysis for 94038  
quality instruction. 94039

**Section 209.90. SFC SCHOOL FACILITIES COMMISSION** 94040

General Revenue Fund 94041

GRF 230-428 Lease Rental Payments \$ 31,691,700 \$ 31,603,200 94042

GRF 230-908 Common Schools General \$ 188,724,700 \$ 224,911,500 94043

Obligation Debt

Service

TOTAL GRF General Revenue Fund \$ 220,416,400 \$ 256,514,700 94044

State Special Revenue Fund Group 94045

5E3 230-644 Operating Expenses \$ 7,319,617 \$ 7,691,485 94046

TOTAL SSR State Special Revenue 94047

Fund Group \$ 7,319,617 \$ 7,691,485 94048

Lottery Profits Education Fund Group 94049

020 230-620 Career-Tech School \$ 2,000,000 \$ 2,000,000 94050

Building Assistance

TOTAL LPE Lottery Profits 94051

Education Fund Group \$ 2,000,000 \$ 2,000,000 94052

TOTAL ALL BUDGET FUND GROUPS \$ 229,736,017 \$ 266,206,185 94053

**Section 209.90.03. LEASE RENTAL PAYMENTS** 94055

The foregoing appropriation item 230-428, Lease Rental 94056

Payments, shall be used to meet all payments at the times they are 94057

required to be made during the period from July 1, 2005, to June 94058

30, 2007, by the School Facilities Commission under leases and 94059

agreements made under section 3318.26 of the Revised Code, but 94060

limited to the aggregate amount of \$63,294,900. Nothing in this 94061

act shall be deemed to contravene the obligation of the state to 94062

pay, without necessity for further appropriation, from the sources 94063

pledged thereto, the bond service charges on obligations issued 94064

under Chapter 3318. of the Revised Code.	94065
COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE	94066
The foregoing appropriation item 230-908, Common Schools	94067
General Obligation Debt Service, shall be used to pay all debt	94068
service and related financing costs at the times they are required	94069
to be made under sections 151.01 and 151.03 of the Revised Code	94070
during the period from July 1, 2005, to June 30, 2007. The Office	94071
of the Sinking Fund or the Director of Budget and Management shall	94072
effectuate the required payments by an intrastate transfer	94073
voucher.	94074
OPERATING EXPENSES	94075
The foregoing appropriation item 230-644, Operating Expenses,	94076
shall be used by the Ohio School Facilities Commission to carry	94077
out its responsibilities under this section and Chapter 3318. of	94078
the Revised Code.	94079
In both fiscal years 2006 and 2007, the Executive Director of	94080
the Ohio School Facilities Commission shall certify on a quarterly	94081
basis to the Director of Budget and Management the amount of cash	94082
from interest earnings to be transferred from the School Building	94083
Assistance Fund (Fund 032), the Public School Building Fund (Fund	94084
021), and the Educational Facilities Trust Fund (Fund N87) to the	94085
Ohio School Facilities Commission Fund (Fund 5E3). The amount	94086
transferred may not exceed investment earnings credited to the	94087
School Building Assistance Fund (Fund 032), less any amount	94088
required to be paid for federal arbitrage rebate purposes.	94089
SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION	94090
At the request of the Executive Director of the Ohio School	94091
Facilities Commission, the Director of Budget and Management may	94092
cancel encumbrances for school district projects from a previous	94093
biennium if the district has not raised its local share of project	94094

costs within one year of receiving Controlling Board approval 94095  
under section 3318.05 of the Revised Code. The Executive Director 94096  
of the Ohio School Facilities Commission shall certify the amounts 94097  
of the canceled encumbrances to the Director of Budget and 94098  
Management on a quarterly basis. The amounts of the canceled 94099  
encumbrances are hereby appropriated. 94100

**Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF** 94101  
**SCHOOL FACILITIES** 94102

Notwithstanding any other provision of law to the contrary, 94103  
the School Facilities Commission may provide assistance under the 94104  
Exceptional Needs School Facilities Program established in section 94105  
3318.37 of the Revised Code to any school district, and not 94106  
exclusively to a school district in the lowest fifty per cent of 94107  
adjusted valuation per pupil on the current ranking of school 94108  
districts established under section 3317.02 of the Revised Code, 94109  
for the purpose of the relocation or replacement of school 94110  
facilities required as a result of extreme environmental 94111  
contamination. 94112

The School Facilities Commission shall contract with an 94113  
independent environmental consultant to conduct a study and to 94114  
report to the commission as to the seriousness of the 94115  
environmental contamination, whether the contamination violates 94116  
applicable state and federal standards, and whether the facilities 94117  
are no longer suitable for use as school facilities. The 94118  
commission then shall make a determination regarding funding for 94119  
the relocation or replacement of the school facilities. If the 94120  
federal government or other public or private entity provides 94121  
funds for restitution of costs incurred by the state or school 94122  
district in the relocation or replacement of the school 94123  
facilities, the school district shall use such funds in excess of 94124  
the school district's share to refund the state for the state's 94125

contribution to the environmental contamination portion of the 94126  
project. The school district may apply an amount of such 94127  
restitution funds up to an amount equal to the school district's 94128  
portion of the project, as defined by the commission, toward 94129  
paying its portion of that project to reduce the amount of bonds 94130  
the school district otherwise must issue to receive state 94131  
assistance under sections 3318.01 to 3318.20 of the Revised Code. 94132

**Section 209.90.09.** CANTON CITY SCHOOL DISTRICT PROJECT 94133

(A) The Ohio School Facilities Commission may commit up to 94134  
thirty-five million dollars to the Canton City School District for 94135  
construction of a facility described in this section, in lieu of a 94136  
high school that would otherwise be authorized under Chapter 3318. 94137  
of the Revised Code. The Commission shall not commit funds under 94138  
this section unless all of the following conditions are met: 94139

(1) The District has entered into a cooperative agreement 94140  
with a state-assisted technical college. 94141

(2) The District has received an irrevocable commitment of 94142  
additional funding from nonpublic sources. 94143

(3) The facility is intended to serve both secondary and 94144  
postsecondary instructional purposes. 94145

(B) The Commission shall enter into an agreement with the 94146  
District for the construction of the facility authorized under 94147  
this section that is separate from and in addition to the 94148  
agreement required for the District's participation in the 94149  
Classroom Facilities Assistance Program under section 3318.08 of 94150  
the Revised Code. Notwithstanding that section and sections 94151  
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 94152  
agreement shall provide, but not be limited to, the following: 94153

(1) The Commission shall not have any oversight 94154  
responsibilities over the construction of the facility. 94155

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission. 94156  
94157

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code. 94158  
94159  
94160

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. 94161  
94162  
94163

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. 94164  
94165  
94166

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code. 94167  
94168  
94169  
94170  
94171  
94172

**Section 209.93. SOS SECRETARY OF STATE** 94173

General Revenue Fund 94174

GRF 050-321 Operating Expenses	\$	2,585,000	\$	2,585,000	94175
GRF 050-403 Election Statistics	\$	103,936	\$	103,936	94176
GRF 050-407 Pollworkers Training	\$	277,997	\$	277,997	94177
GRF 050-409 Litigation	\$	4,652	\$	4,652	94178

Expenditures

TOTAL GRF General Revenue Fund \$ 2,971,585 \$ 2,971,585 94179

General Services Fund Group 94180

4S8 050-610 Board of Voting	\$	7,200	\$	7,200	94181
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Machine Examiners

412 050-609 Notary Commission	\$	685,250	\$	685,249	94182
413 050-601 Information Systems	\$	169,955	\$	169,955	94183

414 050-602 Citizen Education Fund	\$	75,700	\$	55,712	94184
TOTAL General Services Fund Group	\$	938,105	\$	918,116	94185
Federal Special Revenue Fund Group					94186
3AS 050-616 2005 HAVA Voting Machines	\$	37,436,203	\$	0	94187
3X4 050-612 Ohio Center/Law Related Educational Grant	\$	41,000	\$	41,000	94188
TOTAL FED Federal Special Revenue Fund Group	\$	37,477,203	\$	41,000	94189 94190
State Special Revenue Fund Group					94191
5N9 050-607 Technology Improvements	\$	129,565	\$	129,565	94192
599 050-603 Business Services Operating Expenses	\$	13,741,745	\$	13,761,734	94193
TOTAL SSR State Special Revenue Fund Group	\$	13,871,310	\$	13,891,299	94194 94195
Holding Account Redistribution Fund Group					94196
R01 050-605 Uniform Commercial Code Refunds	\$	65,000	\$	65,000	94197
R02 050-606 Corporate/Business Filing Refunds	\$	100,000	\$	100,000	94198
TOTAL 090 Holding Account Redistribution Fund Group	\$	165,000	\$	165,000	94199 94200
TOTAL ALL BUDGET FUND GROUPS	\$	55,423,203	\$	17,987,000	94201
BOARD OF VOTING MACHINE EXAMINERS					94202
The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in					94203 94204 94205 94206 94207

section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

2005 HAVA VOTING MACHINES

On July 1, 2005, or as soon as possible thereafter, the Secretary of State shall request that the Director of Budget and Management certify the unexpended, unencumbered amount of appropriation item 050-615, 2004 HAVA Voting Machines, within the 2004 HAVA Voting Machines Fund (Fund 3AR). The Director of Budget and Management shall transfer the certified amount to appropriation item 050-616, 2005 HAVA Voting Machines, within the 2005 HAVA Voting Machines Fund (Fund 3AS) for use in fiscal year 2006. The transferred amount is hereby appropriated.

The unexpended, unencumbered amount of appropriation item 050-616, 2005 HAVA Voting Machines, at the end of fiscal year 2006 is transferred to fiscal year 2007 for use under the same appropriation item.

HOLDING ACCOUNT REDISTRIBUTION GROUP

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

**Section 209.96.** SEN THE OHIO SENATE

General Revenue Fund				94233	
GRF 020-321 Operating Expenses	\$	11,546,357	\$	11,661,821	94234
TOTAL GRF General Revenue Fund	\$	11,546,357	\$	11,661,821	94235
General Services Fund Group				94236	
102 020-602 Senate Reimbursement	\$	444,025	\$	444,025	94237



409 020-601 Miscellaneous Sales	\$	34,155	\$	34,155	94238
TOTAL GSF General Services					94239
Fund Group	\$	478,180	\$	478,180	94240
TOTAL ALL BUDGET FUND GROUPS	\$	12,024,537	\$	12,140,001	94241

OPERATING EXPENSES 94242

On July 1, 2005, or as soon as possible thereafter, the Clerk 94243  
of the Senate shall certify to the Director of Budget and 94244  
Management the total fiscal year 2005 unencumbered appropriations 94245  
in appropriation item 020-321, Operating Expenses. The Clerk may 94246  
direct the Director of Budget and Management to transfer an amount 94247  
not to exceed the total fiscal year 2005 unencumbered 94248  
appropriations to fiscal year 2006 for use within appropriation 94249  
item 020-321, Operating Expenses. Additional appropriation 94250  
authority equal to the amount certified by the Clerk is hereby 94251  
appropriated to appropriation item 020-321, Operating Expenses, in 94252  
fiscal year 2006. 94253

On July 1, 2006, or as soon as possible thereafter, the Clerk 94254  
of the Senate shall certify to the Director of Budget and 94255  
Management the total fiscal year 2006 unencumbered appropriations 94256  
in appropriation item 020-321, Operating Expenses. The Clerk may 94257  
direct the Director of Budget and Management to transfer an amount 94258  
not to exceed the total fiscal year 2006 unencumbered 94259  
appropriations to fiscal year 2007 for use within appropriation 94260  
item 020-321, Operating Expenses. Additional appropriation 94261  
authority equal to the amount certified by the Clerk is hereby 94262  
appropriated to appropriation item 020-321, Operating Expenses, in 94263  
fiscal year 2007. 94264

**Section 209.99.** CSF COMMISSIONERS OF THE SINKING FUND 94265

Debt Service Fund Group 94266  
072 155-902 Highway Capital \$ 180,620,600 \$ 196,464,900 94267  
Improvements Bond

		Retirement Fund					
073	155-903	Natural Resources Bond	\$	26,166,000	\$	24,659,100	94268
		Retirement Fund					
074	155-904	Conservation Projects	\$	14,687,300	\$	17,668,800	94269
		Bond Service Fund					
076	155-906	Coal Research and	\$	7,071,100	\$	8,980,800	94270
		Development Bond					
		Retirement Fund					
077	155-907	State Capital	\$	163,131,400	\$	174,545,100	94271
		Improvements Bond					
		Retirement Fund					
078	155-908	Common Schools Bond	\$	200,724,700	\$	236,911,500	94272
		Retirement Fund					
079	155-909	Higher Education Bond	\$	140,600,300	\$	158,114,100	94273
		Retirement Fund					
TOTAL DSF Debt Service Fund Group			\$	733,001,400	\$	817,344,300	94274
TOTAL ALL BUDGET FUND GROUPS			\$	733,001,400	\$	817,344,300	94275

ADDITIONAL APPROPRIATIONS 94276

Appropriation items in this section are for the purpose of 94277  
 paying debt service and financing costs on bonds or notes of the 94278  
 state issued under the Ohio Constitution and acts of the General 94279  
 Assembly. If it is determined that additional appropriations are 94280  
 necessary for this purpose, such amounts are appropriated. 94281

COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER 94282  
 AUTHORIZATION 94283

Notwithstanding any other provision of law to the contrary, 94284  
 the Commissioners of the Sinking Fund shall certify to the 94285  
 Director of Budget and Management, and the director shall then 94286  
 transfer, the cash balance remaining after provision for the 94287  
 payment of all outstanding bonds, notes, coupons, and charges from 94288  
 the Highway Obligation Bond Retirement Fund (Fund 071) to the 94289  
 Highway Capital Improvements Bond Service Fund (Fund 072), created 94290

by section 151.06 of the Revised Code, as expeditiously as possible after the effective date of this section. 94291  
94292

**Section 212.03.** SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY 94293  
94294

General Services Fund Group 94295  
4K9 886-609 Operating Expenses \$ 408,864 \$ 0 94296  
TOTAL GSF General Services Fund Group 94297  
Fund Group \$ 408,864 \$ 0 94298  
TOTAL ALL BUDGET FUND GROUPS \$ 408,864 \$ 0 94299

**Section 212.06.** BTA BOARD OF TAX APPEALS 94301

General Revenue Fund 94302  
GRF 116-321 Operating Expenses \$ 2,155,055 \$ 2,211,035 94303  
TOTAL GRF General Revenue Fund \$ 2,155,055 \$ 2,211,035 94304  
TOTAL ALL BUDGET FUND GROUPS \$ 2,155,055 \$ 2,211,035 94305

**Section 212.09.** TAX DEPARTMENT OF TAXATION 94307

General Revenue Fund 94308  
GRF 110-321 Operating Expenses \$ 91,439,754 \$ 91,439,754 94309  
GRF 110-412 Child Support Administration \$ 71,988 \$ 71,988 94310  
GRF 110-901 Property Tax Allocation - Taxation \$ 430,102,680 \$ 409,946,241 94311  
GRF 110-906 Tangible Tax Exemption - Taxation \$ 18,355,923 \$ 13,766,942 94312  
TOTAL GRF General Revenue Fund \$ 539,970,345 \$ 515,224,925 94313  
General Services Fund Group 94314  
228 110-628 Tax Reform System Implementation \$ 7,000,000 \$ 7,000,000 94315  
433 110-602 Tape File Account \$ 96,165 \$ 96,165 94316  
5BW 110-630 Tax Amnesty Promotion \$ 2,000,000 \$ 0 94317

		and Administration				
5W4	110-625	Centralized Tax Filing	\$	2,500,000	\$	2,000,000 94318
		and Payment				
5W7	110-627	Exempt Facility	\$	36,000	\$	36,000 94319
		Administration				
TOTAL	GSF	General Services				94320
Fund Group			\$	11,632,165	\$	9,132,165 94321
		Federal Special Revenue Fund Group				94322
3J6	110-601	Motor Fuel Compliance	\$	25,000	\$	25,000 94323
TOTAL	FED	Federal Special Revenue				94324
Fund Group			\$	25,000	\$	25,000 94325
		State Special Revenue Fund Group				94326
4C6	110-616	International	\$	706,855	\$	706,855 94327
		Registration Plan				
4R6	110-610	Tire Tax	\$	65,000	\$	65,000 94328
		Administration				
435	110-607	Local Tax	\$	15,880,987	\$	16,394,879 94329
		Administration				
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000 94330
437	110-606	Litter Tax and Natural	\$	625,232	\$	625,232 94331
		Resource Tax				
		Administration				
438	110-609	School District Income	\$	2,599,999	\$	2,599,999 94332
		Tax				
5BQ	110-629	Commercial Activity	\$	6,000,000	\$	500,000 94333
		Tax Administration				
5N5	110-605	Municipal Income Tax	\$	265,000	\$	265,000 94334
		Administration				
5N6	110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000 94335
		Administration				
5V7	110-622	Motor Fuel Tax	\$	4,268,345	\$	4,397,263 94336
		Administration				

5V8 110-623	Property Tax	\$	12,758,643	\$	12,967,102	94337
	Administration					
639 110-614	Cigarette Tax	\$	168,925	\$	168,925	94338
	Enforcement					
642 110-613	Ohio Political Party	\$	600,000	\$	600,000	94339
	Distributions					
688 110-615	Local Excise Tax	\$	300,000	\$	300,000	94340
	Administration					
TOTAL SSR	State Special Revenue					94341
Fund Group		\$	45,673,986	\$	41,025,255	94342
Agency Fund Group						94343
095 110-901	Municipal Income Tax	\$	21,000,000	\$	21,000,000	94344
425 110-635	Tax Refunds	\$	1,483,900,000	\$	1,582,700,000	94345
TOTAL AGY	Agency Fund Group	\$	1,504,900,000	\$	1,603,700,000	94346
Holding Account	Redistribution Fund Group					94347
R10 110-611	Tax Distributions	\$	50,000	\$	50,000	94348
R11 110-612	Miscellaneous Income	\$	50,000	\$	50,000	94349
	Tax Receipts					
TOTAL 090	Holding Account					94350
Redistribution	Fund Group	\$	100,000	\$	100,000	94351
TOTAL ALL BUDGET	FUND GROUPS	\$	2,102,301,496	\$	2,169,207,345	94352
	HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX					94353
	EXEMPTION					94354
	The foregoing appropriation item 110-901, Property Tax					94355
	Allocation - Taxation, is hereby appropriated to pay for the					94356
	state's costs incurred because of the Homestead Exemption, the					94357
	Manufactured Home Property Tax Rollback, and the Property Tax					94358
	Rollback. The Tax Commissioner shall distribute these funds					94359
	directly to the appropriate local taxing districts, except for					94360
	school districts, notwithstanding the provisions in sections					94361
	321.24 and 323.156 of the Revised Code, which provide for payment					94362
	of the Homestead Exemption, the Manufactured Home Property Tax					94363

Rollback, and Property Tax Rollback by the Tax Commissioner to the 94364  
appropriate county treasurer and the subsequent redistribution of 94365  
these funds to the appropriate local taxing districts by the 94366  
county auditor. 94367

The foregoing appropriation item 110-906, Tangible Tax 94368  
Exemption - Taxation, is hereby appropriated to pay for the 94369  
state's costs incurred because of the tangible personal property 94370  
tax exemption required by division (C)(3) of section 5709.01 of 94371  
the Revised Code. The Tax Commissioner shall distribute to each 94372  
county treasurer the total amount appearing in the notification 94373  
from the county treasurer under division (G) of section 321.24 of 94374  
the Revised Code for all local taxing districts located in the 94375  
county except for school districts, notwithstanding the provision 94376  
in section 321.24 of the Revised Code which provides for payment 94377  
of the \$10,000 tangible personal property tax exemption by the Tax 94378  
Commissioner to the appropriate county treasurer for all local 94379  
taxing districts located in the county including school districts. 94380  
The county auditor shall distribute the amount paid by the Tax 94381  
Commissioner among the appropriate local taxing districts except 94382  
for school districts under division (G) of section 321.24 of the 94383  
Revised Code. 94384

Upon receipt of these amounts, each local taxing district 94385  
shall distribute the amount among the proper funds as if it had 94386  
been paid as real or tangible personal property taxes. Payments 94387  
for the costs of administration shall continue to be paid to the 94388  
county treasurer and county auditor as provided for in sections 94389  
319.54, 321.26, and 323.156 of the Revised Code. 94390

Any sums, in addition to the amounts specifically 94391  
appropriated in appropriation items 110-901, Property Tax 94392  
Allocation - Taxation, for the Homestead Exemption, the 94393  
Manufactured Home Property Tax Rollback, and the Property Tax 94394  
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 94395

for the \$10,000 tangible personal property tax exemption payments, 94396  
which are determined to be necessary for these purposes, are 94397  
hereby appropriated. 94398

MUNICIPAL INCOME TAX 94399

The foregoing appropriation item 110-901, Municipal Income 94400  
Tax, shall be used to make payments to municipal corporations 94401  
under section 5745.05 of the Revised Code. If it is determined 94402  
that additional appropriations are necessary to make these 94403  
payments, such amounts are hereby appropriated. 94404

TAX REFUNDS 94405

The foregoing appropriation item 110-635, Tax Refunds, shall 94406  
be used to pay refunds under section 5703.052 of the Revised Code. 94407  
If it is determined that additional appropriations are necessary 94408  
for this purpose, such amounts are hereby appropriated. 94409

TAX REFORM SYSTEM IMPLEMENTATION FUND 94410

Notwithstanding section 3734.9010, division (B)(2)(c) of 94411  
section 4505.09, division (B) of section 5703.12, section 5703.80, 94412  
division (C)(6) of section 5727.81, sections 5733.122 and 94413  
5735.053, division (C) of section 5739.21, section 5745.03, 94414  
division (C) of section 5747.03, and section 5747.113 of the 94415  
Revised Code and any other statutory provision to the contrary, 94416  
any residual cash balances determined and certified by the Tax 94417  
Commissioner to the Director of Budget and Management shall be 94418  
transferred on July 1, 2005, or as soon as possible thereafter, to 94419  
the Tax Reform System Implementation Fund (Fund 228), which is 94420  
hereby created in the State Treasury. The fund shall be used to 94421  
pay expenses incurred by the Department of Taxation in providing 94422  
an integrated tax system that will accommodate the needs of tax 94423  
reform and allow for improved customer service, processing 94424  
efficiency, compliance enforcement, and reporting. 94425

INTERNATIONAL REGISTRATION PLAN AUDIT	94426
The foregoing appropriation item 110-616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.	94427 94428 94429 94430
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT	94431
Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.	94432 94433 94434 94435 94436 94437 94438
LITTER CONTROL TAX ADMINISTRATION FUND	94439
Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2005, to June 30, 2006, the amount of \$625,232, and during the period from July 1, 2006, to June 30, 2007, the amount of \$625,232, received by the Tax Commissioner under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).	94440 94441 94442 94443 94444 94445
TAX AMNESTY PROMOTION AND ADMINISTRATION	94446
The foregoing appropriation item 110-630, Tax Amnesty Promotion and Administration, shall be used to pay expenses incurred to promote and administer the tax amnesty program run from November 1, 2005, through December 15, 2005, by the Department of Taxation. The Department of Taxation and Attorney General's Office shall work in close collaboration on promotion activities in relation to the Tax Amnesty Promotion and Administration program.	94447 94448 94449 94450 94451 94452 94453 94454
CENTRALIZED TAX FILING AND PAYMENT FUND	94455



The Director of Budget and Management, under a plan submitted 94456  
by the Tax Commissioner, or as otherwise determined by the 94457  
Director of Budget and Management, shall set a schedule to 94458  
transfer cash from the General Revenue Fund to the credit of the 94459  
Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers 94460  
of cash shall not exceed \$4,500,000 in the biennium. 94461

COMMERCIAL ACTIVITY TAX ADMINISTRATION 94462

The foregoing appropriation item 110-629, Commercial Activity 94463  
Tax Administration, shall be used to pay expenses incurred by the 94464  
Department of Taxation to implement and administer the Commercial 94465  
Activity Tax under Chapter 5751. of the Revised Code. 94466

**Section 212.12.** DOT DEPARTMENT OF TRANSPORTATION 94467

Transportation Modes 94468

General Revenue Fund 94469

GRF 775-451 Public Transportation \$ 16,300,000 \$ 16,300,000 94470  
- State

GRF 776-465 Ohio Rail Development \$ 2,700,000 \$ 2,700,000 94471  
Commission

GRF 776-466 Railroad \$ 789,600 \$ 789,600 94472  
Crossing/Grade  
Separation

GRF 777-471 Airport Improvements - \$ 1,793,985 \$ 1,793,985 94473  
State

GRF 777-473 Rickenbacker Lease \$ 594,500 \$ 320,300 94474  
Payments - State

TOTAL GRF General Revenue Fund \$ 22,178,085 \$ 21,903,885 94475

Federal Special Revenue Fund Group 94476

3B9 776-662 Rail Transportation - \$ 10,000 \$ 10,000 94477  
Federal

TOTAL FSR Federal Special Revenue 94478

Fund Group	\$	10,000	\$	10,000	94479
State Special Revenue Fund Group					94480
4N4 776-663 Panhandle Lease	\$	764,400	\$	764,400	94481
Reserve Payments					
4N4 776-664 Rail Transportation -	\$	2,111,500	\$	2,111,500	94482
Other					
5CF 776-667 Rail Transload	\$	500,000	\$	0	94483
Facilities					
5W9 777-615 County Airport	\$	570,000	\$	570,000	94484
Maintenance Assistance					
TOTAL SSR State Special Revenue					94485
Fund Group	\$	3,945,900	\$	3,445,900	94486
TOTAL ALL BUDGET FUND GROUPS	\$	26,133,985	\$	25,359,785	94487
 ELDERLY AND DISABLED FARE ASSISTANCE					94488
Of the foregoing appropriation item 775-451, Public					94489
Transportation - State, up to \$6,000,000 in fiscal year 2006 and					94490
\$7,000,000 in fiscal year 2007 may be used to make grants to					94491
county transit boards, regional transit authorities, regional					94492
transit commissions, counties, municipal corporations, and private					94493
nonprofit organizations that operate or will operate public					94494
transportation systems, for the purpose of reducing the transit					94495
fares of elderly or disabled persons. The Director of					94496
Transportation shall establish criteria for the distribution of					94497
these grants under division (B) of section 5501.07 of the Revised					94498
Code.					94499
 AVIATION LEASE PAYMENTS					94500
The foregoing appropriation item 777-473, Rickenbacker Lease					94501
Payments - State, shall be used to meet scheduled payments for the					94502
Rickenbacker Port Authority. The Director of Transportation shall					94503
certify to the Director of Budget and Management any					94504
appropriations in appropriation item 777-473, Rickenbacker Lease					94505

Payments - State, that are not needed to make lease payments for 94506  
the Rickenbacker Port Authority. Notwithstanding section 127.14 of 94507  
the Revised Code, the amount certified may be transferred by the 94508  
Director of Budget and Management to appropriation item 777-471, 94509  
Airport Improvements - State. 94510

RAIL TRANSLOAD FACILITIES 94511

The foregoing appropriation item 776-667, Rail Transload 94512  
Facilities, shall be used to fund the Rail Transload Initiative, a 94513  
statewide pilot program administered by the Ohio Rail Development 94514  
Commission, to provide grants to assist communities and railroads 94515  
and other businesses to develop facilities that will enhance the 94516  
ability of railroads to work with other transport modes to move 94517  
bulk commodities more efficiently and safely. 94518

**Section 212.15.** TOS TREASURER OF STATE 94519

General Revenue Fund 94520

GRF 090-321 Operating Expenses \$ 9,041,937 \$ 9,041,937 94521

GRF 090-401 Office of the Sinking \$ 521,576 \$ 521,576 94522

Fund 94523

GRF 090-402 Continuing Education \$ 435,770 \$ 435,770 94524

GRF 090-524 Police and Fire \$ 25,000 \$ 20,000 94525

Disability Pension 94526

Fund

GRF 090-534 Police & Fire Ad Hoc \$ 180,000 \$ 150,000 94527

Cost

of Living 94528

GRF 090-554 Police and Fire \$ 1,100,000 \$ 1,000,000 94529

Survivor

Benefits 94530

GRF 090-575 Police and Fire Death \$ 20,000,000 \$ 20,000,000 94531

Benefits 94532

TOTAL GRF General Revenue Fund \$ 31,304,283 \$ 31,169,283 94533

General Services Fund Group				94534
4E9 090-603 Securities Lending	\$	2,721,800	\$ 2,814,000	94535
Income				
577 090-605 Investment Pool	\$	550,000	\$ 550,000	94536
Reimbursement				94537
605 090-609 Treasurer of State	\$	700,000	\$ 700,000	94538
Administrative Fund				94539
TOTAL GSF General Services				94540
Fund Group	\$	3,971,800	\$ 4,064,000	94541
State Special Revenue Fund Group				94542
5C5 090-602 County Treasurer	\$	135,000	\$ 135,000	94543
Education				
TOTAL SSR State Special Revenue				94544
Fund Group	\$	135,000	\$ 135,000	94545
Agency Fund Group				94546
425 090-635 Tax Refunds	\$	31,000,000	\$ 31,000,000	94547
TOTAL Agency Fund Group	\$	31,000,000	\$ 31,000,000	94548
TOTAL ALL BUDGET FUND GROUPS	\$	66,411,083	\$ 66,368,283	94549

**Section 212.15.03. OFFICE OF THE SINKING FUND** 94551

The foregoing appropriation item 090-401, Office of the 94552  
Sinking Fund, shall be used for financing and other costs incurred 94553  
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 94554  
Public Facilities Commission or its secretary, or the Treasurer of 94555  
State, with respect to State of Ohio general obligation bonds or 94556  
notes, including, but not limited to, printing, advertising, 94557  
delivery, rating fees and the procurement of ratings, professional 94558  
publications, membership in professional organizations, and 94559  
services referred to in division (D) of section 151.01 of the 94560  
Revised Code. The General Revenue Fund shall be reimbursed for 94561  
such costs by intrastate transfer voucher pursuant to a 94562  
certification by the Office of the Sinking Fund of the actual 94563

amounts used. The amounts necessary to make such reimbursements 94564  
are appropriated from the general obligation bond retirement funds 94565  
created by the Constitution and laws to the extent such costs are 94566  
incurred. 94567

POLICE AND FIRE DEATH BENEFIT FUND 94568

The foregoing appropriation item 090-575, Police and Fire 94569  
Death Benefits, shall be disbursed annually by the Treasurer of 94570  
State at the beginning of each fiscal year to the Board of 94571  
Trustees of the Ohio Police and Fire Pension Fund. By the 94572  
twentieth day of June of each fiscal year, the Board of Trustees 94573  
of the Ohio Police and Fire Pension Fund shall certify to the 94574  
Treasurer of State the amount disbursed in the current fiscal year 94575  
to make the payments required by section 742.63 of the Revised 94576  
Code and shall return to the Treasurer of State moneys received 94577  
from this appropriation item but not disbursed. 94578

TAX REFUNDS 94579

The foregoing appropriation item 090-635, Tax Refunds, shall 94580  
be used to pay refunds under section 5703.052 of the Revised Code. 94581  
If the Director of Budget and Management determines that 94582  
additional amounts are necessary for this purpose, such amounts 94583  
are hereby appropriated. 94584

**Section 212.18.** UST PETROLEUM UNDERGROUND STORAGE TANK 94585

Agency Fund Group				94586	
691 810-632 PUSTRCB Staff	\$	1,075,158	\$	1,116,658	94587
TOTAL AGY Agency Fund Group	\$	1,075,158	\$	1,116,658	94588
TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,116,658	94589

**Section 212.21.** TTA OHIO TUITION TRUST AUTHORITY 94591

State Special Revenue Fund Group				94592	
5AM 095-603 Index Savings Plan	\$	2,866,240	\$	3,104,865	94593

5P3 095-602 Variable College Savings Fund	\$	2,042,486	\$	2,118,568	94594
645 095-601 Operating Expenses	\$	807,260	\$	891,173	94595
TOTAL SSR State Special Revenue Fund Group					94596
Fund Group	\$	5,715,986	\$	6,114,606	94597
TOTAL ALL BUDGET FUND GROUPS	\$	5,715,986	\$	6,114,606	94598

**Section 212.24. OVH OHIO VETERANS' HOME** 94600

General Revenue Fund					94601
GRF 430-100 Personal Services	\$	20,629,914	\$	21,030,031	94602
GRF 430-200 Maintenance	\$	6,396,200	\$	6,396,200	94603
TOTAL GRF General Revenue Fund	\$	27,026,114	\$	27,426,231	94604
General Services Fund Group					94605
484 430-603 Rental and Service Revenue	\$	882,737	\$	882,737	94606
TOTAL GSF General Services Fund Group	\$	882,737	\$	882,737	94607
Federal Special Revenue Fund Group					94608
3L2 430-601 Federal VA Per Diem Grant	\$	14,990,510	\$	15,290,320	94609
TOTAL FED Federal Special Revenue Fund Group					94610
Fund Group	\$	14,990,510	\$	15,290,320	94611
State Special Revenue Fund Group					94612
4E2 430-602 Veterans Home Operating	\$	8,322,731	\$	8,530,800	94613
604 430-604 Veterans Home Improvement	\$	770,096	\$	770,096	94614
TOTAL SSR State Special Revenue Fund Group					94615
Fund Group	\$	9,092,827	\$	9,300,896	94616
TOTAL ALL BUDGET FUND GROUPS	\$	51,992,188	\$	52,900,184	94617

**Section 212.27. VET VETERANS' ORGANIZATIONS** 94619

General Revenue Fund				94620
	VAP AMERICAN EX-PRISONERS OF WAR			94621
GRF 743-501	State Support	\$ 25,030	\$ 25,030	94622
	VAN ARMY AND NAVY UNION, USA, INC.			94623
GRF 746-501	State Support	\$ 55,012	\$ 55,012	94624
	VKW KOREAN WAR VETERANS			94625
GRF 747-501	State Support	\$ 49,453	\$ 49,453	94626
	VJW JEWISH WAR VETERANS			94627
GRF 748-501	State Support	\$ 29,715	\$ 29,715	94628
	VCW CATHOLIC WAR VETERANS			94629
GRF 749-501	State Support	\$ 57,990	\$ 57,990	94630
	VPH MILITARY ORDER OF THE PURPLE HEART			94631
GRF 750-501	State Support	\$ 56,377	\$ 56,377	94632
	VVV VIETNAM VETERANS OF AMERICA			94633
GRF 751-501	State Support	\$ 185,954	\$ 185,954	94634
	VAL AMERICAN LEGION OF OHIO			94635
GRF 752-501	State Support	\$ 252,328	\$ 252,328	94636
	VII AMVETS			94637
GRF 753-501	State Support	\$ 237,919	\$ 237,919	94638
	VAV DISABLED AMERICAN VETERANS			94639
GRF 754-501	State Support	\$ 166,308	\$ 166,308	94640
	VMC MARINE CORPS LEAGUE			94641
GRF 756-501	State Support	\$ 85,972	\$ 85,972	94642
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION			94643
GRF 757-501	State Support	\$ 5,946	\$ 5,946	94644
	VFW VETERANS OF FOREIGN WARS			94645
GRF 758-501	State Support	\$ 196,615	\$ 196,615	94646
TOTAL GRF General Revenue Fund		\$ 1,404,619	\$ 1,404,619	94647
TOTAL ALL BUDGET FUND GROUPS		\$ 1,404,619	\$ 1,404,619	94648
	RELEASE OF FUNDS			94649
	The foregoing appropriation items 743-501, 746-501, 747-501,			94650
	748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501,			94651

756-501, 757-501, and 758-501, State Support, shall be released 94652  
upon approval by the Director of Budget and Management. 94653

CENTRAL OHIO UNITED SERVICES ORGANIZATION 94654

Of the foregoing appropriation item 751-501, State Support, 94655  
Vietnam Veterans of America, \$50,000 in each fiscal year shall be 94656  
used to support the activities of the Central Ohio USO. 94657

VETERANS SERVICE COMMISSION EDUCATION 94658

Of the foregoing appropriation item 753-501, State Support, 94659  
AMVETS, up to \$20,000 in each fiscal year may be used to provide 94660  
moneys to the Association of County Veterans Service Commissioners 94661  
to reimburse its member county veterans service commissions for 94662  
costs incurred in carrying out educational and outreach duties 94663  
required under divisions (E) and (F) of section 5901.03 of the 94664  
Revised Code. The Director of Budget and Management shall release 94665  
these funds upon the presentation of an itemized receipt, approved 94666  
by the Governor's Office of Veterans Affairs, from the association 94667  
for reasonable and appropriate expenses incurred while performing 94668  
these duties. The association shall establish uniform procedures 94669  
for reimbursing member commissions. 94670

**Section 212.30.** DVM STATE VETERINARY MEDICAL BOARD 94671

General Services Fund Group				94672
4K9 888-609 Operating Expenses	\$	353,691	\$	0 94673
TOTAL GSF General Services				94674
Fund Group	\$	353,691	\$	0 94675
TOTAL ALL BUDGET FUND GROUPS	\$	353,691	\$	0 94676

**Section 212.33.** DYS DEPARTMENT OF YOUTH SERVICES 94678

General Revenue Fund				94679
GRF 470-401 RECLAIM Ohio	\$	177,016,683	\$	182,084,588 94680
GRF 470-412 Lease Rental Payments	\$	20,267,500	\$	21,882,700 94681



GRF 470-510	Youth Services	\$	18,608,587	\$	18,608,587	94682
GRF 472-321	Parole Operations	\$	14,358,995	\$	14,962,871	94683
GRF 477-321	Administrative	\$	14,239,494	\$	14,754,420	94684
	Operations					
TOTAL GRF	General Revenue Fund	\$	244,491,259	\$	252,293,166	94685
	General Services Fund Group					94686
175 470-613	Education	\$	10,112,529	\$	9,450,598	94687
	Reimbursement					
4A2 470-602	Child Support	\$	320,641	\$	328,657	94688
4G6 470-605	General Operational	\$	10,000	\$	10,000	94689
	Funds					
479 470-609	Employee Food Service	\$	141,466	\$	137,666	94690
523 470-621	Wellness Program	\$	46,937	\$	0	94691
6A5 470-616	Building Demolition	\$	31,100	\$	0	94692
TOTAL GSF	General Services					94693
	Fund Group	\$	10,662,673	\$	9,926,921	94694
	Federal Special Revenue Fund Group					94695
3V5 470-604	Juvenile	\$	4,254,745	\$	4,254,746	94696
	Justice/Delinquency					
	Prevention					
3W0 470-611	Federal Juvenile	\$	222,507	\$	0	94697
	Programs FFY 02					
3Z8 470-625	Federal Juvenile	\$	1,500,001	\$	773,812	94698
	Programs FFY 04					
3Z9 470-626	Federal Juvenile	\$	465,000	\$	0	94699
	Programs FFY 05					
321 470-601	Education	\$	1,422,580	\$	1,465,399	94700
321 470-603	Juvenile Justice	\$	1,981,169	\$	2,006,505	94701
	Prevention					
321 470-606	Nutrition	\$	2,471,550	\$	2,470,655	94702
321 470-614	Title IV-E	\$	4,960,589	\$	6,012,361	94703
	Reimbursements					

321 470-617 Americorps Programs	\$	456,000	\$	463,700	94704
TOTAL FED Federal Special Revenue					94705
Fund Group	\$	17,734,141	\$	17,447,178	94706
State Special Revenue Fund Group					94707
147 470-612 Vocational Education	\$	1,937,784	\$	2,009,866	94708
4W3 470-618 Help Me Grow	\$	11,000	\$	11,000	94709
5BH 470-628 Partnerships for Success	\$	1,500,000	\$	1,500,000	94710
TOTAL SSR State Special Revenue					94711
Fund Group	\$	3,448,784	\$	3,520,866	94712
TOTAL ALL BUDGET FUND GROUPS	\$	276,336,857	\$	283,188,131	94713
RECLAIM OHIO					94714
Of the foregoing appropriation item 470-401, RECLAIM Ohio,					94715
\$25,000 in each fiscal year shall be distributed directly to the					94716
Lighthouse Youth Services Wrap-Around Program.					94717
OHIO BUILDING AUTHORITY LEASE PAYMENTS					94718
The foregoing appropriation item 470-412, Lease Rental					94719
Payments, in the Department of Youth Services, shall be used for					94720
payments to the Ohio Building Authority for the period from July					94721
1, 2005, to June 30, 2007, under the primary leases and agreements					94722
for facilities made under Chapter 152. of the Revised Code, but					94723
limited to the aggregate amount of \$42,150,200. This appropriation					94724
is the source of funds pledged for bond service charges on related					94725
obligations issued pursuant to Chapter 152. of the Revised Code.					94726
EDUCATION REIMBURSEMENT					94727
The foregoing appropriation item 470-613, Education					94728
Reimbursement, shall be used to fund the operating expenses of					94729
providing educational services to youth supervised by the					94730
Department of Youth Services. Operating expenses include, but are					94731
not limited to, teachers' salaries, maintenance costs, and					94732
educational equipment. This appropriation item may be used for					94733

capital expenses related to the education program. 94734

EMPLOYEE FOOD SERVICE AND EQUIPMENT 94735

Notwithstanding section 125.14 of the Revised Code, the 94736  
foregoing appropriation item 470-609, Employee Food Service, may 94737  
be used to purchase any food operational items with funds received 94738  
into the fund from reimbursement for state surplus property. 94739

PARTNERSHIPS FOR SUCCESS 94740

In fiscal year 2006, the foregoing appropriation item 94741  
470-628, Partnerships for Success, shall be used to support the 94742  
Partnerships for Success Project. On or before January 1, 2007, 94743  
the Director of Budget and Management shall transfer any amount of 94744  
cash that remains unspent in the Partnerships for Success Fund 94745  
(Fund 5BH) to the Children's Trust Fund (Fund 198). 94746

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 94747  
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 94748

Any business relating to the funds associated with the Office 94749  
of Criminal Justice Services' appropriation item 196-602, Criminal 94750  
Justice Federal Programs, commenced but not completed by the 94751  
Office of Criminal Justice Services or its director shall be 94752  
completed by the Department of Youth Services or its director in 94753  
the same manner, and with the same effect, as if completed by the 94754  
Office of Criminal Justice Services or its director. No 94755  
validation, cure, right, privilege, remedy, obligation, or 94756  
liability is lost or impaired by reason of the transfer and shall 94757  
be administered by the Department of Youth Services. 94758

Any action or proceeding against the Office of Criminal 94759  
Justice Services pending on the effective date of this section 94760  
shall not be affected by the transfer of responsibility to the 94761  
Department of Youth Services, and shall be prosecuted or defended 94762  
in the name of the Department of Youth Services or its director. 94763

In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party. 94764  
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**Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES** 94767  
APPROVED BY THE CONTROLLING BOARD 94768

Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2007. 94769  
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**Section 303.06. PERSONAL SERVICE EXPENSES** 94774

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section. 94775  
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**Section 303.09.** RE-ISSUANCE OF VOIDED WARRANTS 94793

In order to provide funds for the reissuance of voided 94794  
warrants under section 117.47 of the Revised Code, there is hereby 94795  
appropriated, out of moneys in the state treasury from the fund 94796  
credited as provided in section 117.47 of the Revised Code, that 94797  
amount sufficient to pay such warrants when approved by the Office 94798  
of Budget and Management. 94799

**Section 303.12.** SATISFACTION OF JUDGMENTS AND SETTLEMENTS 94800  
AGAINST THE STATE 94801

Except as otherwise provided in this section, an 94802  
appropriation in this act or any other act may be used for the 94803  
purpose of satisfying judgments, settlements, or administrative 94804  
awards ordered or approved by the Court of Claims or by any other 94805  
court of competent jurisdiction in connection with civil actions 94806  
against the state. This authorization does not apply to 94807  
appropriations to be applied to or used for payment of guarantees 94808  
by or on behalf of the state, or for payments under lease 94809  
agreements relating to, or debt service on, bonds, notes, or other 94810  
obligations of the state. Notwithstanding any other statute to the 94811  
contrary, this authorization includes appropriations from funds 94812  
into which proceeds of direct obligations of the state are 94813  
deposited only to the extent that the judgment, settlement, or 94814  
administrative award is for, or represents, capital costs for 94815  
which the appropriation may otherwise be used and is consistent 94816  
with the purpose for which any related obligations were issued or 94817  
entered into. Nothing contained in this section is intended to 94818  
subject the state to suit in any forum in which it is not 94819  
otherwise subject to suit, and is not intended to waive or 94820  
compromise any defense or right available to the state in any suit 94821  
against it. 94822

**Section 303.13. CAPITAL PROJECT SETTLEMENTS** 94823

This section specifies an additional and supplemental 94824  
procedure to provide for payments of judgments and settlements if 94825  
the Director of Budget and Management determines, pursuant to 94826  
division (C)(4) of section 2743.19 of the Revised Code, that 94827  
sufficient unencumbered moneys do not exist in the particular 94828  
appropriation to pay the amount of a final judgment rendered 94829  
against the state or a state agency, including the settlement of a 94830  
claim approved by a court, in an action upon and arising out of a 94831  
contractual obligation for the construction or improvement of a 94832  
capital facility if the costs under the contract were payable in 94833  
whole or in part from a state capital projects appropriation. In 94834  
such a case, the director may either proceed pursuant to division 94835  
(C)(4) of section 2743.19 of the Revised Code or apply to the 94836  
Controlling Board to increase an appropriation or create an 94837  
appropriation out of any unencumbered moneys in the state treasury 94838  
to the credit of the capital projects fund from which the initial 94839  
state appropriation was made. The Controlling Board may approve or 94840  
disapprove the application as submitted or modified. The amount of 94841  
an increase in appropriation or new appropriation specified in an 94842  
application approved by the Controlling Board is hereby 94843  
appropriated from the applicable capital projects fund and made 94844  
available for the payment of the judgment or settlement. 94845

If the director does not make the application authorized by 94846  
this section or the Controlling Board disapproves the application, 94847  
and the director does not make application under division (C)(4) 94848  
of section 2743.19 of the Revised Code, the director shall for the 94849  
purpose of making that payment make a request to the General 94850  
Assembly as provided for in division (C)(5) of that section. 94851

**Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES** 94852

There are hereby appropriated out of any moneys in the state 94853  
treasury to the credit of the General Revenue Fund, which are not 94854  
otherwise appropriated, funds sufficient to make any payment 94855  
required by division (B)(2) of section 5747.03 of the Revised 94856  
Code. 94857

**Section 303.21.** REAPPROPRIATION OF UNEXPENDED ENCUMBERED 94858  
BALANCES OF OPERATING APPROPRIATIONS 94859

An unexpended balance of an operating appropriation or 94860  
reappropriation that a state agency lawfully encumbered prior to 94861  
the close of a fiscal year is reappropriated on the first day of 94862  
July of the following fiscal year from the fund from which it was 94863  
originally appropriated or reappropriated for the following period 94864  
and shall remain available only for the purpose of discharging the 94865  
encumbrance: 94866

(A) For an encumbrance for personal services, maintenance, 94867  
equipment, or items for resale, other than an encumbrance for an 94868  
item of special order manufacture not available on term contract 94869  
or in the open market or for reclamation of land or oil and gas 94870  
wells for a period of not more than five months from the end of 94871  
the fiscal year; 94872

(B) For an encumbrance for an item of special order 94873  
manufacture not available on term contract or in the open market, 94874  
for a period of not more than five months from the end of the 94875  
fiscal year or, with the written approval of the Director of 94876  
Budget and Management, for a period of not more than twelve months 94877  
from the end of the fiscal year; 94878

(C) For an encumbrance for reclamation of land or oil and gas 94879  
wells, for a period ending when the encumbered appropriation is 94880  
expended or for a period of two years, whichever is less; 94881

(D) For an encumbrance for any other expense, for such period 94882

as the director approves, provided such period does not exceed two 94883  
years. 94884

Any operating appropriations for which unexpended balances 94885  
are reappropriated beyond a five-month period from the end of the 94886  
fiscal year by division (B) of this section shall be reported to 94887  
the Controlling Board by the Director of Budget and Management by 94888  
the thirty-first day of December of each year. The report on each 94889  
such item shall include the item, the cost of the item, and the 94890  
name of the vendor. The report shall be updated on a quarterly 94891  
basis for encumbrances remaining open. 94892

Upon the expiration of the reappropriation period set out in 94893  
divisions (A), (B), (C), or (D) of this section, a reappropriation 94894  
made by this section lapses, and the Director of Budget and 94895  
Management shall cancel the encumbrance of the unexpended 94896  
reappropriation not later than the end of the weekend following 94897  
the expiration of the reappropriation period. 94898

Notwithstanding the preceding paragraph, with the approval of 94899  
the Director of Budget and Management, an unexpended balance of an 94900  
encumbrance that was reappropriated on the first day of July by 94901  
this section for a period specified in division (C) or (D) of this 94902  
section and that remains encumbered at the close of the fiscal 94903  
biennium is hereby reappropriated on the first day of July of the 94904  
following fiscal biennium from the fund from which it was 94905  
originally appropriated or reappropriated for the applicable 94906  
period specified in division (C) or (D) of this section and shall 94907  
remain available only for the purpose of discharging the 94908  
encumbrance. 94909

The Director of Budget and Management may correct accounting 94910  
errors committed by the staff of the Office of Budget and 94911  
Management, such as re-establishing encumbrances or appropriations 94912  
cancelled in error, during the cancellation of operating 94913



encumbrances in November and of non-operating encumbrances in 94914  
December. 94915

If the Controlling Board approved a purchase, that approval 94916  
remains in effect so long as the appropriation used to make that 94917  
purchase remains encumbered. 94918

**Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS** 94919

The maximum amounts that may be assessed against nuclear 94920  
electric utilities under division (B)(2) of section 4937.05 of the 94921  
Revised Code are as follows: 94922

	FY 2006	FY 2007	
Department of Agriculture			94923
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	94924
Department of Health			94925
Fund 610 Radiation Emergency Response	\$850,000	\$850,000	94926
Environmental Protection Agency			94927
Fund 644 ER Radiological Safety	\$286,114	\$286,114	94928
Emergency Management Agency			94929
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000	94930

**Section 312.01. TRANSFERS OF FISCAL YEAR 2005 GENERAL REVENUE** 94931

**FUND ENDING BALANCES** 94932

Notwithstanding divisions (B)(1)(b), (B)(2), and (C) of 94933  
section 131.44 of the Revised Code, fiscal year 2005 surplus 94934  
revenue shall be distributed as follows: 94935

(A) The first \$60,000,000 of such surplus revenue shall be 94936  
transferred to Fund 5AX, Public Assistance Reconciliation Fund, to 94937  
pay a portion of the remaining state TANF liability to the federal 94938  
government. 94939

(B) The next \$40,000,000 of such surplus revenue shall be 94940  
transferred to the Disaster Services Fund (5E2), which is hereby 94941  
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created in the state treasury. 94943

(C) The next \$100,000,000 of such surplus revenue shall be 94944  
transferred to the Budget Stabilization Fund. 94945

(D) The next \$100,000,000 of such surplus revenue shall be 94946  
transferred to Fund 021, the Public School Building Fund. 94947

(E) Any surplus revenue in excess of the amounts distributed 94948  
under divisions (A) to (D) of this section shall be transferred to 94949  
the Budget Stabilization Fund. 94950

**Section 312.03.** TRANSFERS TO THE GENERAL REVENUE FUND FROM 94951  
NON-FEDERAL NON-GRF FUNDS 94952

Notwithstanding any other provision of law to the contrary, 94953  
during fiscal years 2006 and 2007, the Director of Budget and 94954  
Management is hereby authorized to transfer cash from non-federal, 94955  
non-General Revenue Fund funds that are not constitutionally 94956  
restricted to the General Revenue Fund. The total amount of cash 94957  
transfers made pursuant to this section to the General Revenue 94958  
Fund during fiscal years 2006 and 2007 shall not exceed 94959  
\$60,000,000. 94960

**Section 312.06.** TRANSFERS TO THE GENERAL REVENUE FUND OF 94961  
INTEREST EARNED 94962

Notwithstanding any provision of Ohio law to the contrary, 94963  
the Director of Budget and Management, through June 30, 2007, may 94964  
transfer interest earned by any fund in the Central Accounting 94965  
System to the General Revenue Fund. This section does not apply to 94966  
funds whose source of revenue is restricted or protected by the 94967  
Constitution of this state, federal tax law, or the "Cash 94968  
Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 94969  
U.S.C. 6501, et. seq., as amended. 94970

**Section 312.09.** BUDGET STABILIZATION FUND TRANSFERS 94971

(A) Notwithstanding any provision of law to the contrary, 94972  
through June 30, 2007, if the Director of Budget and Management 94973  
determines that the estimated ending fund balance of the General 94974  
Revenue Fund will be greater than the amounts assumed in this act 94975  
for either fiscal year 2006 or 2007, the Director may transfer up 94976  
to the excess balance to the Budget Stabilization Fund. This 94977  
division does not apply to division (A) of Section 206.66.21, TANF 94978  
TRANSFERS, of this act. 94979

(B) Notwithstanding any provision of law to the contrary, 94980  
through June 30, 2007, if the Director of Budget and Management 94981  
determines that state revenue receipts and available fund balances 94982  
in any fund other than the General Revenue Fund exceed estimated 94983  
state expenditures, the Director may transfer up to the excess 94984  
revenue to the Budget Stabilization Fund. This division does not 94985  
apply to revenue restricted or protected by the Ohio Constitution, 94986  
federal tax law or grant requirements, or the "Cash Management 94987  
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, 94988  
et seq., as amended. 94989

(C) In executing division (A) of this section and division 94990  
(A) of Section 206.66.21, TANF TRANSFERS, it is intended that 94991  
these divisions be applied and construed so that both of the 94992  
transfers authorized under these divisions may be made through 94993  
June 30, 2007. 94994

(D) After making the transfers described in divisions (A) and 94995  
(B) of this section, the Director of Budget and Management shall 94996  
submit a report to the President of the Senate and the Speaker of 94997  
the House of Representatives. 94998

**Section 312.10.** TAX REFORM SYSTEM IMPLEMENTATION FUND 94999  
TRANSFERS TO TAX AMNESTY PROGRAM 95000

Notwithstanding any provision of law to the contrary, prior to June 30, 2006, the Director of Budget and Management shall transfer \$2,000,000 in cash from the Tax Reform System Implementation Fund (Fund 228) to the Tax Amnesty Promotion and Administration Fund (Fund 5BW), which is hereby created in the State Treasury. The funds shall be used to pay expenses incurred in promoting and administering the tax amnesty program run by the Department of Taxation.

After receiving the revenue receipts from the tax amnesty program, the Director of Budget and Management shall transfer the first \$2,000,000 to the Tax Reform System Implementation Fund, the next \$10,000,000 to the General Revenue Fund, and the remaining excess fund balance to the Budget Stabilization Fund.

**Section 312.12.** GRF TRANSFER TO FUND 5N4, OAKS PROJECT IMPLEMENTATION

On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2006, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation.

**Section 312.15.** CORPORATE AND UCC FILING FUND TRANSFER TO GRF

Not later than the first day of June in each year of the biennium, the Director of Budget and Management shall transfer \$1,000,000 from the Corporate and Uniform Commercial Code Filing Fund to the General Revenue Fund.

**Section 312.18.** GRF TRANSFER TO THE NATIONAL GUARD SCHOLARSHIP RESERVE FUND

On July 1, 2005, or as soon as possible thereafter, the 95030  
Director of Budget and Management shall transfer up to \$592,000 95031  
cash from the General Revenue Fund to the National Guard 95032  
Scholarship Reserve Fund (Fund 5BM). 95033

**Section 312.21.** APPROPRIATIONS RELATED TO CASH TRANSFERS AND 95034  
RE-ESTABLISHMENT OF ENCUMBRANCES 95035

Any cash transferred by the Director of Budget and Management 95036  
under section 126.15 of the Revised Code is hereby appropriated. 95037  
Any amounts necessary to re-establish appropriations or 95038  
encumbrances under section 126.15 of the Revised Code are hereby 95039  
appropriated. 95040

**Section 312.22.** The Highway Safety Building Fund (Fund 025), 95041  
created in section 4501.07 of the Revised Code, is the same fund 95042  
as the one referred to in Section 15.01 of Am. Sub. H.B. 16 of the 95043  
126th General Assembly. 95044

**Section 312.24.** TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 95045  
AGREEMENT FUND 95046

(A) Notwithstanding section 183.02 of the Revised Code, on 95047  
July 1, 2005, or as soon as possible thereafter, the Director of 95048  
Budget and Management shall transfer from the Tobacco Master 95049  
Settlement Agreement Fund (Fund 087) \$5,000,000 cash to the 95050  
General Revenue Fund, up to \$5,000,000 cash to the Healthy Ohioans 95051  
Initiative Fund (Fund 5BL in the Department of Health), \$6,000,000 95052  
cash to the Children's Hospitals Fund (Fund 5CR in the Department 95053  
of Job and Family Services), and \$4,000,000 cash to the Adult 95054  
Emergency Assistance Fund (Fund 5CS in the Department of Mental 95055  
Health). Of the tobacco revenue that is credited to the Tobacco 95056  
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, 95057  
the share that is determined pursuant to section 183.02 of the 95058

Revised Code to be the amount transferred by the Director of  
Budget and Management from the Tobacco Master Settlement Agreement  
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust  
Fund (Fund H87) shall be reduced by the amount that is transferred  
from the Tobacco Master Settlement Agreement Fund (Fund 087) to  
various funds pursuant to this division.

(B) Notwithstanding section 183.02 of the Revised Code, on  
July 1, 2006, or as soon as possible thereafter, the Director of  
Budget and Management shall transfer from the Tobacco Master  
Settlement Agreement Fund (Fund 087) \$6,000,000 cash to the  
Children's Hospitals Fund (Fund 5CR in the Department of Job and  
Family Services) and \$4,000,000 cash to the Adult Emergency  
Assistance Fund (Fund 5CS in the Department of Mental Health). Of  
the tobacco revenue that is credited to the Tobacco Master  
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the  
share that is determined pursuant to section 183.02 of the Revised  
Code to be the amount transferred by the Director of Budget and  
Management from the Tobacco Master Settlement Agreement Fund (Fund  
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund  
H87) shall be reduced by the amount that is transferred from the  
Tobacco Master Settlement Agreement Fund (Fund 087) to the various  
funds pursuant to this division.

(C) Notwithstanding section 183.02 of the Revised Code, on  
July 1, 2006, or as soon as possible thereafter, the Director of  
Budget and Management shall transfer \$800,000 cash from the  
Tobacco Master Settlement Agreement Fund (Fund 087) to the General  
Revenue Fund. Of the tobacco revenue that is credited to the  
Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year  
2006, the share that is determined pursuant to section 183.02 of  
the Revised Code to be the amount transferred by the Director of  
Budget and Management from the Tobacco Master Settlement Agreement  
Fund (Fund 087) to the Ohio's Public Health Priorities Trust Fund

(Fund L87) shall be reduced by the amount that is transferred from 95091  
the Tobacco Master Settlement Agreement Fund (Fund 087) to the 95092  
General Revenue Fund under this division. 95093

**Section 315.03. CONSOLIDATION OF REGULATORY BOARDS** 95094

(A) It is the intent of the General Assembly to consolidate 95095  
the following health-related regulatory boards within the 95096  
Department of Health not later than July 1, 2006: 95097

(1) The Chemical Dependency Professionals Board; 95098

(2) The Board of Chiropractic Examiners; 95099

(3) The Counselor, Social Worker, and Marriage and Family 95100  
Therapist Board; 95101

(4) The Ohio Board of Dietetics; 95102

(5) The Ohio Occupational Therapy, Physical Therapy, and 95103  
Athletic Trainers Board; 95104

(6) The Ohio Optical Dispensers Board; 95105

(7) The State Board of Optometry; 95106

(8) The State Board of Orthotics, Prosthetics, and 95107  
Pedorthics; 95108

(9) The State Board of Psychology; 95109

(10) The Ohio Respiratory Care Board; 95110

(11) The Board of Speech-Language Pathology and Audiology; 95111

(12) The State Veterinary Medical Licensing Board. 95112

(B) It is the intent of the General Assembly to consolidate 95113  
the following regulatory boards and commissions within the 95114  
Department of Commerce not later than July 1, 2006: 95115

(1) The Ohio Athletic Commission; 95116

(2) The Barber Board; 95117

(3) The State Board of Cosmetology;	95118
(4) The Board of Embalmers and Funeral Directors;	95119
(5) The Manufactured Homes Commission;	95120
(6) The Board of Motor Vehicle Collision Repair Registration;	95121
(7) The State Board of Sanitarian Registration.	95122
(C) It is the intent of the General Assembly to consolidate	95123
the Ohio Medical Transportation Board within the Department of	95124
Public Safety not later than July 1, 2006.	95125
(D) The Director of Budget and Management and the Directors	95126
of Administrative Services, Commerce, Health, and Public Safety	95127
shall appoint representatives to a transition team. In addition,	95128
the transition team shall include a total of three members	95129
representing the affected regulatory boards, to be selected by the	95130
executive directors of those boards.	95131
The transition team shall develop a plan to ensure the smooth	95132
and timely consolidation of the boards into the respective	95133
departments. The transition team shall address the details of the	95134
consolidations, identifying necessary statutory changes and	95135
working with the Office of Budget and Management to develop	95136
budgets for the respective departments and the consolidated boards	95137
and commissions. The transition team may recommend additional	95138
regulatory boards or commissions to be consolidated and may	95139
recommend modifications to the planned consolidations.	95140
The transition team shall submit a report containing	95141
recommendations and the details for the consolidations not later	95142
than December 31, 2005, to the Governor, the Speaker of the House	95143
of Representatives, and the President of the Senate. The report	95144
and recommendations shall address the following issues, and may	95145
address additional issues:	95146
(1) The necessary levels of funding;	95147



(2) The savings projected as a result of the consolidations;	95148
(3) The consolidation of activities between each board or commission and the department providing centralized services, including the role of the members of the board or commission and the role of the department;	95149 95150 95151 95152
(4) The staffing levels needed, whether employees must be retained, and whether any employees retained have civil service status;	95153 95154 95155
(5) The continuation of the standards and procedures of the board or commission;	95156 95157
(6) The continuation of rules and whether any rules need to be amended as a result of the consolidations;	95158 95159
(7) The transfer of assets, liabilities, and contractual obligations;	95160 95161
(8) The transfer of records and other materials pertaining to the board or commission.	95162 95163
(E) It is the intent of the General Assembly to introduce a bill in fiscal year 2006 that will include the necessary statutory changes to effect the consolidations and that will include revised appropriations for the departments and the consolidated boards and commissions for fiscal year 2007.	95164 95165 95166 95167 95168
<b>Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM</b>	95169 95170
All materials, assets, liabilities, and records of the Department of Education, irrespective of form or medium, deemed necessary by the Ohio School Facilities Commission to implement sections 3318.47, 3318.48, and 3318.49 of the Revised Code shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section, in accordance with	95171 95172 95173 95174 95175 95176

a transition plan which shall be developed and approved by the Commission in consultation with the Department. 95177  
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All current and pending loans and appropriations, encumbrances, and funds related to the Career-Technical School Building Assistance Fund (Fund 020), deemed necessary by the Commission to implement section 3318.48 of the Revised Code, shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section in accordance with the transition plan. 95179  
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Any business commenced but not completed by the Department on the effective date of this section relating to the implementation of section 3318.48 of the Revised Code and the functions transferred by this section shall continue to be administered by the Department for a period of one hundred twenty days after the effective date of this section or until the transition plan described in this section is approved by the Commission, whichever occurs first. The Department shall provide the Commission whatever administrative assistance the Commission requires during the period of transition, which assistance shall be specified in the transition plan described in this section. 95186  
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Wherever any law, contract, or other document refers to the Department, the State Board of Education, or the Superintendent of Public Instruction in regard to the implementation or administration of section 3318.48 of the Revised Code, the references shall be deemed to refer to the Commission or the Director of the Commission. No action or proceeding pending on the effective date of this section relating to the implementation or administration of Chapter 3318. of the Revised Code is affected by the transfer. In all such actions and proceedings, the Commission or the Director shall be substituted as a party upon application by the receiving entity to the court or other appropriate tribunal. 95197  
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Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 95209  
TELECOMMUNICATIONS NETWORK COMMISSION 95210

(A) Effective July 1, 2005, the Ohio Educational 95211  
Telecommunications Network Commission is abolished and its 95212  
functions, assets, and liabilities, including but not limited to 95213  
vehicles and equipment assigned to employees of the Commission and 95214  
records of the Commission regardless of form or medium, are 95215  
transferred to the eTech Ohio Commission. The eTech Ohio 95216  
Commission is thereupon and thereafter successor to, assumes the 95217  
obligations of, and otherwise constitutes the continuation of the 95218  
Ohio Educational Telecommunications Network Commission. The 95219  
functions of the Executive Director of the Ohio Educational 95220  
Telecommunications Network Commission are thereupon and thereafter 95221  
transferred to the Executive Director of the eTech Ohio 95222  
Commission. 95223

Any business commenced but not completed by the Ohio 95224  
Educational Telecommunications Network Commission or the Executive 95225  
Director of the Ohio Educational Telecommunications Network 95226  
Commission on July 1, 2005, shall be completed by the eTech Ohio 95227  
Commission or the Executive Director of the eTech Ohio Commission, 95228  
respectively, in the same manner, and with the same effect, as if 95229  
completed by the Ohio Educational Telecommunications Network 95230  
Commission or the Executive Director of the Ohio Educational 95231  
Telecommunications Network Commission. No validation, cure, right, 95232  
privilege, remedy, obligation, or liability is lost or impaired by 95233  
reason of the transfer required under this section and shall be 95234  
administered by the eTech Ohio Commission. All of the Ohio 95235  
Educational Telecommunications Network Commission's rules, orders, 95236  
and determinations continue in effect as rules, orders, and 95237  
determinations of the eTech Ohio Commission, until modified or 95238  
rescinded by the eTech Ohio Commission. If necessary to ensure the 95239

integrity of the Administrative Code, the Director of the 95240  
Legislative Service Commission shall renumber the Ohio Educational 95241  
Telecommunications Network Commission's rules to reflect their 95242  
transfer to the eTech Ohio Commission. 95243

(B) Employees of the Ohio Educational Telecommunications 95244  
Network Commission shall be transferred to the eTech Ohio 95245  
Commission or dismissed. Employees of the Ohio Educational 95246  
Telecommunications Network Commission so dismissed cease to hold 95247  
their positions of employment on July 1, 2005. Employees of the 95248  
Ohio Educational Telecommunications Network Commission so 95249  
transferred shall be removed from any bargaining unit in which 95250  
they are included under Chapter 4117. of the Revised Code 95251  
effective July 1, 2005. Employees of the Ohio Educational 95252  
Telecommunications Network Commission so transferred shall be 95253  
removed from any bargaining unit in which they are included under 95254  
Chapter 4117. of the Revised Code effective July 1, 2005. 95255

(C) No judicial or administrative action or proceeding in 95256  
which the Ohio Educational Telecommunications Network Commission 95257  
or the Executive Director of the Commission is a party that is 95258  
pending on July 1, 2005, is affected by the transfer of functions 95259  
under division (A) of this section. Such action or proceeding 95260  
shall be prosecuted or defended in the name of the eTech Ohio 95261  
Commission. On application to the court or other tribunal, the 95262  
eTech Ohio Commission shall be substituted for the Executive 95263  
Director of the Ohio Educational Telecommunications Network or the 95264  
Commission as a party to such action or proceeding. 95265

(D) On and after July 1, 2005, when the Ohio Educational 95266  
Telecommunications Network Commission or the Executive Director of 95267  
the Ohio Educational Telecommunications Network Commission is 95268  
referred to in any statute, rule, contract, grant, or other 95269  
document, the reference is hereby deemed to refer to the eTech 95270  
Ohio Commission or the Executive Director of the eTech Ohio 95271

Commission, respectively. 95272

**Section 315.10.** ELIMINATION OF THE OHIO SCHOOLNET COMMISSION 95273

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is 95274  
abolished and its functions, assets, and liabilities, including, 95275  
but not limited to, vehicles and equipment assigned to employees 95276  
of the Commission and records of the Commission regardless of form 95277  
or medium, are transferred to the eTech Ohio Commission. The eTech 95278  
Ohio Commission is thereupon and thereafter successor to, assumes 95279  
the obligations of, and otherwise constitutes the continuation of 95280  
the Ohio SchoolNet Commission. The functions of the Executive 95281  
Director of the Ohio SchoolNet Commission are thereupon and 95282  
thereafter transferred to the Executive Director of the eTech Ohio 95283  
Commission. 95284

Any business commenced but not completed by the Ohio 95285  
SchoolNet Commission or the Executive Director of the Ohio 95286  
SchoolNet Commission on July 1, 2005, shall be completed by the 95287  
eTech Ohio Commission or the Executive Director of the eTech Ohio 95288  
Commission, respectively, in the same manner, and with the same 95289  
effect, as if completed by the Ohio SchoolNet Commission or the 95290  
Executive Director of the Ohio SchoolNet Commission. No 95291  
validation, cure, right, privilege, remedy, obligation, or 95292  
liability is lost or impaired by reason of the transfer required 95293  
under this section and shall be administered by the eTech Ohio 95294  
Commission. All of the Ohio SchoolNet Commission's rules, orders, 95295  
and determinations continue in effect as rules, orders, and 95296  
determinations of the eTech Ohio Commission, until modified or 95297  
rescinded by the eTech Ohio Commission. If necessary to ensure the 95298  
integrity of the Administrative Code, the Director of the 95299  
Legislative Service Commission shall renumber the Ohio SchoolNet 95300  
Commission's rules to reflect their transfer to the eTech Ohio 95301  
Commission. 95302

(B) Employees of the Ohio SchoolNet Commission shall be transferred to the eTech Ohio Commission or dismissed. Employees of the Ohio SchoolNet Commission so dismissed cease to hold their positions of employment on July 1, 2005.

(C) No judicial or administrative action or proceeding in which the Ohio SchoolNet Commission or the Executive Director of the Commission is a party that is pending on July 1, 2005, is affected by the transfer of functions under division (A) of this section. Such action or proceeding shall be prosecuted or defended in the eTech Ohio Commission. On application to the court or other tribunal, the eTech Ohio Commission shall be substituted for the Executive Director of the Ohio SchoolNet Commission as a party to such action or proceeding.

(D) On and after July 1, 2005, when the Ohio SchoolNet Commission or the Executive Director of the Ohio SchoolNet Commission is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the eTech Ohio Commission or the Executive Director of the eTech Ohio Commission, respectively.

(E) If the Department of Education receives any expenditure and program reports for fiscal year 2005 for programs that were administered by the Ohio SchoolNet Commission during that fiscal year, the Department shall forward those reports to the eTech Ohio Commission by September 30, 2005.

**Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES**

On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions described in this section with respect to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and

the consolidation of funds as authorized by this act. The Director 95333  
may make any transfer of cash balances between funds. At the 95334  
request of the Director, the Ohio Educational Telecommunications 95335  
Network Commission and the Ohio SchoolNet Commission shall certify 95336  
to the Director an estimate of the amount of the cash balance to 95337  
be transferred to the receiving funds. The Director may transfer 95338  
the estimated amount when needed to make payments. Not more than 95339  
thirty days after certifying the estimated amount, the Commissions 95340  
shall certify the final amount to the Director. The Director shall 95341  
transfer the difference between any amount previously transferred 95342  
and the certified final amount. The Director may cancel 95343  
encumbrances and re-establish encumbrances or parts of 95344  
encumbrances as needed in fiscal year 2006 in the appropriate 95345  
funds and appropriation items for the same purposes. The 95346  
appropriation authority necessary to re-establish such 95347  
encumbrances in fiscal year 2006 as determined by the Director, in 95348  
a different fund or appropriation item, within an agency or 95349  
between agencies, is hereby appropriated. When re-established 95350  
encumbrances or parts of re-established encumbrances are 95351  
cancelled, the Director shall reduce the appropriations for these 95352  
respective funds and appropriation items by the amount of the 95353  
encumbrances cancelled. The amounts cancelled are hereby 95354  
authorized. Any fiscal year 2005 unencumbered or unallotted 95355  
appropriation balances may be transferred to the appropriate funds 95356  
and appropriation items to be used for the same purposes, as 95357  
determined by the Director. The amounts transferred are hereby 95358  
appropriated. 95359

**Section 316.03.** (A) Not later than July 1, 2005, the 95360  
Governor, with the advice and consent of the Senate, shall appoint 95361  
members to the eTech Ohio Commission and shall appoint a 95362  
chairperson of the Commission as required by section 3353.02 of 95363  
the Revised Code, as enacted by this act. Notwithstanding division 95364

(F) of that section, the initial chairperson appointed by the Governor shall serve until July 1, 2006, at which time the Governor shall appoint a chairperson in accordance with that section.

(B) Notwithstanding section 3353.03 of the Revised Code, as enacted by this act, the Governor, with the advice and consent of the Senate, shall appoint an interim executive director of the Commission not later than July 1, 2005. The interim executive director shall serve for one year or until the Commission appoints an executive director pursuant to that section, whichever is earlier. The Governor shall fix the compensation of the interim executive director. The interim executive director shall exercise any authority provided by law to the executive director of the Commission or delegated to the interim executive director by the Commission.

**Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS**

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

**Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE**

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional



appropriations are necessary for this purpose, such amounts are 95395  
hereby appropriated. 95396

**Section 318.09.** AUTHORIZATION FOR TREASURER OF STATE AND OBM 95397  
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 95398

The Office of Budget and Management shall initiate and 95399  
process disbursements from general obligation and lease rental 95400  
payment appropriation items during the period from July 1, 2005, 95401  
to June 30, 2007, relating to bonds or notes issued under Sections 95402  
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 95403  
and Chapters 151. and 154. of the Revised Code. Disbursements 95404  
shall be made upon certification by the Treasurer of State of the 95405  
dates and the amounts due on those dates. 95406

**Section 318.12.** ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 95407  
DEVELOPMENT OFFICE 95408

The Ohio Public Facilities Commission, upon the request of 95409  
the Director of the Ohio Coal Development Office of the Ohio Air 95410  
Quality Development Authority with the advice of the Technical 95411  
Advisory Committee created in section 1551.35 of the Revised Code 95412  
and the approval of the Executive Director of the Ohio Air Quality 95413  
Development Authority, is hereby authorized to issue and sell, in 95414  
accordance with Section 15 of Article VIII, Ohio Constitution, and 95415  
Chapter 151. and particularly sections 151.01 and 151.07 of the 95416  
Revised Code, bonds and other obligations of the State of Ohio in 95417  
an aggregate principal amount not to exceed \$15,000,000 in 95418  
addition to the issuance of obligations heretofore authorized by 95419  
prior acts of the General Assembly. The obligations shall be 95420  
dated, issued, and sold from time to time in such amounts as may 95421  
be necessary to provide sufficient moneys to the credit of the 95422  
Coal Research and Development Fund created in section 1555.15 of 95423  
the Revised Code to pay costs charged to the fund when due. 95424

**Section 321.03.** STATE AND LOCAL REBATE AUTHORIZATION 95425

There is hereby appropriated, from those funds designated by 95426  
or pursuant to the applicable proceedings authorizing the issuance 95427  
of state obligations, amounts computed at the time to represent 95428  
the portion of investment income to be rebated or amounts in lieu 95429  
of or in addition to any rebate amount to be paid to the federal 95430  
government in order to maintain the exclusion from gross income 95431  
for federal income tax purposes of interest on those state 95432  
obligations under section 148(f) of the Internal Revenue Code. 95433

Rebate payments shall be approved and vouchered by the Office 95434  
of Budget and Management. 95435

**Section 321.06.** FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 95436

Pursuant to the plan for compliance with the Federal Cash 95437  
Management Improvement Act required by section 131.36 of the 95438  
Revised Code, the Director of Budget and Management may cancel and 95439  
re-establish all or part of encumbrances in like amounts within 95440  
the funds identified by the plan. The amounts necessary to 95441  
re-establish all or part of encumbrances are hereby appropriated. 95442

**Section 321.09.** STATEWIDE INDIRECT COST RECOVERY 95443

Whenever the Director of Budget and Management determines 95444  
that an appropriation made to a state agency from a fund of the 95445  
state is insufficient to provide for the recovery of statewide 95446  
indirect costs under section 126.12 of the Revised Code, the 95447  
amount required for such purpose is hereby appropriated from the 95448  
available receipts of such fund. 95449

**Section 321.10.** GRF TRANSFERS ON BEHALF OF THE STATEWIDE 95450  
INDIRECT COST ALLOCATION PLAN 95451

The total transfers made from the General Revenue Fund by the 95452

Director of Budget and Management under this section shall not  
exceed the amounts transferred into the General Revenue Fund under  
division (B) of section 126.12 of the Revised Code.

The director of an agency may certify to the Director of  
Budget and Management the amount of expenses not allowed to be  
included in the Statewide Indirect Cost Allocation Plan under  
federal regulations, from any fund included in the Statewide  
Indirect Cost Allocation Plan, prepared as required by section  
126.12 of the Revised Code.

Upon determining that no alternative source of funding is  
available to pay for such expenses, the Director of Budget and  
Management may transfer from the General Revenue Fund into the  
fund for which the certification is made, up to the amount of the  
certification. The director of the agency receiving such funds  
shall include, as part of the next budget submission prepared  
under section 126.02 of the Revised Code, a request for funding  
for such activities from an alternative source such that further  
federal disallowances would not be required.

**Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS**

Notwithstanding any provision of law to the contrary, on or  
before the first day of September of each fiscal year, the  
Director of Budget and Management, in order to reduce the payment  
of adjustments to the federal government, as determined by the  
plan prepared under division (A) of section 126.12 of the Revised  
Code, may designate such funds as the director considers necessary  
to retain their own interest earnings.

**Section 401.05.** That Sections 16.09, 19.01, 20.01, 22.03,  
22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub.  
H.B. 16 of the 126th General Assembly be amended to read as  
follows:

Appropriations

<b>Sec. 16.09. OSB SCHOOL FOR THE BLIND</b>			95483
CAP-774	Glass Windows/E Wall of Natatorium	\$ 63,726	95484
CAP-775	Renovation of Science Lab Greenhouse	\$ 58,850	95485
CAP-776	Renovating Recreation Area	\$ 213,900	95486
CAP-777	New Classrooms for Secondary MH Program	\$ 880,407	95487
CAP-778	Renovation of Student Health Service Area	\$ 144,375	95488
CAP-779	Replacement of Cottage Windows	\$ 208,725	95489
CAP-780	New School Lighting	\$ 184,500	95490
<u>782</u>			
CAP-781	Food Prep. Area Air Conditioning	\$ 67,250	95491
Total School for the Blind		\$ 1,821,733	95492

**Sec. 19.01.** All items set forth in this section are hereby 95493  
 appropriated out of any moneys in the state treasury to the credit 95494  
 of the Cultural and Sports Facilities Building Fund (Fund 030) 95495  
 that are not otherwise appropriated. 95496

Appropriations

AFC CULTURAL FACILITIES COMMISSION			95497
CAP-010	Sandusky State Theatre Improvements	\$ 325,000	95498
CAP-013	Stambaugh Hall Improvements	\$ 250,000	95499
CAP-033	Woodward Opera House Renovation	\$ 100,000	95500
CAP-038	Center Exhibit Replacement	\$ 816,000	95501
CAP-043	Statewide Site Repairs	\$ 100,000	95502
CAP-044	National Underground Railroad Freedom Center	\$ 4,150,000	95503
CAP-046	Cincinnati Museum Center Improvements	\$ 250,000	95504
CAP-052	Akron Art Museum	\$ 1,012,500	95505
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$ 250,000	95506
CAP-065	Beck Center for the Cultural Arts	\$ 100,000	95507

CAP-069	Cleveland Institute of Art	\$	250,000	95508
CAP-071	Cleveland Institute of Music	\$	750,000	95509
CAP-073	Marina District/Ice Arena Development	\$	3,500,000	95510
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$	750,000	95511
CAP-745	Emergency Repairs	\$	838,560	95512
CAP-769	Rankin House State Memorial	\$	192,000	95513
CAP-781	Archives and Library Automation	\$	624,000	95514
CAP-784	Center Rehabilitation	\$	960,000	95515
CAP-806	Grant Boyhood Home Improvements	\$	480,000	95516
CAP-812	Schuster Arts Center	\$	5,500,000	95517
CAP-823	Marion Palace Theatre	\$	750,000	95518
CAP-826	Renaissance Theatre	\$	750,000	95519
CAP-834	Galion Historic Big Four Depot Restoration	\$	170,000	95520
CAP-835	Jamestown Opera House	\$	125,000	95521
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$	1,850,000	95522
CAP-845	Lima Historic Athletic Field	\$	100,000	95523
CAP-846	Butler Palace Theatre	\$	<del>100,000</del> <u>200,000</u>	95524
CAP-847	Voice of America Museum	\$	275,000	95525
CAP-848	Oxford Arts Center ADA Project	\$	72,000	95526
CAP-849	Clark County Community Arts Expansion Project	\$	500,000	95527
CAP-850	Westcott House Historic Site	\$	75,000	95528
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000	95529
CAP-852	Miami Township Community Amphitheatre	\$	50,000	95530
CAP-853	Western Reserve Historical Society	\$	1,000,000	95531
CAP-854	Steamship Mather Museum	\$	100,000	95532
CAP-855	Rock and Roll Hall of Fame	\$	250,000	95533
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000	95534

CAP-857	Merrick House Historic Site	\$	250,000	95535
CAP-858	Strongsville Historic Building	\$	100,000	95536
CAP-859	Arts Castle	\$	100,000	95537
CAP-860	Great Lakes Historical Society	\$	325,000	95538
CAP-861	Ohio Glass Museum	\$	250,000	95539
CAP-862	Goll Wood Homestead	\$	50,000	95540
CAP-863	Ariel Theatre	\$	100,000	95541
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000	95542
<del>CAP-865</del>	<del>Kennedy Stone House</del>	<del>\$</del>	<del>15,000</del>	95543
CAP-866	Sports Facilities Improvements - Cincinnati	\$	4,350,000	95544
CAP-867	Ensemble Theatre	\$	450,000	95545
CAP-868	Taft Museum	\$	500,000	95546
CAP-869	Art Academy of Cincinnati	\$	100,000	95547
CAP-870	Riverbend Pavilion Improvements	\$	250,000	95548
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000	95549
CAP-872	Music Hall: Over-The-Rhine	\$	750,000	95550
CAP-873	John Bloomfield Home Restoration	\$	115,000	95551
CAP-874	Malinta Historical Society Caboose Exhibit	\$	6,000	95552
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000	95553
CAP-876	Art Deco Markay Theater	\$	200,000	95554
CAP-877	Harvey Wells House	\$	100,000	95555
CAP-878	Bryn Du	\$	250,000	95556
CAP-879	Broad Street Historical Renovation	\$	300,000	95557
CAP-880	Amherst Historical Society	\$	35,000	95558
CAP-881	COSI - Toledo	\$	1,900,000	95559
CAP-882	Ohio Theatre - Toledo	\$	100,000	95560
CAP-883	Chester Academy Historic Site Renovations	\$	25,000	95561
CAP-884	Bradford Ohio Railroad Museum	\$	100,000	95562
CAP-885	Montgomery County Historical Society	\$	100,000	95563

	Archives		
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000 95564
CAP-887	Aurora Outdoor Sports Complex	\$	50,000 95565
CAP-888	Preble County Historical Society	\$	100,000 95566
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000 95567
CAP-890	Pro Football Hall of Fame	\$	400,000 95568
CAP-891	MAPS Air Museum	\$	15,000 95569
CAP-892	Foundation Community <del>Theatre</del> <u>Theatre</u>	\$	50,000 95570
CAP-893	William McKinley Library Restoration	\$	250,000 95571
CAP-894	Hale Farm & Village	\$	250,000 95572
<del>CAP-895</del>	<del>Blossom Music Center</del>	<del>\$</del>	<del>2,512,500</del> 95573
CAP-896	Richard Howe House	\$	100,000 95574
CAP-897	Ward-Thomas Museum	\$	30,000 95575
CAP-898	Packard Music Hall Renovation Project	\$	100,000 95576
CAP-899	Holland Theatre	\$	100,000 95577
CAP-900	Van Wert Historical Society	\$	32,000 95578
CAP-901	Warren County Historical Society	\$	225,000 95579
CAP-902	Marietta Colony Theatre	\$	335,000 95580
CAP-903	West Salem Village Opera House	\$	92,000 95581
CAP-904	Beavercreek Community Theater	\$	100,000 95582
CAP-905	Smith Orr Homestead	\$	100,000 95583
	Total Cultural Facilities Commission	\$	<del>43,592,560</del> 95584
			<u>41,165,060</u>
	TOTAL Cultural and Sports Facilities Building Fund	\$	<del>43,592,560</del> 95585
			<u>41,165,060</u>

**Sec. 20.01.** All items set forth in this section are hereby 95587  
appropriated out of any moneys in the state treasury to the credit 95588  
of the Ohio Parks and Natural Resources Fund (Fund 031) that are 95589  
not otherwise appropriated. 95590

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES	95591
STATEWIDE AND LOCAL PROJECTS	95592

CAP-012	Land Acquisition	\$	750,000	95593
CAP-051	Buck Creek State Park - Camp/Dock Renovations	\$	25,000	95594
CAP-060	East Fork State Park Renovation	\$	50,000	95595
<u>CAP-068</u>	<u>Kennedy Stone House</u>	<u>\$</u>	<u>15,000</u>	95596
CAP-080	Atwood Lake Conservancy District	\$	75,000	95597
CAP-083	John Bryan State Park Shelter Construction	\$	30,000	95598
CAP-084	Findley State Park General Improvements	\$	12,500	95599
<del>CAP-085</del>	<del>The Wilds Carnivore Center</del>	<del>\$</del>	<del>1,000,000</del>	95600
CAP-086	Scippo Creek Conservation	\$	75,000	95601
CAP-087	Belpre City Swimming Pool	\$	125,000	95602
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam Removal	\$	25,000	95603
CAP-748	Local Parks Projects - Statewide	\$	2,511,079	95604
CAP-753	Project Planning	\$	1,144,316	95605
CAP-881	Dam Rehabilitation	\$	5,000,000	95606
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000	95607
Total Statewide and Local Projects		\$	<del>13,722,895</del>	95608
			<u>12,737,895</u>	95609
Total Department of Natural Resources		\$	<del>13,722,895</del>	95610
			<u>12,737,895</u>	95611
TOTAL Ohio Parks and Natural Resources Fund		\$	<del>13,722,895</del>	95612
			<u>12,737,895</u>	95613

Appropriations

<b>Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH</b>				95615
CAP-479	Community Assistance Projects	\$	<del>1,800,000</del>	95616
			<u>1,900,000</u>	
CAP-978	Infrastructure Improvements	\$	8,050,000	95617
<del>CAP-989</del>	<del>Cleveland Christian Home</del>	<del>\$</del>	<del>100,000</del>	95618
Total Department of Mental Health		\$	9,950,000	95619
COMMUNITY ASSISTANCE PROJECTS				95620



Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$200,000 shall be used for the Center for Families and Children, \$100,000 shall be used for the Cleveland Christian Home, and \$100,000 shall be used for the Berea Children's Home.

Appropriations

**Sec. 22.04.** DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

STATEWIDE AND CENTRAL OFFICE PROJECTS

CAP-480	Community Assistance Projects	\$	9,475,000	95629
CAP-955	Statewide Development Centers	\$	3,257,257	95630
	Total Statewide and Central Office Projects	\$	12,732,257	95631
	TOTAL Department of Mental Retardation and Developmental Disabilities	\$	12,732,257	95632

TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND \$ 22,782,257 95633

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, \$200,000 shall be used for the Achievement Centers for Children+ and \$250,000

shall be used for Bellefaire Jewish Children's Bureau+ 95650

Notwithstanding any other provision of law to the contrary, 95651  
of the foregoing appropriation item CAP-480, \$250,000 shall be 95652  
 used for the Julie Billart facility+ and \$75,000 shall be used for 95653  
 the Hanson Home. 95654

Appropriations

**Sec. 23.02. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK~~** 95655  
~~COMMISSION ETC ETECH OHIO~~ 95656  
 CAP-001 Educational TV and Radio Equipment \$ 1,027,038 95657  
 Total ~~Ohio Educational Telecommunications Network~~ \$ 1,027,038 95658  
~~Commission eTech Ohio~~

Appropriations

**Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY** 95660  
 CAP-023 Basic Renovations \$ 3,267,875 95661  
 CAP-125 College of Education Building \$ 8,057,262 95662  
 CAP-130 ~~WVIZ Technology Center/Playhouse Square~~ \$ ~~750,000~~ 95663  
 CAP-152 Rhodes Tower-Data Center Relocation \$ 1,000,000 95664  
 CAP-153 University Annex-Vacation and Demolition \$ 49,390 95665  
 CAP-154 Main Classroom Stair Tower & Entry \$ 1,500,000 95666  
 CAP-155 Cleveland Playhouse \$ 250,000 95667  
 CAP-156 Physical Education Building \$ 1,000,000 95668  
 Rehabilitation  
 Total Cleveland State University \$ ~~15,874,527~~ 95669  
15,124,527

Appropriations

**Sec. 23.13. KSU KENT STATE UNIVERSITY** 95671  
 CAP-022 Basic Renovations \$ 3,573,078 95672  
 CAP-105 Basic Renovations-East Liverpool \$ 151,408 95673  
 CAP-106 Basic Renovations-Geauga \$ 45,607 95674  
 CAP-107 Basic Renovations-Salem \$ 105,640 95675

CAP-108	Basic Renovations-Stark	\$	325,358	95676
CAP-110	Basic Renovations-Ashtabula	\$	177,801	95677
CAP-111	Basic Renovations-Trumbull	\$	347,695	95678
CAP-112	Basic Renovations-Tuscarawas	\$	171,699	95679
CAP-212	Health Science Building, Planning	\$	705,720	95680
CAP-235	Rehabilitation of Franklin Hall	\$	13,923,684	95681
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$	638,419	95682
CAP-261	Addition/Renovation of Classrooms-Geauga	\$	246,878	95683
CAP-262	Gym Renovation Planning-Salem	\$	490,213	95684
CAP-263	Parking Lot & Roadway Paving-Stark	\$	162,076	95685
CAP-264	Fine Arts Building & New Campus Center-Stark	\$	1,000,000	95686
CAP-265	Science Lab Addition-Trumbull	\$	991,786	95687
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$	844,655	95688
CAP-267	Columbiana County Port Authority	\$	875,000	95689
CAP-268	Canton Convention Center	\$	735,000	95690
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$</u>	<u>2,512,500</u>	95691
Total Kent State University		\$	<del>25,511,717</del>	95692
			<u>28,024,217</u>	

**Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE** 95694

Appropriations

CAP-031	Basic Renovations	\$	2,428,960	95695
CAP-079	Cleveland Art Museum Improvements	\$	3,000,000	95696
CAP-094	Collegewide Wayfinding Signage System	\$	1,067,510	95697
CAP-095	Collegewide Asset Protection and Building Codes Upgrade	\$	1,491,522	95698
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264	95699
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	<u>\$</u>	<u>750,000</u>	95700
Total Cuyahoga Community College		\$	<del>14,038,256</del>	95701

14,788,256

<b>Sec. 23.45. STC STARK TECHNICAL COLLEGE</b>			95702
CAP-004	Basic Renovations	\$ 438,295	95703
CAP-035	Business Technologies Addition	\$ 1,378,892	95704
	Rehabilitation		
CAP-037	Fuel Cell Initiative	\$ 250,000	95705
Total Stark Technical College			\$ 2,067,187 95706
Total Board of Regents and State			95707
Institutions of Higher Education			\$ <del>488,343,998</del> 95708
			<u>490,956,498</u>
TOTAL Higher Education Improvement Fund			\$ <del>489,371,036</del> 95709
			<u>491,883,536</u>

**Sec. 24.01.** All items set forth in this section are hereby 95711  
appropriated out of any moneys in the state treasury to the credit 95712  
of the Parks and Recreation Improvement Fund (Fund 035) that are 95713  
not otherwise appropriated. 95714

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES			95715
CAP-004	Burr Oak Lodge	\$ 150,000	95716
CAP-012	Land Acquisition	\$ 243,663	95717
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	<u>\$ 1,000,000</u>	95718
<del>CAP-088</del>	Muskingum River Lock and Dam	\$ 250,000	95719
<u>CAP-716</u>			95720
CAP-234	State Park Campgrounds, Cabins, and	\$ 2,712,500	95721
	Lodges		
CAP-331	Park Boating Facilities	\$ 7,588,383	95722
CAP-701	Buckeye Lake State Park - Dam	\$ 4,000,000	95723
	Rehabilitation		
CAP-718	Grand Lake St. Mary's State Park Erosion	\$ 450,000	95724
	Control Project		
CAP-748	Local Park Projects	\$ 2,715,000	95725

CAP-753	Project Planning	\$	175,000	95726
CAP-848	Hazardous Dam Repair - Statewide	\$	1,325,000	95727
CAP-876	Statewide Trails	\$	<del>1,101,500</del>	95728
			<u>1,851,500</u>	
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$	2,500,000	95729
Total Department of Natural Resources		\$	<del>23,211,046</del>	95730
			<u>24,961,046</u>	95731
TOTAL Parks and Recreation Improvement Fund		\$	<del>23,211,046</del>	95732
			<u>24,961,046</u>	95733

FEDERAL REIMBURSEMENT 95734

All reimbursements received from the federal government for 95735  
any expenditures made pursuant to this section shall be deposited 95736  
in the state treasury to the credit of the Parks and Recreation 95737  
Improvement Fund (Fund 035). 95738

LOCAL PARKS PROJECTS 95739

Of the foregoing appropriation item CAP-748, Local Parks 95740  
Projects, \$75,000 shall be used for the Springfield Arts Veterans' 95741  
Park; \$50,000 shall be used for the Village of Bentleyville Park; 95742  
\$25,000 shall be used for the Cleveland Police and Firefighters 95743  
Memorial Park; \$100,000 shall be used for the Parma Heights 95744  
Greenbriar Park; \$125,000 shall be used for the Fairborn Park 95745  
Entrance Project; \$250,000 shall be used for the Greene County 95746  
Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000 95747  
shall be used for the Colerain Township Park Improvements; 95748  
\$200,000 shall be used for the Colerain Township Heritage Park; 95749  
\$75,000 shall be used for the London Park Project; \$50,000 shall 95750  
be used for Somerset Park Improvements; \$50,000 shall be used for 95751  
Meadowbrook Park; \$25,000 shall be used for Early Hill Park; 95752  
\$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000 95753  
shall be used for Madison Township Park; \$10,000 shall be used for 95754  
the Wellington Soccer Field Park; \$10,000 shall be used for the 95755

Greenwich Township Baseball Field Park Improvements; \$20,000 shall 95756  
be used for the City of London Sports Park; \$25,000 shall be used 95757  
for the Pleasant Hill Park Ball Field Project; and \$250,000 shall 95758  
be used for the Education Gateway at Sippo Lake Park. 95759

STATEWIDE TRAILS PROGRAM 95760

Of the foregoing appropriation item CAP-876, Statewide 95761  
Trails, \$85,000 shall be used for the Williamsburg-Batavia 95762  
hike/bike trail; \$16,500 shall be used for the South Milford Road 95763  
Bike Trail Project; \$125,000 shall be used for the Tri-County 95764  
Triangle Trail in Fayette county; ~~\$100,00~~ \$100,000 shall be used 95765  
for the Tri-County Triangle Trail in Highland County; \$125,000 95766  
shall be used for the Tri-County Triangle Trail in Ross county; 95767  
\$550,000 shall be used for the Camp Chase Ohio to Erie Trail; ~~and~~ 95768  
\$100,000 shall be used for the Holmes County Park District - Rails 95769  
to Trails; and \$750,000 shall be used for the Little Miami Trail 95770  
through the Village of Terrace Park. The state funds for the 95771  
Little Miami Trail Project shall be used to undertake project work 95772  
that is eligible for reimbursement under the federal Land and 95773  
Water Conservation Fund and the Recreational Trails Program. The 95774  
federal reimbursement funds for the project work shall be credited 95775  
to the Parks and Recreation Improvement Fund (Fund 035). 95776

**Section 401.06.** That existing Sections 16.09, 19.01, 20.01, 95777  
22.03, 22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. 95778  
Sub. H.B. 16 of the 126th General Assembly are hereby repealed. 95779

**Section 401.07.** That Section 3 of Am. H.B. 67 of the 126th 95780  
General Assembly be amended to read as follows: 95781

**Sec. 3.** All items in this section are hereby appropriated out 95782  
of any moneys in the state treasury to the credit of the 95783  
designated fund. For all appropriations made in this act, those in 95784

the first column are for fiscal year 2006, and those in the second column are for fiscal year 2007.

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			95788
	Workers' Compensation Fund Group			95789
023 855-401	William Green Lease	\$ 19,736,600	\$ 20,125,900	95790
	Payments to OBA			
023 855-407	Claims, Risk & Medical Management	\$ 140,052,037	\$ 140,052,037	95791
023 855-408	Fraud Prevention	\$ 11,713,797	\$ 11,713,797	95792
023 855-409	Administrative Services	\$ 119,246,553	\$ 119,246,553	95793
023 855-410	Attorney General Payments	\$ 4,314,644	\$ 4,314,644	95794
822 855-606	Coal Workers' Fund	\$ 91,894	\$ 91,894	95795
823 855-608	Marine Industry	\$ 53,952	\$ 53,952	95796
825 855-605	Disabled Workers Relief Fund	\$ 693,764	\$ 693,764	95797
826 855-609	Safety & Hygiene Operating	\$ 20,130,820	\$ 20,130,820	95798
826 855-610	Safety Grants Program	\$ 4,000,000	\$ 4,000,000	95799
	TOTAL WCF Workers' Compensation Fund Group	\$ 320,034,061	\$ 320,423,361	95800
	Federal Special Revenue Fund Group			95802
349 855-601	OSHA Enforcement	\$ 1,527,750	\$ 1,604,140	95803
	TOTAL FED Federal Special Revenue Fund Group	\$ 1,527,750	\$ 1,604,140	95804
	TOTAL ALL BUDGET FUND GROUPS	\$ 321,561,811	\$ 322,027,501	95805
	WILLIAM GREEN LEASE PAYMENTS			95806
	The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio			95807

Building Authority, and these appropriations shall be used to meet 95809  
all payments at the times they are required to be made during the 95810  
period from July 1, 2005, to June 30, 2007, by the Bureau of 95811  
Workers' Compensation to the Ohio Building Authority pursuant to 95812  
leases and agreements made under Chapter 152. of the Revised Code 95813  
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 95814  
Of the amounts received in Fund 023, appropriation item 855-401, 95815  
William Green Lease Payments to OBA, up to \$39,862,500 shall be 95816  
restricted for lease rental payments to the Ohio Building 95817  
Authority. If it is determined that additional appropriations are 95818  
necessary for such purpose, such amounts are hereby appropriated. 95819

Notwithstanding any other provision of law to the contrary, 95820  
all tenants of the William Green Building not funded by the 95821  
Workers' Compensation Fund (Fund 023) shall pay their fair share 95822  
of the costs of lease payments to the Workers' Compensation Fund 95823  
(Fund 023) by intrastate transfer voucher. 95824

WORKERS' COMPENSATION OVERSIGHT COMMISSION 95825

Of the foregoing appropriation item 855-409, Administrative 95826  
Services, up to \$18,000 per calendar year shall be used to pay the 95827  
annual compensation of each investment expert member of the 95828  
Workers' Compensation Oversight Commission, as provided in 95829  
divisions (D) and (F) of section 4121.12 of the Revised Code. Each 95830  
investment expert member shall also receive reasonable and 95831  
necessary expenses while engaged in the performance of his or her 95832  
duties, as provided in division (F) of section 4121.12 of the 95833  
Revised Code. 95834

WORKERS' COMPENSATION FRAUD UNIT 95835

The Workers' Compensation Section Fund (Fund 195) shall 95836  
receive payments from the Bureau of Workers' Compensation at the 95837  
beginning of each quarter of each fiscal year to fund expenses of 95838  
the Workers' Compensation Fraud Unit of the Attorney General's 95839



Office. Of the foregoing appropriation item 855-410, Attorney 95840  
General Payments, \$773,151 in fiscal year 2006 and \$773,151 in 95841  
fiscal year 2007 shall be used to provide these payments. 95842

SAFETY AND HYGIENE 95843

Notwithstanding section 4121.37 of the Revised Code, the 95844  
Administrator of Workers' Compensation shall transfer moneys from 95845  
the State Insurance Fund so that appropriation item 855-609, 95846  
Safety and Hygiene Operating, is provided \$20,130,820 in fiscal 95847  
year 2006 and \$20,130,820 in fiscal year 2007. 95848

LONG-TERM CARE LOAN FUND 95849

Upon the request of the Administrator of the Bureau of 95850  
Workers' Compensation and with the advice and consent of the 95851  
Bureau of Workers' Compensation Oversight Commission, the Director 95852  
of Budget and Management shall transfer cash in the amounts 95853  
requested from the Safety and Hygiene Operating Fund (Fund 826) to 95854  
the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 95855  
of the Revised Code. The amounts transferred are hereby 95856  
appropriated. 95857

OSHA ON-SITE CONSULTATION PROGRAM 95858

The Bureau of Workers' Compensation may designate a portion 95859  
of appropriation item 855-609, Safety and Hygiene Operating, to be 95860  
used to match federal funding for the federal Occupational Safety 95861  
and Health Administration's (OSHA) on-site consultation program. 95862

VOCATIONAL REHABILITATION 95863

The Bureau of Workers' Compensation and the Rehabilitation 95864  
Services Commission shall enter into an interagency agreement for 95865  
the provision of vocational rehabilitation services and staff to 95866  
mutually eligible clients. The bureau shall provide \$587,774 in 95867  
fiscal year 2006 and \$605,407 in fiscal year 2007 from the State 95868  
Insurance Fund to fund vocational rehabilitation services and 95869

staff in accordance with the interagency agreement. 95870

FUND BALANCE 95871

Any unencumbered cash balance in excess of \$45,000,000 in the 95872  
Workers' Compensation Fund (Fund 023) on the thirtieth day of June 95873  
of each fiscal year shall be used to reduce the administrative 95874  
cost rate charged to employers to cover appropriations for Bureau 95875  
of Workers' Compensation operations. 95876

OSHA ENFORCEMENT FUND TRANSFER 95877

On July 1, 2005, or as soon thereafter as possible, the 95878  
Director of Budget and Management shall transfer the OSHA 95879  
Enforcement Fund (Fund 349) from the Department of Commerce to the 95880  
Bureau of Workers' Compensation. At the request of the Director of 95881  
the Department of Commerce, the Director of Budget and Management 95882  
may cancel encumbrances in this fund from appropriation item 95883  
800-626, OSHA Enforcement, within the budget of the Department of 95884  
Commerce, and reestablish those encumbrances or parts of those 95885  
encumbrances in fiscal year 2006 for the same purpose and to the 95886  
same vendor to appropriation item 855-601, OSHA Enforcement, 95887  
within the budget of the Bureau of Workers' Compensation. As 95888  
determined by the Director of Budget and Management, the 95889  
appropriation authority necessary to reestablish encumbrances or 95890  
parts of encumbrances in fiscal year 2006 for the Bureau of 95891  
Workers' Compensation is hereby granted. 95892

**Section 401.08.** That existing Section 3 of Am. H.B. 67 of the 95893  
126th General Assembly is hereby repealed. 95894

**Section 401.11.** That Sections 203.03.09, 203.03.10, and 95895  
203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly be 95896  
amended to read as follows: 95897

**Sec. 203.03.09.** PUBLIC ACCESS ROADS FOR STATE FACILITIES 95898

Of the foregoing appropriation item 772-421, Highway 95899  
Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each 95900  
fiscal year during the fiscal year 2006-2007 biennium by the 95901  
Department of Transportation for the construction, reconstruction, 95902  
or maintenance of public access roads, including support features, 95903  
to and within state facilities owned or operated by the Department 95904  
of Natural Resources, ~~as requested by the Director of Natural~~ 95905  
~~Resources.~~ 95906

Notwithstanding section 5511.06 of the Revised Code, of the 95907  
foregoing appropriation item 772-421, Highway Construction - 95908  
State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 95909  
biennium shall be used by the Department of Transportation for the 95910  
construction, reconstruction, or maintenance of park drives or 95911  
park roads within the boundaries of metropolitan parks. 95912

Included in the foregoing appropriation item 772-421, Highway 95913  
Construction - State, the department may perform related road work 95914  
on behalf of the Ohio Expositions Commission at the state 95915  
fairgrounds, including reconstruction or maintenance of public 95916  
access roads and support features, to and within fairground 95917  
facilities as requested by the commission and approved by the 95918  
Director of Transportation. 95919

LIQUIDATION OF UNFORESEEN LIABILITIES 95920

Any appropriation made to the Department of Transportation, 95921  
Highway Operating Fund, not otherwise restricted by law, is 95922  
available to liquidate unforeseen liabilities arising from 95923  
contractual agreements of prior years when the prior year 95924  
encumbrance is insufficient. 95925

**Sec. 203.03.10. PREVENTIVE MAINTENANCE** 95926

The Department of Transportation shall contract with an 95927  
independent party to ~~issue a yearly report~~ conduct a study and 95928

issue a report on the effectiveness and progress of preventive 95929  
 maintenance projects ~~that meet warranty guidelines~~. The 95930  
~~Thereafter, the~~ Department shall issue a yearly report on or 95931  
 before the first day of December for three consecutive years 95932  
~~beginning in fiscal year 2005~~. 95933

~~The Department shall provide in its annual report data~~ on 95934  
 actual and planned pavement preventive maintenance activities. The 95935  
 data shall include the following: (1) the total number of lane 95936  
 miles receiving preventive maintenance treatment, by treatment 95937  
 type and highway system category; (2) the total number of lane 95938  
 miles programmed to receive treatment; (3) the actual costs of the 95939  
 pavement preventive maintenance activities per lane mile, by 95940  
 treatment type and highway system category; (4) the total number 95941  
 of lane miles rehabilitated or reconstructed; and (5) the actual 95942  
 cost per lane mile of rehabilitated or reconstructed highway, by 95943  
 highway system category. 95944

**Sec. 203.06.15. EMERGENCY MANAGEMENT** 95945

Federal Special Revenue Fund Group					95946
3N5 763-644 U.S. DOE Agreement	\$	275,000	\$	275,000	95947
329 763-645 Federal Mitigation	\$	303,504	\$	303,504	95948
Program					
337 763-609 Federal Disaster	\$	27,269,140	\$	27,280,000	95949
Relief					
339 763-647 Emergency Management	\$	129,622,000	\$	129,622,000	95950
Assistance and					
Training					
TOTAL FED Federal Special					95951
Revenue Fund Group	\$	157,469,644	\$	157,480,504	95952
State Special Revenue Fund Group					95953
4V3 763-662 EMA Service and	\$	696,446	\$	696,446	95954
Reimbursement					

657	763-652	Utility Radiological Safety	\$	1,260,000	\$	1,260,000	95955
681	763-653	SARA Title III HAZMAT Planning	\$	271,510	\$	271,510	95956
TOTAL SSR State Special Revenue							95957
Fund Group			\$	2,227,956	\$	2,227,956	95958
TOTAL ALL BUDGET FUND GROUPS -							95959
Emergency Management			\$	159,697,600	\$	159,708,460	95960
FEDERAL MITIGATION PROGRAM							95961
The fund created by the Controlling Board known as the							95962
Disaster <del>Relief</del> <u>Services Plan and Grant Administration</u> Fund is now							95963
the Federal Mitigation Program Fund, and shall be used to plan and							95964
mitigate against future disaster costs.							95965
<u>The appropriation item 763-645, heretofore known as</u>							95966
<u>Individual/Family Grant - Fed, is hereafter known as Federal</u>							95967
<u>Mitigation Program, and shall be used to plan and mitigate against</u>							95968
<u>future disaster costs.</u>							95969
STATE DISASTER RELIEF							95970
The appropriation item 763-601, State Disaster Relief, may							95971
accept transfers of cash and appropriations from Controlling Board							95972
appropriation items to reimburse eligible local governments and							95973
private nonprofit organizations for costs related to disasters							95974
that have been declared by local governments or the Governor. The							95975
Ohio Emergency Management Agency shall publish and make available							95976
an application packet outlining eligible items and application							95977
procedures for entities requesting state disaster relief.							95978
Individuals may be eligible for reimbursement of costs							95979
related to disasters that have been declared by the Governor and							95980
the Small Business Administration. The funding in appropriation							95981
item 763-601, State Disaster Relief, shall be used in accordance							95982
with the principles of the federal Individual and Family Grant							95983

Program, which provides grants to households that have been 95984  
affected by a disaster to replace basic living items. The Ohio 95985  
Emergency Management Agency shall publish and make available an 95986  
application procedure for individuals requesting assistance under 95987  
the state Individual Assistance Program. 95988

SARA TITLE III HAZMAT PLANNING 95989

The SARA Title III HAZMAT Planning Fund (Fund 681) is 95990  
entitled to receive grant funds from the Emergency Response 95991  
Commission to implement the Emergency Management Agency's 95992  
responsibilities under Chapter 3750. of the Revised Code. 95993

**Section 401.12.** That existing Sections 203.03.09, 203.03.10, 95994  
and 203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly 95995  
are hereby repealed. 95996

**Section 401.13.** Notwithstanding section 5511.05 of the 95997  
Revised Code, the Director of Transportation shall confer with the 95998  
Director of Natural Resources in fiscal years 2006 and 2007 95999  
concerning the establishment, construction, reconstruction, 96000  
improvement, repair, and maintenance of all roads and bridges 96001  
within the boundaries of all state parks, including all such parks 96002  
and properties under the control and custody of the Department of 96003  
Natural Resources. After conferring with the Director of Natural 96004  
Resources, the Director of Transportation shall establish, 96005  
construct, reconstruct, improve, repair, and maintain all such 96006  
roads and bridges. \$5,000,000 shall be expended to establish, 96007  
construct, reconstruct, improve, repair, and maintain all such 96008  
roads and bridges in each fiscal year. 96009

**Section 403.01.** That Section 14 of Sub. H.B. 434 of the 125th 96010  
General Assembly be amended to read as follows: 96011

<b>Sec. 14. <del>NET SCHOOLNET COMMISSION</del> <u>ETC ETECH OHIO</u></b>	96012
Tobacco Master Settlement Agreement Fund Group	96013
S87 <del>228</del> Education Technology \$ 9,277,865 \$ 6,274,109	96014
<u>935-602</u> Trust Fund	
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	96015
Group \$ 9,277,865 \$ 6,274,109	96017
TOTAL ALL BUDGET FUND GROUPS \$ 9,277,865 \$ 6,274,109	96018
 SCHOOLNET PLUS	96019
 <del>The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.</del>	96020 96021 96022 96023 96024 96025
 Upon completion of the SchoolNet Plus Grant Program for the seventh grade, <del>the Ohio SchoolNet Commission</del> <u>eTech Ohio</u> shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.	96026 96027 96028 96029 96030 96031 96032
 Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs	96033 96034 96035 96036 96037 96038 96039 96040

in other grades as specified in the district's technology plan.		96041	
<b>Section 403.02.</b> That existing Section 14 of Sub. H.B. 434 of		96042	
the 125th General Assembly is hereby repealed.		96043	
<b>Section 403.05.</b> That Section 4 of Am. Sub. H.B. 516 of the		96044	
125th General Assembly be amended to read as follows:		96045	
<b>Sec. 4.</b> The following agencies shall be retained pursuant to		96046	
division (D) of section 101.83 of the Revised Code and shall		96047	
expire on December 31, 2010:		96048	
	REVISED CODE	96049	
	OR		
	UNCODIFIED	96050	
	AGENCY NAME	SECTION	96051
Administrator, Interstate Compact on Mental Health	5119.50		96052
Administrator, Interstate Compact on	5103.20		96053
Placement of Children			96054
Advisory Board of Governor's Office of Faith-Based	107.12		96055
and Community Initiatives			
Advisory Boards to the EPA for Air Pollution	121.13		96056
Advisory Boards to the EPA for Water Pollution	121.13		96057
Advisory Committee of the State Veterinary Medical	4741.03(D)(3)		96058
Licensing Board			
Advisory Committee on Livestock Exhibitions	901.71		96059
Advisory Council on Amusement Ride Safety	1711.51		96060
Advisory Board of Directors for Prison Labor	5145.162		96061
Advisory Council for Each Wild, Scenic, or	1517.18		96062
Recreational River Area			
Advisory Councils or Boards for State Departments	107.18 or		96063
	121.13		
Advisory Group to the Ohio Water Resources Council	1521.19(C)		96064
Alzheimer's Disease Task Force	173.04(F)		96065



AMBER Alert Advisory Committee	5502.521	96066
Apprenticeship Council	4139.02	96067
Armory Board of Control	5911.09	96068
Automated Title Processing Board	4505.09(C)(1)	96069
Banking Commission	1123.01	96070
Board of Directors of the Ohio Health Reinsurance Program	3924.08	96071
Board of Voting Machine Examiners	3506.05(B)	96072
Board of Tax Appeals	5703.02	96073
Brain Injury Advisory Committee	3304.231	96074
Capitol Square Review and Advisory Board	105.41	96075
Child Support Guideline Advisory Council	3119.024	96076
Children's Trust Fund Board	3109.15	96077
Citizens Advisory Committee (BMV)	4501.025	96078
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	96079
Clean Ohio Trail Advisory Board	1519.06	96080
Coastal Resources Advisory Council	1506.12	96081
Commission on African-American Males	4112.12	96082
Commission on Hispanic-Latino Affairs	121.31	96083
Commission on Minority Health	3701.78	96084
Committee on Prescriptive Governance	4723.49	96085
Commodity Advisory Commission	926.32	96086
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	96087
Community Oversight Council	3311.77	96088
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	96089
<del>Consumer Advisory Committee to the Rehabilitation Services Commission</del>	<del>3304.24</del>	96090
Continuing Education Committee (for Sheriffs)	109.80	96091
Controlling Board	127.12	96092

Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	96093
Council on Alcohol and Drug Addiction Services	3793.09	96094
Council on Unreclaimed Strip Mined Lands	1513.29	96095
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	96096
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	96097
Credit Union Council	1733.329	96098
Criminal Sentencing Advisory Committee	181.22	96099
Day-Care Advisory Council	5104.08	96100
Dentist Loan Repayment Advisory Board	3702.92	96101
Development Financing Advisory Council	122.40	96102
Education Commission of the States (Interstate Compact for Education)	3301.48	96103
Electrical Safety Inspector Advisory Committee	3783.08	96104
Emergency Response Commission	3750.02	96105
Engineering Experiment Station Advisory Committee	3335.27	96106
Environmental Education Council	3745.21	96107
Environmental Review Appeals Commission	3745.02	96108
EPA Advisory Boards or Councils	121.13	96109
Farmland Preservation Advisory Board	901.23	96110
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	96111
Financial Planning & Supervision Commission for School District	3316.05	96112
Forestry Advisory Council	1503.40	96113
Governance Authority for a State University or College	3345.75	96114
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	96115
Governor's Council on People with Disabilities	3303.41	96116

Governor's Residence Advisory Commission	107.40	96117
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	96118
Gubernatorial Transition Committee	107.29	96119
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	96120
Hemophilia Advisory Subcommittee	3701.0210	96121
Housing Trust Fund Advisory Committee	175.25	96122
Industrial Commission Nominating Council	4121.04	96123
Industrial Technology and Enterprise Advisory Council	122.29	96124
Infant Hearing Screening Subcommittee	3701.507	96125
Insurance Agent Education Advisory Council	3905.483	96126
Interagency Council on Hispanic/Latino Affairs	121.32(J)	96127
Interstate Mining Commission (Interstate Mining Compact)	1514.30	96128
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	96129
Joint Council on MR/DD	101.37	96130
Joint Select Committee on Volume Cap	133.021	96131
Labor-Management Government Advisory Council	4121.70	96132
Legal Rights Service Commission	5123.60	96133
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	96134
Maternal and Child Health Council	3701.025	96135
Medically Handicapped Children's Medical Advisory Council	3701.025	96136
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	96137
Military Activation Task Force	5902.15	96138
Milk Sanitation Board	917.03	96139
Mine Subsidence Insurance Governing Board	3929.51	96140

Minority Development Financing Board	122.72	96141
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	96142
Multidisciplinary Council	3746.03	96143
Muskingum River Advisory Council	1501.25	96144
National Museum of Afro-American History and Culture Planning Committee	149.303	96145
<del>Nursing Facility Reimbursement Study Council</del>	<del>5111.34</del>	96146
Ohio Advisory Council for the Aging	173.03	96147
Ohio Aerospace & Defense Advisory Council	122.98	96148
Ohio Arts Council	3379.02	96149
Ohio Business Gateway Steering Committee	5703.57	96150
Ohio Cemetery Dispute Resolution Commission	4767.05	96151
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	96152
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	96153
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	96154
Ohio Commission on Dispute Resolution and Conflict Management	179.02	96155
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	96156
Ohio Community Service Council	121.40	96157
Ohio Council for Interstate Adult Offender Supervision	5149.22	96158
Ohio Cultural Facilities Commission	3383.02	96159
Ohio Developmental Disabilities Council	5123.35	96160
<del>Ohio Educational Telecommunications Network Commission</del>	<del>3353.02</del>	96161
Ohio Ethics Commission	102.05	96162
Ohio Expositions Commission	991.02	96163

Ohio Family and Children First Cabinet Council	121.37	96164
Ohio Geology Advisory Council	1505.11	96165
Ohio Grape Industries Committee	924.51	96166
Ohio Hepatitis C Advisory Commission	3701.92	96167
Ohio Historic Site Preservation Advisory Board	149.301	96168
Ohio Historical Society Board of Trustees	149.30	96169
Ohio Judicial Conference	105.91	96170
Ohio Lake Erie Commission	1506.21	96171
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	96172
Ohio Medical Quality Foundation	3701.89	96173
Ohio Parks and Recreation Council	1541.40	96174
Ohio Peace Officer Training Commission	109.71	96175
Ohio Public Defender Commission	120.01	96176
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	96177
Ohio Public Works Commission	164.02	96178
Ohio Quarter Horse Development Commission	3769.086	96179
<del>Ohio SchoolNet Commission</del>	<del>3301.80</del>	96180
Ohio Small Government Capital Improvements Commission	164.02	96181
Ohio Soil and Water Conservation Commission	1515.02	96182
Ohio Standardbred Development Commission	3769.085	96183
Ohio Steel Industry Advisory Council	122.97	96184
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	96185

Ohio Thoroughbred Racing Advisory Committee	3769.084	96186
Ohio Tuition Trust Authority	3334.03	96187
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	96188
Ohio Vendors Representative Committee	3304.34	96189
Ohio War Orphans Scholarship Board	5910.02	96190
Ohio Water Advisory Council	1521.031	96191
Ohio Water Resources Council	1521.19	96192
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	96193
Oil and Gas Commission	1509.35	96194
Operating Committee, Agricultural Commodity Marketing Programs	924.07	96195
Organized Crime Investigations Commission	177.01	96196
Parole Board	5149.10	96197
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	96198
Physician Loan Repayment Advisory Board	3702.81	96199
Power Siting Board	4906.02	96200
Prequalification Review Board	5525.07	96201
Private Water Systems Advisory Council	3701.346	96202
Public Employment Risk Reduction Advisory Commission	4167.02	96203
Public Health Council	3701.33	96204
Public Utilities Commission Nominating Council	4901.021	96205
Public Utility Property Tax Study Committee	5727.85	96206
Radiation Advisory Council	3748.20	96207
Reclamation Commission	1513.05	96208
Recreation and Resources Commission	1501.04	96209
Recycling and Litter Prevention Advisory Council	1502.04	96210
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	96211
Release Authority of Department of Youth Services	5139.50	96212

Savings & Loans Associations & Savings Banks Board	1181.16	96213
Schools and Ministerial Lands Divestiture Committee	501.041	96214
Second Chance Trust Fund Advisory Committee	2108.17	96215
Self-Insuring Employers Evaluation Board	4123.352	96216
Services Committee of the Workers' Compensation System	4121.06	96217
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	96218
Solid Waste Management Advisory Council	3734.51	96219
State Agency Coordinating Group	1521.19	96220
State Board of Deposit	135.02	96221
State Board of Emergency Medical Services Subcommittees	4765.04	96222
State Council of Uniform State Laws	105.21	96223
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	96224
State Criminal Sentencing Commission	181.21	96225
State Employment Relations Board	4117.02	96226
State Fire Commission	3737.81	96227
State Racing Commission	3769.02	96228
State Victims Assistance Advisory Committee	109.91	96229
Student Tuition Recovery Authority	3332.081	96230
Tax Credit Authority	122.17	96231
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	96232
Technical Advisory Council on Oil and Gas	1509.38	96233
Transportation Review Advisory Council	5512.07	96234
Unemployment Compensation Review Commission	4141.06	96235
Unemployment Compensation Advisory Council	4141.08	96236
Utility Radiological Safety Board	4937.02	96237
Vehicle Management Commission	125.833	96238

Veterans Advisory Committee	5902.02(K)	96239
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	96240
Water and Sewer Commission	1525.11(C)	96241
Waterways Safety Council	1547.73	96242
Wildlife Council	1531.03	96243
Workers' Compensation System Oversight Commission	4121.12	96244
Workers' Compensation Oversight Commission	4121.123	96245
Nominating Committee		

**Section 403.06.** That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly is hereby repealed.

**Section 403.10.01.** That Section 26.01 of Am. Sub. S.B. 189 of the 125th General Assembly be amended to read as follows:

Reappropriations

<b>Sec. 26.01.</b> <del>OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK</del>		96250
<del>COMMISSION</del> <u>ETC ETECH OHIO</u>		96251
CAP-001 Educational Television and Radio	\$ 1,650,617	96252
Equipment	<u>3,378,684</u>	
CAP-002 Educational Broadcasting Fiber Optic	\$ 51,748	96253
Network		
Total <del>Ohio Educational Telecommunications Network</del>	\$ <del>1,702,365</del>	96254
<del>Commission</del> <u>eTech Ohio</u>	<u>3,430,432</u>	

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT 96255

The foregoing appropriation item CAP-001, Educational Television and Radio Equipment, shall be used to provide broadcasting, transmission, and production equipment to Ohio public radio and television stations, radio reading services, and ~~the Ohio Educational Telecommunications Network Commission~~ eTech Ohio.



EDUCATIONAL BROADCASTING FIBER OPTIC NETWORK 96262

The foregoing appropriation item CAP-002, Educational 96263  
Broadcasting Fiber Optic Network, shall be used to link the Ohio 96264  
public radio and television stations, radio reading services, and 96265  
~~the Ohio Educational Broadcasting Network~~ eTech Ohio for the 96266  
reception and transmission of digital communications through fiber 96267  
optic cable or other technology. 96268

**Section 403.10.02.** That existing Section 26.01 of Am. Sub. 96269  
S.B. 189 of the 125th General Assembly is hereby repealed. 96270

**Section 403.07.** That Section 74 of Am. Sub. S.B. 189 of the 96271  
125th General Assembly be amended to read as follows: 96272

**Sec. 74.** Not later than June 30, ~~2005~~ 2006, the Director of 96273  
Mental Health shall revise rule 5122-29-06 of the Administrative 96274  
Code regarding the certification standards for the 96275  
partial-hospitalization community mental health service. As part 96276  
of the revision, the Director shall address client eligibility 96277  
criteria. 96278

**Section 403.08.** That existing Section 74 of Am. Sub. S.B. 189 96279  
of the 125th General Assembly is hereby repealed. 96280

**Section 403.09.** That Section 22 of Am. Sub. S.B. 189 of the 96281  
125th General Assembly, as amended by Am. Sub. H.B. 16 of the 96282  
126th General Assembly, be amended to read as follows: 96283

**Sec. 22.** All items set forth in this section are hereby 96284  
appropriated out of any moneys in the state treasury to the credit 96285  
of the Cultural and Sports Facilities Building Fund (Fund 030) 96286  
that are not otherwise appropriated: 96287

Reappropriations

AFC CULTURAL FACILITIES COMMISSION			96288
CAP-003	Center of Science and Industry - Toledo	\$ 12,268	96289
CAP-004	Valentine Theatre	\$ 1,111	96290
CAP-005	Center of Science and Industry - Columbus	\$ 181,636	96291
CAP-010	Sandusky State Theatre Improvements	\$ 1,000,000	96292
CAP-017	Zion Center of the National Afro-American Museum	\$ 488,232	96293
CAP-021	Ohio Historical Center - Archives and Library Shelving	\$ 2,395	96294
CAP-033	Woodward Opera House Renovation	\$ 1,050,000	96295
CAP-037	Canton Palace Theatre Renovations	\$ 1,066,126	96296
CAP-038	Center Exhibit Replacement	\$ 750,000	96297
CAP-042	Statewide Site Exhibit/Renovation & Construction	\$ 625,000	96298
CAP-043	Statewide Site Repairs	\$ 454,000	96299
CAP-046	Cincinnati Museum Center Improvements	\$ 500,000	96300
CAP-052	Akron Art Museum	\$ 6,634,666	96301
CAP-053	Powers Auditorium Improvements	\$ 200,000	96302
CAP-055	Waco Museum & Aviation Learning Center	\$ 500,000	96303
CAP-057	Comprehensive Master Plan	\$ 180,000	96304
CAP-058	Cedar Bog Nature Preserve Education Center	\$ 766,200	96305
CAP-061	Statewide Arts Facilities Planning	\$ 35,931	96306
CAP-063	Robins Theatre Renovations	\$ 1,000,000	96307
CAP-064	Bramley Historic House	\$ 75,000	96308
CAP-066	Delaware County Cultural Arts Center	\$ 40,000	96309
CAP-068	Perry County Historical Society	\$ 100,000	96310
CAP-069	Cleveland Institute of Art	\$ 750,000	96311
CAP-071	Cleveland Institute of Music	\$ 750,000	96312
CAP-072	West Side Arts Consortium	\$ 138,000	96313
CAP-074	Stan Hywet Hall & Gardens	\$ 250,000	96314
CAP-075	McKinley Museum Improvements	\$ 125,000	96315
CAP-076	Spring Hill Historic Home	\$ 125,000	96316

CAP-077	Western Reserve Ballet Improvements	\$	100,000	96317
CAP-078	Midland Theatre	\$	175,000	96318
CAP-079	Lorain Palace Civic Theatre	\$	200,000	96319
CAP-080	Great Lakes Historical Society	\$	150,000	96320
CAP-734	Hayes Presidential Center	\$	75,000	96321
CAP-745	Historic Sites and Museums	\$	750,000	96322
CAP-753	Buffington Island State Memorial	\$	91,500	96323
CAP-770	Serpent Mound State Memorial	\$	295,000	96324
CAP-784	Ohio Historical Center Rehabilitation	\$	673,700	96325
CAP-786	Piqua/Ft Picakawillany Acquisition and Improvements	\$	136,000	96326
CAP-789	Neil Armstrong Air and Space Museum Improvements	\$	103,516	96327
CAP-791	Harrison Tomb and Site Renovations	\$	149,500	96328
CAP-796	Moundbuilders State Memorial	\$	530,000	96329
CAP-806	Grant Boyhood Home Improvements	\$	68,333	96330
CAP-809	Cincinnati Ballet Facility Improvements	\$	450,000	96331
CAP-810	Toledo Museum of Art Improvements	\$	2,000,000	96332
CAP-814	Crawford Museum of Transportation & Industry	\$	2,500,000	96333
CAP-820	Historical Center Ohio Village Buildings	\$	502,000	96334
CAP-821	Lorain County Historical Society	\$	300,000	96335
CAP-822	Madison County Historic Schoolhouse	\$	40,000	96336
CAP-823	Marion Palace Theatre	\$	825,000	96337
CAP-824	McConnellsville Opera House	\$	75,000	96338
CAP-825	Secrest Auditorium	\$	75,000	96339
CAP-826	Renaissance Theatre	\$	50,000	96340
CAP-827	Trumpet in the Land	\$	100,000	96341
<del>CAP-828</del>	<del>Becky Thatcher Showboat</del>	<del>\$</del>	<del>30,000</del>	96342
CAP-829	Mid Ohio Valley Players	\$	<del>50,000</del> <u>80,000</u>	96343
CAP-830	The Anchorage	\$	50,000	96344
CAP-831	Wayne County Historical Society	\$	300,000	96345
CAP-833	Promont House Museum	\$	200,000	96346

<del>CAP-836</del>	<del>Fairfield Outdoor Theatre</del>	\$	<del>100,000</del>	96347
CAP-837	Lake County Historical Society	\$	250,000	96348
CAP-839	Hancock Historical Society	\$	75,000	96349
CAP-840	Riversouth Development	\$	1,000,000	96350
CAP-841	Ft. Piqua Hotel	\$	200,000	96351
CAP-843	Marina District/Ice Arena Development	\$	4,000,000	96352
Total Cultural Facilities Commission				
		\$	<del>34,470,114</del>	96353
			<u>34,370,114</u>	96354
TOTAL CULTURAL and Sports Facilities Building Fund				
		\$	<del>34,470,114</del>	96355
			<u>34,370,114</u>	96356

COSI COLUMBUS - LOCAL ADMINISTRATION OF CAPITAL PROJECT 96357

CONTRACTS 96358

Notwithstanding division (A) of section 3383.07 of the 96359  
Revised Code, the Ohio Cultural Facilities Commission, with 96360  
respect to the foregoing appropriation item CAP-005, Center of 96361  
Science and Industry - Columbus, may administer all or part of 96362  
capital facilities project contracts involving exhibit fabrication 96363  
and installation as determined by the Department of Administrative 96364  
Services, the Center of Science and Industry - Columbus, and the 96365  
Ohio Cultural Facilities Commission in review of the project 96366  
plans. The Ohio Cultural Facilities Commission shall enter into a 96367  
contract with the Center of Science and Industry - Columbus to 96368  
administer the exhibit fabrication and installation contracts and 96369  
such contracts are not subject to Chapter 123. or 153. of the 96370  
Revised Code. 96371

SPORTS FACILITIES IMPROVEMENTS - AKRON 96372

The amount reappropriated to the Cultural and Sports 96373  
Facilities Building Fund (Fund 030), CAP-024, Sports Facilities 96374  
Improvements - Akron, is the unallotted and unencumbered balance 96375  
in the Sports Facilities Building Fund (Fund 024), CAP-024, Sports 96376  
Facilities Improvements - Akron. 96377

REDS HALL OF FAME	96378
The amount reappropriated to the Cultural and Sports	96379
Facilities Building Fund (Fund 030), CAP-025, Reds Hall of Fame,	96380
is the unallotted and unencumbered balance in the Sports	96381
Facilities Building Fund (Fund 024), CAP-025, Reds Hall of Fame.	96382
AKRON ART MUSEUM	96383
The amount reappropriated for the foregoing appropriation	96384
item CAP-052, Akron Art Museum, is the unencumbered and unallotted	96385
balance as of June 30, 2004, in appropriation item CAP-052, Akron	96386
Art Museum, plus \$1,634,666.	96387
RIVERSOUTH DEVELOPMENT	96388
The amount reappropriated for the foregoing appropriation	96389
item CAP-840, Riversouth Development, is the unencumbered and	96390
unallotted balance as of June 30, 2004, in appropriation item	96391
CAP-840, Riversouth Development, minus \$9,000,000.	96392
MARINA DISTRICT/ICE ARENA DEVELOPMENT	96393
The amount reappropriated to the Cultural and Sports	96394
Facilities Building Fund (Fund 030), CAP-843, Marina District/Ice	96395
Arena Development, is the unallotted and unencumbered balance in	96396
the Sports Facilities Building Fund (Fund 024), CAP-073, Marina	96397
District/Ice Arena Development.	96398
<b>Section 403.10.</b> That existing Section 22 of Am. Sub. S.B. 189	96399
of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of	96400
the 126th General Assembly, is hereby repealed.	96401
<b>Section 403.11.</b> That Section 3 of Am. Sub. H.B. 621 of the	96402
122nd General Assembly, as most recently amended by Am. Sub. H.B.	96403
95 of the 125th General Assembly, be amended to read as follows:	96404
<b>Sec. 3.</b> That sections 166.031, 901.80, 901.81, 901.82, and	96405

901.83 of the Revised Code are hereby repealed, effective October 15, ~~2005~~ 2007. 96406  
96407

**Section 403.12.** That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 96408  
96409  
96410

**Section 403.17.** That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows: 96411  
96412  
96413

**Sec. 153.** (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2005~~ 2007. 96414  
96415  
96416  
96417

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist. 96418  
96419  
96420  
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96422  
96423  
96424  
96425

**Section 403.18.** That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 96426  
96427  
96428

**Section 403.23.** That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows: 96429  
96430  
96431

**Sec. 5.** Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 96432

General Assembly shall take effect July 1, ~~2005~~ 2007. 96433

**Section 403.24.** That existing Section 5 of Am. Sub. S.B. 50 96434  
of the 121st General Assembly, as most recently amended by Am. 96435  
Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 96436

**\*Section 490.03.** That Section 59.19 of Am. Sub. H.B. 95 of 96437  
the 125th General Assembly is hereby repealed. 96438

**\*Section 490.04.** Section 89.17 of Am. Sub. H.B. 95 of the 96439  
125th General Assembly is hereby repealed. 96440

**Section 490.06.** That Section 147 of Am. Sub. H.B. 95 of the 96441  
125th General Assembly is hereby repealed. 96442

**\*Section 502.01.** Nothing in this act shall affect the term of 96443  
any member of the workers' compensation oversight commission 96444  
serving on the effective date of this act. 96445

In accordance with section 4121.12 of the Revised Code as 96446  
amended by this act, the Treasurer of State shall appoint a person 96447  
to serve as an investment expert member of the Workers' 96448  
Compensation Oversight Commission and the President of the Senate 96449  
and the Speaker of the House of Representatives jointly shall 96450  
appoint a person to serve as an investment expert member of the 96451  
Oversight Commission not later than ninety days after the 96452  
effective date of this section, and those persons shall take 96453  
office not later than ninety days after the effective date of this 96454  
section. The Treasurer and the President and Speaker shall appoint 96455  
those members to a term ending September 1, 2008. 96456

**\*Section 502.02.** Within thirty days after the effective date 96457  
of section 4121.12 of the Revised Code as amended by this act, the 96458  
workers' compensation oversight commission shall adopt new 96459

objectives, criteria, and policies for the investment program of 96460  
the bureau of workers' compensation that complies with the 96461  
requirements of section 4121.12 of the Revised Code as amended by 96462  
this act. 96463

**\*Section 502.03.** Within thirty days after the effective date 96464  
of this section, the Workers' Compensation Oversight Commission 96465  
shall submit both of the following lists to the Governor, the 96466  
President of the Senate, and the Speaker of the House of 96467  
Representatives: 96468

(A) A list of all of the classes of investments in which 96469  
assets of funds are invested at the time the act takes effect and 96470  
in which assets of funds have been invested in the twelve months 96471  
immediately preceding the effective date of this act; 96472

(B) A list of all investments that are prohibited by this act 96473  
in which the Administrator of Workers' Compensation has invested, 96474  
and the value of each investment. 96475

The Oversight Commission shall submit to the Governor, the 96476  
President of the Senate, and the Speaker of the House of 96477  
Representatives, within thirty days after the effective date of 96478  
this section, a plan to divest itself, within six months after the 96479  
effective date of this section, of any investments that are 96480  
prohibited by section 4121.12 of the Revised Code, as amended by 96481  
this act. 96482

**\*Section 502.04.** Nothing in this act shall be construed to 96483  
limit the Ohio Ethics Commission's authority, responsibility, and 96484  
powers under Chapter 102. of the Revised Code as it existed 96485  
immediately prior to the effective date of this section as applied 96486  
to members of the Workers' Compensation Oversight Commission and 96487  
employees of the Bureau of Workers' Compensation. Any authority, 96488  
power, or responsibilities of the Ohio Ethics Commission expressly 96489



created by this act are in addition to any authority, power, or 96490  
responsibilities of the Commission in effect immediately prior to 96491  
the effective date of this section. 96492

**Section 503.03.** As used in this section, "state agency" means 96493  
the administrative departments identified in section 121.02 of the 96494  
Revised Code and the bureau of workers' compensation. 96495

During 2005, the Auditor of State shall examine the 96496  
compliance of each state agency with the requirements of section 96497  
131.02 of the Revised Code. The examination shall inquire into the 96498  
following matters: 96499

(A) The practices and procedures used by the agency to 96500  
collect claims before the claims are certified to the Attorney 96501  
General as required by section 131.02 of the Revised Code; 96502

(B) The number of individuals employed by the agency or 96503  
engaged under contract with the agency in 2003 and 2004 whose only 96504  
or whose primary duty is to collect amounts owed to the agency; 96505

(C) For claims certified to the Attorney General under 96506  
section 131.02 of the Revised Code in 2003 and 2004, the average 96507  
number of days elapsing between the last day for timely payment of 96508  
the claims and the day the agency certified the claim to the 96509  
Attorney General. 96510

For the purposes of the examination required by this section, 96511  
the Auditor of State may request a state agency to provide reports 96512  
to the Auditor of State on the matters described under divisions 96513  
(A), (B), and (C) of this section. State agencies shall provide 96514  
such reports to the Auditor of State within 60 days after the 96515  
request, but the Auditor of State may extend the time for 96516  
providing the report for good cause for up to sixty days. 96517

Not later than March 31, 2006, the Auditor of State shall 96518  
submit a written report of the Auditor of State's findings under 96519

this section to the Governor, the Speaker of the House of  
Representatives, the President of the Senate, and the Legislative  
Service Commission.

**Section 503.06.** (A) There is hereby created the Task Force on  
Law Library Associations, consisting of thirteen members. The  
Speaker and Minority Leader of the House of Representatives shall  
each appoint one member of the House of Representatives to the  
Task Force. The President and Minority Leader of the Senate shall  
each appoint one member of the Senate to the Task Force. The Ohio  
Judicial Conference shall appoint three members to the Task Force,  
two of whom shall be judges who are members of the Conference and  
one of whom shall be a law librarian associated with a law library  
association. The County Commissioners Association of Ohio shall  
appoint three members to the Task Force. The Ohio State Bar  
Association shall appoint three members to the Task Force, two of  
whom shall be attorneys licensed to practice law in this state and  
one of whom shall be a law librarian associated with a law library  
association. Appointments to the Task Force shall be made by  
September 1, 2005. Vacancies on the Task Force shall be filled in  
the manner provided for original appointments.

(B)(1) The Task Force shall do each of the following:

(a) Gather information on and study the current state of the  
law library associations in this state covered by sections 3375.48  
to 3375.56 of the Revised Code, with particular emphasis on the  
structure, funding, and administration of their law libraries, and  
on the effect of technology on, and access to, their law  
libraries;

(b) Make recommendations on the structure, funding, and  
administration of these law libraries presently and over the next  
five calendar years;

(c) Make recommendations as to how to ensure that these law libraries remain open and may be made available to members of the public.

(2) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Chief Justice of the Supreme Court by October 31, 2006. Upon submission of its report, the Task Force shall cease to exist.

(C) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.

**Section 503.09.** (A) There is hereby created the Correctional Faith-Based Initiatives Task Force consisting of the following seventeen members:

(1) One member of the House of Representatives appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives appointed by the leader of the minority party of the House of Representatives;

(3) One member of the Senate appointed by the President of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) Two members appointed by the Governor;

(6) The Director of Rehabilitation and Correction or the director's designee;

(7) Three members appointed by the Director of Rehabilitation and Correction who have expertise or experience in faith-based programs in the correctional setting;

(8) The Director of Job and Family Services or the director's

designee; 96579

(9) The Director of Youth Services or the director's 96580  
designee; 96581

(10) One member appointed by the Director of Youth Services 96582  
who has expertise or experience in the juvenile court system; 96583

(11) The Director of Alcohol and Drug Addiction Services or 96584  
the director's designee; 96585

(12) The Director of Mental Health or the director's 96586  
designee; 96587

(13) The Executive Director of the Division of Criminal 96588  
Justice Services or the executive director's designee; 96589

(14) One member appointed by the executive assistant in 96590  
charge of the Governor's Office of Faith-Based and Community 96591  
Initiatives. 96592

(B) The Director of Rehabilitation and Correction, or the 96593  
director's designee, and the member of the House of 96594  
Representatives appointed by the Speaker of the House of 96595  
Representatives shall be co-chairs of the task force. The task 96596  
force shall meet at least once each month. The Department of 96597  
Rehabilitation and Correction shall provide the task force with a 96598  
meeting room and secretarial assistance. 96599

(C) The task force shall study seamless faith-based solutions 96600  
to problems in the correctional system, focusing on diversion 96601  
programs, programs and services in the prison system and for 96602  
families of incarcerated individuals, and the faith-based and 96603  
nonprofit organizations that provide the programs and services. 96604  
The task force shall examine existing faith-based programs in 96605  
prisons in Ohio and other states and shall consider the 96606  
feasibility of replicating programs from other states and 96607  
developing model faith-based penal institutions, faith-based units 96608

within penal institutions, and faith-based programs to reduce 96609  
recidivism of offenders after their release from prison, improve 96610  
prison management, and deal with juveniles who have been held over 96611  
to or are in the adult penal system or who have parents who are 96612  
incarcerated. 96613

(D) On or before the first anniversary of the effective date 96614  
of this section, the task force shall provide a written report and 96615  
recommendations to the Governor, the Speaker of the House of 96616  
Representatives, and the President of the Senate. Upon submitting 96617  
the report and recommendations, the task force shall cease to 96618  
exist. 96619

**Section 503.12.** (A) There is hereby created the Local 96620  
Government and Library Revenue Distribution Task Force consisting 96621  
of the following members: 96622

(1) Five members of the House of Representatives to be 96623  
appointed by the Speaker of the House of Representatives, at least 96624  
two of whom shall be from the minority party; 96625

(2) Five members of the Senate to be appointed by the 96626  
President of the Senate, at least two of whom shall be from the 96627  
minority party; 96628

(3) One nonvoting member to be appointed by the Ohio Library 96629  
Council; 96630

(4) One nonvoting member to be appointed by the County 96631  
Commissioners' Association of Ohio; 96632

(5) One nonvoting member to be appointed by the Ohio 96633  
Municipal League; 96634

(6) One nonvoting member to be appointed by the Ohio Township 96635  
Association; 96636

(7) One nonvoting member to be appointed by the Ohio Parks 96637

and Recreation Association. 96638

All appointments shall be made within thirty days after the 96639  
effective date of this section. Vacancies on the Task Force shall 96640  
be filled in the same manner as the original appointments. The 96641  
Task Force shall designate one of the members to serve as 96642  
chairperson. The initial meeting to organize the Task Force shall 96643  
be called by the Tax Commissioner. 96644

(B) The Task Force shall study potential sources of state 96645  
funding for the Local Government Fund, the Library and Local 96646  
Government Support Fund, and the Local Government Revenue 96647  
Assistance Fund that have the capacity to allow for growth in 96648  
funding levels and to provide stability in funding levels. In 96649  
addition, the Task Force shall consider changes to the codified 96650  
funding formulae for the Local Government Fund, the Library and 96651  
Local Government Support Fund, and the Local Government Revenue 96652  
Assistance Fund that reflect the reform to Ohio tax code. 96653

(C) The Task Force shall receive staff assistance from the 96654  
Tax Commissioner and may request assistance from the Legislative 96655  
Service Commission. The Task Force shall also seek the input and 96656  
testimony of interested parties. 96657

(D) Not later than December 1, 2006, the Task Force shall 96658  
submit a report to the Governor and to the General Assembly 96659  
setting forth its recommendations for sources of funding for the 96660  
funds specified in division (B) of this section, together with 96661  
suggested legislation to implement the recommendations. 96662

(E) The Task Force shall cease to exist upon issuing its 96663  
report. 96664

**Section 503.15.** (A) Notwithstanding any other provision of 96665  
law to the contrary, the appointment and removal provisions of the 96666  
resolutions and ordinances governing the board of trustees of any 96667

regional transit authority consisting of a county having a 96668  
population of at least five hundred thousand, according to the 96669  
2000 federal census, and two municipal corporations, are void on 96670  
the effective date of this act. The appointment and removal of the 96671  
board of trustees of such regional transit authority shall comply 96672  
with section 306.331 of the Revised Code. 96673

(B) Within the first five days after the effective date of 96674  
this act, the county and municipal corporations specified in 96675  
section 306.331 of the Revised Code shall appoint a new board of 96676  
trustees for the regional transit authority in accordance with 96677  
section 306.331 of the Revised Code. 96678

(C) Notwithstanding any other provision of law to the 96679  
contrary, on the fifth day after the effective date of this act, 96680  
the board of trustees of such regional transit authority, as 96681  
constituted on the effective date of this act, is dissolved and 96682  
the board appointed in accordance with section 306.331 of the 96683  
Revised Code shall meet and organize. 96684

(D) This act shall not be construed as affecting the validity 96685  
of any action of such regional transit authority taken prior to 96686  
the effective date of this act. 96687

**Section 503.18.** OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND 96688  
ATHLETIC TRAINERS BOARD MEMBER APPOINTMENT 96689

The term of the licensed occupational therapy assistant, as 96690  
established in section 4755.03 of the Revised Code as amended by 96691  
this act, shall commence at the time of the next appointment to 96692  
the Occupational Therapy, Physical Therapy, and Athletic Trainers 96693  
Board. 96694

**Section 506.03.** (A) The Governor is hereby authorized to 96695  
execute a deed in the name of the state conveying to 96696  
Hocking.Athens.Perry Community Action and its successors and 96697

assigns all of the state's right, title, and interest in the 96698  
following described real estate: 96699

Situate in the Village of Glouster, Trimble Township, Athens 96700  
County, Ohio, and being a part of a tract as described in Volume 96701  
384, Page 47 of the Deed Records of Athens County, and being more 96702  
particularly described as follows: 96703

Beginning at an iron pin set at the northeast corner of Lot 96704  
848 of the Wassall Fire Clay Company's Addition to the Village of 96705  
Glouster; thence along the south line of a 10.00 foot alley South 96706  
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 96707  
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 96708  
528.53 feet to an iron pin found; thence along the west line of a 96709  
44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 96710  
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 96711  
a point on the east right of way line of the former Toledo and 96712  
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 96713  
thence along said line North 1° 39' 06" West, 734.24 feet to an 96714  
iron pin found; thence along the south line of Lot 860 in said 96715  
Village South 85° 54' 11" East, 188.77 feet to an iron pin set; 96716  
thence along the east line of Lots 860 and 859 North 4° 05' 20" 96717  
East, 100.00 feet to an iron pin set (an iron pin found for 96718  
reference bears South 70° 30' 21" East, 1.01 feet); thence along 96719  
the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 96720  
feet to an iron pin found; thence along the east line of Lot 848 96721  
North 4° 05' 30" East, 40.00 feet to the point of beginning and 96722  
containing 14.046 acres. 96723

Subject to all Easements and Rights of Way of Record. 96724

Bearings used are to an assumed meridian and are for angular 96725  
determination only. 96726

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS 96727  
#S-7581. 96728



EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS: 96729

Tract 1-0.020 acre: Situate in the Village of Glouster, 96730  
Trimble Township, Athens County, Ohio, and being a part of a tract 96731  
as previously described in Volume 384, Page 47 of the Deed Records 96732  
of Athens County and being more particularly described as follows: 96733  
Commencing at an iron pin set at the southeast corner of Lot 860 96734  
of the Wassall Fire Clay Company's Addition to the Village of 96735  
Glouster; thence along the south line of said lot North 85° 54' 96736  
11" West, 88.77 feet to an iron pin set at the point of beginning 96737  
of this tract; thence leaving said line and along a new line South 96738  
4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 96739  
10.00 feet); thence along a new line parallel to the south line of 96740  
the previously mentioned lot line North 85° 54' 11" West, 60.00 96741  
feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet 96742  
to an iron pin set on grantors most westerly north line (passing 96743  
an iron pin set at 5.00 feet); thence along said line South 85° 96744  
54' 11" East, 60.00 feet to the point of beginning and containing 96745  
0.020 acre. Subject to all easements and rights of way of record. 96746  
Bearings used are to an assumed meridian and are for angular 96747  
determination only. Surveyed August 1997 by Kenneth E. Highland, 96748  
Ohio PLS #S-7581. 96749

Deed Reference: Volume 263, Page 540 and Volume 299, Page 185, 96750  
Athens County Official Records. 96751

Tract 2-0.013 acre: Situate in the Village of Glouster, 96752  
Trimble Township, Athens County, Ohio, and being a part of a tract 96753  
as previously described in Volume 384, Page 47 of the Deed Records 96754  
of Athens County and being more particularly described as follows: 96755  
Commencing at an iron pin set at the southwest corner of Lot 857 96756  
of the Wassall Fire Clay Company's Addition to the Village of 96757  
Glouster; thence along the south line of said lot South 85° 54' 96758  
29" East, 90.00 feet to an iron pin set at the point of beginning 96759  
of this tract; thence continuing along said line South 85° 54' 29" 96760

East, 60.00 feet to an iron pin set at the southeast corner of 96761  
said lot; thence along a new line South 4° 05' 31" West 10.00 feet 96762  
to an iron pin set; thence along a line parallel to the south line 96763  
of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; 96764  
thence along a new line North 4° 05' 31" East, 10.00 feet to the 96765  
point of beginning and containing 0.013 acre. Subject to all 96766  
easements and rights of way of record. Bearings used are to an 96767  
assumed meridian and are for angular determination only. Surveyed 96768  
August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 96769  
2000. 96770

Deed Reference:Volume 299, Page 704; Volume 263, Page 544; 96771  
and Volume 299, Page 183, Athens County Official Records. 96772

DEED REFERENCE:VOLUME \_\_\_\_\_, PAGE \_\_\_\_\_; VOLUME 298, PAGE 96773  
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 96774

(B) Consideration for the conveyance of the real estate 96775  
described in division (A) of this section is the purchase price of 96776  
one dollar. 96777

(C) Upon payment of the purchase price, the Auditor of State, 96778  
with the assistance of the Attorney General, shall prepare a deed 96779  
to the real estate described in division (A) of this section. The 96780  
deed shall state the consideration. The deed shall be executed by 96781  
the Governor in the name of the state, countersigned by the 96782  
Secretary of State, sealed with the Great Seal of the State, 96783  
presented in the Office of the Auditor of State for recording, and 96784  
delivered to Hocking.Athens.Perry Community Action. 96785  
Hocking.Athens.Perry Community Action shall present the deed for 96786  
recording in the Office of the Athens County Recorder. 96787

(D) Hocking.Athens.Perry Community Action shall pay the costs 96788  
of the conveyance of the real estate described in division (A) of 96789  
this section. 96790

(E) This section expires one year after its effective date. 96791

**Section 506.06.** (A) The Governor is hereby authorized to 96792  
execute a deed in the name of the state conveying to the 96793  
purchaser, and the purchaser's heirs and assigns or successors and 96794  
assigns, all of the state's right, title, and interest in the 96795  
following described real estate: 96796

Situated in the State of Ohio, County of Clark and the Township of 96797  
Springfield, City of Springfield. 96798

Being a part of the Southwest quarter of Section 96799  
twenty-three, Township five, Range nine and a part of the west 96800  
half of Section seventeen, Township five, Range nine, B.M.R.S. 96801

Beginning at the intersection of the centerline of the Old 96802  
National Road (now the west bound lane of the New National Road) 96803  
with the East line of Section twenty-three; 96804

thence with the centerline of said road S 86°30'W 20.0 feet; 96805

thence parallel to the section line N 2°0'W 1000.0 feet to a 96806  
point; 96807

thence N 86°30' E 20.0 feet to a point on the section line; 96808

thence with the section line N 2°0' W 94.63 feet to a bar; 96809

thence N 86°30' E 683.10 feet to a stake in the Ogden Road 96810  
right of way; 96811

thence with said road S 2°0' E 525.05 feet to a point in the 96812  
road; 96813

thence S 86°30' W 20.0 feet to a point; 96814

thence parallel to the road S 2°0' E 569.58 feet to the 96815  
centerline of the Old National Road; 96816

thence with said road S 86°30' W 663.10 feet to the place of 96817  
beginning, and containing seventeen and thirty-six hundredths 96818  
(17.36) Acres of land 96819

Being a part of the same premises conveyed to said Board of county commissioners of Clark County, Ohio, by the following:

Deed from Mary E. Kinnane dated August 20, 1920, and recorded in Volume 170, page 464; Deed from the Board of County Commissioners of Champaign County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 155; Deed from Board of Commissioners of Greene County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 160; Deed from Board of County Commissioners of Madison County, Ohio, dated January 30, 1925, and recorded in Volume 239, page 153; all in the Deed Records of Clark County, Prior Deed reference: Volume 568, Page 61.

(B) The Ohio Department of Mental Retardation and Developmental Disabilities shall appraise the real estate described in division (A) of this section or have it appraised by one or more disinterested persons for a fee to be determined by the Department.

(C) The Director of Administrative Services shall offer the real estate described in division (A) of this section for sale as follows:

(1) The Director shall review the appraisal, establish an appraised value for the real estate, and provide notice to the Ohio Department of Mental Retardation and Developmental Disabilities of any interest expressed by any state entity in acquiring the real estate at the appraised value. The Director shall first offer the real estate at the appraised value to any state entity that has expressed an interest in so acquiring the real estate.

(2) If no state entity expresses an interest in acquiring the real estate at the appraised value, or if a state entity accepts the offer mentioned in division (C)(1) of this section but fails to timely complete the purchase, the Director shall offer the real

estate to the Board of County Commissioners of Clark County at a 96851  
purchase price agreed upon by the Director and the Board of County 96852  
Commissioners. 96853

(D) The real estate described in division (A) of this section 96854  
shall be sold as an entire parcel and not subdivided. 96855

(E) Advertising costs, appraisal fees, and all other costs of 96856  
the sale of the real estate described in division (A) of this 96857  
section shall be paid by the Ohio Department of Mental Retardation 96858  
and Developmental Disabilities. 96859

(F) Upon notice from the Director of Administrative Services 96860  
that the real estate described in division (A) of this section has 96861  
been sold in accordance with division (C) of this section, the 96862  
Auditor of State, with the assistance of the Attorney General, 96863  
shall prepare a deed to the real estate described in division (A) 96864  
of this section. The deed shall state the consideration. The deed 96865  
shall be executed by the Governor in the name of the state, 96866  
countersigned by the Secretary of State, sealed with the Great 96867  
Seal of the State, presented in the Office of the Auditor of State 96868  
for recording, and delivered to the purchaser. The purchaser shall 96869  
present the deed for recording in the Office of the Clark County 96870  
Recorder. 96871

(G) The net proceeds of the sale of the real estate described 96872  
in division (A) of this section shall be deposited in the state 96873  
treasury to the credit of the Mental Health Facilities Improvement 96874  
Fund created in section 154.20 of the Revised Code and shall be 96875  
used to offset bond indebtedness for Springview Developmental 96876  
Center capital projects. 96877

(H) This section shall expire two years after its effective 96878  
date. 96879

**Section 509.03.** (A)(1) The Clerk of the Medina Municipal 96880

Court shall be elected by the qualified electors of the territory 96881  
of the court in the manner that is provided for the election of 96882  
the judge of that court in section 1901.07 of the Revised Code at 96883  
the first general election that occurs not less than six months 96884  
after the effective date of this section. 96885

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of 96886  
the Revised Code, the term of the Clerk of the Medina Municipal 96887  
Court elected under division (A)(1) of this section shall commence 96888  
on the first day of January following the clerk's election and 96889  
continue until the clerk's successor is elected and qualified. The 96890  
clerk's successor shall be elected pursuant to the schedule for 96891  
the election of the judge of that court in sections 1901.07 and 96892  
1901.08 of the Revised Code. 96893

(B) The Clerk of the Medina Municipal Court shall continue in 96894  
office until the clerk elected pursuant to division (A) of this 96895  
section takes office. If the office of Clerk of the Medina 96896  
Municipal Court becomes vacant prior to the date that the clerk 96897  
elected pursuant to division (A) of this section takes office, the 96898  
judges of the court shall appoint a clerk to serve until the clerk 96899  
elected pursuant to division (A) of this section takes office. 96900

**Section 512.03.** The Motor Vehicle Inspection and Maintenance 96901  
Fund that is created in section 3704.14 of the Revised Code, as 96902  
reenacted by this act, is a continuation of the Motor Vehicle 96903  
Inspection and Maintenance Fund that was created in section 96904  
3704.14 of the Revised Code, as repealed by this act. Money 96905  
credited to the Fund under former section 3704.14 of the Revised 96906  
Code shall be used for the purposes specified in new section 96907  
3704.14 of the Revised Code, as enacted by this act. 96908

**Section 553.01.** (A) As used in this section: 96909

(1) "Qualifying delinquent taxes" means any tax levied under 96910

Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, 96911  
including the taxes levied under sections 5733.41 and 5747.41 of 96912  
the Revised Code and taxes required to be withheld under Chapters 96913  
5747. and 5748. of the Revised Code, which were due and payable 96914  
from any person as of May 1, 2005, were unreported or 96915  
underreported, and remain unpaid. 96916

(2) "Qualifying delinquent personal property taxes" means a 96917  
tax for which a return is filed under section 5711.02 of the 96918  
Revised Code. (3) "Qualifying delinquent taxes" and "qualifying 96919  
delinquent personal property taxes" do not include any tax for 96920  
which a notice of assessment or audit has been issued, for which a 96921  
bill has been issued, or for which an audit has been conducted or 96922  
is currently being conducted. 96923

(B) The Tax Commissioner shall establish and administer a tax 96924  
amnesty program with respect to qualifying delinquent taxes and 96925  
qualifying delinquent personal property taxes. The program shall 96926  
commence on November 1, 2005, and shall conclude on December 15, 96927  
2005. The Tax Commissioner shall issue forms and instructions and 96928  
take other actions necessary to implement the program. The Tax 96929  
Commissioner shall publicize the program so as to maximize public 96930  
awareness and participation in the program. 96931

(C)(1) During the program, if a person pays the full amount 96932  
of qualifying delinquent taxes owed by that person and one-half of 96933  
any interest that has accrued as a result of the person failing to 96934  
pay those taxes in a timely fashion, the Tax Commissioner shall 96935  
waive or abate all applicable penalties and one-half of any 96936  
interest that accrued on the qualifying delinquent taxes. 96937

(2) During the program, if a person who owes qualifying 96938  
delinquent personal property taxes files a return with the Tax 96939  
Commissioner, in the form and manner prescribed by the Tax 96940  
Commissioner, listing all taxable property that was required to be 96941

listed on the return required to be filed under section 5711.02 of 96942  
the Revised Code, the Tax Commissioner shall issue a preliminary 96943  
assessment certificate to the appropriate county auditor. Upon 96944  
receiving a preliminary assessment certificate issued by the Tax 96945  
Commissioner pursuant to this division, the county auditor shall 96946  
compute the amount of qualifying delinquent personal property 96947  
taxes owed by the person and shall add to that amount one-half of 96948  
the interest prescribed under sections 5711.32 and 5719.041 of the 96949  
Revised Code. The county treasurer shall collect the amount of tax 96950  
and interest computed by the county auditor under this division by 96951  
preparing and mailing a tax bill to the person as prescribed in 96952  
section 5711.32 of the Revised Code. If the person pays the full 96953  
amount of tax and interest thereon on or before the date shown on 96954  
the tax bill all applicable penalties and one-half of any interest 96955  
that accrued on the qualifying delinquent personal property taxes 96956  
shall be waived. 96957

(3) No payment required under division (G) of section 321.24 96958  
of the Revised Code shall be made with respect to any person who 96959  
pays qualifying delinquent personal property taxes under division 96960  
(C)(2) of this section. 96961

(4) Notwithstanding any contrary provision of the Revised 96962  
Code, the Tax Commissioner shall not furnish to the county auditor 96963  
any information pertaining to the exemption from taxation under 96964  
division (C)(3) of section 5709.01 of the Revised Code insofar as 96965  
that information pertains to any person who pays qualifying 96966  
delinquent personal property taxes under division (C)(2) of this 96967  
section. 96968

(D) The Tax Commissioner may require a person participating 96969  
in the program to file returns or reports, including amended 96970  
returns and reports, in connection with the person's payment of 96971  
qualifying delinquent taxes or qualifying delinquent personal 96972  
property taxes. 96973



(E) A person who participates in the program and pays in full 96974  
any outstanding qualifying delinquent tax or qualifying delinquent 96975  
personal property tax and the interest payable on such tax in 96976  
accordance with this section shall not be subject to any criminal 96977  
prosecution or any civil action with respect to that tax, and no 96978  
assessment shall thereafter be issued against that person with 96979  
respect to that tax. 96980

(F) Taxes and interest collected under the program shall be 96981  
credited to the General Revenue Fund, except that: 96982

(1) Qualifying delinquent personal property taxes and 96983  
interest payable thereon shall be credited to the appropriate 96984  
county undivided income tax fund, and the county auditor shall 96985  
distribute the amount thereof among the various taxing districts 96986  
in the county as if it had been levied, collected, and settled, as 96987  
personal property taxes; 96988

(2) Qualifying delinquent taxes levied under section 96989  
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 96990  
distributed to the appropriate counties and transit authorities in 96991  
accordance with section 5739.21 of the Revised Code during the 96992  
next distribution required under that section; 96993

(3) Qualifying delinquent taxes levied under section 96994  
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 96995  
distributed to the appropriate counties and transit authorities in 96996  
accordance with section 5741.03 of the Revised Code during the 96997  
next distribution required under that section; and 96998

(4) Qualifying delinquent taxes levied under Chapter 5748. of 96999  
the Revised Code shall be credited to the school district income 97000  
tax fund and then paid to the appropriate school district during 97001  
the next payment required under division (D) of section 5747.03 of 97002  
the Revised Code. 97003

**Section 553.02.** Section 553.01 of this act is hereby 97004  
repealed, effective December 16, 2005. The repeal of Section 97005  
553.01 of this act does not affect, after the effective date of 97006  
the repeal, the rights, remedies, or actions authorized under that 97007  
section. 97008

**Section 553.02.01.** Notwithstanding section 5735.142 of the 97009  
Revised Code, a city, exempted village, joint vocational, or local 97010  
school district or educational service center that failed to file 97011  
or failed to file in a timely manner an application for a refund 97012  
of that portion of the motor vehicle fuel tax imposed by section 97013  
5735.29 of the Revised Code that became effective on July 1, 2003, 97014  
as permitted by section 5735.142 of the Revised Code, that the 97015  
school district or educational service center paid through the 97016  
purchase of motor fuel on or after that date may file such a 97017  
refund application with the Tax Commissioner during the sixty-day 97018  
period next following the effective date of this section. The Tax 97019  
Commissioner shall process a refund application received under 97020  
this section in accordance with section 5735.142 of the Revised 97021  
Code, treating such an application as if it had been timely filed 97022  
with the Tax Commissioner in accordance with that section. 97023

**Section 557.03.** A credit is hereby allowed against the 97024  
additional estate tax imposed by section 5731.18 of the Revised 97025  
Code on the estate of a decedent who dies on or after January 1, 97026  
2002, but before the effective date of that section as amended by 97027  
this act. The credit shall equal that portion of the additional 97028  
estate tax imposed by section 5731.18 of the Revised Code that is 97029  
over and above the additional estate tax that would have been 97030  
imposed if the tax levied by division (A) of that section had been 97031  
an amount equal to the maximum credit allowable by section 2011 of 97032  
the Internal Revenue Code that was in effect and applicable on the 97033

date of such decedent's death for any taxes paid to any state. 97034

**Section 557.04.** Notwithstanding division (A)(3) of section 97035  
5733.09 or section 5733.98 of the Revised Code, the credit allowed 97036  
under section 5733.56 of the Revised Code to telephone companies 97037  
for providing programs to aid the communicatively impaired shall 97038  
be allowed in tax year 2005 so that there is full recovery of the 97039  
tax credit under that section for that tax year. 97040

**Section 557.06.** (A) As used in this section, "net additional 97041  
tax" means, in the case of a wholesale dealer, the net additional 97042  
amount of tax resulting from the amendment by this act of section 97043  
5743.02 of the Revised Code, less the discount allowed under 97044  
section 5743.05 of the Revised Code as a commission for affixing 97045  
and canceling stamps or meter impressions, that is due on all 97046  
packages of Ohio stamped cigarettes and on all unaffixed Ohio 97047  
cigarette tax stamps that the wholesale dealer has on hand as of 97048  
the beginning of business on July 1, 2005, and, in the case of a 97049  
retail dealer, means the net additional amount of tax resulting 97050  
from the amendment by this act of section 5743.02 of the Revised 97051  
Code that is due on all packages of Ohio stamped cigarettes and on 97052  
all unaffixed Ohio cigarette tax stamps that the retail dealer has 97053  
on hand as of the beginning of business on July 1, 2005. 97054

(B) In addition to the return required under section 5743.03 97055  
of the Revised Code, each wholesale dealer and each retail dealer 97056  
shall make and file a return on forms prescribed by the tax 97057  
commissioner showing the net additional tax due and any other 97058  
information that the commissioner considers necessary to apply 97059  
sections 5743.01 to 5743.20 of the Revised Code in the 97060  
administration of the net additional tax. On or before September 97061  
30, 2005, each wholesale dealer and each retail dealer shall 97062  
deliver the return to the treasurer of state, together with 97063

remittance of the net additional tax shown on the return to be 97064  
due. A wholesale dealer or retail dealer may claim a credit equal 97065  
to five per cent of the net additional tax shown on the return to 97066  
be due if the wholesale dealer or retail dealer delivers the 97067  
return required under this section to the treasurer of state on or 97068  
before August 15, 2005, together with remittance of the net 97069  
additional tax due after allowing for the five per cent credit. 97070  
The treasurer of state shall stamp or otherwise mark on the return 97071  
the date on which the return and remittance were received by the 97072  
treasurer of state and also shall show on the return by stamp or 97073  
otherwise the amount of the tax payment remitted with the return. 97074  
Upon receipt, the treasurer of state shall immediately transmit 97075  
all returns filed under this section to the commissioner. 97076

(C) Any wholesale or retail dealer who fails to file a return 97077  
or remit net additional tax as required under this section shall 97078  
forfeit and pay into the state treasury a late charge equal to 97079  
fifty dollars or ten per cent of the net additional tax due, 97080  
whichever is greater. If the net additional tax, or any portion 97081  
thereof, whether determined by the commissioner or the wholesale 97082  
or retail dealer, is not paid on or before the date prescribed for 97083  
payment under this section, interest shall accrue on the unpaid 97084  
amount at the rate per annum required by section 5703.47 of the 97085  
Revised Code from the date prescribed for payment of the net 97086  
additional tax to the date of payment or to the date the 97087  
commissioner issues an assessment under section 5743.081 or 97088  
5743.082 of the Revised Code, whichever occurs first. Interest 97089  
shall be paid and collected in the same manner as the net 97090  
additional tax. 97091

(D) Unpaid or unreported net additional taxes, late charges, 97092  
and interest may be collected by assessment in the manner 97093  
prescribed under sections 5743.081 and 5743.082 of the Revised 97094  
Code. 97095

(E) All amounts collected under this section shall be 97096  
considered revenue arising from the tax imposed by section 5743.02 97097  
of the Revised Code. 97098

**Section 557.09.** (A) This section applies only to the 97099  
semiannual period from July 1, 2005, to December 31, 2005. 97100

Notwithstanding any provision of Chapter 5751. of the Revised 97101  
Code as enacted by this act, for purposes of making the first 97102  
payment of the tax imposed under that chapter, a tax return for 97103  
both calendar year and calendar quarter taxpayers for that 97104  
semiannual period shall be filed not later than February 10, 2006. 97105  
The semiannual tax payment for all taxpayers for that semiannual 97106  
period shall be eighty-eight dollars for the first five hundred 97107  
thousand dollars in taxable gross receipts during that semiannual 97108  
period. In addition, a tax is imposed on all taxable gross 97109  
receipts for that semiannual period in excess of five hundred 97110  
thousand dollars. Such tax shall equal the product of six-tenths 97111  
of one mill per dollar (the result of rounding twenty-three per 97112  
cent of two and six-tenths mills) times the remaining amount of 97113  
taxable gross receipts after subtracting five hundred thousand 97114  
dollars in taxable gross receipts. 97115

(B) Only persons excluded pursuant to divisions (E)(2) to 97116  
(10) of section 5751.01 of the Revised Code, as enacted by this 97117  
act, and persons with less than two hundred thousand dollars in 97118  
taxable gross receipts during calendar year 2005 are not subject 97119  
to this section. 97120

(C) The tax commissioner shall take the necessary steps to 97121  
implement this section and use money in the commercial tax 97122  
administrative fund to promote awareness of the tax imposed under 97123  
this section and under Chapter 5751. of the Revised Code as 97124  
enacted by this act by means of advertising and other reasonable 97125  
means. 97126

**Section 557.10.** In lieu of the certification and crediting of 97127  
money to the Recycling and Litter Prevention Fund in fiscal year 97128  
2006 that would be required under section 5733.122 of the Revised 97129  
Code if that section were not repealed by this act, the Director 97130  
of Budget and Management, during fiscal year 2006, shall transfer 97131  
\$1,500,000 from the General Revenue Fund to the Recycling and 97132  
Litter Prevention Fund according to a schedule to be determined by 97133  
the Director. 97134

**Section 557.12.** ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 97135

(A) On or before the seventh day of each month of the period 97136  
July 2005 through June 2007, the Tax Commissioner shall determine 97137  
and certify to the Director of Budget and Management the amount to 97138  
be credited, by tax, during that month to the Local Government 97139  
Fund, to the Library and Local Government Support Fund, and to the 97140  
Local Government Revenue Assistance Fund, respectively, under 97141  
divisions (B) to (G) of this section. 97142

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 97143  
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 97144  
for each month in the period July 1, 2005, through June 30, 2007, 97145  
from the utility excise, kilowatt-hour, corporation franchise, 97146  
sales and use, and personal income taxes collected: 97147

(1) An amount shall first be credited to the Local Government 97148  
Fund equal to the amount credited to that fund from that tax 97149  
according to the schedule in divisions (C), (D), (E), and (F) of 97150  
this section; 97151

(2) An amount shall next be credited to the Local Government 97152  
Revenue Assistance Fund equal to the amount credited to that fund 97153  
from that tax according to the schedule in divisions (C), (D), 97154  
(E), and (F) of this section; 97155

(3) An amount shall next be credited to the Library and Local 97156

Government Support Fund equal to the amount credited to that fund 97157  
from that tax according to the schedule in division (G) of this 97158  
section. 97159

To the extent the amounts credited under divisions (B) 97160  
through (G) of this section exceed the amounts that otherwise 97161  
would have been credited under sections 5727.45, 5727.84, 5733.12, 97162  
5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts 97163  
credited to the general revenue fund shall be reduced. To the 97164  
extent the amounts credited under divisions (B) through (G) of 97165  
this section are less than the amounts that otherwise would have 97166  
been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 97167  
5741.03, and 5747.03 of the Revised Code, the amounts credited to 97168  
the general revenue fund shall be increased. 97169

(C) Pursuant to divisions (B)(1) and (2) of this section, the 97170  
amounts shall be credited from the corporation franchise, sales 97171  
and use, and personal income taxes to each respective fund as 97172  
follows: 97173

(1) In July 2005, one hundred per cent of the amount credited 97174  
in July 2004; in July 2006, one hundred per cent of the amount 97175  
credited in July 2005; 97176

(2) In August 2005, one hundred per cent of the amount 97177  
credited in August 2004; in August 2006, one hundred per cent of 97178  
the amount credited in August 2005; 97179

(3) In September 2005, one hundred per cent of the amount 97180  
credited in September 2004; in September 2006, one hundred per 97181  
cent of the amount credited in September 2005; 97182

(4) In October 2005, one hundred per cent of the amount 97183  
credited in October 2004; in October 2006, one hundred per cent of 97184  
the amount credited in October 2005; 97185

(5) In November 2005, one hundred per cent of the amount 97186

credited in November 2004; in November 2006, one hundred per cent	97187
of the amount credited in November 2005;	97188
(6) In December 2005, one hundred per cent of the amount	97189
credited in December 2004; in December 2006, one hundred per cent	97190
of the amount credited in December 2005;	97191
(7) In January 2006, one hundred per cent of the amount	97192
credited in January 2005; in January 2007, one hundred per cent of	97193
the amount credited in January 2006;	97194
(8) In February 2006, one hundred per cent of the amount	97195
credited in February 2005; in February 2007, one hundred per cent	97196
of the amount credited in February 2006;	97197
(9) In March 2006, one hundred per cent of the amount	97198
credited in March 2005; in March 2007, one hundred per cent of the	97199
amount credited in March 2006;	97200
(10) In April 2006, one hundred per cent of the amount	97201
credited in April 2005; in April 2007, one hundred per cent of the	97202
amount credited in April 2006;	97203
(11) In May 2006, one hundred per cent of the amount credited	97204
in May 2005; in May 2007, one hundred per cent of the amount	97205
credited in May 2006;	97206
(12) In June 2006, one hundred per cent of the amount	97207
credited in June 2005; in June 2007, one hundred per cent of the	97208
amount credited in June 2006.	97209
(D) Pursuant to divisions (B)(1) and (2) of this section,	97210
from the public utility excise tax, amounts shall be credited to	97211
the Local Government Fund and the Local Government Revenue	97212
Assistance Fund as follows:	97213
(1) In July 2005 and July 2006, no amount shall be credited	97214
to the Local Government Fund and no amount shall be credited to	97215
the Local Government Revenue Assistance Fund;	97216



- (2) In August 2005 and August 2006, no amount shall be 97217  
credited to the Local Government Fund or to the Local Government 97218  
Revenue Assistance Fund; 97219
- (3) In September 2005 and September 2006, no amount shall be 97220  
credited to the Local Government Fund or to the Local Government 97221  
Revenue Assistance Fund; 97222
- (4) In October 2005 and October 2006, thirty per cent of 97223  
\$7,870,426.16 shall be credited to the Local Government Fund and 97224  
thirty per cent of \$1,124,346.59 shall be credited to the Local 97225  
Government Revenue Assistance Fund; 97226
- (5) In November 2005 and November 2006, thirty per cent of 97227  
\$1,045,731.11 shall be credited to the Local Government Fund and 97228  
thirty per cent of \$149,390.15 shall be credited to the Local 97229  
Government Revenue Assistance Fund; 97230
- (6) In December 2005 and December 2006, thirty per cent of 97231  
\$1,210,041.67 shall be credited to the Local Government Fund and 97232  
thirty per cent of \$172,863.13 shall be credited to the Local 97233  
Government Revenue Assistance Fund; 97234
- (7) In January 2006 and January 2007, no amount shall be 97235  
credited to the Local Government Fund or to the Local Government 97236  
Revenue Assistance Fund; 97237
- (8) In February 2006 and February 2007, thirty per cent of 97238  
\$1,515,069.22 shall be credited to the Local Government Fund and 97239  
thirty per cent of \$216,438.43 shall be credited to the Local 97240  
Government Revenue Assistance Fund; 97241
- (9) In March 2006 and March 2007, thirty per cent of 97242  
\$7,859,958.57 shall be credited to the Local Government Fund and 97243  
thirty per cent of \$1,122,851.24 shall be credited to the Local 97244  
Government Revenue Assistance Fund; 97245
- (10) In April 2006 and April 2007, no amount shall be 97246

credited to the Local Government Fund or to the Local Government  
Revenue Assistance Fund; 97247  
97248

(11) In May 2006 and May 2007, thirty per cent of 97249  
\$3,300,718.22 shall be credited to the Local Government Fund and 97250  
thirty per cent of \$471,531.17 shall be credited to the Local 97251  
Government Revenue Assistance Fund; 97252

(12) In June 2006 and June 2007, thirty per cent of 97253  
\$9,344,500.89 shall be credited to the Local Government Fund and 97254  
thirty per cent of \$1,334,928.70 shall be credited to the Local 97255  
Government Revenue Assistance Fund. 97256

(E) Pursuant to divisions (B)(1) and (2) of this section, 97257  
from the kilowatt-hour tax, amounts shall be credited to the Local 97258  
Government Fund and the Local Government Revenue Assistance Fund 97259  
as follows: 97260

(1) In July 2005 and July 2006, no amount shall be credited 97261  
to the Local Government Fund and no amount shall be credited to 97262  
the Local Government Revenue Assistance Fund; 97263

(2) In August 2005 and August 2006, no amount shall be 97264  
credited to the Local Government Fund or to the Local Government 97265  
Revenue Assistance Fund; 97266

(3) In September 2005, and September 2006, no amount shall be 97267  
credited to the Local Government Fund or to the Local Government 97268  
Revenue Assistance Fund; 97269

(4) In October 2005 and October 2006, seventy per cent of 97270  
\$7,870,426.16 shall be credited to the Local Government Fund and 97271  
seventy per cent of \$1,124,346.59 shall be credited to the Local 97272  
Government Revenue Assistance Fund; 97273

(5) In November 2005 and November 2006, seventy per cent of 97274  
\$1,045,731.11 shall be credited to the Local Government Fund and 97275  
seventy per cent of \$149,390.15 shall be credited to the Local 97276

Government Revenue Assistance Fund;	97277
(6) In December 2005 and December 2006, seventy per cent of	97278
\$1,210,041.67 shall be credited to the Local Government Fund and	97279
seventy per cent of \$172,863.13 shall be credited to the Local	97280
Government Revenue Assistance Fund;	97281
(7) In January 2006 and January 2007, no amount shall be	97282
credited to the Local Government Fund or to the Local Government	97283
Revenue Assistance Fund;	97284
(8) In February 2006 and February 2007, seventy per cent of	97285
\$1,515,069.22 shall be credited to the Local Government Fund and	97286
seventy per cent of \$216,438.43 shall be credited to the Local	97287
Government Revenue Assistance Fund;	97288
(9) In March 2006 and March 2007, seventy per cent of	97289
\$7,859,958.57 shall be credited to the Local Government Fund and	97290
seventy per cent of \$1,122,851.24 shall be credited to the Local	97291
Government Revenue Assistance Fund;	97292
(10) In April 2006 and April 2007, no amount shall be	97293
credited to the Local Government Fund or to the Local Government	97294
Revenue Assistance Fund;	97295
(11) In May 2006 and May 2007, seventy per cent of	97296
\$3,300,718.22 shall be credited to the Local Government Fund and	97297
seventy per cent of \$471,531.17 shall be credited to the Local	97298
Government Revenue Assistance Fund;	97299
(12) In June 2006 and June 2007, seventy per cent of	97300
\$9,344,500.89 shall be credited to the Local Government Fund and	97301
seventy per cent of \$1,334,928.70 shall be credited to the Local	97302
Government Revenue Assistance Fund.	97303
(F) Notwithstanding the amounts required to be credited	97304
pursuant to division (C) of this section, the amount credited each	97305
month to the Local Government Fund and the Local Government	97306

Revenue Assistance Fund from the personal income tax shall be net 97307  
of a reduction. The reduction shall equal the amount by which the 97308  
monthly distributions required by division (I) of this section are 97309  
below the total amount that otherwise would have been credited for 97310  
that month pursuant to divisions (C), (D), and (E) of this 97311  
section. 97312

(G) Pursuant to division (B)(3) of this section, amounts 97313  
shall be credited from the personal income tax to the Library and 97314  
Local Government Support Fund as follows: 97315

(1) In July 2005, one hundred per cent of the amount credited 97316  
in July 2004; in July 2006, ninety-five per cent of the amount 97317  
credited in July 2005; 97318

(2) In August 2005, one hundred per cent of the amount 97319  
credited in August 2004; in August 2006, ninety-five per cent of 97320  
the amount credited in August 2005; 97321

(3) In September 2005, one hundred per cent of the amount 97322  
credited in September 2004; in September 2006, ninety-five per 97323  
cent of the amount credited in September 2005; 97324

(4) In October 2005, one hundred per cent of the amount 97325  
credited in October 2004; in October 2006, ninety-five per cent of 97326  
the amount credited in October 2005; 97327

(5) In November 2005, one hundred per cent of the amount 97328  
credited in November 2004; in November 2006, ninety-five per cent 97329  
of the amount credited in November 2005; 97330

(6) In December 2005, ninety-five per cent of the amount 97331  
credited in December 2004; in December 2006, one hundred per cent 97332  
of the amount credited in December 2005; 97333

(7) In January 2006, ninety-five per cent of the amount 97334  
credited in January 2005; in January 2007, one hundred per cent of 97335  
the amount credited in January 2006; 97336

(8) In February 2006, ninety-five per cent of the amount 97337  
credited in February 2005; in February 2007, one hundred per cent 97338  
of the amount credited in February 2006; 97339

(9) In March 2006, ninety-five per cent of the amount 97340  
credited in March 2005; in March 2007, one hundred per cent of the 97341  
amount credited in March 2006; 97342

(10) In April 2006, ninety-five per cent of the amount 97343  
credited in April 2005; in April 2007, one hundred per cent of the 97344  
amount credited in April 2006; 97345

(11) In May 2006, ninety-five per cent of the amount credited 97346  
in May 2005; in May 2007, one hundred per cent of the amount 97347  
credited in May 2006; 97348

(12) In June 2006, ninety-five per cent of the amount 97349  
credited in June 2005; in June 2007, one hundred per cent of the 97350  
amount credited in June 2006. 97351

(H) The total amount credited to the Local Government Fund 97352  
and the Local Government Revenue Assistance Fund in each month 97353  
during the period July 2005 through November 2005 shall be 97354  
distributed by the tenth day of the immediately succeeding month 97355  
in the following manner, and the total amount credited to the 97356  
Library and Local Government Support Fund in each month during the 97357  
period July 2005 through June 2007 shall be distributed by the 97358  
tenth day of the immediately succeeding month in the following 97359  
manner: 97360

(1) Each county undivided local government fund shall receive 97361  
a distribution from the Local Government Fund based on its 97362  
proportionate share of the total amount received from the fund in 97363  
such respective month for the period August 1, 2004, through 97364  
December 31, 2004. 97365

(2) Each municipal corporation receiving a direct 97366

distribution from the Local Government Fund shall receive a 97367  
distribution based on its proportionate share of the total amount 97368  
received from the fund in such respective month for the period 97369  
August 1, 2004, through December 31, 2004. 97370

(3) Each county undivided local government revenue assistance 97371  
fund shall receive a distribution from the Local Government 97372  
Revenue Assistance Fund based on its proportionate share of the 97373  
total amount received from the fund in such respective month for 97374  
the period August 1, 2004, through December 31, 2004. 97375

(4) Each county undivided library and local government 97376  
support fund shall receive a distribution from the Library and 97377  
Local Government Support Fund based on its proportionate share of 97378  
the total amount received from the fund in such respective month 97379  
for the period August 1, 2004, through July 31, 2005. 97380

(I) Notwithstanding any other provision of law to the 97381  
contrary, the total amount credited to the Local Government Fund 97382  
and the Local Government Revenue Assistance Fund in each month 97383  
during the period December 2005 through June 2007 shall be 97384  
distributed by the tenth day of the immediately succeeding month 97385  
in the following manner: 97386

(1) Each county undivided local government fund and each 97387  
county undivided local government revenue assistance fund shall 97388  
receive the "countywide township and village distribution" for 97389  
each respective fund, as determined under divisions (I)(1)(a) and 97390  
(b) of this section. 97391

(a) The countywide township and village distribution is 97392  
determined as follows: For each county undivided local government 97393  
fund and each county undivided local government revenue assistance 97394  
fund, the Tax Commissioner shall identify the proportionate shares 97395  
of the distributions made from each fund to townships and villages 97396  
located partially or entirely in that county, as reported by the 97397

county auditor for calendar year 2005 under division (J) of 97398  
section 5747.51 and division (I) of section 5747.62 of the Revised 97399  
Code, respectively. For each county and each fund, the Tax 97400  
Commissioner shall compute the sum of the proportionate shares of 97401  
distributions to townships and villages, and shall next multiply 97402  
the sum for each fund by the amount distributed each month to the 97403  
county undivided local government fund from the local government 97404  
fund and by the amount distributed each month to the county 97405  
undivided local government revenue assistance fund from the local 97406  
government revenue assistance fund, respectively, during the 97407  
period January 2005 through December 2005. 97408

(b) The Tax Commissioner shall multiply each product derived 97409  
in division (I)(1)(a) of this section by one hundred per cent to 97410  
yield that month's countywide township and village distribution 97411  
for each fund and each county. 97412

(c) Only those subdivisions reported as townships and those 97413  
municipal corporations reported as villages in the most recent 97414  
edition of the Secretary of State's "Ohio Municipal, Township and 97415  
School Board Roster," available as of November 1, 2005, shall be 97416  
considered to be townships or villages, respectively, for purposes 97417  
of this section. Townships and villages that are dissolved or that 97418  
merge with another subdivision on or after August 1, 2005, may be 97419  
excluded from the calculation of the countywide township and 97420  
village distribution. 97421

(2) In addition to the distributions provided in divisions 97422  
(I)(1), (I)(3) and (I)(5) of this section, each county undivided 97423  
local government fund and each county undivided local government 97424  
revenue assistance fund shall receive the "county distribution" 97425  
computed for each fund under divisions (I)(2)(a) and (b) of this 97426  
section. 97427

(a) The monthly distribution made from the county undivided 97428

local government fund to each county as a subdivision during the 97429  
period January 2005 through December 2005, excluding dealer in 97430  
intangibles tax distributions, multiplied by ninety per cent. 97431

(b) The monthly distribution made from the county undivided 97432  
local government revenue assistance fund to each county as a 97433  
subdivision during the period January 2005 through December 2005, 97434  
multiplied by ninety per cent. 97435

(3) In addition to the distributions provided in divisions 97436  
(I)(1), (I)(2), and (I)(5) of this section, each county undivided 97437  
local government fund and each county undivided local government 97438  
revenue assistance fund shall receive the "other taxing unit 97439  
distribution" computed for each fund under divisions (I)(3)(a) and 97440  
(b) of this section. 97441

(a) The sum of the monthly product calculated pursuant to 97442  
division (I)(1)(a) of this section, the monthly distribution to 97443  
the county as a subdivision from the county undivided local 97444  
government fund, excluding dealer in intangibles tax 97445  
distributions, during the period January 2005 through December 97446  
2005, and the monthly distribution made from the county undivided 97447  
local government fund, excluding dealer in intangibles tax 97448  
distributions, to municipal corporations not otherwise included in 97449  
division (I)(1)(a) of this section during the period January 2005 97450  
through December 2005 shall be subtracted from the county 97451  
undivided local government fund distribution made from the local 97452  
government fund in such respective month during the period January 97453  
2005 through December 2005. The difference shall be multiplied by 97454  
eighty per cent. 97455

(b) The sum of the monthly product calculated pursuant to 97456  
division (I)(1)(a) of this section, the monthly distribution to 97457  
the county as a subdivision from the undivided local government 97458  
revenue assistance fund during the period January 2005 through 97459



December 2005, and the monthly distribution made from the county 97460  
undivided local government revenue assistance fund to municipal 97461  
corporations not otherwise included in division (I)(1)(a) of this 97462  
section during the period January 2005 through December 2005 shall 97463  
be subtracted from the county undivided local government revenue 97464  
assistance fund distribution made from the local government 97465  
revenue assistance fund in such respective month during the period 97466  
January 2005 through December 2005. The difference shall be 97467  
multiplied by eighty per cent. 97468

(4) Each municipal corporation identified by the Tax 97469  
Commissioner as a village under division (I)(1)(c) of this section 97470  
shall receive in each month an amount directly from the Local 97471  
Government Fund equal to one hundred per cent of the amount the 97472  
municipal corporation received directly from that fund in such 97473  
respective month during the period January 1, 2005, through 97474  
December 31, 2005. 97475

The Tax Commissioner shall compute for each municipal 97476  
corporation, excluding villages receiving amounts pursuant to 97477  
division (I)(4) of this section, an "excess amount," which amount 97478  
equals the extent to which such municipal corporation's 97479  
distributions received directly from the Local Government Fund 97480  
during calendar year 2005 and the distributions received from the 97481  
county undivided local government fund, excluding dealer in 97482  
intangibles tax distributions, during calendar year 2005 exceeded 97483  
\$1,000,000. If a positive excess amount is computed for a 97484  
municipal corporation, then the Tax Commissioner shall divide the 97485  
excess amount by the sum of the amount received by that municipal 97486  
corporation directly from the Local Government Fund during 97487  
calendar year 2005 plus the amount that municipal corporation 97488  
received from the county undivided local government fund, 97489  
excluding dealer in intangibles tax distributions, during calendar 97490  
year 2005. The result of that calculation shall be the "percentage 97491

excess" for the subject municipal corporation. The 97492  
"below-threshold percentage" equals the percentage excess 97493  
subtracted from one. Any municipal corporation for which a 97494  
percentage excess is computed shall receive a monthly distribution 97495  
directly from the Local Government Fund equal to the sum of (1) 97496  
the product derived by multiplying the distribution received 97497  
directly from the Local Government Fund by the municipal 97498  
corporation in such month of calendar year 2005 times the 97499  
below-threshold percentage, multiplied by ninety per cent, and (2) 97500  
the product derived by multiplying the distribution received 97501  
directly from the Local Government Fund by the municipal 97502  
corporation in such month of calendar year 2005 times the 97503  
percentage excess, multiplied by eighty per cent. Except for 97504  
villages receiving amounts pursuant to division (I)(4) of this 97505  
section, each municipal corporation whose excess amount computed 97506  
under this division is not a positive number and a percentage 97507  
excess has therefore not been computed shall receive in each month 97508  
an amount directly from the Local Government Fund that is equal to 97509  
ninety per cent of the amount the municipal corporation received 97510  
directly from that fund in such respective month during the period 97511  
January 1, 2005, through December 31, 2005. 97512

(5) Each county undivided local government fund and each 97513  
county undivided local government revenue assistance fund shall 97514  
receive the total "city distribution" for each respective county 97515  
fund, as determined under divisions (I)(5)(a) and (b) of this 97516  
section. Notwithstanding divisions (C) to (I) of section 5747.51 97517  
or section 5747.53 of the Revised Code to the contrary, each city 97518  
shall receive from the county undivided local government fund and 97519  
from the county undivided local government revenue assistance fund 97520  
its monthly city distribution determined under this section. The 97521  
city distribution is determined as follows: 97522

(a) For each municipal corporation otherwise not receiving a 97523

distribution under division (I)(1) of this section and that 97524  
received a distribution from the county undivided local government 97525  
fund during calendar year 2005, the Tax Commissioner shall 97526  
identify the percentage excess and below-threshold percentage 97527  
determined under division (I)(4) of this section. If a percentage 97528  
excess has been computed for a municipal corporation under 97529  
division (I)(4) of this section, its monthly distribution from the 97530  
county undivided local government fund shall equal the sum of (1) 97531  
the product derived by multiplying the amount distributed to the 97532  
municipal corporation from the fund in such month of calendar year 97533  
2005, excluding any dealer in intangible tax distributions, by the 97534  
below-threshold percentage, multiplied by ninety per cent, and (2) 97535  
the product derived by multiplying the amount distributed to the 97536  
municipal corporation from the fund in such month of calendar year 97537  
2005, excluding any dealer in intangibles tax distributions, by 97538  
the percentage excess, multiplied by eighty per cent. Each 97539  
municipal corporation whose excess amount is not a positive number 97540  
and for which a percentage excess was not computed shall receive 97541  
the amount it received from the county undivided local government 97542  
fund in such month of calendar year 2005, excluding any dealer in 97543  
intangibles tax distributions, multiplied by ninety per cent. 97544

(b) Each municipal corporation not otherwise receiving a 97545  
distribution under division (I)(1) of this section shall receive 97546  
from the county undivided local government revenue assistance fund 97547  
the same amount it received from that fund in such month of 97548  
calendar year 2005, multiplied by eighty per cent. 97549

(J) Notwithstanding the distribution method prescribed by 97550  
divisions (C) to (I) of section 5747.51 or by section 5747.53 of 97551  
the Revised Code, during the period January 1, 2006, through July 97552  
31, 2007, the amounts allocated monthly to each county undivided 97553  
local government fund from the local government fund shall be 97554  
distributed among all subdivisions located wholly or partially in 97555

the county in the manner prescribed by division (J) of this section. 97556  
97557

(1) The countywide township and village distribution shall be distributed among townships and villages based on their relative proportionate shares of the sum of the township and village proportionate shares described in division (I)(1)(a) of this section. 97558  
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(2) The other taxing unit distribution shall be distributed to subdivisions not otherwise included in divisions (J)(1), (J)(3), and (J)(4) of this section based on their relative proportionate shares of the sum of proportionate shares for such subdivisions based on the calendar year 2005 report submitted by the county auditor to the Tax Commissioner pursuant to division (J) of section 5747.51 of the Revised Code. 97563  
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(3) The city distribution shall be distributed according to division (I)(5) of this section. 97570  
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(4) The county distribution shall be distributed according to division (I)(2) of this section. 97572  
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(5) Dealer in intangibles taxes distributed to each county undivided local government fund shall be distributed among subdivisions based on each subdivision's relative share of the total distributions made from the county undivided local government fund according to divisions (J)(1) to (3) of this section. 97574  
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(6) By December 20, 2005, the Tax Commissioner shall make such information available to each county auditor deemed reasonable and appropriate for the purposes of making the distributions required by this section. 97580  
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(7) Until the county auditor provides the Tax Commissioner the report required by division (J) of section 5747.51 for 97584  
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calendar year 2005, the amounts distributed to the county 97586  
undivided local government fund that are subsequently apportioned 97587  
to subdivisions under this section shall be based on the most 97588  
recent year for which a report has been submitted. If a county 97589  
auditor report for a calendar year preceding calendar year 2005 is 97590  
used to make the distributions under this section and the county 97591  
auditor report for calendar year 2005 report is subsequently 97592  
submitted to the Tax Commissioner, there shall be no adjustment 97593  
for any month when such pre-calendar year 2005 report information 97594  
was used. 97595

(K) Notwithstanding the distribution method prescribed by 97596  
divisions (C) to (H) of section 5747.62 or by section 5747.63 of 97597  
the Revised Code, during the period January 1, 2006, through July 97598  
31, 2007, the amounts allocated monthly to each county undivided 97599  
local government revenue assistance fund from the local government 97600  
revenue assistance fund shall be distributed among all 97601  
subdivisions located wholly or partially in the county in the 97602  
manner prescribed by division (K) of this section. 97603

(1) The countywide township and village distribution shall be 97604  
distributed among townships and villages based on their relative 97605  
proportionate shares of the sum of the township and village 97606  
proportionate shares described in division (I)(1)(a) of this 97607  
section. 97608

(2) The other taxing unit distribution shall be distributed 97609  
to subdivisions not otherwise included in division (K)(1), (K)(3), 97610  
and (K)(4) of this section based on their relative proportionate 97611  
shares of the sum of proportionate shares for such subdivisions 97612  
based on the calendar year 2005 report submitted by the county 97613  
auditor to the Tax Commissioner pursuant to division (I) of 97614  
section 5747.62 of the Revised Code. 97615

(3) The city distribution shall be distributed according to 97616

division (I)(5) of this section. 97617

(4) The county distribution shall be distributed according to 97618  
division (I)(2) of this section. 97619

(5) By December 20, 2005, the Tax Commissioner shall make 97620  
such information available to each county auditor deemed 97621  
reasonable and appropriate for the purposes of making the 97622  
distributions required by this section. 97623

(6) Until the county auditor provides the Tax Commissioner 97624  
the report required by division (I) of section 5747.62 for 97625  
calendar year 2005, the amounts distributed to the county 97626  
undivided local government revenue assistance fund that are 97627  
subsequently apportioned to subdivisions under this section shall 97628  
be based on the most recent year for which a report has been 97629  
submitted. If a county auditor report for a calendar year 97630  
preceding calendar year 2005 is used to make the distributions 97631  
under this section and the county auditor report for calendar year 97632  
2005 report is subsequently submitted to the Tax Commissioner, 97633  
there shall be no adjustment for any month when such pre-calendar 97634  
year 2005 report information was used. 97635

(L) For the 2005, 2006, and 2007 distribution years, the Tax 97636  
Commissioner is not required to issue the certifications otherwise 97637  
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 97638  
the Revised Code, but shall provide to each county auditor by the 97639  
twentieth day of July 2005, July 2006, and July 2007 an estimate 97640  
of the amounts to be received by the county in the ensuing year 97641  
from the Local Government Fund, Local Government Revenue 97642  
Assistance Fund, and Library and Local Government Support Fund 97643  
pursuant to this section and any pertinent section of the Revised 97644  
Code. For the 2006 distribution year, the Tax Commissioner shall 97645  
provide by December 20, 2005, a revised estimate of the amounts to 97646  
be received by the county in the ensuing year from the Local 97647

Government Fund, Local Government Revenue Assistance Fund, and 97648  
Library and Local Government Support Fund pursuant to this section 97649  
and any pertinent section of the Revised Code. At the discretion 97650  
of the Tax Commissioner, the Tax Commissioner may report to each 97651  
county auditor additional revised estimates of the 2005, 2006, or 97652  
2007 distributions at any time during the period July 1, 2005, 97653  
through July 31, 2007. 97654

(M) During the period July 1, 2005, through July 31, 2007, 97655  
the Director of Budget and Management shall issue such directives 97656  
to state agencies that are necessary to ensure that the 97657  
appropriate amounts are distributed to the Local Government Fund, 97658  
to the Local Government Revenue Assistance Fund, and to the 97659  
Library and Local Government Support Fund. 97660

**Section 557.13.03.** The Tax Commissioner shall review the 97661  
calculations of the multipliers used in the determination of oil 97662  
and gas valuations, in light of the amendment by this act to 97663  
section 5715.01 of the Revised Code, and the enactment by this act 97664  
of section 5709.112 of the Revised Code. The review shall be 97665  
conducted in sufficient time to be used in the Commissioner's 97666  
annual entry adopting the multipliers for tax year 2006, to ensure 97667  
that oil and gas properties are uniformly assessed as provided by 97668  
law and this act. 97669

**Section 557.13.06.** Prior to adopting the rule defining 97670  
"primarily," as required by division (B)(2) of section 5725.01 of 97671  
the Revised Code, the Tax Commissioner shall seek the input of 97672  
current dealers in intangibles. 97673

**Section 557.13.09.** (A) There is hereby created the Joint 97674  
Legislative Tax Reform Impact Study Committee. The Committee shall 97675  
consist of the following members of the General Assembly: the 97676  
chairperson of the Senate's standing committee with primary 97677

responsibility for tax legislation, the chairperson of the House 97678  
of Representatives' standing committee with primary responsibility 97679  
for tax legislation, four members of the House of Representatives 97680  
appointed by the Speaker of the House of Representatives, and four 97681  
members of the Senate appointed by the President of the Senate. 97682  
Not more than two members appointed by the Speaker and not more 97683  
than two members appointed by the President may be of the same 97684  
political party. The appointments shall be made not later than 97685  
July 31, 2005. The chairpersons of the standing committees with 97686  
primary responsibility for tax legislation shall serve as 97687  
co-chairpersons of the Committee. The Department of Taxation shall 97688  
cooperate with the Committee and, on request, shall provide any 97689  
information and assistance that is required by the Committee to 97690  
carry out its duties. 97691

(B) The Committee shall study the effects on school districts 97692  
and other local taxing units of phasing-out the tangible personal 97693  
property tax under this act, and any other matter related to that 97694  
phase-out that it considers of significance. As part of the study, 97695  
the Committee shall do all of the following: 97696

(1) Estimate the total taxes lost by school districts and 97697  
local taxing units as a result of the phase-out; 97698

(2) Estimate the capacity of the commercial activity tax 97699  
levied under Chapter 5751. of the Revised Code, as enacted by this 97700  
act, to replace lost tangible personal property tax revenues and 97701  
to fund the General Revenue Fund; 97702

(3) Estimate the cost for delivery of services by school 97703  
districts and other local taxing units and the emerging service 97704  
demands for those services arising from demographic and economic 97705  
changes to the districts and units; 97706

(4) Identify alternatives for effectively balancing state and 97707  
local tax revenues available to school districts and other taxing 97708



units and their responsibilities for delivery of services; 97709

(5) Examine how the commercial activity tax treats for-profit 97710  
corporations as compared to nonprofit corporations; 97711

(6) Review the impact of the commercial activity tax on the 97712  
various business sectors. 97713

(C) At the call of the co-chairpersons, the Committee shall 97714  
hold not less than four meetings. The co-chairpersons shall 97715  
determine the time, place, and agenda for each meeting of the 97716  
Committee. Not later than January 31, 2006, the Committee shall 97717  
issue a report of its findings and shall make recommendations to 97718  
the President of the Senate and the Speaker of the House of 97719  
Representatives, at which time the Committee shall cease to exist. 97720

**Section 557.13.12.** There is hereby created the 97721  
Telecommunication Personal Property Tax Study Committee to review 97722  
the equity of the various personal property tax rates applicable 97723  
to different entities providing telecommunication services in the 97724  
state. The committee shall be composed of nine members as follows: 97725  
three members shall be appointed by the President of the Senate 97726  
from the members of the Senate, three members shall be appointed 97727  
by the Speaker of the House of Representatives from the members of 97728  
the House of Representatives, one member shall be the Chairperson 97729  
of the Public Utilities Commission or the Chairperson's designee, 97730  
one member shall be the Director of Development or the Director's 97731  
designee, and one member shall be the Tax Commissioner or the 97732  
Commissioner's designee. Of the members selected from the Senate 97733  
and the House of Representatives, not more than two members from 97734  
each house may be from the same political party. Members of the 97735  
committee shall not receive compensation for their service on the 97736  
committee and shall not receive reimbursement for expenses 97737  
incurred related to that service. The committee shall make a 97738  
report of its study and any findings it has to the General 97739

Assembly not later than December 31, 2005. The committee shall 97740  
cease to exist on the date it makes the report. 97741

**Section 557.15.** The amendment by this act of sections 319.302 97742  
and 323.152 of the Revised Code first applies in tax year 2005. 97743

**Section 557.21.** The amendment by this act of section 5727.81 97744  
of the Revised Code first applies to the measurement period that 97745  
includes July 1, 2005. 97746

**Section 557.24.** The amendment by this act of sections 97747  
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 97748  
Revised Code, and the repeal by this act of section 5731.20 of the 97749  
Revised Code, applies to estates of decedents dying on or after 97750  
the effective date of those sections as amended by this act. 97751

**Section 557.27.** The amendment by this act of section 5733.40 97752  
of the Revised Code applies to taxable years ending on or after 97753  
the effective date of this act. 97754

**Section 557.30.** Except as otherwise provided in division 97755  
(A)(18) of section 5747.01 and division (A) of section 5747.02 of 97756  
the Revised Code, the amendment by this act of sections 5747.01 97757  
and 5747.02 of the Revised Code applies to taxable years ending on 97758  
or after the effective date of this section. 97759

**Section 557.33.** The amendment by this act of section 5747.05 97760  
of the Revised Code applies to taxable years ending on or after 97761  
the effective date of this section. 97762

**Section 559.03.** (A) Sections 9.23, 9.231, 9.232, 9.233, 97763  
9.234, 9.235, 9.236, 9.237, 9.238, and 9.239 of the Revised Code, 97764  
as enacted by this act, apply only to disbursements of money that 97765

occur on or after January 1, 2006. 97766

(B) Section 9.241 of the Revised Code, as enacted by this 97767  
act, applies only to contracts that are entered into or awarded on 97768  
or after the effective date of that section. 97769

**Section 560.03.** There is hereby created the Ohio Military 97770  
Reserve Homeland Security Study Commission to evaluate the role 97771  
and effectiveness of the Ohio Military Reserve. The Commission 97772  
shall consist of seven members: the Chairperson of the House 97773  
Commerce and Labor Committee, who shall serve as chairperson of 97774  
the Commission, two members of the House of Representatives whom 97775  
the Speaker of the House of Representatives shall appoint, two 97776  
members of the Senate whom the President of the Senate shall 97777  
appoint, the Adjutant General or a representative the Adjutant 97778  
General designates, and the Director of Public Safety or a 97779  
representative the Director designates. The chairperson shall call 97780  
the meetings of the Commission. The Commission shall report its 97781  
findings to the General Assembly before January 1, 2006. 97782

**Section 563.03.** It is the intention of the General Assembly 97783  
that the amendments made by this act to sections 3319.081 and 97784  
3319.17 of the Revised Code, and the enactment by this act of 97785  
section 3319.172 of the Revised Code, shall not affect collective 97786  
bargaining agreements between public employers and public 97787  
employees entered into prior to the effective date of this 97788  
section. 97789

**Section 569.03.** (A) As used in this section, "appointing 97790  
authority" has the same meaning as in section 124.01 of the 97791  
Revised Code, and "exempt employee" has the same meaning as in 97792  
section 124.152 of the Revised Code. 97793

(B) Notwithstanding section 124.181 of the Revised Code both 97794

of the following apply: 97795

(1) In cases where no vacancy exists, an appointing authority 97796  
may, with the written consent of an exempt employee, assign duties 97797  
of a higher classification for a period of time not to exceed two 97798  
years to that exempt employee, and that exempt employee shall 97799  
receive compensation at a rate commensurate with the duties of the 97800  
higher classification. 97801

(2) If necessary, employees exempt from collective bargaining 97802  
who are assigned to duties within their agency to maintain 97803  
operations during the Ohio Administrative Knowledge System (OAKS) 97804  
implementation may agree to a temporary assignment that exceeds 97805  
the two-year limit. 97806

**Section 569.06.** (A) As used in this section, "exempt 97807  
employee" has the same meaning as in section 124.152 of the 97808  
Revised Code. 97809

(B) Notwithstanding any provision to the contrary in Chapter 97810  
124. of the Revised Code, for the period beginning on July 1, 97811  
2005, and ending on June 30, 2007, the Director of Job and Family 97812  
Services shall have the authority to do the following: 97813

(1) Establish, change, and abolish positions of employment in 97814  
the Department of Job and Family Services that are in the 97815  
classified civil service; 97816

(2) Assign, reassign, classify, reclassify, transfer, reduce, 97817  
promote, and demote exempt employees of the Department who are in 97818  
the classified civil service, including, but not limited to, 97819  
assigning or reassigning an employee to a bargaining unit 97820  
classification if the Director determines that the classification 97821  
is the proper classification for that employee. 97822

(C) All actions taken by the Director under division (B) of 97823  
this section relative to exempt employees of the Department who 97824

are in the classified civil service and are subject to section 97825  
900.603 of Title 5 of the Code of Federal Regulations, 5 C.F.R. 97826  
900.603, as amended, shall be consistent with the requirements of 97827  
that section. 97828

(D) If an exempt employee of the Department who is in the 97829  
classified civil service and paid in accordance with salary 97830  
schedule E-1 of section 124.152 of the Revised Code is to be 97831  
assigned, reassigned, classified, reclassified, transferred, 97832  
reduced, or demoted to a position in a lower job classification by 97833  
the Director under division (B) of this section, the Director, or 97834  
in the case of a transfer of the employee outside the Department, 97835  
the Director of Administrative Services, shall assign the employee 97836  
to the appropriate job classification and place the exempt 97837  
employee in pay step X. The employee shall not receive an increase 97838  
in compensation until the maximum rate of pay for that 97839  
classification exceeds the employee's compensation. 97840

(E) Actions taken by the Director under division (B) of this 97841  
section shall not be subject to appeal to the State Personnel 97842  
Board of Review. 97843

**Section 606.03.** If any item of law that constitutes the whole 97844  
or part of a codified or uncodified section of law contained in 97845  
this act, or if any application of any item of law that 97846  
constitutes the whole or part of a codified or uncodified section 97847  
of law contained in this act, is held invalid, the invalidity does 97848  
not affect other items of law or applications of items of law that 97849  
can be given effect without the invalid item of law or 97850  
application. To this end, the items of law of which the codified 97851  
and uncodified sections contained in this act are composed, and 97852  
their applications, are independent and severable. 97853

**Section 609.03.** An item of law, other than an amending, 97854

enacting, or repealing clause, that composes the whole or part of 97855  
an uncodified section contained in this act has no effect after 97856  
June 30, 2007, unless its context clearly indicates otherwise. 97857

**Section 612.03.** Except as otherwise specifically provided in 97858  
this act, the codified sections of law amended or enacted in this 97859  
act, and the items of law of which the codified sections of law 97860  
amended or enacted in this act are composed, are subject to the 97861  
referendum. Therefore, under Ohio Constitution, Article II, 97862  
Section 1c and section 1.471 of the Revised Code, the codified 97863  
sections of law amended or enacted by this act, and the items of 97864  
law of which the codified sections of law as amended or enacted by 97865  
this act are composed, take effect on the ninety-first day after 97866  
this act is filed with the Secretary of State. If, however, a 97867  
referendum petition is filed against any such codified section of 97868  
law as amended or enacted by this act, or against any item of law 97869  
of which any such codified section of law as amended or enacted by 97870  
this act is composed, the codified section of law as amended or 97871  
enacted, or item of law, unless rejected at the referendum, takes 97872  
effect at the earliest time permitted by law. 97873

**Section 612.06.** Except as otherwise specifically provided in 97874  
this act, the repeal by this act of a codified section of law is 97875  
subject to the referendum. Therefore, under Ohio Constitution, 97876  
Article II, Section 1c and section 1.471 of the Revised Code, the 97877  
repeal by this act of a codified section of law takes effect on 97878  
the ninety-first day after this act is filed with the Secretary of 97879  
State. If, however, a referendum petition is filed against any 97880  
such repeal, the repeal, unless rejected at the referendum, takes 97881  
effect at the earliest time permitted by law. 97882

**Section 612.09.** The sections of law amended, enacted, or 97883  
repealed by this act that are listed in this section are subject 97884

to the referendum. Therefore, under Ohio Constitution, Article II, 97885  
Section 1c and section 1.471 of the Revised Code, the sections, 97886  
and the items of law of which they are composed, take effect as 97887  
specified in this section. If, however, a referendum petition is 97888  
filed against any such section as amended, enacted, or repealed, 97889  
or against any item of law of which any such section as amended or 97890  
enacted is composed, the section as amended, enacted, or repealed 97891  
goes into effect at the earliest time permitted by law that is on 97892  
or after the effective date specified in this section. 97893

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 97894  
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 97895  
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3702.74, 97896  
4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 5101.241, 97897  
5101.26, 5101.31, 5101.36, 5104.38, 5107.26, 5110.01, 5110.05, 97898  
5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 97899  
5111.025, 5111.062, 5111.10, 5111.85, 5111.851, 5111.852, 97900  
5111.853, 5111.854, 5111.855, 5111.856, 5111.89, 5111.891, 97901  
5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 97902  
5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 97903  
5115.22, 5115.23, and 5119.61 of the Revised Code take effect 97904  
October 1, 2005. 97905

Sections 1711.531, 4753.03, 4753.06, 4753.071, 4753.08, 97906  
4753.09, 5107.05, 5107.30, and 5107.301 of the Revised Code take 97907  
effect January 1, 2006. 97908

Sections 3301.0710 and 3301.0714 of the Revised Code take 97909  
effect July 1, 2006. 97910

**Section 612.12.** Sections 101.391, 108.05, 109.57, 109.91, 97911  
120.36, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 97912  
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125.605, 125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 97914

125.6012, 125.831, 125.832, 126.25, 131.02, 133.09, 141.011, 97915  
141.04, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 181.251 97916  
(5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 97917  
181.55 (5502.65), 181.56 (5502.66), 307.86, 339.72, 339.88, 97918  
731.14, 731.141, 742.59, 901.43, 901.44, 905.32, 905.33, 905.331, 97919  
905.36, 905.37, 905.38, 905.381, 905.50, 905.66, 907.16, 913.02, 97920  
913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 97921  
923.46, 926.01, 927.69, 1327.511, 1502.02, 1515.14, 1541.03, 97922  
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3310.09, 3310.10, 3310.13, 3310.14, 3310.16, 3310.17, 3311.11, 97926  
3313.975, 3313.976, 3313.977, 3313.978, 3313.98, 3314.013, 97927  
3314.015, 3314.021, 3314.06, 3314.061, 3314.084, 3314.085, 97928  
3314.13, 3314.27, 3314.28, 3316.043, 3317.01, 3317.013, 3317.016, 97929  
3317.017, 3317.02, 3317.022, 3317.023, 3317.026, 3317.027, 97930  
3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03, 3317.031, 97931  
3317.05, 3317.052, 3317.053, 3317.063, 3317.07, 3317.081, 3317.10, 97932  
3317.16, 3317.20, 3317.201, 3317.21 (3318.47), 3317.22 (3318.48), 97933  
3317.23 (3318.49), 3318.33, 3319.06, 3323.091, 3323.14, 3323.16, 97934  
3323.19, 3325.11, 3325.12, 3325.16, 3325.17, 3333.28, 3333.36, 97935  
3334.02, 3334.19, 3365.01, 3365.02, 3701.021, 3701.073, 3701.146, 97936  
3702.141, 3702.68, 3702.83, 3709.29, 3709.34, 3712.03, 3714.073, 97937  
3715.04, 3721.011, 3721.03, 3721.032, 3721.07, 3721.15, 3721.21, 97938  
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5101.071, 5101.21, 5101.46, 5101.461, 5101.821, 5104.01, 5104.32, 97945  
5110.352, 5111.019, 5111.061, 5111.082, 5111.11, 5111.111, 97946



5111.112 (5111.113), 5111.113 (5111.114), 5111.16, 5111.161, 97947  
5111.162, 5111.163, 5111.164, 5111.17, 5111.176, 5111.19, 97948  
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5502.01, 5540.01, 5540.032, 5540.09, 5731.39, and 6109.21 of the 97950  
Revised Code as amended or enacted by this act, and the items of 97951  
law of which such sections as amended or enacted by this act are 97952  
composed, are not subject to the referendum. Therefore, under Ohio 97953  
Constitution, Article II, Section 1d and section 1.471 of the 97954  
Revised Code, such sections as amended or enacted by this act, and 97955  
the items of law of which such sections as amended or enacted by 97956  
this act are composed, go into immediate effect when this act 97957  
becomes law. 97958

**Section 612.12.01.** The enactment by this act of new section 97959  
4723.63 of the Revised Code, and the items of which it is 97960  
composed, are not subject to the referendum. Therefore, under Ohio 97961  
Constitution, Article II, Section 1d and section 1.471 of the 97962  
Revised Code, the new section, and the items of which it is 97963  
composed, go into immediate effect when this act becomes law. 97964

**Section 612.12.03.** New sections 3317.012, 5111.02, and 97965  
5111.112 of the Revised Code as enacted by this act, and the items 97966  
of law of which such sections as enacted by this act are composed, 97967  
are not subject to the referendum. Therefore, under Ohio 97968  
Constitution, Article II, Section 1d and section 1.471 of the 97969  
Revised Code, such sections as enacted by this act, and the items 97970  
of law of which such sections as enacted by this act are composed, 97971  
go into immediate effect when this act becomes law. 97972

**Section 612.15.** The repeal by this act of sections 181.53, 97973  
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 97974  
3301.37, 3301.38, 3301.85, 3301.87, 3317.012, 3317.0212, and 97975  
3317.0213 of the Revised Code is not subject to the referendum. 97976

Therefore, under Ohio Constitution, Article II, Section 1d and 97977  
section 1.471 of the Revised Code, the repeals go into immediate 97978  
effect when this act becomes law. 97979

**Section 612.18.** The sections of law amended, enacted, or 97980  
repealed by this act that are listed in this section are not 97981  
subject to the referendum. Therefore, under Ohio Constitution, 97982  
Article II, Section 1d and section 1.471 of the Revised Code, the 97983  
sections as amended, enacted, or repealed, and the items of law of 97984  
which such sections as amended or enacted by this act are 97985  
composed, go into effect as specified in this section. 97986

Sections 125.05, 140.01, 183.28, 3301.80, 3314.074, 3317.06, 97987  
3317.50, 3317.51, 3319.22, 3319.235, 3323.021, 3353.01, 3353.02, 97988  
3353.03, 3353.04, 3353.06, 3353.07, 3506.17, 3704.035, 3704.14, 97989  
3704.142, 3704.143, 3704.17, 3704.99, 3721.01, 3721.19, 3721.50, 97990  
3721.51, 3721.511, 3721.52, 3721.56, 3721.561, 3721.58, 3722.01, 97991  
3722.02, 4117.24, 4503.103, 5111.041, 5111.042, 5111.20, 5111.21, 97992  
5111.22, 5111.221, 5111.222, 5111.223, 5111.23, 5111.231 97993  
(5111.232), 5111.235, 5111.24, 5111.241, 5111.242, 5111.243, 97994  
5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.257 97995  
(5111.258), 5111.26, 5111.261, 5111.262, 5111.263, 5111.264, 97996  
5111.265, 5111.266, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 97997  
5111.31, 5111.32, 5111.33, 5111.34, 5111.65, 5111.651, 5111.66, 97998  
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5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 98001  
5111.871, 5112.31, 5123.01, 5123.041, 5123.045, 5123.046, 98002  
5123.047, 5123.048, 5123.049, 5123.0412, 5123.16, 5123.34, 98003  
5123.41, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 98004  
5126.055, 5126.056, 5126.057, 5126.12, 5552.01, and 5705.091 of 98005  
the Revised Code take effect July 1, 2005. 98006

New sections 3353.02, 3353.03, 3704.14, 5111.231, 5111.24, 98007

5111.257, and 5123.048 of the Revised Code take effect July 1, 98008  
2005. 98009

**Section 612.21.** The amendment or enactment by this act of 98010  
sections 122.17, 122.171, 122.172, 122.173, 122.18, 140.08, 98011  
150.07, 150.10, 319.302, 323.152, 325.31, 1548.06, 2921.13, 98012  
2927.023, 4301.43, 4505.06, 5703.052, 5703.053, 5703.057, 5703.26, 98013  
5703.50, 5703.70, 5703.99, 5707.031, 5709.112, 5711.16, 5711.21, 98014  
5711.22, 5711.28, 5715.01, 5715.24, 5725.19, 5725.32, 5727.01, 98015  
5727.02, 5727.031, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 98016  
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5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 98024  
5743.19, 5743.20, 5743.71, 5743.99, 5747.012, 5747.02, 5747.05, 98025  
5747.056, 5747.08, 5747.212, 5747.331, 5747.80, 5747.98, 5747.99, 98026  
5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 98027  
5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 98028  
5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 98029  
5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 98030  
5751.53, 5751.98, and 5751.99 of the Revised Code provides for or 98031  
is essential to implementation of a tax levy. Therefore, under 98032  
Ohio Constitution, Article II, Section 1d, the amendments and 98033  
enactments, and the items of which they are composed, are not 98034  
subject to the referendum and go into immediate effect when this 98035  
act becomes law. 98036

**Section 612.24.** The repeal by this act of section 5731.20 of 98037  
the Revised Code provides for or is essential to implementation of 98038

a tax levy. Therefore, under Ohio Constitution, Article II, 98039  
Section 1d, the repeal is not subject to the referendum and goes 98040  
into immediate effect when this act becomes law. 98041

**Section 612.27.** The amendment, enactment, or repeal by this 98042  
act of the sections of law that are listed in this section 98043  
provides for or is essential to implementation of a tax levy. 98044  
Therefore, under Ohio Constitution, Article II, Section 1d, the 98045  
amendments, enactments, and repeals, and the items of which any 98046  
such amendment or enactment is composed, are not subject to the 98047  
referendum and go into effect as specified in this section. 98048

Sections 5703.80, 5733.065, 5733.066, 5733.122, 5739.033, 98049  
5739.12, 5743.02, 5743.32, and 5743.33 of the Revised Code take 98050  
effect July 1, 2005. 98051

Sections 5739.012, 5739.021, 5739.026, 5739.03, 5739.16, and 98052  
5741.16 of the Revised Code take effect January 1, 2006. 98053

**Section 612.30.** (A) Except as otherwise provided in division 98054  
(B) of this section, the amendments by this act to section 127.16 98055  
of the Revised Code are not subject to the referendum. Therefore, 98056  
under Ohio Constitution, Article II, Section 1d and section 1.471 98057  
of the Revised Code, the amendments take effect July 1, 2005. 98058

(B) The amendment to division (D)(2) of section 127.16 of the 98059  
Revised Code is subject to the referendum. Therefore, under Ohio 98060  
Constitution, Article II, Section 1c and section 1.471 of the 98061  
Revised Code, the amendment takes effect October 1, 2005. If, 98062  
however, a referendum petition is filed against the amendment, the 98063  
amendment, unless rejected at the referendum, takes effect at the 98064  
earliest time permitted by law that is on or after the effective 98065  
date specified in this division. 98066

**Section 612.31.** (A) Except as otherwise provided in division 98067

(B) of this section, the amendments by this act to section 307.695 98068  
of the Revised Code are subject to the referendum. Therefore, 98069  
under Ohio Constitution, Article II, Section 1c and section 1.471 98070  
of the Revised Code, the amendments go into effect on the 98071  
ninety-first day after this act is filed with the Secretary of 98072  
State. If, however, a referendum petition is filed against the 98073  
amendments, the amendments, unless rejected at the referendum, 98074  
take effect at the earliest time permitted by law. 98075

(B) The amendments to section 307.695 of the Revised Code 98076  
relating to community improvement corporations provide for or are 98077  
essential to implementation of a tax levy. Therefore, under Ohio 98078  
Constitution, Article II, Section 1d, the amendments take effect 98079  
July 1, 2005. 98080

**Section 612.33.** (A) Except as otherwise provided in division 98081  
(B) of this section, the amendments by this act to section 321.24 98082  
of the Revised Code provides for or is essential to implementation 98083  
of a tax levy. Therefore, under Ohio Constitution, Article II, 98084  
Section 1d, the amendments are not subject to the referendum and 98085  
go into immediate effect when this act becomes law. 98086

(B) The amendment to division (F) of section 321.24 of the 98087  
Revised Code provides for or is essential to implementation of a 98088  
tax levy. Therefore, under Ohio Constitution, Article II, Section 98089  
1d, the amendment takes effect July 1, 2005. 98090

**Section 612.36.** (A) Except as otherwise provided in division 98091  
(B) of this section, the amendments by this act to section 329.04 98092  
of the Revised Code are not subject to the referendum. Therefore, 98093  
under Ohio Constitution, Article II, Section 1d and section 1.471 98094  
of the Revised Code, the amendments go into immediate effect. 98095

(B) The amendments to divisions (A)(3) to (9) of section 98096  
329.04 of the Revised Code are subject to the referendum. 98097

Therefore, under Ohio Constitution, Article II, Section 1c and 98098  
section 1.471 of the Revised Code, the amendments take effect 98099  
October 1, 2005. If, however, a referendum petition is filed 98100  
against the amendments, the amendments, unless rejected at the 98101  
referendum, take effect at the earliest time permitted by law that 98102  
is on or after the effective date specified in this division. 98103

**Section 612.36.03.** (A) Except as otherwise provided in 98104  
division (B) of this section, the amendments to section 3301.0711 98105  
of the Revised Code are subject to the referendum. Therefore, 98106  
under Ohio Constitution, Article II, Section 1c and section 1.471 98107  
of the Revised Code, the amendments take effect July 1, 2006. If, 98108  
however, a referendum petition is filed against the amendments, 98109  
the amendments, unless rejected at the referendum, take effect at 98110  
the earliest time permitted by law that is on or after the 98111  
effective date specified in this division. 98112

(B) The amendments to division (N) of section 3301.0711 of 98113  
the Revised Code are not subject to the referendum. Therefore, 98114  
under Ohio Constitution, Article II, Section 1d and section 1.471 98115  
of the Revised Code, the amendments go into immediate effect. 98116

**Section 612.37.** (A) Except as otherwise provided in division 98117  
(B) of this section, the amendments to section 3314.02 of the 98118  
Revised Code are subject to the referendum. Therefore, under Ohio 98119  
Constitution, Article II, Section 1c and section 1.471 of the 98120  
Revised Code, the amendments go into effect on the ninety-first 98121  
day after this act is filed with the Secretary of State. If, 98122  
however, a referendum petition is filed against the amendments, 98123  
the amendments, unless rejected at the referendum, take effect at 98124  
the earliest time permitted by law. 98125

(B) The amendment striking the paragraph immediately 98126  
following division (C)(1)(f)(iii) of section 3314.02 of the 98127

Revised Code is not subject to the referendum. Therefore, under 98128  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 98129  
Revised Code, the amendment goes into immediate effect when this 98130  
act becomes law. 98131

**Section 612.38.** (A) Except as otherwise provided in division 98132  
(B) of this section, the amendments by this act to section 3314.03 98133  
of the Revised Code are not subject to the referendum. Therefore, 98134  
under Ohio Constitution, Article II, Section 1d and section 1.471 98135  
of the Revised Code, the amendments go into immediate effect. 98136

(B) The amendment to division (A)(4) and the amendments 98137  
adding divisions (A)(25) and (F) of section 3314.03 of the Revised 98138  
Code are subject to the referendum. Therefore, under Ohio 98139  
Constitution, Article II, Section 1c and section 1.471 of the 98140  
Revised Code, the amendments take effect on the ninety-first day 98141  
after this act is filed with the Secretary of State. If, however, 98142  
a referendum petition is filed against the amendments, the 98143  
amendments, unless rejected at the referendum, take effect at the 98144  
earliest time permitted by law. 98145

**Section 612.38.03.** (A) Except as otherwise provided in 98146  
division (B) of this section, the amendments by this act to 98147  
section 3314.08 of the Revised Code are not subject to the 98148  
referendum. Therefore, under Ohio Constitution, Article II, 98149  
Section 1d and section 1.471 of the Revised Code, the amendments 98150  
go into immediate effect. 98151

(B) The amendments to division (N) of section 3314.08 of the 98152  
Revised Code are subject to the referendum. Therefore, under Ohio 98153  
Constitution, Article II, Section 1c and section 1.471 of the 98154  
Revised Code, the amendments take effect on the ninety-first day 98155  
after this act is filed with the Secretary of State. If, however, 98156  
a referendum petition is filed against the amendments, the 98157

amendments, unless rejected at the referendum, take effect at the 98158  
earliest time permitted by law. 98159

**Section 612.39.** (A) Except as otherwise provided in division 98160  
(B) of this section, the amendments by this act to section 98161  
3317.024 of the Revised Code are not subject to the referendum. 98162  
Therefore, under Ohio Constitution, Article II, Section 1d and 98163  
section 1.471 of the Revised Code, the amendments go into 98164  
immediate effect. 98165

(B) The amendment to division (J) of section 3317.024 of the 98166  
Revised Code is subject to the referendum. Therefore, under Ohio 98167  
Constitution, Article II, Section 1c and section 1.471 of the 98168  
Revised Code, the amendment takes effect on the ninety-first day 98169  
after this act is filed with the Secretary of State. If, however, 98170  
a referendum petition is filed against the amendment, the 98171  
amendment, unless rejected at the referendum, takes effect at the 98172  
earliest time permitted by law. 98173

**Section 612.45.** (A) Except as otherwise provided in division 98174  
(B) of this section, the amendments by this act to section 3702.51 98175  
of the Revised Code are not subject to the referendum. Therefore, 98176  
under Ohio Constitution, Article II, Section 1d and section 1.471 98177  
of the Revised Code, the amendments go into immediate effect. 98178

(B) The amendment to division (G)(10) of section 3702.51 of 98179  
the Revised Code is not subject to the referendum. Therefore, 98180  
under Ohio Constitution, Article II, Section 1d and section 1.471 98181  
of the Revised Code, the amendments take effect July 1, 2005. 98182

**Section 612.48.** (A) Except as otherwise provided in division 98183  
(B) of this section, the amendments to section 5101.35 of the 98184  
Revised Code are subject to the referendum. Therefore, under Ohio 98185  
Constitution, Article II, Section 1c and section 1.471 of the 98186



Revised Code, the amendments take effect on the ninety-first day 98187  
after this act is filed with the Secretary of State. If, however, 98188  
a referendum petition is filed against the amendments, the 98189  
amendments, unless rejected at the referendum, take effect at the 98190  
earliest time permitted by law. 98191

(B) The amendment by this act to division (A)(3) of section 98192  
5101.35 of the Revised Code adding a reference to "5101.461" is 98193  
not subject to the referendum. Therefore, under Ohio Constitution, 98194  
Article II, Section 1d and section 1.471 of the Revised Code, the 98195  
amendment goes into immediate effect. 98196

**Section 612.54.** (A) Except as otherwise provided in division 98197  
(B) of this section, the amendments to section 5111.02 (5111.021) 98198  
of the Revised Code are subject to the referendum. Therefore, 98199  
under Ohio Constitution, Article II, Section 1c and section 1.471 98200  
of the Revised Code, the amendments take effect October 1, 2005. 98201  
If, however, a referendum petition is filed against the 98202  
amendments, the amendments, unless rejected at the referendum, 98203  
take effect at the earliest time permitted by law that is on or 98204  
after the effective date specified in this division. 98205

(B) The amendment by this act to division (B) of section 98206  
5111.02 (5111.021) of the Revised Code striking the last sentence 98207  
of that division (B) is not subject to the referendum. Therefore, 98208  
under Ohio Constitution, Article II, Section 1d and section 1.471 98209  
of the Revised Code, the amendment takes effect July 1, 2005. 98210

**Section 612.57.** (A) Except as otherwise provided in division 98211  
(B) of this section, the amendments to section 5111.06 of the 98212  
Revised Code are subject to the referendum. Therefore, under Ohio 98213  
Constitution, Article II, Section 1c and section 1.471 of the 98214  
Revised Code, the amendments go into effect on October 1, 2005. 98215  
If, however, a referendum petition is filed against the 98216

amendments, the amendments, unless rejected at the referendum, 98217  
take effect at the earliest time permitted by law that is on or 98218  
after the effective date specified in this division. 98219

(B) The amendment to division (A)(1) of section 5111.06 of 98220  
the Revised Code that inserts a reference to section 5111.061 of 98221  
the Revised Code is not subject to the referendum. Therefore, 98222  
under Ohio Constitution, Article II, Section 1d and section 1.471 98223  
of the Revised Code, the amendment goes into immediate effect when 98224  
this act becomes law. 98225

**Section 612.63.** (A) Except as otherwise provided in division 98226  
(B) of this section, the amendment renumbering section 5111.88 as 98227  
section 5111.97 of the Revised Code is subject to the referendum. 98228  
Therefore, under Ohio Constitution, Article II, Section 1c and 98229  
section 1.471 of the Revised Code, the renumbering amendment takes 98230  
effect October 1, 2005. If, however, a referendum petition is 98231  
filed against the renumbering amendment, the renumbering 98232  
amendment, unless rejected at the referendum, takes effect at the 98233  
earliest time permitted by law that is on or after the effective 98234  
date specified in this division. 98235

(B) The amendment to division (B)(2) of section 5111.88 98236  
(5111.97) of the Revised Code striking "eighteen" and inserting 98237  
"twelve" is not subject to the referendum. Therefore, under Ohio 98238  
Constitution, Article II, Section 1d and section 1.471 of the 98239  
Revised Code, the amendment goes into immediate effect when this 98240  
act becomes law. 98241

**Section 612.66.** (A) Except as otherwise provided in division 98242  
(B) of this section, the amendments to section 5727.84 of the 98243  
Revised Code provide for or are essential to implementation of a 98244  
tax levy. Therefore, under Ohio Constitution, Article II, Section 98245  
1d, the amendments go into immediate effect when this act becomes 98246

law. 98247

(B) The amendments striking divisions (B)(6) and (7) and 98248  
(C)(3) from section 5727.84 of the Revised Code are subject to the 98249  
referendum. Therefore, under Ohio Constitution, Article II, 98250  
Section 1c and section 1.471 of the Revised Code, the amendments 98251  
take effect on the ninety-first day after this act is filed with 98252  
the Secretary of State. If, however, a referendum petition is 98253  
filed against the amendments, the amendments, unless rejected at 98254  
the referendum, take effect at the earliest time permitted by law. 98255

**Section 612.69.** (A) Except as otherwise provided in division 98256  
(B) of this section, the amendments to section 5727.85 of the 98257  
Revised Code are not subject to the referendum. Therefore, under 98258  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 98259  
Revised Code, the amendments go into immediate effect when this 98260  
act becomes law. 98261

(B) The amendments to section 5727.85 of the Revised Code 98262  
that insert new language into division (F), strike "February" and 98263  
insert "May," strike divisions (G) and (H) and the two unlettered 98264  
paragraphs following, insert new division (H), and add an internal 98265  
cross-reference to division (F) of the section are subject to the 98266  
referendum. Therefore, under Ohio Constitution, Article II, 98267  
Section 1c and section 1.471 of the Revised Code, the amendments 98268  
take effect on the ninety-first day after this act is filed with 98269  
the Secretary of State. If, however, a referendum petition is 98270  
filed against the amendments, the amendments, unless rejected at 98271  
the referendum, take effect at the earliest time permitted by law. 98272

**Section 612.69.03.** The amendments by this act to section 98273  
5739.01 of the Revised Code provide for or are essential to 98274  
implementation of a tax levy. Therefore, under Ohio Constitution, 98275  
Article II, Section 1d, the amendments are not subject to the 98276

referendum and go into immediate effect when this act becomes law. 98277  
However, the amendment to divisions (HHH) and (III) of the section 98278  
goes into effect July 1, 2005, and the amendments to division 98279  
(H)(1)(a)(vi), adding a new division (H)(1)(b), and adding a new 98280  
division (H)(1)(c)(iv) of the section go into effect January 1, 98281  
2006. 98282

**Section 612.69.06.** The amendments by this act to section 98283  
5739.02 of the Revised Code provide for or are essential to 98284  
implementation of a tax levy. Therefore, under Ohio Constitution, 98285  
Article II, Section 1d, the amendments are not subject to the 98286  
referendum and go into immediate effect when this act becomes law. 98287  
However, the amendment to division (B)(18) of the section goes 98288  
into effect July 1, 2005. 98289

**Section 612.69.09.** (A) Except as otherwise provided in 98290  
division (B) of this section, the amendments by this act to 98291  
section 5739.17 of the Revised Code are not subject to the 98292  
referendum. Therefore, under Ohio Constitution, Article II, 98293  
Section 1d and section 1.471 of the Revised Code, the amendments 98294  
take effect on July 1, 2005. 98295

(B) The amendments to division (C) of section 5739.17 of the 98296  
Revised Code provide for or are essential to implementation of a 98297  
tax levy. Therefore, under Ohio Constitution, Article II, Section 98298  
1d, the amendments are not subject to the referendum and go into 98299  
immediate effect when this act becomes law. 98300

**Section 612.69.12.** The amendments by this act to section 98301  
5741.02 of the Revised Code provide for or are essential to 98302  
implementation of a tax levy. Therefore, under Ohio Constitution, 98303  
Article II, Section 1d, the amendments are not subject to the 98304  
referendum and go into immediate effect when this act becomes law. 98305

However, the amendment to division (E) of the section goes into 98306  
effect January 1, 2006. 98307

**Section 612.72.** (A) Except as otherwise provided in division 98308  
(B) of this section, the amendments by this act to section 5747.01 98309  
of the Revised Code provides for or is essential to implementation 98310  
of a tax levy. Therefore, under Ohio Constitution, Article II, 98311  
Section 1d, the amendments are not subject to the referendum and 98312  
go into immediate effect when this act becomes law. 98313

(B) The amendment to division (A)(10) of section 5747.01 of 98314  
the Revised Code is subject to the referendum. Therefore, under 98315  
Ohio Constitution, Article II, Section 1c and section 1.471 of the 98316  
Revised Code, the amendment takes effect on the ninety-first day 98317  
after this act is filed with the Secretary of State. If, however, 98318  
a referendum petition is filed against the amendment, the 98319  
amendment, unless rejected at the referendum, takes effect at the 98320  
earliest time permitted by law. 98321

**Section 615.03.** Except as otherwise specifically provided in 98322  
this act, the uncodified sections of law amended or enacted in 98323  
this act, and the items of law of which the uncodified sections of 98324  
law amended or enacted in this act are composed, are not subject 98325  
to the referendum. Therefore, under Ohio Constitution, Article II, 98326  
Section 1d and section 1.471 of the Revised Code, the uncodified 98327  
sections of law amended or enacted in this act, and the items of 98328  
law of which the uncodified sections of law amended or enacted in 98329  
this act are composed, go into immediate effect when this act 98330  
becomes law. 98331

**Section 615.06.** Uncodified sections of law amended or enacted 98332  
in this act, and items of law contained within the uncodified 98333  
sections of law amended or enacted in this act, that are marked 98334

with an asterisk are subject to the referendum. Therefore, under 98335  
Ohio Constitution, Article II, Section 1c and section 1.471 of the 98336  
Revised Code, the uncodified sections and items of law marked with 98337  
an asterisk take effect on the ninety-first day after this act is 98338  
filed with the Secretary of State. If, however, a referendum 98339  
petition is filed against an uncodified section or item of law 98340  
marked with an asterisk, the uncodified section or item of law 98341  
marked with an asterisk, unless rejected at the referendum, takes 98342  
effect at the earliest time permitted by law. 98343

If the amending and existing repeal clauses commanding the 98344  
amendment of an uncodified section of law are both marked with 98345  
asterisks, the uncodified section as amended is deemed also to 98346  
have been marked with an asterisk. 98347

An asterisk marking an uncodified section or item of law has 98348  
the form \*. 98349

This section defines the meaning and form of, but is not 98350  
itself to be considered marked with, an asterisk. 98351

**Section 615.90.** If the amendment or enactment in this act of 98352  
a codified or uncodified section of law is subject to the 98353  
referendum, the corresponding indications in the amending, 98354  
enacting, or existing repeal clauses commanding the amendment or 98355  
enactment also are subject to the referendum, along with the 98356  
amendment or enactment. If the amendment or enactment by this act 98357  
of a codified or uncodified section of law is not subject to the 98358  
referendum, the corresponding indications in the amending, 98359  
enacting, or existing repeal clauses commanding the amendment or 98360  
enactment also are not subject to the referendum, the same as the 98361  
amendment or enactment. 98362

**Section 618.03.** The amendment of sections 5112.03 and 5112.08 98363  
of the Revised Code are not intended to supersede the earlier 98364

repeal, with delayed effective date, of those sections. 98365

**Section 618.06.** The General Assembly, applying the principle 98366  
stated in division (B) of section 1.52 of the Revised Code that 98367  
amendments are to be harmonized if reasonably capable of 98368  
simultaneous operation, finds that the following sections, 98369  
presented in this act as composites of the sections as amended by 98370  
the acts indicated, are the resulting versions of the sections in 98371  
effect prior to the effective date of the sections as presented in 98372  
this act: 98373

Section 122.74 of the Revised Code as amended by both Am. 98374  
Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly. 98375

Section 124.26 of the Revised Code as amended by both Am. 98376  
Sub. H.B. 117 and Am. Sub. S.B. 99 of the 121st General Assembly. 98377

Section 307.37 of the Revised Code as amended by both Am. 98378  
Sub. H.B. 175 and Sub. H.B. 231 of the 125th General Assembly. 98379

Section 307.86 of the Revised Code as amended by both Am. 98380  
Sub. H.B. 11 and Sub. H.B. 230 of the 125th General Assembly. 98381

Section 2151.86 of the Revised Code as amended by both Am. 98382  
Sub. H.B. 106 and Am. Sub. H.B. 117 of the 125th General Assembly. 98383

Section 2921.13 of the Revised Code as amended by Am. Sub. 98384  
H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th 98385  
General Assembly. 98386

Section 3314.03 of the Revised Code as amended by both Am. 98387  
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. 98388

Section 3317.023 of the Revised Code as amended by both Am. 98389  
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. 98390

Section 3317.026 of the Revised Code as amended by both Sub. 98391  
H.B. 129 and Sub. S.B. 200 of the 124th General Assembly. 98392

Section 3704.035 of the Revised Code as amended by both Am. 98393

Sub. S.B. 18 and Am. Sub. S.B. 153 of the 120th General Assembly.	98394
Section 4503.571 of the Revised Code as amended by both Am.	98395
Sub. S.B. 120 and Am. Sub. S.B. 232 of the 123rd General Assembly.	98396
Section 5739.01 of the Revised Code as amended by both Am.	98397
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	98398
Section 5739.02 of the Revised Code as amended by both Am.	98399
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	98400
Section 5739.99 of the Revised Code as amended by both Am.	98401
Sub. S.B. 143 and Sub. S.B. 200 of the 124th General Assembly.	98402
Section 5741.02 of the Revised Code as amended by Am. Sub.	98403
H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General	98404
Assembly.	98405
Section 5743.03 of the Revised Code as amended by both Am.	98406
Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly.	98407
Section 5743.99 of the Revised Code as amended by both Am.	98408
Sub. S.B. 123 and Am. Sub. S.B. 242 of the 124th General Assembly.	98409
Section 6121.04 of the Revised Code as amended by both Sub.	98410
H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly.	98411