

**As Reported by the Senate Finance and Financial Institutions  
Committee**

**127th General Assembly  
Regular Session  
2007-2008**

**Sub. H. B. No. 544**

**Representative Hottinger**

**Cosponsors: Representatives Hagan, R., Yates, McGregor, J.**

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**A B I L L**

To amend sections 102.02, 183.021, 183.30, 183.33,	1
and 2151.87; to enact sections 3701.84 and	2
3701.841; to repeal sections 183.03, 183.04,	3
183.05, 183.06, 183.061, 183.07, 183.08, 183.09,	4
and 183.10 of the Revised Code; to repeal Section	5
3 of Am. S.B. 192 of the 127th General Assembly,	6
to repeal Section 4 of S.B. 209 of the 127th	7
General Assembly, and to repeal Section 205.10 of	8
Sub. S.B. 321 of the 126th General Assembly to	9
abolish the Tobacco Use Prevention and Control	10
Foundation and transfer certain powers of the	11
Foundation to the Department of Health, to make an	12
appropriation, and to declare an emergency.	13

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

<b>Section 1.</b> That sections 102.02, 183.021, 183.30, 183.33, and	14
2151.87 be amended and sections 3701.84 and 3701.841 of the	15
Revised Code be enacted to read as follows:	16

<b>Sec. 102.02.</b> (A) Except as otherwise provided in division (H)	17
of this section, all of the following shall file with the	18

appropriate ethics commission the disclosure statement described 19  
in this division on a form prescribed by the appropriate 20  
commission: every person who is elected to or is a candidate for a 21  
state, county, or city office and every person who is appointed to 22  
fill a vacancy for an unexpired term in such an elective office; 23  
all members of the state board of education; the director, 24  
assistant directors, deputy directors, division chiefs, or persons 25  
of equivalent rank of any administrative department of the state; 26  
the president or other chief administrative officer of every state 27  
institution of higher education as defined in section 3345.011 of 28  
the Revised Code; the executive director and the members of the 29  
capitol square review and advisory board appointed or employed 30  
pursuant to section 105.41 of the Revised Code; the chief 31  
executive officer and the members of the board of each state 32  
retirement system; each employee of a state retirement board who 33  
is a state retirement system investment officer licensed pursuant 34  
to section 1707.163 of the Revised Code; the members of the Ohio 35  
retirement study council appointed pursuant to division (C) of 36  
section 171.01 of the Revised Code; employees of the Ohio 37  
retirement study council, other than employees who perform purely 38  
administrative or clerical functions; the administrator of 39  
workers' compensation and each member of the bureau of workers' 40  
compensation board of directors; the bureau of workers' 41  
compensation director of investments; the chief investment officer 42  
of the bureau of workers' compensation; the director appointed by 43  
the workers' compensation council; all members of the board of 44  
commissioners on grievances and discipline of the supreme court 45  
and the ethics commission created under section 102.05 of the 46  
Revised Code; every business manager, treasurer, or superintendent 47  
of a city, local, exempted village, joint vocational, or 48  
cooperative education school district or an educational service 49  
center; every person who is elected to or is a candidate for the 50  
office of member of a board of education of a city, local, 51

exempted village, joint vocational, or cooperative education 52  
school district or of a governing board of an educational service 53  
center that has a total student count of twelve thousand or more 54  
as most recently determined by the department of education 55  
pursuant to section 3317.03 of the Revised Code; every person who 56  
is appointed to the board of education of a municipal school 57  
district pursuant to division (B) or (F) of section 3311.71 of the 58  
Revised Code; all members of the board of directors of a sanitary 59  
district that is established under Chapter 6115. of the Revised 60  
Code and organized wholly for the purpose of providing a water 61  
supply for domestic, municipal, and public use, and that includes 62  
two municipal corporations in two counties; every public official 63  
or employee who is paid a salary or wage in accordance with 64  
schedule C of section 124.15 or schedule E-2 of section 124.152 of 65  
the Revised Code; ~~members of the board of trustees and the~~ 66  
~~executive director of the tobacco use prevention and control~~ 67  
~~foundation;~~ members of the board of trustees and the executive 68  
director of the southern Ohio agricultural and community 69  
development foundation; and every other public official or 70  
employee who is designated by the appropriate ethics commission 71  
pursuant to division (B) of this section. 72

The disclosure statement shall include all of the following: 73

(1) The name of the person filing the statement and each 74  
member of the person's immediate family and all names under which 75  
the person or members of the person's immediate family do 76  
business; 77

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 78  
and except as otherwise provided in section 102.022 of the Revised 79  
Code, identification of every source of income, other than income 80  
from a legislative agent identified in division (A)(2)(b) of this 81  
section, received during the preceding calendar year, in the 82  
person's own name or by any other person for the person's use or 83

benefit, by the person filing the statement, and a brief 84  
description of the nature of the services for which the income was 85  
received. If the person filing the statement is a member of the 86  
general assembly, the statement shall identify the amount of every 87  
source of income received in accordance with the following ranges 88  
of amounts: zero or more, but less than one thousand dollars; one 89  
thousand dollars or more, but less than ten thousand dollars; ten 90  
thousand dollars or more, but less than twenty-five thousand 91  
dollars; twenty-five thousand dollars or more, but less than fifty 92  
thousand dollars; fifty thousand dollars or more, but less than 93  
one hundred thousand dollars; and one hundred thousand dollars or 94  
more. Division (A)(2)(a) of this section shall not be construed to 95  
require a person filing the statement who derives income from a 96  
business or profession to disclose the individual items of income 97  
that constitute the gross income of that business or profession, 98  
except for those individual items of income that are attributable 99  
to the person's or, if the income is shared with the person, the 100  
partner's, solicitation of services or goods or performance, 101  
arrangement, or facilitation of services or provision of goods on 102  
behalf of the business or profession of clients, including 103  
corporate clients, who are legislative agents. A person who files 104  
the statement under this section shall disclose the identity of 105  
and the amount of income received from a person who the public 106  
official or employee knows or has reason to know is doing or 107  
seeking to do business of any kind with the public official's or 108  
employee's agency. 109

(b) If the person filing the statement is a member of the 110  
general assembly, the statement shall identify every source of 111  
income and the amount of that income that was received from a 112  
legislative agent during the preceding calendar year, in the 113  
person's own name or by any other person for the person's use or 114  
benefit, by the person filing the statement, and a brief 115  
description of the nature of the services for which the income was 116

received. Division (A)(2)(b) of this section requires the 117  
disclosure of clients of attorneys or persons licensed under 118  
section 4732.12 of the Revised Code, or patients of persons 119  
certified under section 4731.14 of the Revised Code, if those 120  
clients or patients are legislative agents. Division (A)(2)(b) of 121  
this section requires a person filing the statement who derives 122  
income from a business or profession to disclose those individual 123  
items of income that constitute the gross income of that business 124  
or profession that are received from legislative agents. 125

(c) Except as otherwise provided in division (A)(2)(c) of 126  
this section, division (A)(2)(a) of this section applies to 127  
attorneys, physicians, and other persons who engage in the 128  
practice of a profession and who, pursuant to a section of the 129  
Revised Code, the common law of this state, a code of ethics 130  
applicable to the profession, or otherwise, generally are required 131  
not to reveal, disclose, or use confidences of clients, patients, 132  
or other recipients of professional services except under 133  
specified circumstances or generally are required to maintain 134  
those types of confidences as privileged communications except 135  
under specified circumstances. Division (A)(2)(a) of this section 136  
does not require an attorney, physician, or other professional 137  
subject to a confidentiality requirement as described in division 138  
(A)(2)(c) of this section to disclose the name, other identity, or 139  
address of a client, patient, or other recipient of professional 140  
services if the disclosure would threaten the client, patient, or 141  
other recipient of professional services, would reveal details of 142  
the subject matter for which legal, medical, or professional 143  
advice or other services were sought, or would reveal an otherwise 144  
privileged communication involving the client, patient, or other 145  
recipient of professional services. Division (A)(2)(a) of this 146  
section does not require an attorney, physician, or other 147  
professional subject to a confidentiality requirement as described 148  
in division (A)(2)(c) of this section to disclose in the brief 149

description of the nature of services required by division 150  
(A)(2)(a) of this section any information pertaining to specific 151  
professional services rendered for a client, patient, or other 152  
recipient of professional services that would reveal details of 153  
the subject matter for which legal, medical, or professional 154  
advice was sought or would reveal an otherwise privileged 155  
communication involving the client, patient, or other recipient of 156  
professional services. 157

(3) The name of every corporation on file with the secretary 158  
of state that is incorporated in this state or holds a certificate 159  
of compliance authorizing it to do business in this state, trust, 160  
business trust, partnership, or association that transacts 161  
business in this state in which the person filing the statement or 162  
any other person for the person's use and benefit had during the 163  
preceding calendar year an investment of over one thousand dollars 164  
at fair market value as of the thirty-first day of December of the 165  
preceding calendar year, or the date of disposition, whichever is 166  
earlier, or in which the person holds any office or has a 167  
fiduciary relationship, and a description of the nature of the 168  
investment, office, or relationship. Division (A)(3) of this 169  
section does not require disclosure of the name of any bank, 170  
savings and loan association, credit union, or building and loan 171  
association with which the person filing the statement has a 172  
deposit or a withdrawable share account. 173

(4) All fee simple and leasehold interests to which the 174  
person filing the statement holds legal title to or a beneficial 175  
interest in real property located within the state, excluding the 176  
person's residence and property used primarily for personal 177  
recreation; 178

(5) The names of all persons residing or transacting business 179  
in the state to whom the person filing the statement owes, in the 180  
person's own name or in the name of any other person, more than 181

one thousand dollars. Division (A)(5) of this section shall not be 182  
construed to require the disclosure of debts owed by the person 183  
resulting from the ordinary conduct of a business or profession or 184  
debts on the person's residence or real property used primarily 185  
for personal recreation, except that the superintendent of 186  
financial institutions shall disclose the names of all 187  
state-chartered savings and loan associations and of all service 188  
corporations subject to regulation under division (E)(2) of 189  
section 1151.34 of the Revised Code to whom the superintendent in 190  
the superintendent's own name or in the name of any other person 191  
owes any money, and that the superintendent and any deputy 192  
superintendent of banks shall disclose the names of all 193  
state-chartered banks and all bank subsidiary corporations subject 194  
to regulation under section 1109.44 of the Revised Code to whom 195  
the superintendent or deputy superintendent owes any money. 196

(6) The names of all persons residing or transacting business 197  
in the state, other than a depository excluded under division 198  
(A)(3) of this section, who owe more than one thousand dollars to 199  
the person filing the statement, either in the person's own name 200  
or to any person for the person's use or benefit. Division (A)(6) 201  
of this section shall not be construed to require the disclosure 202  
of clients of attorneys or persons licensed under section 4732.12 203  
or 4732.15 of the Revised Code, or patients of persons certified 204  
under section 4731.14 of the Revised Code, nor the disclosure of 205  
debts owed to the person resulting from the ordinary conduct of a 206  
business or profession. 207

(7) Except as otherwise provided in section 102.022 of the 208  
Revised Code, the source of each gift of over seventy-five 209  
dollars, or of each gift of over twenty-five dollars received by a 210  
member of the general assembly from a legislative agent, received 211  
by the person in the person's own name or by any other person for 212  
the person's use or benefit during the preceding calendar year, 213

except gifts received by will or by virtue of section 2105.06 of 214  
the Revised Code, or received from spouses, parents, grandparents, 215  
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 216  
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 217  
fathers-in-law, mothers-in-law, or any person to whom the person 218  
filing the statement stands in loco parentis, or received by way 219  
of distribution from any inter vivos or testamentary trust 220  
established by a spouse or by an ancestor; 221

(8) Except as otherwise provided in section 102.022 of the 222  
Revised Code, identification of the source and amount of every 223  
payment of expenses incurred for travel to destinations inside or 224  
outside this state that is received by the person in the person's 225  
own name or by any other person for the person's use or benefit 226  
and that is incurred in connection with the person's official 227  
duties, except for expenses for travel to meetings or conventions 228  
of a national or state organization to which any state agency, 229  
including, but not limited to, any legislative agency or state 230  
institution of higher education as defined in section 3345.011 of 231  
the Revised Code, pays membership dues, or any political 232  
subdivision or any office or agency of a political subdivision 233  
pays membership dues; 234

(9) Except as otherwise provided in section 102.022 of the 235  
Revised Code, identification of the source of payment of expenses 236  
for meals and other food and beverages, other than for meals and 237  
other food and beverages provided at a meeting at which the person 238  
participated in a panel, seminar, or speaking engagement or at a 239  
meeting or convention of a national or state organization to which 240  
any state agency, including, but not limited to, any legislative 241  
agency or state institution of higher education as defined in 242  
section 3345.011 of the Revised Code, pays membership dues, or any 243  
political subdivision or any office or agency of a political 244  
subdivision pays membership dues, that are incurred in connection 245



with the person's official duties and that exceed one hundred 246  
dollars aggregated per calendar year; 247

(10) If the disclosure statement is filed by a public 248  
official or employee described in division (B)(2) of section 249  
101.73 of the Revised Code or division (B)(2) of section 121.63 of 250  
the Revised Code who receives a statement from a legislative 251  
agent, executive agency lobbyist, or employer that contains the 252  
information described in division (F)(2) of section 101.73 of the 253  
Revised Code or division (G)(2) of section 121.63 of the Revised 254  
Code, all of the nondisputed information contained in the 255  
statement delivered to that public official or employee by the 256  
legislative agent, executive agency lobbyist, or employer under 257  
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 258  
the Revised Code. 259

A person may file a statement required by this section in 260  
person or by mail. A person who is a candidate for elective office 261  
shall file the statement no later than the thirtieth day before 262  
the primary, special, or general election at which the candidacy 263  
is to be voted on, whichever election occurs soonest, except that 264  
a person who is a write-in candidate shall file the statement no 265  
later than the twentieth day before the earliest election at which 266  
the person's candidacy is to be voted on. A person who holds 267  
elective office shall file the statement on or before the 268  
fifteenth day of April of each year unless the person is a 269  
candidate for office. A person who is appointed to fill a vacancy 270  
for an unexpired term in an elective office shall file the 271  
statement within fifteen days after the person qualifies for 272  
office. Other persons shall file an annual statement on or before 273  
the fifteenth day of April or, if appointed or employed after that 274  
date, within ninety days after appointment or employment. No 275  
person shall be required to file with the appropriate ethics 276  
commission more than one statement or pay more than one filing fee 277

for any one calendar year. 278

The appropriate ethics commission, for good cause, may extend 279  
for a reasonable time the deadline for filing a statement under 280  
this section. 281

A statement filed under this section is subject to public 282  
inspection at locations designated by the appropriate ethics 283  
commission except as otherwise provided in this section. 284

(B) The Ohio ethics commission, the joint legislative ethics 285  
committee, and the board of commissioners on grievances and 286  
discipline of the supreme court, using the rule-making procedures 287  
of Chapter 119. of the Revised Code, may require any class of 288  
public officials or employees under its jurisdiction and not 289  
specifically excluded by this section whose positions involve a 290  
substantial and material exercise of administrative discretion in 291  
the formulation of public policy, expenditure of public funds, 292  
enforcement of laws and rules of the state or a county or city, or 293  
the execution of other public trusts, to file an annual statement 294  
on or before the fifteenth day of April under division (A) of this 295  
section. The appropriate ethics commission shall send the public 296  
officials or employees written notice of the requirement by the 297  
fifteenth day of February of each year the filing is required 298  
unless the public official or employee is appointed after that 299  
date, in which case the notice shall be sent within thirty days 300  
after appointment, and the filing shall be made not later than 301  
ninety days after appointment. 302

Except for disclosure statements filed by ~~members of the~~ 303  
~~board of trustees and the executive director of the tobacco use~~ 304  
~~prevention and control foundation and~~ members of the board of 305  
trustees and the executive director of the southern Ohio 306  
agricultural and community development foundation, disclosure 307  
statements filed under this division with the Ohio ethics 308  
commission by members of boards, commissions, or bureaus of the 309

state for which no compensation is received other than reasonable 310  
and necessary expenses shall be kept confidential. Disclosure 311  
statements filed with the Ohio ethics commission under division 312  
(A) of this section by business managers, treasurers, and 313  
superintendents of city, local, exempted village, joint 314  
vocational, or cooperative education school districts or 315  
educational service centers shall be kept confidential, except 316  
that any person conducting an audit of any such school district or 317  
educational service center pursuant to section 115.56 or Chapter 318  
117. of the Revised Code may examine the disclosure statement of 319  
any business manager, treasurer, or superintendent of that school 320  
district or educational service center. The Ohioethics commission 321  
shall examine each disclosure statement required to be kept 322  
confidential to determine whether a potential conflict of interest 323  
exists for the person who filed the disclosure statement. A 324  
potential conflict of interest exists if the private interests of 325  
the person, as indicated by the person's disclosure statement, 326  
might interfere with the public interests the person is required 327  
to serve in the exercise of the person's authority and duties in 328  
the person's office or position of employment. If the commission 329  
determines that a potential conflict of interest exists, it shall 330  
notify the person who filed the disclosure statement and shall 331  
make the portions of the disclosure statement that indicate a 332  
potential conflict of interest subject to public inspection in the 333  
same manner as is provided for other disclosure statements. Any 334  
portion of the disclosure statement that the commission determines 335  
does not indicate a potential conflict of interest shall be kept 336  
confidential by the commission and shall not be made subject to 337  
public inspection, except as is necessary for the enforcement of 338  
Chapters 102. and 2921. of the Revised Code and except as 339  
otherwise provided in this division. 340

(C) No person shall knowingly fail to file, on or before the 341  
applicable filing deadline established under this section, a 342

statement that is required by this section.		343
(D) No person shall knowingly file a false statement that is required to be filed under this section.		344 345
(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.		346 347 348
(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to, or is a candidate for, any of the following offices:		349 350 351 352
For state office, except member of the state board of education		353 354
For office of member of general assembly	\$65	355
For county office	\$40	356
For city office	\$40	357
For office of member of the state board of education	\$25	358 359
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board		360 361 362 363
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20	364 365 366 367 368 369 370
(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.		371 372 373 374

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

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

or bureau of any county or city who receives less than one 407  
thousand dollars per year for serving in that position. 408

**Sec. 183.021.** (A) No money from the tobacco master settlement 409  
agreement fund, as that fund existed prior to the repeal of 410  
section 183.02 of the Revised Code by H.B. 119 of the 127th 411  
general assembly, shall be expended to do any of the following: 412  
413

(1) Hire an executive agency lobbyist, as defined under 414  
section 121.60 of the Revised Code, or a legislative agent, as 415  
defined under section 101.70 of the Revised Code; 416

(2) Support or oppose candidates, ballot questions, 417  
referendums, or ballot initiatives. 418

(B) Nothing in this section prohibits ~~any~~ either of the 419  
following from advocating on behalf of the specific objectives of 420  
a program funded under this chapter: 421

~~(1) The members of the board of trustees, executive director,~~ 422  
~~or employees of the tobacco use prevention and control foundation;~~ 423

~~(2)~~ The members of the board of trustees, executive director, 424  
or employees of the southern Ohio agricultural and community 425  
development foundation; 426

~~(3)~~(2) The members or employees of the third frontier 427  
commission or the members of the third frontier advisory board. 428

**Sec. 183.30.** (A) ~~Except as provided in division (D) of this~~ 429  
~~section, no more than five per cent of the total disbursements,~~ 430  
~~encumbrances, and obligations of the tobacco use prevention and~~ 431  
~~control foundation in a fiscal year shall be for administrative~~ 432  
~~expenses of the foundation in the same fiscal year.~~ 433

~~(B)~~ Except as provided in division ~~(D)~~(C) of this section, no 434  
more than five per cent of the total disbursements, encumbrances, 435

and obligations of the southern Ohio agricultural and community 436  
development foundation in a fiscal year shall be for 437  
administrative expenses of the foundation in the same fiscal year. 438

~~(C)~~(B) Except as provided in division ~~(D)~~(C) of this section, 439  
no more than five per cent of the total disbursements, 440  
encumbrances, and obligations of the biomedical research and 441  
technology transfer trust fund in a fiscal year shall be for 442  
expenses relating to the administration of the trust fund by the 443  
third frontier commission in the same fiscal year. 444

~~(D)~~(C) This section's five per cent limitation on 445  
administrative expenses does not apply to any fiscal year for 446  
which the controlling board approves a spending plan that the 447  
foundation or commission submits to the board. 448

**Sec. 183.33.** No money shall be appropriated or transferred 449  
from the general revenue fund to the ~~tobacco use prevention and~~ 450  
~~cessation trust fund, tobacco use prevention and control endowment~~ 451  
~~fund,~~ law enforcement improvements trust fund, southern Ohio 452  
agricultural and community development trust fund, southern Ohio 453  
agricultural and community development foundation endowment fund, 454  
Ohio's public health priorities trust fund, biomedical research 455  
and technology transfer trust fund, education facilities trust 456  
fund, or education technology trust fund. ~~In addition, no money~~ 457  
~~shall be otherwise appropriated or transferred from the general~~ 458  
~~revenue fund for the use of the tobacco use prevention and control~~ 459  
~~foundation.~~ 460

**Sec. 2151.87.** (A) As used in this section: 461

(1) "Cigarette" and "tobacco product" have the same meanings 462  
as in section 2927.02 of the Revised Code. 463

(2) "Youth smoking education program" means a private or 464  
public agency program that is related to tobacco use, prevention, 465

and cessation, that is carried out or funded by the ~~tobacco use~~ 466  
~~prevention and control foundation~~ department of health pursuant to 467  
section ~~183.07~~ 3701.84 of the Revised Code, that utilizes 468  
educational methods focusing on the negative health effects of 469  
smoking and using tobacco products, and that is not more than 470  
twelve hours in duration. 471

(B) No child shall do any of the following unless accompanied 472  
by a parent, spouse who is eighteen years of age or older, or 473  
legal guardian of the child: 474

(1) Use, consume, or possess cigarettes, other tobacco 475  
products, or papers used to roll cigarettes; 476

(2) Purchase or attempt to purchase cigarettes, other tobacco 477  
products, or papers used to roll cigarettes; 478

(3) Order, pay for, or share the cost of cigarettes, other 479  
tobacco products, or papers used to roll cigarettes; 480

(4) Except as provided in division (E) of this section, 481  
accept or receive cigarettes, other tobacco products, or papers 482  
used to roll cigarettes. 483

(C) No child shall knowingly furnish false information 484  
concerning that child's name, age, or other identification for the 485  
purpose of obtaining cigarettes, other tobacco products, or papers 486  
used to roll cigarettes. 487

(D) A juvenile court shall not adjudicate a child a 488  
delinquent or unruly child for a violation of division (B)(1), 489  
(2), (3), or (4) or (C) of this section. 490

(E)(1) It is not a violation of division (B)(4) of this 491  
section for a child to accept or receive cigarettes, other tobacco 492  
products, or papers used to roll cigarettes if the child is 493  
required to do so in the performance of the child's duties as an 494  
employee of that child's employer and the child's acceptance or 495



receipt of cigarettes, other tobacco products, or papers used to 496  
roll cigarettes occurs exclusively within the scope of the child's 497  
employment. 498

(2) It is not a violation of division (B)(1), (2), (3), or 499  
(4) of this section if the child possesses, purchases or attempts 500  
to purchase, orders, pays for, shares the cost of, or accepts or 501  
receives cigarettes, other tobacco products, or papers used to 502  
roll cigarettes while participating in an inspection or compliance 503  
check conducted by a federal, state, local, or corporate entity at 504  
a location at which cigarettes, other tobacco products, or papers 505  
used to roll cigarettes are sold or distributed. 506

(3) It is not a violation of division (B)(1) or (4) of this 507  
section for a child to accept, receive, use, consume, or possess 508  
cigarettes, other tobacco products, or papers used to roll 509  
cigarettes while participating in a research protocol if all of 510  
the following apply: 511

(a) The parent, guardian, or legal custodian of the child has 512  
consented in writing to the child participating in the research 513  
protocol. 514

(b) An institutional human subjects protection review board, 515  
or an equivalent entity, has approved the research protocol. 516

(c) The child is participating in the research protocol at 517  
the facility or location specified in the research protocol. 518

(F) If a juvenile court finds that a child violated division 519  
(B)(1), (2), (3), or (4) or (C) of this section, the court may do 520  
either or both of the following: 521

(1) Require the child to attend a youth smoking education 522  
program or other smoking treatment program approved by the court, 523  
if one is available; 524

(2) Impose a fine of not more than one hundred dollars. 525

(G) If a child disobeys a juvenile court order issued 526  
pursuant to division (F) of this section, the court may do any or 527  
all of the following: 528

(1) Increase the fine imposed upon the child under division 529  
(F)(2) of this section; 530

(2) Require the child to perform not more than twenty hours 531  
of community service; 532

(3) Suspend for a period of thirty days the temporary 533  
instruction permit, probationary driver's license, or driver's 534  
license issued to the child. 535

(H) A child alleged or found to have violated division (B) or 536  
(C) of this section shall not be detained under any provision of 537  
this chapter or any other provision of the Revised Code. 538

Sec. 3701.84. The department of health may prepare a plan to 539  
reduce tobacco use by Ohioans, with emphasis on reducing the use 540  
of tobacco by youth, minority and regional populations, pregnant 541  
women, and others who may be disproportionately affected by the 542  
use of tobacco. The plan may provide for periodic surveys to 543  
measure tobacco use and behavior toward tobacco use by Ohioans. If 544  
the department prepares a plan, copies of the plan shall be 545  
available to the public. 546

The plan may also describe youth tobacco consumption 547  
prevention programs to be eligible for consideration for grants 548  
from the department and may set forth the criteria by which 549  
applications for grants for such programs will be considered by 550  
the department. Programs eligible for consideration may include: 551

(A) Media campaigns directed to youth to prevent underage 552  
tobacco consumption; 553

(B) School-based education programs to prevent youth tobacco 554  
consumption; 555

(C) Community-based youth programs involving youth tobacco consumption prevention through general youth development; 556  
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(D) Retailer education and compliance efforts to prevent youth tobacco consumption; 558  
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(E) Mentoring programs designed to prevent or reduce tobacco use by students. 560  
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Pursuant to the plan, the department may carry out, or provide funding for private or public agencies to carry out, research and programs related to tobacco use prevention and cessation. If the department provides such funding, the department shall establish an objective process to determine which research and program proposals to fund. When appropriate, proposals for research shall be peer-reviewed. No program shall be carried out or funded by the department unless there is research that indicates that the program is likely to achieve the results desired. All research and programs funded by the department shall be goal-oriented and independently and objectively evaluated annually on whether it is meeting its goals. The department shall contract for such evaluations and shall adopt rules under Chapter 119. of the Revised Code regarding conflicts of interest in the research and programs it funds. 562  
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The department shall endeavor to coordinate its research and programs with the efforts of other agencies of this state to reduce tobacco use by Ohioans. Any state agency that conducts a survey that measures tobacco use or behavior toward tobacco use by Ohioans shall share the results of the survey with the department. 577  
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The department may adopt rules under Chapter 119. of the Revised Code as necessary to implement this section. 582  
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**Sec. 3701.841.** The tobacco use prevention fund is hereby created in the state treasury. The fund shall consist of money 584  
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deposited by the treasurer of state into the fund from the 586  
liquidation, pursuant to Sub. H.B. 544 of the 127th general 587  
assembly, of the former tobacco use prevention and control 588  
endowment fund and any gifts, grants, or donations received by the 589  
director of health for the purposes of the tobacco use prevention 590  
fund. All investment earnings of the fund shall be credited to the 591  
fund. The treasurer, in consultation with the director, may invest 592  
moneys in the fund in accordance with section 135.143 of the 593  
Revised Code. Moneys in the fund shall be used to pay outstanding 594  
expenses of the former tobacco use prevention and control 595  
foundation at the discretion of the director of health pursuant to 596  
Sub. H.B. 544 of the 127th general assembly and shall be used in 597  
accordance with section 3701.84 of the Revised Code. 598

**Section 2.** That existing sections 102.02, 183.021, 183.30, 599  
183.33, and 2151.87 and sections 183.03, 183.04, 183.05, 183.06, 600  
183.061, 183.07, 183.08, 183.09, and 183.10 of the Revised Code 601  
are hereby repealed. 602

**Section 3.** Upon the effective date of this section, the 603  
Tobacco Use Prevention and Control Foundation is abolished. 604

No validation, cure, right, privilege, remedy, obligation, or 605  
liability is lost or impaired by reason of the abolition of the 606  
Foundation and any such matter shall be administered by the 607  
Department of Health. No action or proceeding pending on the 608  
effective date of this act is affected by the abolition of the 609  
Foundation, and all such matters shall be prosecuted or defended 610  
in the name of the Department or the Director of Health. In all 611  
such actions and proceedings, the Department or the Director, upon 612  
application to the court, shall be substituted as a party. 613

**Section 4.** Notwithstanding any provision of law to the 614

contrary, on the effective date of this section, the Treasurer of  
State shall liquidate the Tobacco Use Prevention and Control  
Foundation Endowment Fund created by section 183.08 of the Revised  
Code in a prudent manner. The Treasurer of State shall deposit  
into the state treasury to the credit of the Tobacco Use  
Prevention Fund (Fund 5BX0), which is created in section 3701.841  
of the Revised Code, the lesser of \$40 million or 14.8 per cent of  
the proceeds from liquidation. The Treasurer of State shall  
deposit the remaining proceeds from liquidation into the state  
treasury to the credit of the Jobs Fund (Fund 5Z30), which is  
hereby created.

**Section 5.** All items in this act are hereby appropriated as  
designated out of any moneys in the state treasury to the credit  
of the Tobacco Use Prevention Fund (Fund 5BX0). For all  
appropriations made in this act, those in the first column are for  
fiscal year 2008 and those in the second column are for fiscal  
year 2009. The appropriations made in this act are in addition to  
any other appropriations made for the FY 2008 - FY 2009 biennium.

DOH DEPARTMENT OF HEALTH

Appropriations

Tobacco Use Prevention Fund				634	
5BX0 440656 Tobacco Use Prevention	\$	40,000,000	\$	0	635
TOTAL SSR State Special Revenue	\$	40,000,000	\$	0	636
TOTAL ALL BUDGET FUND GROUPS	\$	40,000,000	\$	0	637

TOBACCO USE PREVENTION 638

The foregoing appropriation item 440656, Tobacco Use  
Prevention, may be used at the Director of Health's discretion to  
pay outstanding expenses of the Tobacco Use Prevention and Control  
Foundation. Any remaining funds may be used by the Director of  
Health to carry out functions specified in section 3701.84 of the  
Revised Code.

An amount equal to the unexpended, unencumbered portion of 645  
the foregoing appropriation item 440656, Tobacco Use Prevention, 646  
at the end of fiscal year 2008 is hereby reappropriated to the 647  
Department of Health for the same purpose for fiscal year 2009. 648

Within the limits set forth in this act, the Director of 649  
Budget and Management shall establish accounts indicating the 650  
source and amount of funds for each appropriation made in this 651  
act, and shall determine the form and manner in which 652  
appropriation accounts shall be maintained. Expenditures from 653  
appropriations contained in this act shall be accounted for as 654  
though made in Am. Sub. H.B. 119 of the 127th General Assembly. 655

The appropriations made in this act are subject to all 656  
provisions of Am. Sub. H.B. 119 of the 127th General Assembly that 657  
are generally applicable to such appropriations. 658

**Section 6.** By December 31, 2008, the Director of Health shall 659  
submit to the Governor, Speaker of the House of Representatives, 660  
President of the Senate, and the chairs and ranking minority 661  
members of the standing committees of the Senate and House of 662  
Representatives with primary responsibility for health 663  
legislation, a plan regarding management of the remaining moneys 664  
in the Tobacco Use Prevention Fund (Fund 5BX0). The plan may 665  
include a strategy for maintaining a portion of the fund for 666  
investment and expending the earned income thereby creating a 667  
long-term source of funding for tobacco use prevention and 668  
cessation. 669

**Section 7.** On the effective date of this section, or as soon 670  
thereafter as possible, the Director of Budget and Management 671  
shall transfer the cash balance in the Tobacco Use Prevention and 672  
Control Operating Expenses Fund (Fund 5M80), to the Tobacco Use 673  
Prevention Fund (Fund 5BX0). Upon completion of the transfer, the 674

Tobacco Use Prevention and Control Operating Expenses Fund (Fund 675  
5M80) is abolished. The Director shall cancel any existing 676  
encumbrances against appropriation item 940601, Operating 677  
Expenses, and reestablish them against appropriation item 440656, 678  
Tobacco Use Prevention. The amounts of the reestablished 679  
encumbrances are hereby appropriated. 680

**Section 8.** That Section 3 of Am. S.B. 192 of the 127th 681  
General Assembly is hereby repealed. 682

**Section 9.** That Section 4 of Sub. S.B. 209 of the 127th 683  
General Assembly is hereby repealed. 684

**Section 10.** That Section 205.10 of Sub. S.B. 321 of the 126th 685  
General Assembly is hereby repealed. 686

**Section 11.** This act is hereby declared to be an emergency 687  
measure necessary for the immediate preservation of the public 688  
peace, health, and safety. The reason for such necessity is to use 689  
state funds in a manner that allows the Department of Health to 690  
promote a reduction in tobacco use and to increase employment and 691  
job security. Therefore, this act shall go into immediate effect. 692