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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-4995  
INS-15

6 \_\_\_\_\_ moved to amend as follows:

7 In line 28079, strike through "either"; strike through "or  
8 afford the enrollee"

9 Strike through line 28080

10 In line 28081, strike through "1751.85 of the Revised Code"

11 The motion was \_\_\_\_\_ agreed to.

12

SYNOPSIS

13

**External Review of Health Care Denials**

14

**R.C. 1751.831**

15 Requires that a health insuring corporation (HIC) cover a  
16 health care service if the Superintendent of Insurance  
17 determines that the service is a covered service. (Current law  
18 allows an insured person or an "authorized person" to submit a  
19 request for a review by the Superintendent whenever an insurer  
20 denies coverage of a service, and requires HICs to either cover  
21 the service or afford the enrollee an opportunity for an  
22 external review; if the Superintendent determines that the  
23 service is not a covered service, existing law does not require  
24 any further action from the insurer.)



1 128HB1-CC4996.docx/rs

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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-4996  
JFS-126

6 \_\_\_\_\_ moved to amend as follows:

7 In line 399, delete "5111.023,"

8 In line 405, delete "5111.912, 5111.913,"

9 Delete lines 74663 through 74710

10 Delete lines 78225 through 78256

11 In line 90902, delete "5111.023,"

12 In line 90908, delete "5111.912, 5111.913,"

13 Between lines 98110 and 98111, insert:

14 "Section 309.32.\_\_\_\_. FUNDING OF MEDICAID-COVERED  
15 COMMUNITY BEHAVIORAL HEALTH SERVICES

16 (A) As used in this section:

17 "Community behavioral health boards" means boards of  
18 alcohol, drug addiction, and mental health services; community  
19 mental health boards; and alcohol and drug addiction services  
20 boards.

21 "Community mental health facility" has the same meaning as  
22 in section 5111.023 of the Revised Code.

23 (B) Notwithstanding any conflicting provision of sections  
24 5111.912 and 5111.913 of the Revised Code, both of the following

25 apply to community behavioral health boards with respect to  
26 payments made under those sections for the nonfederal share of  
27 Medicaid payments to providers for services under a Medicaid  
28 component, or aspect of a component, the Department of Mental  
29 Health or Department of Alcohol and Drug Addiction Services  
30 administers:

31 (1) A community behavioral health board shall use state  
32 funds provided to the board for the purpose of funding community  
33 mental health services to make the payments.

34 (2) In addition to the funds used under division (B)(1) of  
35 this section, a community behavioral health board may use money  
36 available to the board that is raised by a county tax levy to  
37 make the payments if using the money for that purpose is  
38 consistent with the purpose for which the tax was levied.

39 (C) Notwithstanding division (C) of section 5111.023 of  
40 the Revised Code, the comprehensive annual plan specified in  
41 that division may certify the availability of unencumbered  
42 community mental health local funds to match federal Medicaid  
43 reimbursement funds earned by community mental health  
44 facilities.

45 (D) This section expires on July 1, 2011."

46 In line 147 of the title, delete "5111.023,"

47 In line 154 of the title, delete "5111.912, 5111.913,"

48 The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

49

50 **Funding of Medicaid-Covered Community Behavioral Health**  
51 **Services**

52 **R.C. 5111.023, 5111.912, and 5111.913; Section \_\_\_\_**

53 Expresses in uncodified law the bill's Senate-passed  
54 provisions regarding (1) payments made by community behavioral  
55 health boards for the nonfederal share of the costs of Medicaid  
56 services and (2) certification of the availability of  
57 unencumbered local funds to match federal Medicaid reimbursement  
58 earned by community mental health facilities.

59 Specifies that the provisions expire July 1, 2011.

Am. Sub. H.B. 1

As Passed by the Senate

CC-4997-1

COM-26

\_\_\_\_\_ moved to amend as follows:

In line 372, delete "3781.01," and insert "3781.07,"

1

Delete lines 58392 through 58438 and insert:

2

"Sec. 3781.07. There is hereby established in the department of commerce a board of building standards consisting of ~~eleven~~ fifteen members appointed by the governor with the advice and consent of the senate. The board shall appoint a secretary who shall serve in the unclassified civil service for a term of six years at a salary fixed pursuant to Chapter 124. of the Revised Code. The board may employ additional staff in the classified civil service. The secretary may be removed by the board under the rules the board adopts. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed,

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whichever occurs first. One of the members appointed to the board 21  
shall be an attorney at law, admitted to the bar of this state; 22  
two shall be registered architects; two shall be professional 23  
engineers, one in the field of mechanical and one in the field of 24  
structural engineering, each of whom shall be duly licensed to 25  
practice such profession in this state; one shall be a person of 26  
recognized ability, broad training, and fifteen years experience 27  
in problems and practice incidental to the construction and 28  
equipment of buildings specified in section 3781.06 of the Revised 29  
Code; one shall be a person with recognized ability and experience 30  
in the manufacture and construction of industrialized units as 31  
defined in section 3781.06 of the Revised Code; one shall be a 32  
member of the fire service with recognized ability and broad 33  
training in the field of fire protection and suppression; one 34  
shall be a person with at least ten years of experience and 35  
recognized expertise in building codes and standards and the 36  
manufacture of construction materials; one shall be a general 37  
contractor with experience in residential and commercial 38  
construction; two, chosen from a list of ten names the Ohio home 39  
builders association submits to the governor, shall be general 40  
contractors who have recognized ability in the construction of 41  
residential buildings; one shall be a person with recognized 42  
ability and experience in the use of advanced and renewable energy 43  
in the construction of commercial and residential buildings; one 44  
shall be a person with recognized ability and experience in the 45  
use of energy conservation in the construction of commercial and 46  
residential buildings; and one, chosen from a list of three names 47  
the Ohio municipal league submits to the governor, shall be the 48  
mayor of a municipal corporation in which the Ohio residential and 49  
nonresidential building codes are being enforced in the municipal 50  
corporation by a certified building department. Each member of the 51  
board, not otherwise required to take an oath of office, shall 52

take the oath prescribed by the constitution. Each member shall 53  
 receive as compensation an amount fixed pursuant to division (J) 54  
 of section 124.15 of the Revised Code, and shall receive actual 55  
 and necessary expenses in the performance of official duties. The 56  
 amount of such expenses shall be certified by the secretary of the 57  
 board and paid in the same manner as the expenses of employees of 58  
 the department of commerce are paid." 59

Delete line 58448 60

In line 58449, delete "plumbing standards." 61

In line 58468, delete "limited by" and insert "provided in" 62

In line 58665, after "(I)" insert "(1)"; delete "shall" and 63  
 insert "may" 64

In line 58666, delete "or to" 65

Delete lines 58667 and 58668 66

In line 58669, delete "that enforce the state residential 67  
building code" 68

In line 58670, delete "(D)(2)" and insert "(E)" 69

Delete lines 58672 through 58678 and insert: 70

"(2) If the board receives a proposed rule to update or amend 71  
the state residential building code as provided in division (I)(1) 72  
of this section, the board either may accept or reject the 73  
proposed rule for incorporation into the residential building 74  
code. If the board does not act to either accept or reject the 75  
proposed rule within ninety days after receiving the proposed rule 76  
from the committee as described in division (I)(1) of this 77  
section, the proposed rule shall become part of the residential 78  
building code." 79

In line 58687, delete "except for any" 80

Delete lines 58688 through 58690 81

In line 58691, delete " <u>state residential building code.</u> "	82
In line 58703, delete " <u>or to update or amend rules that</u> "	83
Delete lines 58704 and 58705	84
In line 58706, delete everything before the underlined period	85
In line 69750, reinsert "the director of commerce"	86
In line 69751, reinsert "appoints. Of the advisory committee's members, three"; delete " <u>appointed in</u> "	87 88
Delete lines 69752 and 69753	89
In line 69754, delete " <u>(1) Three</u> "	90
In line 69756, reinsert ", two"; delete the underlined semicolon	91 92
In line 69757, delete " <u>(2) Two</u> "	93
In line 69758, reinsert ", one,"	94
Reinsert line 69759	95
In line 69760, reinsert "association submits,"; delete the underlined semicolon	96 97
In line 69761, delete " <u>(3) One</u> "	98
In line 69763, reinsert ", one"; delete the underlined semicolon	99 100
In line 69764, delete " <u>(4) One</u> "	101
In line 69766, reinsert ", one"; delete the underlined semicolon	102 103
In line 69767, delete " <u>(5) One</u> "	104
In line 69769, reinsert ", and one, chosen from"	105
Reinsert line 69770	106
In line 69771, reinsert "director," and delete the underlined	107



semicolon	108
In line 69772, delete " <u>(6) One</u> "	109
In line 69775, after "(B)" reinsert the balance of the line	110
In line 69776, reinsert "committee within ninety days after	111
May 27, 2005."; delete " <u>The speaker of</u> "	112
Delete lines 69777 through 69791	113
In line 69792, delete " <u>(C)</u> "	114
In line 69795, reinsert "The director"	115
In line 69796, reinsert "shall fill a" and delete " <u>A</u> "; delete	116
" <u>shall be filled</u> "	117
In line 69800, reinsert "(C)" and delete " <u>(D)</u> "	118
In line 69810, after "(2)" delete the balance of the line	119
Delete lines 69811 through 69815	120
In line 69816, delete " <u>(3)</u> "	121
In line 69819, reinsert "(3)" and delete " <u>(4)</u> "	122
In line 69822, reinsert "(4)" and delete " <u>(5)</u> "	123
In line 69824, reinsert "(5)" and delete " <u>(6)</u> "	124
In line 69826, delete " <u>(7)</u> " and insert " <u>(6)</u> "	125
In line 69828, delete " <u>(E)</u> " and insert " <u>(D)</u> "; delete the	126
underlined semicolon	127
Delete lines 69829 through 69832	128
In line 69833, delete " <u>(A) (2) of section 3781.12 of the</u>	129
<u>Revised Code</u> "	130
In line 69834, reinsert "(D)"; delete " <u>(E)</u> "	131
In line 69835, after " <del>division</del> " insert " <u>divisions</u> "; reinsert	132
"(C)"; delete " <u>divisions</u> "	133

In line 69836, delete "(D)"; delete "(3), (5),"; delete "(8)"  
and insert "(4)"

Between lines 69846 and 69847, insert:

"(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code."

In line 90874, delete "3781.01," and insert "3781.07,"

In line 105572, after "747.10." delete the balance of the  
line

Delete lines 105573 through 105614 and insert "The Governor shall appoint the members, who are general contractors who have recognized ability and experience in the construction of residential buildings and persons with recognized ability and experience in the use of advanced and renewable energy and the use of energy conservation in the construction of commercial and residential buildings, added to the Board of Building Standards by section 3781.07 of the Revised Code, as amended by this act, within sixty days after the effective date of section 3781.07 of the Revised Code as amended by this act. The terms of the members who are general contractors who have recognized ability and experience in the construction of residential buildings appointed pursuant to this section shall expire on October 13, 2012. The term of the member who has recognized ability and experience in the use of advanced and renewable energy in the construction of commercial and residential buildings appointed pursuant to this section shall expire on October 13, 2011. The term of the member who has recognized ability and experience in the use of energy conservation in the construction of commercial and residential

buildings appointed pursuant to this section shall expire on 165  
 October 13, 2010. Upon the expiration of the appointments to the 166  
 Board made by this section, all successive appointments shall be 167  
 made as provided in section 3781.07 of the Revised Code, as 168  
 amended by this act, and all successive terms shall last for the 169  
 period of time provided in that section." 170

In line 108 of the title, delete "3781.01," and insert 171  
 "3781.07," 172

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Residential Building Code 173

R.C. 3781.07, 3781.10, 3781.12, 3781.19, and 740.14 and 174  
 Section 747.10 175

Removes the prohibition placed upon the Board of Building 176  
 Standards adopting any rules to update or amend the state 177  
 residential building code or the rules the board adopts that 178  
 relate to the certification of entities that enforce the state 179  
 residential building code unless the board first receives a 180  
 recommendation from the Residential Construction Advisory 181  
 Committee. 182

Removes the changes to the membership of the Residential 183  
 Construction Advisory Committee. 184

Adds two new members to the Board of Building Standards who 185  
 must be general contractors who have recognized ability in the 186  
 construction of residential buildings and are chosen from a list 187  
 of five names the Ohio Home Builders Association submits to the 188  
 Governor, one new member who has recognized ability and experience 189

in the use of advanced and renewable energy in the construction of  
 commercial and residential buildings, and one new member who has  
 recognized ability and experience in the use of energy  
 conservation in the construction of commercial and residential  
 buildings. Requires the Governor to appoint the new members within  
 60 days after the effective date. The initial terms of two new  
 members who have recognized ability and experience in the  
 construction of residential buildings expire October 13, 2012.  
 Specifies that the initial term of the member who has recognized  
 ability and experience in the use of advanced and renewable energy  
 in the construction of commercial and residential buildings  
 expires on October 13, 2011, and that the initial term of the  
 member who has recognized ability and experience in the use of  
 energy conservation in the construction of commercial and  
 residential buildings expires on October 13, 2010.

Allows, instead of requires as provided in the As Passed by  
 the Senate version of the bill, the Residential Construction  
 Advisory Committee to recommend rules to the Board to update or  
 amend the Residential Building Code or to update or amend the  
 State Residential Building Code after receiving a petition from  
 any person. Removes the provision that requires the Committee to  
 recommend rules to the Board to update or amend the rules the  
 Board adopts relating to the certification of entities that  
 enforce the state Residential Building Code.

Allows the Board, upon receipt of a proposed rule from the  
 Committee, to reject or accept that rule. Incorporates the rule  
 into the Residential Building Code if the Board does not accept or  
 reject the rule within 90 days after receiving the proposed rule  
 from the Committee.

Am. Sub. H.B. 1

As Passed by the Senate  
CC-4998-3

\_\_\_\_\_ moved to amend as follows:

In line 401, after "5111.176," insert "5111.20," 1

In line 402, delete "5111.222, "; delete "5111.25," and insert "5111.243," 2  
3

In line 451, after "5111.236," insert "5111.262," 4

Delete lines 52727 through 52960 and insert: 5

"Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code: 6  
7

(A) "Franchise permit fee rate" means the amount determined as follows: 8  
9

(1) Determine the difference between the following: 10

(a) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code: 11  
12  
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(b) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the 17  
18  
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Revised Code for the calendar year immediately preceding the 20  
calendar year that immediately precedes the fiscal year for which 21  
the franchise permit fee is assessed under section 3721.51 of the 22  
Revised Code. 23

(2) Multiply the amount determined under division (A) (1) of 24  
this section by five and five-tenths per cent; 25

(3) Divide the amount determined under division (A) (2) of 26  
this section by the total number of days in the fiscal year for 27  
which the franchise permit fee is assessed under section 3721.51 28  
of the Revised Code; 29

(4) Subtract eleven dollars and ninety-five cents from the 30  
amount determined under division (A) (3) of this section; 31

(5) Add eleven dollars and ninety-five cents to the amount 32  
determined under division (A) (4) of this section. 33

(B) "Hospital" has the same meaning as in section 3727.01 of 34  
the Revised Code. 35

~~(B)(C) "Hospital long-term care unit" means any distinct part~~ 36  
~~of a hospital in which any of the following beds are located;~~ 37

(1) Beds registered pursuant to section 3701.07 of the 38  
Revised Code as skilled nursing facility beds or long-term care 39  
beds; 40

(2) Beds licensed as nursing home beds under section 3721.02 41  
or 3721.09 of the Revised Code. 42

(D) "Inpatient days" means all days during which a resident 43  
of a nursing facility, regardless of payment source, occupies a 44  
bed in the nursing facility that is included in the facility's 45  
certified capacity under Title XIX. Therapeutic or hospital leave 46  
days for which payment is made under section 5111.26 of the 47  
Revised Code are considered inpatient days proportionate to the 48

percentage of the facility's per resident per day rate paid for those days. 49  
50

~~(E)~~(E) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 51  
52

~~(D)~~(F) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days. 53  
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~~(E)~~(G) "Medicare" means the program established by Title XVIII. 60  
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(H) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 62  
63

~~(F)~~(I) (1) "Nursing home" means all of the following: 64

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home; 65  
66  
67

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII; 68  
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(c) A nursing facility, other than a portion of a hospital certified as a nursing facility. 70  
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(2) "Nursing home" does not include any of the following: 72

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code; 73  
74

(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code; 75  
76

(c) A nursing home or part of a nursing home licensed under 77

section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.

~~(G)~~(J) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(H)~~(K) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to ~~division sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D)~~ of this section and for the purposes specified in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~six dollars and twenty five cents, the franchise permit fee rate~~ multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to ~~division sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D)~~ of this section and for the purposes specified in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in



an amount equal to ~~six dollars and twenty five cents~~, the 107  
franchise permit fee rate multiplied by the product of the 108  
following: 109

(1) The number of beds registered pursuant to section 3701.07 110  
of the Revised Code as skilled nursing facility beds or long-term 111  
care beds, plus any other beds licensed as nursing home beds under 112  
section 3721.02 or 3721.09 of the Revised Code, on the first day 113  
of May of the calendar year in which the fee is determined 114  
pursuant to division (A) of section 3721.53 of the Revised Code; 115

(2) The number of days in the fiscal year beginning on the 116  
first day of July of the calendar year in which the fee is 117  
determined pursuant to division (A) of section 3721.53 of the 118  
Revised Code. 119

(C) If the total amount of the franchise permit fee assessed 120  
under divisions (A) and (B) of this section for a fiscal year 121  
exceeds five and one-half per cent of the actual net patient 122  
revenue for all nursing homes and hospital long-term care units 123  
for that fiscal year, do both of the following: 124

(1) Recalculate the assessments under divisions (A) and (B) 125  
of this section using a per bed per day rate equal to five and 126  
one-half per cent of actual net patient revenue for all nursing 127  
homes and hospital long-term care units for that fiscal year; 128

(2) Refund the difference between the amount of the franchise 129  
permit fee assessed for that fiscal year under divisions (A) and 130  
(B) of this section and the amount recalculated under division 131  
(C) (1) of this section as a credit against the assessments imposed 132  
under divisions (A) and (B) of this section for the subsequent 133  
fiscal year. 134

(D) If the United States centers for medicare and medicaid 135  
services determines that the franchise permit fee established by 136  
sections 3721.50 to 3721.58 of the Revised Code is an 137

impermissible health care related tax under section 1903(w) of the 138  
 "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 139  
 amended, take all necessary actions to cease implementation of 140  
 sections 3721.50 to 3721.58 of the Revised Code in accordance with 141  
 rules adopted under section 3721.58 of the Revised Code. 142

Sec. 3721.511. (A) Not later than four months after the 143  
effective date of this section, the department of job and family 144  
services shall apply to the United States secretary of health and 145  
human services for a waiver under 42 U.S.C. 1396b(w) (3) (E) as 146  
necessary to do both of the following regarding the franchise 147  
permit fee imposed by section 3721.51 of the Revised Code: 148

(1) Reduce the franchise permit fee to zero dollars for each 149  
nursing home licensed under section 3721.02 or 3721.09 of the 150  
Revised Code to which either of the following applies: 151

(a) The nursing home: 152

(i) Is exempt from state taxation under section 140.08 of the 153  
Revised Code or is exempt from state taxation as a home for the 154  
aged as defined in section 5701.13 of the Revised Code; 155

(ii) Is exempt from federal income taxation under section 501 156  
of the Internal Revenue Code of 1986; 157

(iii) Does not participate in medicaid or medicare; and 158

(iv) Provides services for the life of each resident without 159  
regard to the resident's ability to secure payment for the 160  
services. 161

(b) The nursing home: 162

(i) Has had a written affiliation agreement with a university 163  
in this state for education and research related to Alzheimer's 164  
disease for each of the twenty years preceding the effective date 165  
of this section and has such an agreement on the effective date of 166

this section: 167

(ii) Was granted a certificate of need under Section 3 of Am. Sub. S.B. 256 of the 116th General Assembly; and 168  
169

(iii) Does not participate in medicaid or medicare. 170

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee for a number of the nursing facility's beds specified by the department to the amount necessary to obtain approval of the waiver sought under this section. 171  
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(B) The effective date of the waiver sought under this section shall be the first day of the calendar quarter beginning after the United States secretary approves the waiver. 176  
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Sec. 3721.512. If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee under the waiver, reduce the franchise permit fee in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the calendar quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code. 179  
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Sec. 3721.513. (A) If the United States secretary of health 195

and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services may do both of the following regarding the franchise permit fee imposed by section 3721.51 of the Revised Code: 196  
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(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver: 200  
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(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee reduced under section 3721.512 of the Revised Code, uniformly increase the amount of the franchise permit fee for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A) (1) of this section for that fiscal year. 202  
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(B) If the department increases the franchise permit fee in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the calendar quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee in accordance with division (A) of this section for a subsequent fiscal year, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code. 210  
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Sec. 3721.53. (A) Not later than the fifteenth day of ~~August~~ September of each year, the department of job and family services shall determine the annual franchise permit fee for each nursing home and hospital in accordance with ~~division (A) of section~~ 222  
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3721.51 of the Revised Code and <del>the annual franchise permit fee</del>	226
<del>for each hospital</del> <u>any adjustments made</u> in accordance with division	227
<del>(B) of that section</del> <u>sections 3721.512 and 3721.513 of the Revised</u>	228
<u>Code.</u>	229
(B) Not later than the first day of <del>September</del> <u>October</u> of each	230
year, the department shall mail to each nursing home and hospital	231
notice of the amount of the franchise permit fee that has been	232
determined for the nursing home or hospital.	233
(C) Each nursing home and hospital shall pay its fee under	234
section 3721.51 of the Revised Code, <u>as adjusted in accordance</u>	235
<u>with sections 3721.512 and 3721.513 of the Revised Code,</u> to the	236
department in <del>quarterly</del> <u>four</u> installment payments not later than	237
forty-five days after the last day of each <del>September</del> <u>October</u> ,	238
December, March, and June.	239
(D) No nursing home or hospital shall directly bill its	240
residents for the fee paid under this section, or otherwise	241
directly pass the fee through to its residents.	242
<b>Sec. 3721.55.</b> (A) A nursing home or hospital may appeal the	243
fee imposed under section 3721.51 of the Revised Code, <u>as adjusted</u>	244
<u>under section 3721.512 or 3721.513 of the Revised Code,</u> solely on	245
the grounds that the department of job and family services	246
committed a material error in determining the amount of the fee. A	247
request for an appeal must be received by the department not later	248
than fifteen days after the date the department mails the notice	249
of the fee and must include written materials setting forth the	250
basis for the appeal.	251
(B) If a nursing home or hospital submits a request for an	252
appeal within the time required under division (A) of this	253
section, the department of job and family services shall hold a	254
public hearing in Columbus not later than thirty days after the	255

date the department receives the request for an appeal. The  
 department shall, not later than ten days before the date of the  
 hearing, mail a notice of the date, time, and place of the hearing  
 to the nursing home or hospital. The department may hear all the  
 requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or  
 any other evidence submitted by the nursing home or hospital, the  
 department may adjust a fee. The department's decision is final.

**Sec. 3721.56.** (A) There is hereby created in the state  
 treasury the home- and community-based services for the aged fund.  
~~Sixteen per cent~~ The percentage specified under division (B) of  
this section of all payments and penalties paid by nursing homes  
 and hospitals under sections 3721.53 and 3721.54 of the Revised  
 Code shall be deposited into the fund. The departments of job and  
 family services and aging shall use the moneys in the fund to fund  
 the following in accordance with rules adopted under section  
 3721.58 of the Revised Code:

~~(A)(1)~~ The medicaid program established under Chapter 5111.  
 of the Revised Code, including the PASSPORT program established  
 under section 173.40 of the Revised Code;

~~(B)(2)~~ The residential state supplement program established  
 under section 173.35 of the Revised Code.

(B) The percentage specified in this division is the  
percentage determined by dividing one by the following:

(1) Except as provided in division (B)(2) of this section,  
the franchise permit fee rate;

(2) If the department of job and family services recalculates  
the amount of the assessments for a fiscal year under division (C)  
of section 3721.51 of the Revised Code, the amount of the per bed

per day rate so recalculated for that fiscal year." 285

Between lines 76019 and 76020, insert: 286

"Sec. 5111.20. As used in sections 5111.20 to 5111.34 of the 287  
Revised Code: 288

(A) "Allowable costs" are those costs determined by the 289  
department of job and family services to be reasonable and do not 290  
include fines paid under sections 5111.35 to 5111.61 and section 291  
5111.99 of the Revised Code. 292

(B) "Ancillary and support costs" means all reasonable costs 293  
incurred by a nursing facility other than direct care costs or 294  
capital costs. "Ancillary and support costs" includes, but is not 295  
limited to, costs of activities, social services, pharmacy 296  
consultants, habilitation supervisors, qualified mental 297  
retardation professionals, program directors, medical and 298  
habilitation records, program supplies, incontinence supplies, 299  
food, enterals, dietary supplies and personnel, laundry, 300  
housekeeping, security, administration, medical equipment, 301  
utilities, liability insurance, bookkeeping, purchasing 302  
department, human resources, communications, travel, dues, license 303  
fees, subscriptions, home office costs not otherwise allocated, 304  
legal services, accounting services, minor equipment, wheelchairs, 305  
resident transportation, maintenance and repairs, help-wanted 306  
advertising, informational advertising, start-up costs, 307  
organizational expenses, other interest, property insurance, 308  
employee training and staff development, employee benefits, 309  
payroll taxes, and workers' compensation premiums or costs for 310  
self-insurance claims and related costs as specified in rules 311  
adopted by the director of job and family services under section 312  
5111.02 of the Revised Code, for personnel listed in this 313  
division. "Ancillary and support costs" also means the cost of 314

equipment, including vehicles, acquired by operating lease	315
executed before December 1, 1992, if the costs are reported as	316
administrative and general costs on the facility's cost report for	317
the cost reporting period ending December 31, 1992.	318
(C) "Capital costs" means costs of ownership and, in the case	319
of an intermediate care facility for the mentally retarded, costs	320
of nonextensive renovation.	321
(1) "Cost of ownership" means the actual expense incurred for	322
all of the following:	323
(a) Depreciation and interest on any capital assets that cost	324
five hundred dollars or more per item, including the following:	325
(i) Buildings;	326
(ii) Building improvements that are not approved as	327
nonextensive renovations under section 5111.251 of the Revised	328
Code;	329
(iii) Except as provided in division (B) of this section,	330
equipment;	331
(iv) In the case of an intermediate care facility for the	332
mentally retarded, extensive renovations;	333
(v) Transportation equipment.	334
(b) Amortization and interest on land improvements and	335
leasehold improvements;	336
(c) Amortization of financing costs;	337
(d) Except as provided in division (K) of this section, lease	338
and rent of land, building, and equipment.	339
The costs of capital assets of less than five hundred dollars	340
per item may be considered capital costs in accordance with a	341
provider's practice.	342



(2) "Costs of nonextensive renovation" means the actual 343  
expense incurred by an intermediate care facility for the mentally 344  
retarded for depreciation or amortization and interest on 345  
renovations that are not extensive renovations. 346

(D) "Capital lease" and "operating lease" shall be construed 347  
in accordance with generally accepted accounting principles. 348

(E) "Case-mix score" means the measure determined under 349  
section 5111.232 of the Revised Code of the relative direct-care 350  
resources needed to provide care and habilitation to a resident of 351  
a nursing facility or intermediate care facility for the mentally 352  
retarded. 353

(F) (1) "Date of licensure," for a facility originally 354  
licensed as a nursing home under Chapter 3721. of the Revised 355  
Code, means the date specific beds were originally licensed as 356  
nursing home beds under that chapter, regardless of whether they 357  
were subsequently licensed as residential facility beds under 358  
section 5123.19 of the Revised Code. For a facility originally 359  
licensed as a residential facility under section 5123.19 of the 360  
Revised Code, "date of licensure" means the date specific beds 361  
were originally licensed as residential facility beds under that 362  
section. 363

If nursing home beds licensed under Chapter 3721. of the 364  
Revised Code or residential facility beds licensed under section 365  
5123.19 of the Revised Code were not required by law to be 366  
licensed when they were originally used to provide nursing home or 367  
residential facility services, "date of licensure" means the date 368  
the beds first were used to provide nursing home or residential 369  
facility services, regardless of the date the present provider 370  
obtained licensure. 371

If a facility adds nursing home beds or residential facility 372  
beds or extensively renovates all or part of the facility after 373

its original date of licensure, it will have a different date of  
 licensure for the additional beds or extensively renovated portion  
 of the facility, unless the beds are added in a space that was  
 constructed at the same time as the previously licensed beds but  
 was not licensed under Chapter 3721. or section 5123.19 of the  
 Revised Code at that time.

(2) The definition of "date of licensure" in this section  
 applies in determinations of the medicaid reimbursement rate for a  
 nursing facility or intermediate care facility for the mentally  
 retarded but does not apply in determinations of the franchise  
 permit fee for a nursing facility or intermediate care facility  
 for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost  
 report submitted under section 5111.26 of the Revised Code have  
 been subjected to a desk review under division (A) of section  
 5111.27 of the Revised Code and preliminarily determined to be  
 allowable costs.

(H) "Direct care costs" means all of the following:

(1) (a) Costs for registered nurses, licensed practical  
 nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing  
 staff, medical directors, respiratory therapists, and except as  
 provided in division (H) (2) of this section, other persons holding  
 degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee  
 benefits, payroll taxes, and workers' compensation premiums or  
 costs for self-insurance claims and related costs as specified in  
 rules adopted by the director of job and family services in

accordance with Chapter 119. of the Revised Code, for personnel	404
listed in divisions (H) (1) (a), (b), and (d) of this section;	405
(f) Costs of consulting and management fees related to direct	406
care;	407
(g) Allocated direct care home office costs.	408
(2) In addition to the costs specified in division (H) (1) of	409
this section, for nursing facilities only, direct care costs	410
include costs of habilitation staff (other than habilitation	411
supervisors), medical supplies, <u>emergency oxygen, over-the-counter</u>	412
<u>pharmacy products, physical therapists, physical therapy</u>	413
<u>assistants, occupational therapists, occupational therapy</u>	414
<u>assistants, speech therapists, audiologists, habilitation</u>	415
supplies, and universal precautions supplies.	416
(3) In addition to the costs specified in division (H) (1) of	417
this section, for intermediate care facilities for the mentally	418
retarded only, direct care costs include both of the following:	419
(a) Costs for physical therapists and physical therapy	420
assistants, occupational therapists and occupational therapy	421
assistants, speech therapists, audiologists, habilitation staff	422
(including habilitation supervisors), qualified mental retardation	423
professionals, program directors, social services staff,	424
activities staff, off-site day programming, psychologists and	425
psychology assistants, and social workers and counselors;	426
(b) Costs of training and staff development, employee	427
benefits, payroll taxes, and workers' compensation premiums or	428
costs for self-insurance claims and related costs as specified in	429
rules adopted under section 5111.02 of the Revised Code, for	430
personnel listed in division (H) (3) (a) of this section.	431
(4) Costs of other direct-care resources that are specified	432
as direct care costs in rules adopted under section 5111.02 of the	433

Revised Code.	434
(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.	435 436
(J) "Franchise permit fee" means the following:	437
(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;	438 439
(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.	440 441 442
(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and	443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464

general costs on the facility's cost report for the cost reporting 465  
 period ending December 31, 1992. 466

(L) "Inpatient days" means all days during which a resident, 467  
 regardless of payment source, occupies a bed in a nursing facility 468  
 or intermediate care facility for the mentally retarded that is 469  
 included in the facility's certified capacity under Title XIX. 470  
 Therapeutic or hospital leave days for which payment is made under 471  
 section 5111.33 of the Revised Code are considered inpatient days 472  
 proportionate to the percentage of the facility's per resident per 473  
 day rate paid for those days. 474

(M) "Intermediate care facility for the mentally retarded" 475  
 means an intermediate care facility for the mentally retarded 476  
 certified as in compliance with applicable standards for the 477  
 medicaid program by the director of health in accordance with 478  
 Title XIX. 479

(N) "Maintenance and repair expenses" means, except as 480  
 provided in division (BB) (2) of this section, expenditures that 481  
 are necessary and proper to maintain an asset in a normally 482  
 efficient working condition and that do not extend the useful life 483  
 of the asset two years or more. "Maintenance and repair expenses" 484  
 includes but is not limited to the cost of ordinary repairs such 485  
 as painting and wallpapering. 486

(O) "Medicaid days" means all days during which a resident 487  
 who is a Medicaid recipient eligible for nursing facility services 488  
 occupies a bed in a nursing facility that is included in the 489  
 nursing facility's certified capacity under Title XIX. Therapeutic 490  
 or hospital leave days for which payment is made under section 491  
 5111.33 of the Revised Code are considered Medicaid days 492  
 proportionate to the percentage of the nursing facility's per 493  
 resident per day rate paid for those days. 494

(P) "Nursing facility" means a facility, or a distinct part 495

of a facility, that is certified as a nursing facility by the 496  
 director of health in accordance with Title XIX and is not an 497  
 intermediate care facility for the mentally retarded. "Nursing 498  
 facility" includes a facility, or a distinct part of a facility, 499  
 that is certified as a nursing facility by the director of health 500  
 in accordance with Title XIX and is certified as a skilled nursing 501  
 facility by the director in accordance with Title XVIII. 502

(Q) "Operator" means the person or government entity 503  
 responsible for the daily operating and management decisions for a 504  
 nursing facility or intermediate care facility for the mentally 505  
 retarded. 506

(R) "Other protected costs" means costs incurred by an 507  
 intermediate care facility for the mentally retarded for medical 508  
 supplies; real estate, franchise, and property taxes; natural gas, 509  
 fuel oil, water, electricity, sewage, and refuse and hazardous 510  
 medical waste collection; allocated other protected home office 511  
 costs; and any additional costs defined as other protected costs 512  
 in rules adopted under section 5111.02 of the Revised Code. 513

(S) (1) "Owner" means any person or government entity that has 514  
 at least five per cent ownership or interest, either directly, 515  
 indirectly, or in any combination, in any of the following 516  
 regarding a nursing facility or intermediate care facility for the 517  
 mentally retarded: 518

(a) The land on which the facility is located; 519

(b) The structure in which the facility is located; 520

(c) Any mortgage, contract for deed, or other obligation 521  
 secured in whole or in part by the land or structure on or in 522  
 which the facility is located; 523

(d) Any lease or sublease of the land or structure on or in 524  
 which the facility is located. 525

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U) (1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a

nursing facility or intermediate care facility for the mentally 556  
retarded for the provision of nursing facility services or 557  
intermediate care facility services for the mentally retarded 558  
under the medicaid program. 559

(X) "Purchased nursing services" means services that are 560  
provided in a nursing facility by registered nurses, licensed 561  
practical nurses, or nurse aides who are not employees of the 562  
facility. 563

(Y) "Reasonable" means that a cost is an actual cost that is 564  
appropriate and helpful to develop and maintain the operation of 565  
patient care facilities and activities, including normal standby 566  
costs, and that does not exceed what a prudent buyer pays for a 567  
given item or services. Reasonable costs may vary from provider to 568  
provider and from time to time for the same provider. 569

(Z) "Related party" means an individual or organization that, 570  
to a significant extent, has common ownership with, is associated 571  
or affiliated with, has control of, or is controlled by, the 572  
provider. 573

(1) An individual who is a relative of an owner is a related 574  
party. 575

(2) Common ownership exists when an individual or individuals 576  
possess significant ownership or equity in both the provider and 577  
the other organization. Significant ownership or equity exists 578  
when an individual or individuals possess five per cent ownership 579  
or equity in both the provider and a supplier. Significant 580  
ownership or equity is presumed to exist when an individual or 581  
individuals possess ten per cent ownership or equity in both the 582  
provider and another organization from which the provider 583  
purchases or leases real property. 584

(3) Control exists when an individual or organization has the 585



power, directly or indirectly, to significantly influence or	586
direct the actions or policies of an organization.	587
(4) An individual or organization that supplies goods or	588
services to a provider shall not be considered a related party if	589
all of the following conditions are met:	590
(a) The supplier is a separate bona fide organization.	591
(b) A substantial part of the supplier's business activity of	592
the type carried on with the provider is transacted with others	593
than the provider and there is an open, competitive market for the	594
types of goods or services the supplier furnishes.	595
(c) The types of goods or services are commonly obtained by	596
other nursing facilities or intermediate care facilities for the	597
mentally retarded from outside organizations and are not a basic	598
element of patient care ordinarily furnished directly to patients	599
by the facilities.	600
(d) The charge to the provider is in line with the charge for	601
the goods or services in the open market and no more than the	602
charge made under comparable circumstances to others by the	603
supplier.	604
(AA) "Relative of owner" means an individual who is related	605
to an owner of a nursing facility or intermediate care facility	606
for the mentally retarded by one of the following relationships:	607
(1) Spouse;	608
(2) Natural parent, child, or sibling;	609
(3) Adopted parent, child, or sibling;	610
(4) Stepparent, stepchild, stepbrother, or stepsister;	611
(5) Father-in-law, mother-in-law, son-in-law,	612
daughter-in-law, brother-in-law, or sister-in-law;	613

(6) Grandparent or grandchild; 614

(7) Foster caregiver, foster child, foster brother, or foster sister. 615  
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(BB) "Renovation" and "extensive renovation" mean: 617

(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992. 618  
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(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993: 623  
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(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity. 626  
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(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years. 639  
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For the purposes of division (BB) (2) of this section, the 643

cost of constructing a new bed shall be considered to be forty  
 thousand dollars, adjusted for the estimated rate of inflation  
 from January 1, 1993, to the end of the calendar year during which  
 the renovation is completed, using the consumer price index for  
 shelter costs for all urban consumers for the north central  
 region, as published by the United States bureau of labor  
 statistics.

The department of job and family services may treat a  
 renovation that costs more than eighty-five per cent of the cost  
 of constructing new beds as an extensive renovation if the  
 department determines that the renovation is more prudent than  
 construction of new beds.

(CC) "Title XIX" means Title XIX of the "Social Security  
 Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(DD) "Title XVIII" means Title XVIII of the "Social Security  
 Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended."

Delete lines 76078 through 76227, and insert:

"Sec. 5111.231. (A) As used in this section, "applicable  
 calendar year" means the following:

(1) For the purpose of the department of job and family  
 services' initial determination under division (D) of this section  
 of each peer group's cost per case-mix unit, calendar year 2003;

(2) For the purpose of the department's subsequent  
 determinations under division (D) of this section of each peer  
 group's cost per case-mix unit, the calendar year the department  
 selects.

(B) The department of job and family services shall pay a  
 provider for each of the provider's eligible nursing facilities a

per resident per day rate for direct care costs determined 673  
 semiannually by multiplying the cost per case-mix unit determined 674  
 under division (D) of this section for the facility's peer group 675  
 by the facility's semiannual case-mix score determined under 676  
 section 5111.232 of the Revised Code. 677

(C) For the purpose of determining nursing facilities' rate 678  
 for direct care costs, the department shall establish three peer 679  
 groups. 680

Each nursing facility located in any of the following 681  
 counties shall be placed in peer group one: Brown, Butler, 682  
 Clermont, Clinton, Hamilton, and Warren. 683

Each nursing facility located in any of the following 684  
 counties shall be placed in peer group two: Ashtabula, Champaign, 685  
 Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 686  
 Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 687  
 Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 688  
 Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 689  
 and Wood. 690

Each nursing facility located in any of the following 691  
 counties shall be placed in peer group three: Adams, Allen, 692  
 Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 693  
 Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 694  
 Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 695  
 Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 696  
 Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 697  
 Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 698  
 Washington, Wayne, Williams, and Wyandot. 699

(D) (1) At least once every ten years, the department shall 700  
 determine a cost per case-mix unit for each peer group established 701  
 under division (C) of this section. A cost per case-mix unit 702  
 determined under this division for a peer group shall be used for 703

subsequent years until the department redetermines it. To 704  
determine a peer group's cost per case-mix unit, the department 705  
shall do all of the following: 706

(a) Determine the cost per case-mix unit for each nursing 707  
facility in the peer group for the applicable calendar year by 708  
dividing each facility's desk-reviewed, actual, allowable, per 709  
diem direct care costs for the applicable calendar year by the 710  
facility's annual average case-mix score determined under section 711  
5111.232 of the Revised Code for the applicable calendar year. 712

(b) Subject to division (D)(2) of this section, identify 713  
which nursing facility in the peer group is at the twenty-fifth 714  
percentile of the cost per case-mix units determined under 715  
division (D)(1)(a) of this section. 716

(c) Calculate the amount that is seven per cent above the 717  
cost per case-mix unit determined under division (D)(1)(a) of this 718  
section for the nursing facility identified under division 719  
(D)(1)(b) of this section. 720

(d) Multiply the amount calculated under division (D)(1)(c) 721  
of this section by the rate of inflation for the eighteen-month 722  
period beginning on the first day of July of the applicable 723  
calendar year and ending the last day of December of the calendar 724  
year immediately following the applicable calendar year using the 725  
following: 726

(i) In the case of the initial calculation made under 727  
division (D)(1)(d) of this section, the employment cost index for 728  
total compensation, health services component, published by the 729  
United States bureau of labor statistics, as the index existed on 730  
July 1, 2005; 731

(ii) In the case of subsequent calculations made under 732  
division (D)(1)(d) of this section and except as provided in 733

division (D) (1) (d) (iii) of this section, the employment cost index 734  
for total compensation, nursing and residential care facilities 735  
occupational group, published by the United States bureau of labor 736  
statistics: 737

(iii) If the United States bureau of labor statistics ceases 738  
to publish the index specified in division (D) (1) (d) (ii) of this 739  
section, the index the bureau subsequently publishes that covers 740  
nursing facilities' staff costs. 741

(2) In making the identification under division (D) (1) (b) of 742  
this section, the department shall exclude both of the following: 743

(a) Nursing facilities that participated in the medicaid 744  
program under the same provider for less than twelve months in the 745  
applicable calendar year; 746

(b) Nursing facilities whose cost per case-mix unit is more 747  
than one standard deviation from the mean cost per case-mix unit 748  
for all nursing facilities in the nursing facility's peer group 749  
for the applicable calendar year. 750

(3) The department shall not redetermine a peer group's cost 751  
per case-mix unit under this division based on additional 752  
information that it receives after the peer group's per case-mix 753  
unit is determined. The department shall redetermine a peer 754  
group's cost per case-mix unit only if it made an error in 755  
determining the peer group's cost per case-mix unit based on 756  
information available to the department at the time of the 757  
original determination." 758

Delete lines 76432 through 76907, and insert: 759

"Sec. 5111.24. (A) As used in this section, "applicable 760  
calendar year" means the following: 761

(1) For the purpose of the department of job and family 762

services' initial determination under division (D) of this section 763  
of each peer group's rate for ancillary and support costs, 764  
calendar year 2003; 765

(2) For the purpose of the department's subsequent 766  
determinations under division (D) of this section of each peer 767  
group's rate for ancillary and support costs, the calendar year 768  
the department selects. 769

(B) The department of job and family services shall pay a 770  
provider for each of the provider's eligible nursing facilities a 771  
per resident per day rate for ancillary and support costs 772  
determined for the nursing facility's peer group under division 773  
(D) of this section. 774

(C) For the purpose of determining nursing facilities' rate 775  
for ancillary and support costs, the department shall establish 776  
six peer groups. 777

Each nursing facility located in any of the following 778  
counties shall be placed in peer group one or two: Brown, Butler, 779  
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 780  
located in any of those counties that has fewer than one hundred 781  
beds shall be placed in peer group one. Each nursing facility 782  
located in any of those counties that has one hundred or more beds 783  
shall be placed in peer group two. 784

Each nursing facility located in any of the following 785  
counties shall be placed in peer group three or four: Ashtabula, 786  
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 787  
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 788  
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 789  
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 790  
Union, and Wood. Each nursing facility located in any of those 791  
counties that has fewer than one hundred beds shall be placed in 792  
peer group three. Each nursing facility located in any of those 793

counties that has one hundred or more beds shall be placed in peer  
group four.

Each nursing facility located in any of the following  
counties shall be placed in peer group five or six: Adams, Allen,  
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana,  
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin,  
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson,  
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe,  
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland,  
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton,  
Washington, Wayne, Williams, and Wyandot. Each nursing facility  
located in any of those counties that has fewer than one hundred  
beds shall be placed in peer group five. Each nursing facility  
located in any of those counties that has one hundred or more beds  
shall be placed in peer group six.

(D) (1) At least once every ten years, the department shall  
determine the rate for ancillary and support costs for each peer  
group established under division (C) of this section. The rate for  
ancillary and support costs determined under this division for a  
peer group shall be used for subsequent years until the department  
redetermines it. To determine a peer group's rate for ancillary  
and support costs, the department shall do all of the following:

(a) Determine the rate for ancillary and support costs for  
each nursing facility in the peer group for the applicable  
calendar year by using the greater of the nursing facility's  
actual inpatient days for the applicable calendar year or the  
inpatient days the nursing facility would have had for the  
applicable calendar year if its occupancy rate had been ninety per  
cent. For the purpose of determining a nursing facility's  
occupancy rate under division (D) (1) (a) of this section, the

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department shall include any beds that the nursing facility  
removes from its medicaid-certified capacity unless the nursing  
facility also removes the beds from its licensed bed capacity.

(b) Subject to division (D)(2) of this section, identify  
which nursing facility in the peer group is at the twenty-fifth  
percentile of the rate for ancillary and support costs for the  
applicable calendar year determined under division (D)(1)(a) of  
this section.

(c) Calculate the amount that is three per cent above the  
rate for ancillary and support costs determined under division  
(D)(1)(a) of this section for the nursing facility identified  
under division (D)(1)(b) of this section.

(d) Multiply the amount calculated under division (D)(1)(c)  
of this section by the rate of inflation for the eighteen-month  
period beginning on the first day of July of the applicable  
calendar year and ending the last day of December of the calendar  
year immediately following the applicable calendar year using the  
following:

(i) In the case of the initial calculation made under  
division (D)(1)(d) of this section, the consumer price index for  
all items for all urban consumers for the north central region,  
published by the United States bureau of labor statistics, as that  
index existed on July 1, 2005:

(ii) In the case of subsequent calculations made under  
division (D)(1)(d) of this section and except as provided in  
division (D)(1)(d)(iii) of this section, the consumer price index  
for all items for all urban consumers for the midwest region,  
published by the United States bureau of labor statistics:

(iii) If the United States bureau of labor statistics ceases  
to publish the index specified in division (D)(1)(d)(ii) of this

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section, the index the bureau subsequently publishes that covers 855  
urban consumers' prices for items for the region that includes 856  
this state. 857

(2) In making the identification under division (D)(1)(b) of 858  
 this section, the department shall exclude both of the following: 859

(a) Nursing facilities that participated in the medicaid 860  
 program under the same provider for less than twelve months in the 861  
 applicable calendar year; 862

(b) Nursing facilities whose ancillary and support costs are 863  
 more than one standard deviation from the mean desk-reviewed, 864  
 actual, allowable, per diem ancillary and support cost for all 865  
 nursing facilities in the nursing facility's peer group for the 866  
 applicable calendar year. 867

(3) The department shall not redetermine a peer group's rate 868  
 for ancillary and support costs under this division based on 869  
 additional information that it receives after the rate is 870  
 determined. The department shall redetermine a peer group's rate 871  
 for ancillary and support costs only if it made an error in 872  
 determining the rate based on information available to the 873  
 department at the time of the original determination. 874

**Sec. 5111.243.** The department of job and family services 875  
 shall pay a provider for each of the provider's eligible nursing 876  
 facilities a per resident per day rate for the franchise permit 877  
 fees paid for the nursing facility. The rate shall be equal to the 878  
~~franchise permit fee for the fiscal year for which the rate is~~ 879  
~~paid~~ six dollars and twenty-five cents. 880

Between lines 76940 and 76941, insert: 881

"Sec. 5111.262. No person, other than the provider of a 882  
nursing facility, shall submit a claim for medicaid reimbursement 883

for a service provided to a nursing facility resident if the 884  
service is included in a medicaid payment made to the provider of 885  
a nursing facility under sections 5111.20 to 5111.33 of the 886  
Revised Code or in the reimbursable expenses reported on a 887  
provider's cost report for a nursing facility. No provider of a 888  
nursing facility shall submit a separate claim for medicaid 889  
reimbursement for a service provided to a resident of the nursing 890  
facility if the service is included in a medicaid payment made to 891  
the provider under sections 5111.20 to 5111.33 of the Revised Code 892  
or in the reimbursable expenses on the provider's cost report for 893  
the nursing facility." 894

In line 90904, after "5111.176," insert "5111.20,"; delete 895  
 "5111.222," 896

In line 90905, delete "5111.25," and insert "5111.243," 897

In line 90950, after "5101.072," insert "5111.263," 898

In line 97071, delete "\$3,257,696,629 \$2,481,516,614" and 899  
 insert "\$3,364,069,130 \$2,730,922,601" 900

In line 97082, add \$106,372,501 to fiscal year 2010 and 901  
 \$249,405,987 to fiscal year 2011 902

In line 97102, delete "\$347,955,251 \$365,135,000" and insert 903  
 "\$359,332,500 \$381,710,000" 904

In line 97108, add \$11,377,249 to fiscal year 2010 and 905  
 \$16,575,000 to fiscal year 2011 906

In line 97118, add \$117,749,750 to fiscal year 2010 and 907  
 \$265,980,987 to fiscal year 2011 908

Delete lines 97228 through 97326 and insert: 909

"Section 309.30.20. FISCAL YEAR 2010 MEDICAID REIMBURSEMENT 910  
 SYSTEM FOR NURSING FACILITIES 911

(A) As used in this section:	912
"Franchise permit fee," "Medicaid days," "nursing facility,"	913
and "provider" have the same meanings as in section 5111.20 of the	914
Revised Code.	915
"Nursing facility services" means nursing facility services	916
covered by the Medicaid program that a nursing facility provides	917
to a resident of the nursing facility who is a Medicaid recipient	918
eligible for Medicaid-covered nursing facility services.	919
(B) Except as otherwise provided by this section, the	920
provider of a nursing facility that has a valid Medicaid provider	921
agreement on June 30, 2009, and a valid Medicaid provider	922
agreement during fiscal year 2010 shall be paid, for nursing	923
facility services the nursing facility provides during fiscal year	924
2010, the rate calculated for the nursing facility under sections	925
5111.20 to 5111.33 of the Revised Code with the following	926
adjustments:	927
(1) The cost per case mix-unit calculated under section	928
5111.231 of the Revised Code, the rate for ancillary and support	929
costs calculated under section 5111.24 of the Revised Code, the	930
rate for tax costs calculated under section 5111.242 of the	931
Revised Code, and the rate for capital costs calculated under	932
section 5111.25 of the Revised Code shall each be adjusted as	933
follows:	934
(a) Increase the cost and rates so calculated by two per	935
cent;	936
(b) Increase the cost and rates determined under division	937
(B) (1) (a) of this section by two per cent;	938
(c) Increase the cost and rates determined under division	939
(B) (1) (b) of this section by one per cent.	940
(2) The mean payment used in the calculation of the quality	941

incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B) (1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2010 reflects the calculations made under divisions (A) (1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B) (3) (a) of this section, subtract the portion of the amount to be expended under division (E) of this section that reflects the part of the calculation made under division (E) (2) of this section.

(c) If the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2010 is more than one hundred one and seventy-five hundredths per cent of the rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2009, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for fiscal year 2010 so that the rate is not more than one hundred one and seventy-five hundredths per cent of the nursing facility's rate for June 30, 2009. If the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2010 is less

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than ninety-nine per cent of the rate the provider is paid for 973  
nursing facility services the nursing facility provides on June 974  
30, 2009, the Department shall increase the nursing facility's 975  
rate determined under division (B) of this section for fiscal year 976  
2010 so that the rate is not less than ninety-nine per cent of the 977  
nursing facility's rate for June 30, 2009. 978  
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(D) After the adjustments under divisions (B) and (C) of this 980  
section are made to a nursing facility's fiscal year 2010 rate, 981  
the Department of Job and Family Services shall increase the 982  
nursing facility's fiscal year 2010 rate by five dollars and 983  
seventy cents per Medicaid day. This increase shall be known as 984  
the workforce development incentive payment. The total amount of 985  
workforce development incentive payments paid to providers of 986  
nursing facilities shall be used to improve nursing facilities' 987  
employee retention and direct care staffing levels, including by 988  
increasing wages paid to nursing facilities' direct care staff. 989  
Not later than September 30, 2011, the Department shall submit a 990  
report to the Governor and, in accordance with section 101.68 of 991  
the Revised Code, the General Assembly detailing the impact that 992  
the workforce development incentive payments have on nursing 993  
facilities' employee retention, direct care staffing levels, and 994  
direct care staff wages. 995

(E) After the adjustment under division (D) of this section 996  
is made to a nursing facility's fiscal year 2010 rate, the 997  
Department of Job and Family Services shall increase the nursing 998  
facility's fiscal year 2010 rate by the consolidated services rate 999  
per Medicaid day. The consolidated services rate shall equal the 1000  
sum of the following: 1001

- (1) Three dollars and ninety-one cents; 1002
- (2) The amount calculated under divisions (A) (1) to (4) of 1003

section 3721.50 of the Revised Code for fiscal year 2010.

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(F) If the fiscal year 2010 rate for a nursing facility as initially determined under division (B) of this section is not subject to an adjustment under division (C) of this section, the nursing facility's rate shall not be subject to an adjustment under that division for the remainder of fiscal year 2010 regardless of any other adjustment made to the nursing facility's fiscal year 2010 rate under sections 5111.20 to 5111.33 of the Revised Code.

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(G) Not later than October 1, 2009, the Department of Job and Family Services shall determine the rates to be paid providers of nursing facilities under this section. Until the rates are determined, the Department shall continue to pay a provider the rate the provider is paid for nursing facility services the provider's nursing facility provides on June 30, 2009. When the Department determines the rates to be paid under this section, the Department shall pay the rates retroactive to July 1, 2009.

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(H) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

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(I) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2009, and a valid Medicaid provider agreement during fiscal year 2010 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

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Section 309.30. \_\_\_\_ . FISCAL YEAR 2011 MEDICAID REIMBURSEMENT

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SYSTEM FOR NURSING FACILITIES	1035
(A) As used in this section:	1036
"Fiscal year 2010 partial rate" means the total rate a	1037
provider of a nursing facility is paid for nursing facility	1038
services the nursing facility provides on June 30, 2010, less the	1039
portion of that total rate that equals the sum of the workforce	1040
development incentive payment and consolidated services rate	1041
included in the total rate pursuant to divisions (D) and (E) of	1042
Section 309.30.20 of this act.	1043
"Franchise permit fee," "Medicaid days," "nursing facility,"	1044
and "provider" have the same meanings as in section 5111.20 of the	1045
Revised Code.	1046
"Nursing facility services" means nursing facility services	1047
covered by the Medicaid program that a nursing facility provides	1048
to a resident of the nursing facility who is a Medicaid recipient	1049
eligible for Medicaid-covered nursing facility services.	1050
(B) Except as otherwise provided by this section, the	1051
provider of a nursing facility that has a valid Medicaid provider	1052
agreement on June 30, 2010, and a valid Medicaid provider	1053
agreement during fiscal year 2011 shall be paid, for nursing	1054
facility services the nursing facility provides during fiscal year	1055
2011, the rate calculated for the nursing facility under sections	1056
5111.20 to 5111.33 of the Revised Code with the following	1057
adjustments:	1058
(1) The cost per case mix-unit calculated under section	1059
5111.231 of the Revised Code, the rate for ancillary and support	1060
costs calculated under section 5111.24 of the Revised Code, the	1061
rate for tax costs calculated under section 5111.242 of the	1062
Revised Code, and the rate for capital costs calculated under	1063
section 5111.25 of the Revised Code shall each be adjusted as	1064
follows:	1065



- (a) Increase the cost and rates so calculated by two per cent; 1066  
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- (b) Increase the cost and rates determined under division (B)(1)(a) of this section by two per cent; 1068  
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- (c) Increase the cost and rates determined under division (B)(1)(b) of this section by one per cent. 1070  
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- (2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day. 1072  
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- (3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows: 1076  
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- (a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2011 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code; 1084  
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- (b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division (E) of this section that reflects the part of the calculation made under division (E)(2) of this section. 1088  
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- (c) Except as provided in division (F) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is more than one hundred two and twenty-five hundredths 1092  
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per cent of the nursing facility's fiscal year 2010 partial rate, 1096  
the Department of Job and Family Services shall reduce the nursing 1097  
facility's rate determined under division (B) of this section for 1098  
fiscal year 2011 so that the rate is not more than one hundred two 1099  
and twenty-five hundredths per cent of the nursing facility's 1100  
fiscal year 2010 partial rate. Except as provided in division (F) 1101  
of this section, if the rate determined for a nursing facility 1102  
under division (B) of this section for nursing facility services 1103  
provided during fiscal year 2011 is less than ninety-nine per cent 1104  
of the nursing facility's fiscal year 2010 partial rate, the 1105  
Department shall increase the nursing facility's rate determined 1106  
under division (B) of this section for fiscal year 2011 so that 1107  
the rate is not less than ninety-nine per cent of the nursing 1108  
facility's fiscal year 2010 partial rate. 1109  
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(D) After the adjustments under divisions (B) and (C) of this 1111  
section are made to a nursing facility's fiscal year 2011 rate, 1112  
the Department of Job and Family Services shall increase the 1113  
nursing facility's fiscal year 2011 rate by five dollars and 1114  
seventy cents per Medicaid day. This increase shall be known as 1115  
the workforce development incentive payment. The total amount of 1116  
workforce development incentive payments paid to providers of 1117  
nursing facilities shall be used to improve nursing facilities' 1118  
employee retention and direct care staffing levels, including by 1119  
increasing wages paid to nursing facilities' direct care staff. 1120  
Not later than September 30, 2012, the Department shall submit a 1121  
report to the Governor and, in accordance with section 101.68 of 1122  
the Revised Code, the General Assembly detailing the impact that 1123  
the workforce development incentive payments have on nursing 1124  
facilities' employee retention, direct care staffing levels, and 1125  
direct care staff wages. 1126

(E) After the adjustment under division (D) of this section 1127

is made to a nursing facility's fiscal year 2011 rate, the  
Department of Job and Family Services shall increase the nursing  
facility's fiscal year 2011 rate by the consolidated services rate  
per Medicaid day. The consolidated services rate shall equal the  
sum of the following:

(1) Three dollars and ninety-one cents;

(2) The amount calculated under divisions (A) (1) to (4) of  
section 3721.50 of the Revised Code for fiscal year 2011.

(F) If the fiscal year 2010 rate for a nursing facility as  
initially determined under division (B) of section 309.30.20 of  
this act is not subject to an adjustment under division (C) of  
that section, the nursing facility's fiscal year 2011 rate as  
initially determined under division (B) of this section shall not  
be subject to an adjustment under division (C) of this section  
regardless of whether the nursing facility's fiscal year 2011 rate  
as initially determined under division (B) of this section would,  
if not for this division, be subject to the adjustment.

If the fiscal year 2011 rate for a nursing facility as  
initially determined under division (B) of this section is not  
subject to an adjustment under division (C) of this section, the  
nursing facility's rate shall not be subject to an adjustment  
under that division for the remainder of fiscal year 2011  
regardless of any other adjustment made to the nursing facility's  
fiscal year 2011 rate under sections 5111.20 to 5111.33 of the  
Revised Code.

(G) Not later than October 1, 2010, the Department of Job and  
Family Services shall determine the rates to be paid providers of  
nursing facilities under this section. Until the rates are  
determined, the Department shall continue to pay a provider the  
rate the provider is paid for nursing facility services the  
provider's nursing facility provides on June 30, 2010. When the

Department determines the rates to be paid under this section, the 1159  
 Department shall pay the rates retroactive to July 1, 2010. 1160

(H) If the United States Centers for Medicare and Medicaid 1161  
 Services requires that the franchise permit fee be reduced or 1162  
 eliminated, the Department of Job and Family Services shall reduce 1163  
 the amount it pays providers of nursing facility services under 1164  
 this section as necessary to reflect the loss to the state of the 1165  
 revenue and federal financial participation generated from the 1166  
 franchise permit fee. 1167

(I) The Department of Job and Family Services shall follow 1168  
 this section in determining the rate to be paid to the provider of 1169  
 a nursing facility that has a valid Medicaid provider agreement on 1170  
 June 30, 2010, and a valid Medicaid provider agreement during 1171  
 fiscal year 2011 notwithstanding anything to the contrary in 1172  
 sections 5111.20 to 5111.33 of the Revised Code." 1173

In line 97345, delete ", as" 1174

In line 97346, delete "as amended by this act" 1175

Between lines 98090 and 98091, insert: 1176

"The Director of Budget and Management shall transfer 1177  
 \$4,700,000 cash in fiscal year 2010 and \$3,200,000 cash in fiscal 1178  
 year 2011 from the Medicaid Program Support Fund (Fund 5C90) to 1179  
 the Nursing Facility Stabilization Fund (Fund 5R20)." 1180

In line 106552, delete "or" and insert a comma; after 1181  
 "enactment" insert ", or repeal" 1182

In line 106554, delete "5111.222," and insert "5111.20,"; 1183  
 delete "5111.25," and insert "5111.243, 5111.262, 5111.263," 1184

In line 149 of the title, after "5111.176," insert 1185  
 "5111.20,"; delete "5111.222," 1186

In line 150 of the title, delete "5111.25," and insert 1187

"5111.243,"	1188
In line 213 of the title, after "5111.236," insert	1189
"5111.262,"	1190
In line 243 of the title, after "5101.072," insert	1191
"5111.263,"	1192

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Nursing Home Franchise Permit Fee	1193
R.C. 3721.50, 3721.51, 3721.511, 3721.53, and 3721.56	1194
Creates a new formula for determining the franchise permit	1195
fee on nursing home beds and hospitals' long-term care beds that	1196
is based in part on 5.5% of net patient revenues and a base of	1197
\$11.95.	1198
Requires ODJFS to recalculate the franchise permit fee if the	1199
amount assessed by the fee for a fiscal year exceeds 5.5% of the	1200
actual net patient revenue for all nursing homes and hospital	1201
long-term care units for that fiscal year and to credit nursing	1202
homes' and hospitals' franchise permit fees for the following	1203
fiscal year.	1204
Requires ODJFS to apply for a waiver regarding reductions in	1205
the franchise permit fee not later than four months, rather than	1206
one month, after the effective date of this provision of the bill.	1207
Requires ODJFS to determine the amount of the franchise	1208
permit fee for a fiscal year not later than the fifteenth day of	1209
September, rather than August, of that fiscal year and to mail	1210
each nursing home and hospital notice of the amount of the	1211

franchise permit fee not later than the fifteenth day of October, 1212  
 rather than September, of that fiscal year. 1213

Provides that the first installment payment of the franchise 1214  
 permit fee for a fiscal year is due not later than 45 days after 1215  
 the last day of October, rather than September, of that fiscal 1216  
 year. 1217

Creates a formula for determining how much of the money 1218  
 raised by the franchise permit fee is to be deposited into the 1219  
 Home and Community-Based Services for the Aged Fund rather than, 1220  
 as under current law, specifying the percentage. 1221

**Future Nursing Facility Medicaid Rate Adjustments 1222**

**R.C. 5111.222 1223**

Removes the bill's provision that requires ODJFS, beginning 1224  
 in fiscal year 2013, to adjust nursing facilities' total Medicaid 1225  
 rates annually by the market basket index used in calculating 1226  
 skilled nursing facilities' Medicare rates. 1227

**Adjustments to Direct Care and Ancillary and Support Rates 1228**

**R.C. 5111.20, 5111.231, and 5111.24 1229**

Removes the bill's provisions that (1) revise the law 1230  
 governing nursing facilities' Medicaid rates for direct care costs 1231  
 by (a) using the nursing facility in each peer group that is at 1232  
 the median, rather than 25th percentile, of the cost per case-mix 1233  
 unit in a certain calculation and (b) changing the percentage used 1234  
 in that calculation, (2) revise the law governing nursing 1235  
 facilities' Medicaid rates for ancillary and support costs by 1236  
 changing, beginning with fiscal year 2012, (a) the percentile used 1237  
 in determining which nursing facility in each peer group is to be 1238  
 used in a certain calculation and (b) the percentage used in that 1239  
 calculation, and (3) require ODJFS to use various factors from 1240  
 calendar year 2003 in determining the nursing facilities' rates 1241

for direct care and ancillary and support costs until fiscal year 2015 rates are calculated. 1242  
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Provides that the costs of oxygen, rather than just emergency oxygen, are reimbursable as part of a nursing facility's direct care costs. 1244  
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Adds the costs of over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, and audiologists to the costs that are reimbursable as part of a nursing facility's direct care costs. 1247  
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Adds wheelchairs and resident transportation to the costs that are reimbursable as part of a nursing facility's ancillary and support costs. 1252  
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**Inflation Adjustments Used in Nursing Facility Rates** 1255

**R.C. 5111.231 and 5111.24** 1256

Revises the bill's provisions regarding the inflation indexes ODJFS is to use in calculating nursing facilities' Medicaid rates for direct care costs and ancillary and support costs by delaying the use of different indexes until ODJFS ceases using its initial calculations of peer groups' direct care and ancillary and support costs. 1257  
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**Franchise Permit Fee Rates** 1263

**R.C. 5111.243** 1264

Sets the Medicaid reimbursement rate paid to nursing facilities for the franchise permit fee at \$6.25 per resident per day rather than, as under current law, the amount of the franchise permit fee per resident per day. 1265  
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**Nursing Facilities' Medicaid Rates for Capital Costs** 1269

**R.C. 5111.25 (primary) and 5111.222** 1270

Removes the bill's provision that provides that a nursing facility's Medicaid rate for capital costs cannot be less than the sum of (1) the capital costs portion of its fiscal year 2005 rate or, if it did not have a fiscal year 2005 Medicaid rate, its initial Medicaid rate for capital costs and (2) any capital compensation per diem for which it qualified during the first three quarters of fiscal year 2008.

#### **Prohibitions on Certain Medicaid Billings**

##### **R.C. 5111.262**

Prohibits persons, other than nursing facility providers, from billing the Medicaid program for a service provided to a nursing facility resident if the service is included in a Medicaid payment to the nursing facility's provider or in the reimbursable expenses reported on the provider's Medicaid cost report.

Prohibits a nursing facility provider from submitting a separate Medicaid claim for a service provided to a resident if the service is included in a Medicaid payment made to the provider under the statutory price formula or in the reimbursable expenses on the provider's Medicaid cost report.

#### **Costs of Therapy and Covered Therapy Services**

##### **R.C. 5111.263 (repealed)**

Repeals law that provides, with an exception, that costs of therapy are not allowable costs for nursing facilities for purposes of calculating their reimbursement rate under the statutory price formula and law that establishes restrictions on nursing facilities' billing for covered therapy services.

#### **FY 2010 and FY 2011 Nursing Facility Medicaid Rates**

##### **Sections 309.30.20 and 309.30.\_\_\_\_**

Removes the adjustments made by the House and Senate to the



formula to be used to calculate nursing facilities' Medicaid rates 1300  
 for fiscal years 2010 and 2011 so that the only adjustments are 1301  
 those included in the Executive's version of the bill and the 1302  
 following adjustments: 1303

(1) A nursing facility's fiscal years 2010 and 2011 rate as 1304  
 determined under the price formula established by statute is to be 1305  
 further adjusted by a percentage to be based on the amount of 1306  
 revenue available due to a portion of the franchise permit fee 1307  
 after the consolidated services rate adjustment is applied; 1308

(2) A nursing facility's fiscal year 2010 rate as determined 1309  
 under the statutory price formula, after certain adjustments are 1310  
 made but before the workforce development incentive payment and 1311  
 the consolidated services rate adjustments are made, cannot be 1312  
 more than 101.75% (stop gain) or less than 99% (stop loss) of its 1313  
 fiscal year 2009 rate; 1314

(3) Imposes a stop gain reduction on a nursing facility's 1315  
 fiscal year 2011 rate as determined under the statutory price 1316  
 formula and after certain adjustments are made but before the 1317  
 workforce development incentive payment and the consolidated 1318  
 services rate adjustments are made if that rate is more than 1319  
 102.25% of its fiscal year 2010 rate, less the portion of its 1320  
 fiscal year 2010 rate that equals the sum of the workforce 1321  
 development incentive payment and the consolidated services rate 1322  
 adjustments for that fiscal year; 1323

(4) Imposes a stop loss increase on a nursing facility's 1324  
 fiscal year 2011 rate as determined under the statutory price 1325  
 formula and after certain adjustments are made but before the 1326  
 workforce development incentive payment and the consolidated 1327  
 services rate adjustments are made if that rate is less than 99% 1328  
 of its fiscal year 2010 rate, less the portion of its fiscal year 1329  
 2010 rate that equals the sum of the workforce development 1330

incentive payment and the consolidated services rate adjustments 1331  
for that fiscal year; 1332

(5) A nursing facility's fiscal year 2010 and 2011 rates are 1333  
not to be subjected to a stop gain or stop loss adjustment, 1334  
regardless of later statutory adjustments, if its initial rate for 1335  
the fiscal year was not subject to a stop gain or stop loss 1336  
adjustment and a nursing facility's fiscal year 2011 rate is not 1337  
to be subjected to a stop gain or stop loss adjustment even though 1338  
its initial rate for fiscal year 2011 is an amount that normally 1339  
would be subjected to the adjustment, if its initial rate for 1340  
fiscal year 2010 is an amount that is not subject to a stop gain 1341  
or stop loss adjustment for fiscal year 2010; 1342

(6) A nursing facility's total rate for fiscal years 2010 and 1343  
2011, after application of the stop gain and stop loss 1344  
adjustments, is to be increased by \$5.70 for purposes of a 1345  
workforce development incentive payment and further increased by a 1346  
consolidated services rate. 1347

Requires ODJFS to determine nursing facilities' fiscal year 1348  
2010 rates not later than October 1, 2009, and to pay the rates 1349  
retroactive to July 1, 2009. 1350

Requires ODJFS to determine nursing facilities' fiscal year 1351  
2011 rates not later than October 1, 2010, and to pay the rates 1352  
retroactive to July 1, 2010. 1353

**Department of Job and Family Services** 1354

**Sections 309.10 and 309.32.20** 1355

Increases the appropriation to line item 600608, Medicaid - 1356  
Nursing Facilities, by \$11,377,249 in FY 2010 and \$16,575,000 in 1357  
FY 2011. Increases the appropriation to appropriation item 600623, 1358  
Health Care Federal, by \$106,372,501 in FY 2010 and \$249,405,987 1359  
in FY 2011 (to reflect changes made by this amendment and updated 1360

conference estimates provided by ODJFS).

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Requires the Director of Budget and Management to transfer  
\$4.7 million in FY 2010 and \$3.2 million in FY 2011 from the  
Medicaid Program Support Fund (Fund 5C90) to the Nursing Facility  
Stabilization Fund (Fund 5R20).

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Am. Sub H.B. 1  
As Passed by the Senate  
CC-4999  
DRC-18

6 \_\_\_\_\_ moved to amend as follows:

7 In line 101406, delete "shall" and insert "may"

8 In line 101411, delete "Proposals shall be solicited"

9 In line 101412, delete "through a request for proposals"  
10 and insert, "If the Department develops a pilot project, private  
11 correctional health care contractors shall be selected through a  
12 request for proposal process"

13 In line 101437, delete "The" and insert "If the Department  
14 develops the"; after "project" insert ", it"

15 In line 101438, delete the third comma and insert "and  
16 shall be"

17 The motion was \_\_\_\_\_ agreed to.

18 SYNOPSIS

19 **Pilot Project for the Contractual Provision of Inmate**  
20 **Healthcare**

21 **Section 375.20**

22 Permits, instead of requires, the Department of  
23 Rehabilitation and Correction to develop, oversee, and evaluate  
24 a 2-year pilot project for the provision of comprehensive health  
25 care services to inmates by private contractors.

Am. Sub. H.B. 1

As Passed by the Senate

CC-5000-1

CV-3

\_\_\_\_\_ moved to amend as follows:

In line 375, after "4105.17," insert "4112.01, 4112.04,  
4112.05, 4112.051,"

Between lines 60897 and 60898, insert:

"Sec. 4112.01. (A) As used in this chapter:

(1) "Person" includes one or more individuals, partnerships,  
associations, organizations, corporations, legal representatives,  
trustees, trustees in bankruptcy, receivers, and other organized  
groups of persons. "Person" also includes, but is not limited to,  
any owner, lessor, assignor, builder, manager, broker,  
salesperson, appraiser, agent, employee, lending institution, and  
the state and all political subdivisions, authorities, agencies,  
boards, and commissions of the state.

(2) "Employer" includes the state, any political subdivision  
of the state, any person employing four or more persons within the  
state, and any person acting directly or indirectly in the  
interest of an employer.

(3) "Employee" means an individual employed by any employer  
but does not include any individual employed in the domestic  
service of any person.

- (4) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.
- (5) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer, or place employees.
- (6) "Commission" means the Ohio civil rights commission created by section 4112.03 of the Revised Code.
- (7) "Discriminate" includes segregate or separate.
- (8) "Unlawful discriminatory practice" means any act prohibited by section 4112.02, 4112.021, or 4112.022 of the Revised Code.
- (9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.
- (10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, by any other

person pursuant to authorization of the owner, by the owner, or by  
the owner's legal representative. 50  
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(11) "Restrictive covenant" means any specification limiting 52  
the transfer, rental, lease, or other use of any housing 53  
accommodations because of race, color, religion, sex, military 54  
status, familial status, national origin, disability, or ancestry, 55  
or any limitation based upon affiliation with or approval by any 56  
person, directly or indirectly, employing race, color, religion, 57  
sex, military status, familial status, national origin, 58  
disability, or ancestry as a condition of affiliation or approval. 59

(12) "Burial lot" means any lot for the burial of deceased 60  
persons within any public burial ground or cemetery, including, 61  
but not limited to, cemeteries owned and operated by municipal 62  
corporations, townships, or companies or associations incorporated 63  
for cemetery purposes. 64

(13) "Disability" means a physical or mental impairment that 65  
substantially limits one or more major life activities, including 66  
the functions of caring for one's self, performing manual tasks, 67  
walking, seeing, hearing, speaking, breathing, learning, and 68  
working; a record of a physical or mental impairment; or being 69  
regarded as having a physical or mental impairment. 70

(14) Except as otherwise provided in section 4112.021 of the 71  
Revised Code, "age" means at least forty years old. 72

(15) "Familial status" means either of the following: 73

(a) One or more individuals who are under eighteen years of 74  
age and who are domiciled with a parent or guardian having legal 75  
custody of the individual or domiciled, with the written 76  
permission of the parent or guardian having legal custody, with a 77  
designee of the parent or guardian; 78

(b) Any person who is pregnant or in the process of securing 79

legal custody of any individual who is under eighteen years of	80
age.	81
(16) (a) Except as provided in division (A) (16) (b) of this	82
section, "physical or mental impairment" includes any of the	83
following:	84
(i) Any physiological disorder or condition, cosmetic	85
disfigurement, or anatomical loss affecting one or more of the	86
following body systems: neurological; musculoskeletal; special	87
sense organs; respiratory, including speech organs;	88
cardiovascular; reproductive; digestive; genito-urinary; hemic and	89
lymphatic; skin; and endocrine;	90
(ii) Any mental or psychological disorder, including, but not	91
limited to, mental retardation, organic brain syndrome, emotional	92
or mental illness, and specific learning disabilities;	93
(iii) Diseases and conditions, including, but not limited to,	94
orthopedic, visual, speech, and hearing impairments, cerebral	95
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis,	96
cancer, heart disease, diabetes, human immunodeficiency virus	97
infection, mental retardation, emotional illness, drug addiction,	98
and alcoholism.	99
(b) "Physical or mental impairment" does not include any of	100
the following:	101
(i) Homosexuality and bisexuality;	102
(ii) Transvestism, transsexualism, pedophilia, exhibitionism,	103
voyeurism, gender identity disorders not resulting from physical	104
impairments, or other sexual behavior disorders;	105
(iii) Compulsive gambling, kleptomania, or pyromania;	106
(iv) Psychoactive substance use disorders resulting from the	107
current illegal use of a controlled substance or the current use	108



of alcoholic beverages.	109
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	110 111
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	112 113 114 115 116 117
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	118 119 120
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	121 122
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	123 124
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	125 126 127
<u>(23) "Aggrieved person" includes both of the following:</u>	128
<u>(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code;</u>	129 130 131
<u>(b) Any person who believes that the person will be injured by, any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code that is about to occur.</u>	132 133 134 135
(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on	136 137

the basis of sex" include, but are not limited to, because of or 138  
on the basis of pregnancy, any illness arising out of and 139  
occurring during the course of a pregnancy, childbirth, or related 140  
medical conditions. Women affected by pregnancy, childbirth, or 141  
related medical conditions shall be treated the same for all 142  
employment-related purposes, including receipt of benefits under 143  
fringe benefit programs, as other persons not so affected but 144  
similar in their ability or inability to work, and nothing in 145  
division (B) of section 4111.17 of the Revised Code shall be 146  
interpreted to permit otherwise. This division shall not be 147  
construed to require an employer to pay for health insurance 148  
benefits for abortion, except where the life of the mother would 149  
be endangered if the fetus were carried to term or except where 150  
medical complications have arisen from the abortion, provided that 151  
nothing in this division precludes an employer from providing 152  
abortion benefits or otherwise affects bargaining agreements in 153  
regard to abortion. 154

**Sec. 4112.04.** (A) The commission shall do all of the 155  
following: 156

(1) Establish and maintain a principal office in the city of 157  
Columbus and any other offices within the state that it considers 158  
necessary; 159

(2) Appoint an executive director who shall serve at the 160  
pleasure of the commission and be its principal administrative 161  
officer. The executive director shall be paid a salary fixed 162  
pursuant to Chapter 124. of the Revised Code. 163

(3) Appoint hearing examiners and other employees and agents 164  
who it considers necessary and prescribe their duties subject to 165  
Chapter 124. of the Revised Code; 166

(4) Adopt, promulgate, amend, and rescind rules to effectuate 167

the provisions of this chapter and the policies and practice of	168
the commission in connection with this chapter;	169
(5) Formulate policies to effectuate the purposes of this	170
chapter and make recommendations to agencies and officers of the	171
state or political subdivisions to effectuate the policies;	172
(6) Receive, investigate, and pass upon written charges made	173
under oath of unlawful discriminatory practices;	174
(7) Make periodic surveys of the existence and effect of	175
discrimination because of race, color, religion, sex, military	176
status, familial status, national origin, disability, age, or	177
ancestry on the enjoyment of civil rights by persons within the	178
state;	179
(8) Report, from time to time, but not less than once a year,	180
to the general assembly and the governor, describing in detail the	181
investigations, proceedings, and hearings it has conducted and	182
their outcome, the decisions it has rendered, and the other work	183
performed by it, which report shall include a copy of any surveys	184
prepared pursuant to division (A) (7) of this section and shall	185
include the recommendations of the commission as to legislative or	186
other remedial action;	187
(9) Prepare a comprehensive educational program, in	188
cooperation with the department of education, for the students of	189
the public schools of this state and for all other residents of	190
this state that is designed to eliminate prejudice on the basis of	191
race, color, religion, sex, military status, familial status,	192
national origin, disability, age, or ancestry in this state, to	193
further good will among those groups, and to emphasize the origin	194
of prejudice against those groups, its harmful effects, and its	195
incompatibility with American principles of equality and fair	196
play;	197

(10) Receive progress reports from agencies,	198
instrumentalities, institutions, boards, commissions, and other	199
entities of this state or any of its political subdivisions and	200
their agencies, instrumentalities, institutions, boards,	201
commissions, and other entities regarding affirmative action	202
programs for the employment of persons against whom discrimination	203
is prohibited by this chapter, or regarding any affirmative	204
housing accommodations programs developed to eliminate or reduce	205
an imbalance of race, color, religion, sex, military status,	206
familial status, national origin, disability, or ancestry. All	207
agencies, instrumentalities, institutions, boards, commissions,	208
and other entities of this state or its political subdivisions,	209
and all political subdivisions, that have undertaken affirmative	210
action programs pursuant to a conciliation agreement with the	211
commission, an executive order of the governor, any federal	212
statute or rule, or an executive order of the president of the	213
United States shall file progress reports with the commission	214
annually on or before the first day of November. The commission	215
shall analyze and evaluate the progress reports and report its	216
findings annually to the general assembly on or before the	217
thirtieth day of January of the year immediately following the	218
receipt of the reports.	219
(B) The commission may do any of the following:	220
(1) Meet and function at any place within the state;	221
(2) Initiate and undertake on its own motion investigations	222
of problems of employment or housing accommodations	223
discrimination;	224
(3) Hold hearings, subpoena witnesses, compel their	225
attendance, administer oaths, take the testimony of any person	226
under oath, require the production for examination of any books	227
and papers relating to any matter under investigation or in	228

question before the commission, and make rules as to the issuance of subpoenas by individual commissioners. 229  
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(a) In conducting a hearing or investigation, the commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy the premises, records, documents, and other evidence or possible sources of evidence and take and record the testimony or statements of the individuals as reasonably necessary for the furtherance of the hearing or investigation. In investigations, the commission shall comply with the fourth amendment to the United States Constitution relating to unreasonable searches and seizures. The commission or a member of the commission may issue subpoenas to compel access to or the production of premises, records, documents, and other evidence or possible sources of evidence or the appearance of individuals, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in a court of common pleas. 231  
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(b) Upon written application by a ~~respondent~~ party to a hearing under division (B) of section 4112.05 of the Revised Code, the commission shall issue subpoenas in its name to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a ~~respondent~~ party shall show on their face the name and address of the ~~respondent~~ party and shall state that they were issued at the ~~respondent's~~ party's request. 248  
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(c) Witnesses summoned by subpoena of the commission are entitled to the same witness and mileage fees as are witnesses in proceedings in a court of common pleas. 256  
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(d) Within five days after service of a subpoena upon any 259

person, the person may petition the commission to revoke or modify 260  
the subpoena. The commission shall grant the petition if it finds 261  
that the subpoena requires an appearance or attendance at an 262  
unreasonable time or place, that it requires production of 263  
evidence that does not relate to any matter before the commission, 264  
that it does not describe with sufficient particularity the 265  
evidence to be produced, that compliance would be unduly onerous, 266  
or for other good reason. 267

(e) In case of contumacy or refusal to obey a subpoena, the 268  
commission or person at whose request it was issued may petition 269  
for its enforcement in the court of common pleas in the county in 270  
which the person to whom the subpoena was addressed resides, was 271  
served, or transacts business. 272

(4) Create local or statewide advisory agencies and 273  
conciliation councils to aid in effectuating the purposes of this 274  
chapter. The commission may itself, or it may empower these 275  
agencies and councils to, do either or both of the following: 276

(a) Study the problems of discrimination in all or specific 277  
fields of human relationships when based on race, color, religion, 278  
sex, military status, familial status, national origin, 279  
disability, age, or ancestry; 280

(b) Foster through community effort, or otherwise, good will 281  
among the groups and elements of the population of the state. 282

The agencies and councils may make recommendations to the 283  
commission for the development of policies and procedures in 284  
general. They shall be composed of representative citizens who 285  
shall serve without pay, except that reimbursement for actual and 286  
necessary traveling expenses shall be made to citizens who serve 287  
on a statewide agency or council. 288

(5) Issue any publications and the results of investigations 289

and research that in its judgment will tend to promote good will 290  
 and minimize or eliminate discrimination because of race, color, 291  
 religion, sex, military status, familial status, national origin, 292  
 disability, age, or ancestry. 293

Sec. 4112.05. (A) The commission, as provided in this 294  
 section, shall prevent any person from engaging in unlawful 295  
 discriminatory practices, provided that, before instituting the 296  
 formal hearing authorized by division (B) of this section, it 297  
 shall attempt, by informal methods of conference, conciliation, 298  
 and persuasion, to induce compliance with this chapter. 299

(B) (1) Any person may file a charge with the commission 300  
 alleging that another person has engaged or is engaging in an 301  
 unlawful discriminatory practice. In the case of a charge alleging 302  
 an unlawful discriminatory practice described in division (A), 303  
 (B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in 304  
 section 4112.021 or 4112.022 of the Revised Code, the charge shall 305  
 be in writing and under oath and shall be filed with the 306  
 commission within six months after the alleged unlawful 307  
 discriminatory practice was committed. In the case of a charge 308  
 alleging an unlawful discriminatory practice described in division 309  
 (H) of section 4112.02 of the Revised Code, the charge shall be in 310  
 writing and under oath and shall be filed with the commission 311  
 within one year after the alleged unlawful discriminatory practice 312  
 was committed. 313

(2) Upon receiving a charge, the commission may initiate a 314  
 preliminary investigation to determine whether it is probable that 315  
 an unlawful discriminatory practice has been or is being engaged 316  
 in. The commission also may conduct, upon its own initiative and 317  
 independent of the filing of any charges, a preliminary 318  
 investigation relating to any of the unlawful discriminatory 319  
 practices described in division (A), (B), (C), (D), (E), (F), (I), 320

or (J) of section 4112.02 or in section 4112.021 or 4112.022 of  
the Revised Code. Prior to a notification of a complainant under  
division (B) (4) of this section or prior to the commencement of  
informal methods of conference, conciliation, and persuasion under  
that division, the members of the commission and the officers and  
employees of the commission shall not make public in any manner  
and shall retain as confidential all information that was obtained  
as a result of or that otherwise pertains to a preliminary  
investigation other than one described in division (B) (3) of this  
section.

(3) (a) Unless it is impracticable to do so and subject to its  
authority under division (B) (3) (d) of this section, the commission  
shall complete a preliminary investigation of a charge filed  
pursuant to division (B) (1) of this section that alleges an  
unlawful discriminatory practice described in division (H) of  
section 4112.02 of the Revised Code, and shall take one of the  
following actions, within one hundred days after the filing of the  
charge:

(i) Notify the complainant and the respondent that it is not  
probable that an unlawful discriminatory practice described in  
division (H) of section 4112.02 of the Revised Code has been or is  
being engaged in and that the commission will not issue a  
complaint in the matter;

(ii) Initiate a complaint and schedule it for informal  
methods of conference, conciliation, and persuasion;

(iii) Initiate a complaint and refer it to the attorney  
general with a recommendation to seek a temporary or permanent  
injunction or a temporary restraining order. If this action is  
taken, the attorney general shall apply, as expeditiously as  
possible after receipt of the complaint, to the court of common  
pleas of the county in which the unlawful discriminatory practice



allegedly occurred for the appropriate injunction or order, and 352  
the court shall hear and determine the application as 353  
expeditiously as possible. 354

(b) If it is not practicable to comply with the requirements 355  
of division (B) (3) (a) of this section within the one-hundred-day 356  
period described in that division, the commission shall notify the 357  
complainant and the respondent in writing of the reasons for the 358  
noncompliance. 359

(c) Prior to the issuance of a complaint under division 360  
(B) (3) (a) (ii) or (iii) of this section or prior to a notification 361  
of the complainant and the respondent under division (B) (3) (a) (i) 362  
of this section, the members of the commission and the officers 363  
and employees of the commission shall not make public in any 364  
manner and shall retain as confidential all information that was 365  
obtained as a result of or that otherwise pertains to a 366  
preliminary investigation of a charge filed pursuant to division 367  
(B) (1) of this section that alleges an unlawful discriminatory 368  
practice described in division (H) of section 4112.05 of the 369  
Revised Code. 370

(d) Notwithstanding the types of action described in 371  
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 372  
issuance of a complaint or the referral of a complaint to the 373  
attorney general and prior to endeavoring to eliminate an unlawful 374  
discriminatory practice described in division (H) of section 375  
4112.02 of the Revised Code by informal methods of conference, 376  
conciliation, and persuasion, the commission may seek a temporary 377  
or permanent injunction or a temporary restraining order in the 378  
court of common pleas of the county in which the unlawful 379  
discriminatory practice allegedly occurred. 380

(4) If the commission determines after a preliminary 381  
investigation other than one described in division (B) (3) of this 382

section that it is not probable that an unlawful discriminatory practice has been or is being engaged in, it shall notify any complainant under division (B)(1) of this section that it has so determined and that it will not issue a complaint in the matter. If the commission determines after a preliminary investigation other than the one described in division (B)(3) of this section that it is probable that an unlawful discriminatory practice has been or is being engaged in, it shall endeavor to eliminate the practice by informal methods of conference, conciliation, and persuasion.

(5) Nothing said or done during informal methods of conference, conciliation, and persuasion under this section shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding. If, after a preliminary investigation and the use of informal methods of conference, conciliation, and persuasion under this section, the commission is satisfied that any unlawful discriminatory practice will be eliminated, it may treat the charge involved as being conciliated and enter that disposition on the records of the commission. If the commission fails to effect the elimination of an unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion under this section and to obtain voluntary compliance with this chapter, the commission shall issue and cause to be served upon any person, including the respondent against whom a complainant has filed a charge pursuant to division (B)(1) of this section, a complaint stating the charges involved and containing a notice of an opportunity for a hearing before the commission, a member of the commission, or a hearing examiner at a place that is stated in the notice and that is located within the county in which the alleged unlawful discriminatory practice has occurred or is occurring or in which the respondent resides or transacts business. The hearing

shall be held not less than thirty days after the service of the  
complaint upon the complainant, the aggrieved persons other than  
the complainant on whose behalf the complaint is issued, and the  
respondent, unless the complainant, an aggrieved person, or the  
respondent elects to proceed under division (A) (2) of section  
4112.051 of the Revised Code when that division is applicable. If  
a complaint pertains to an alleged unlawful discriminatory  
practice described in division (H) of section 4112.02 of the  
Revised Code, the complaint shall notify the complainant, an  
aggrieved person, and the respondent of the right of the  
complainant, an aggrieved person, or the respondent to elect to  
proceed with the administrative hearing process under this section  
or to proceed under division (A) (2) of section 4112.051 of the  
Revised Code.

(6) The attorney general shall represent the commission at  
any hearing held pursuant to division (B) (5) of this section and  
shall present the evidence in support of the complaint.

(7) Any complaint issued pursuant to division (B) (5) of this  
section after the filing of a charge under division (B) (1) of this  
section shall be so issued within one year after the complainant  
filed the charge with respect to an alleged unlawful  
discriminatory practice.

(C) Any complaint issued pursuant to division (B) of this  
section may be amended by the commission, a member of the  
commission, or the hearing examiner conducting a hearing under  
division (B) of this section, at any time prior to or during the  
hearing. The respondent has the right to file an answer or an  
amended answer to the original and amended complaints and to  
appear at the hearing in person, by attorney, or otherwise to  
examine and cross-examine witnesses.

(D) The complainant shall be a party to a hearing under

division (B) of this section, and any person who is an 446  
indispensable party to a complete determination or settlement of a 447  
question involved in the hearing shall be joined. Any aggrieved 448  
person who has or claims an interest in the subject of the hearing 449  
and in obtaining or preventing relief against the unlawful 450  
discriminatory practices complained of ~~may shall~~ be permitted, ~~in~~ 451  
~~the discretion of the person or persons conducting the hearing,~~ to 452  
appear only for the presentation of oral or written arguments, to 453  
present evidence, perform direct and cross-examination, and be 454  
represented by counsel. The commission shall adopt rules, in 455  
accordance with Chapter 119. of the Revised Code governing the 456  
authority granted under this division. 457

(E) In any hearing under division (B) of this section, the 458  
commission, a member of the commission, or the hearing examiner 459  
shall not be bound by the Rules of Evidence but, in ascertaining 460  
the practices followed by the respondent, shall take into account 461  
all reliable, probative, and substantial statistical or other 462  
evidence produced at the hearing that may tend to prove the 463  
existence of a predetermined pattern of employment or membership, 464  
provided that nothing contained in this section shall be construed 465  
to authorize or require any person to observe the proportion that 466  
persons of any race, color, religion, sex, military status, 467  
familial status, national origin, disability, age, or ancestry 468  
bear to the total population or in accordance with any criterion 469  
other than the individual qualifications of the applicant. 470

(F) The testimony taken at a hearing under division (B) of 471  
this section shall be under oath and shall be reduced to writing 472  
and filed with the commission. Thereafter, in its discretion, the 473  
commission, upon the service of a notice upon the complainant and 474  
the respondent that indicates an opportunity to be present, may 475  
take further testimony or hear argument. 476

(G) (1) If, upon all reliable, probative, and substantial evidence presented at a hearing under division (B) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice, whether against the complainant or others, the commission shall state its findings of fact and conclusions of law and shall issue and, subject to the provisions of Chapter 119. of the Revised Code, cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice, requiring the respondent to take any further affirmative or other action that will effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration to union membership, and requiring the respondent to report to the commission the manner of compliance. If the commission directs payment of back pay, it shall make allowance for interim earnings. If it finds a violation of division (H) of section 4112.02 of the Revised Code, the commission additionally shall require the respondent to pay actual damages and reasonable attorney's fees, and may award to the complainant punitive damages as follows:

(a) If division (G) (1) (b) or (c) of this section does not apply, punitive damages in an amount not to exceed ten thousand dollars;

(b) If division (G) (1) (c) of this section does not apply and if the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed one violation of division (H) of section 4112.02 of the Revised Code during the five-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed twenty-five thousand dollars;

(c) If the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed two or more violations of division (H) of section 4112.02 of the Revised Code during the seven-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed fifty thousand dollars.

(2) Upon the submission of reports of compliance, the commission may issue a declaratory order stating that the respondent has ceased to engage in particular unlawful discriminatory practices.

(H) If the commission finds that no probable cause exists for crediting charges of unlawful discriminatory practices or if, upon all the evidence presented at a hearing under division (B) of this section on a charge, the commission finds that a respondent has not engaged in any unlawful discriminatory practice against the complainant or others, it shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to the respondent. A copy of the order shall be delivered in all cases to the attorney general and any other public officers whom the commission considers proper.

(I) Until the time period for appeal set forth in division (H) of section 4112.06 of the Revised Code expires, the commission, subject to the provisions of Chapter 119. of the Revised Code, at any time, upon reasonable notice, and in the manner it considers proper, may modify or set aside, in whole or in part, any finding or order made by it under this section.

**Sec. 4112.051.** (A) (1) Aggrieved persons may enforce the rights granted by division (H) of section 4112.02 of the Revised Code by filing a civil action in the court of common pleas of the

county in which the alleged unlawful discriminatory practice 538  
occurred within one year after it allegedly occurred. Upon 539  
application by an aggrieved person, upon a proper showing, and 540  
under circumstances that it considers just, a court of common 541  
pleas may appoint an attorney for the aggrieved person and 542  
authorize the commencement of a civil action under this division 543  
without the payment of costs. 544

Each party to a civil action under this division has the 545  
right to a jury trial of the action. To assert the right, a party 546  
shall demand a jury trial in the manner prescribed in the Rules of 547  
Civil Procedure. If a party demands a jury trial in that manner, 548  
the civil action shall be tried to a jury. 549

(2)(a) If a complaint is issued by the commission under 550  
division (B)(5) of section 4112.05 of the Revised Code for one or 551  
more alleged unlawful discriminatory practices described in 552  
division (H) of section 4112.02 of the Revised Code, the 553  
complainant, any aggrieved person on whose behalf the complaint is 554  
issued, or the respondent may elect, following receipt of the 555  
relevant notice described in division (B)(5) of section 4112.05 of 556  
the Revised Code, to proceed with the administrative hearing 557  
process under that section or to have the alleged unlawful 558  
discriminatory practices covered by the complaint addressed in a 559  
civil action commenced in accordance with divisions (A)(1) and 560  
(2)(b) of this section. An election to have the alleged unlawful 561  
discriminatory practices so addressed shall be made in a writing 562  
that is sent by certified mail, return receipt requested, to the 563  
commission, to the civil rights section of the office of the 564  
attorney general, and to the other parties to the pending 565  
administrative process within thirty days after the electing 566  
complainant, aggrieved person, or respondent received the relevant 567  
notice described in division (B)(5) of section 4112.05 of the 568  
Revised Code. 569

(b) Upon receipt of a timely mailed election to have the  
 alleged unlawful discriminatory practices addressed in a civil  
 action, the commission shall authorize the office of the attorney  
 general to commence and maintain the civil action in the court of  
 common pleas of the county in which the alleged unlawful  
 discriminatory practices occurred. Notwithstanding the period of  
 limitations specified in division (A)(1) of this section, the  
 office of the attorney general shall commence the civil action  
 within thirty days after the receipt of the commission's  
 authorization to commence the civil action.

(c) Upon commencement of the civil action in accordance with  
 division (A)(2)(b) of this section, the commission shall prepare  
 an order dismissing the complaint in the pending administrative  
 matter and serve a copy of the order upon the complainant, each  
 aggrieved person on whose behalf the complaint was issued, and the  
 respondent.

(d) If an election to have the alleged unlawful  
 discriminatory practices addressed in a civil action is not filed  
 in accordance with division (A)(2)(a) of this section, the  
 commission shall continue with the administrative hearing process  
 described in section 4112.05 of the Revised Code.

(e) With respect to the issues to be determined in a civil  
 action commenced in accordance with division (A)(2)(b) of this  
 section, any aggrieved person may intervene as a matter of right  
 in that civil action.

(B) If the court or the jury in a civil action under this  
 section finds that a violation of division (H) of section 4112.02  
 of the Revised Code is about to occur, the court may order any  
 affirmative action it considers appropriate, including a permanent  
 or ~~temporary~~ temporary injunction or temporary restraining order.

(C) Any sale, encumbrance, or rental consummated prior to the



issuance of any court order under the authority of this section 601  
 and involving a bona fide purchaser, encumbrancer, or tenant 602  
 without actual notice of the existence of a charge under division 603  
 (H) of section 4112.02 of the Revised Code or a civil action under 604  
 this section is not affected by the court order. 605

(D) If the court or the jury in a civil action under this 606  
 section finds that a violation of division (H) of section 4112.02 607  
 of the Revised Code has occurred, the court shall award to the 608  
 plaintiff or to the complainant or aggrieved person on whose 609  
 behalf the office of the attorney general commenced or maintained 610  
 the civil action, whichever is applicable, actual damages, 611  
 reasonable attorney's fees, court costs incurred in the 612  
 prosecution of the action, expert witness fees, and other 613  
 litigation expenses, and may grant other relief that it considers 614  
 appropriate, including a permanent or temporary injunction, a 615  
 temporary restraining order, or other order and punitive damages. 616

(E) Any civil action brought under this section shall be 617  
 heard and determined as expeditiously as possible. 618

(F) The court in a civil action under this section shall 619  
 notify the commission of any finding pertaining to discriminatory 620  
 housing practices within fifteen days after the entry of the 621  
 finding." 622

In line 90877, after "4105.17," insert "4112.01, 4112.04, 623  
 4112.05, 4112.051," 624

In line 113 of the title, after "4105.17," insert "4112.01, 625  
 4112.04, 4112.05, 4112.051," 626

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Fair Housing Civil Rights Laws; Ohio Civil Rights Commission	627
Subpoena Power	628
R.C. 4112.01, 4112.04, 4112.05, and 4112.051	629
Defines "aggrieved person" for the purposes of who may	630
participate in certain fair housing civil rights proceedings to	631
include (1) persons who have been injured by the discrimination	632
and (2) persons who believe that they will be injured by the	633
discrimination.	634
Limits the time at which a respondent to a charge of a Civil	635
Rights violation may request the Civil Rights Commission to issue	636
a subpoena on behalf of the respondent to after the respondent	637
becomes a party to a hearing relating to the alleged violation.	638
Expands the Civil Rights Commission's authority to issue	639
subpoenas in a Civil Rights hearing from a subpoena on behalf of	640
the respondent to a charge of a Civil Rights violation to a	641
subpoena on behalf of any party to the hearing.	642
Replaces a provision permitting any person who has or claims	643
an interest in the civil rights hearing to appear at the hearing	644
with a provision requiring any "aggrieved person" who has or	645
claims an interest in the hearing to be permitted to appear only	646
to present evidence, examine witnesses, and be represented by	647
counsel; requires the Civil Rights Commission to adopt rules	648
governing this authority.	649
With respect to the issues to be determined in a civil action	650
to enforce certain fair housing provisions in the Ohio Civil	651
Rights Law, authorizes any aggrieved person to intervene as a	652
matter of right in that civil action.	653

Am. Sub. H.B. 1

As Passed by the Senate

CC-5001

EDU-28

\_\_\_\_\_ moved to amend as follows:

In line 349, after "3319.63," insert "3321.01, 3321.05,"

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Between lines 43147 and 43148, insert:

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"Sec. 3321.01. (A) (1) As used in this chapter, "parent," "guardian," or "other person having charge or care of a child" means either parent unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. If the child is in the legal or permanent custody of a person or government agency, "parent" means that person or government agency. When a child is a resident of a home, as defined in section 3313.64 of the Revised Code, and the child's parent is not a resident of this state, "parent," "guardian," or "other person having charge or care of a child" means the head of the home.

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A child between six and eighteen years of age is "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code. A child under six years of age who has been enrolled in kindergarten also shall be considered "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code unless at any time the child's parent

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or guardian, at the parent's or guardian's discretion and in  
consultation with the child's teacher and principal, formally  
withdraws the child from kindergarten. The compulsory school age  
of a child shall not commence until the beginning of the term of  
such schools, or other time in the school year fixed by the rules  
of the board of the district in which the child resides.

(2) No child shall be admitted to a kindergarten or a first  
grade of a public school in a district in which all children are  
admitted to kindergarten and the first grade in August or  
September unless the child is five or six years of age,  
respectively, by the thirtieth day of September of the year of  
admittance, or by the first day of a term or semester other than  
one beginning in August or September in school districts granting  
admittance at the beginning of such term or semester, except that  
in those school districts using or obtaining educationally  
accepted standardized testing programs for determining entrance,  
as approved by the board of education of such districts, the board  
shall admit a child to kindergarten or the first grade who fails  
to meet the age requirement, provided the child meets necessary  
standards as determined by such standardized testing programs. If  
the board of education has not established a standardized testing  
program, the board shall designate the necessary standards and a  
testing program it will accept for the purpose of admitting a  
child to kindergarten or first grade who fails to meet the age  
requirement. Each child who will be the proper age for entrance to  
kindergarten or first grade by the first day of January of the  
school year for which admission is requested shall be so tested  
upon the request of the child's parent.

(3) Notwithstanding divisions (A) (2) and (D) of this section,  
beginning with the school year that starts in 2001 and continuing  
thereafter the board of education of any district may adopt a

resolution establishing the first day of August in lieu of the  
thirtieth day of September as the required date by which students  
must have attained the age specified in those divisions.

(B) As used in divisions (C) and (D) of this section,  
"successfully completed kindergarten" and "successful completion  
of kindergarten" mean that the child has completed the  
kindergarten requirements at one of the following:

(1) A public or chartered nonpublic school;

(2) A kindergarten class that is both of the following:

(a) Offered by a day-care provider licensed under Chapter  
5104. of the Revised Code;

(b) If offered after July 1, 1991, is directly taught by a  
teacher who holds one of the following:

(i) A valid educator license issued under section 3319.22 of  
the Revised Code;

(ii) A Montessori preprimary credential or age-appropriate  
diploma granted by the American Montessori society or the  
association Montessori internationale;

(iii) Certification determined under division (G) of this  
section to be equivalent to that described in division

(B) (2) (b) (ii) of this section;

(iv) Certification for teachers in nontax-supported schools  
pursuant to section 3301.071 of the Revised Code.

(C) Except as provided in division (D) of this section, no  
school district shall admit to the first grade any child who has  
not successfully completed kindergarten.

(D) Upon request of a parent, the requirement of division (C)  
of this section may be waived by the district's pupil personnel  
services committee in the case of a child who is at least six

years of age by the thirtieth day of September of the year of 81  
 admittance and who demonstrates to the satisfaction of the 82  
 committee the possession of the social, emotional, and cognitive 83  
 skills necessary for first grade. 84

The board of education of each city, local, and exempted 85  
 village school district shall establish a pupil personnel services 86  
 committee. The committee shall be composed of all of the following 87  
 to the extent such personnel are either employed by the district 88  
 or employed by the governing board of the educational service 89  
 center within whose territory the district is located and the 90  
 educational service center generally furnishes the services of 91  
 such personnel to the district: 92

- (1) The director of pupil personnel services; 93
- (2) An elementary school counselor; 94
- (3) An elementary school principal; 95
- (4) A school psychologist; 96
- (5) A teacher assigned to teach first grade; 97
- (6) A gifted coordinator. 98

The responsibilities of the pupil personnel services 99  
 committee shall be limited to the issuing of waivers allowing 100  
 admittance to the first grade without the successful completion of 101  
 kindergarten. The committee shall have no other authority except 102  
 as specified in this section. 103

(E) The scheduling of times for kindergarten classes and 104  
 length of the school day for kindergarten shall be determined by 105  
 the board of education of a city, exempted village, or local 106  
 school district, subject to section 3321.05 of the Revised Code. 107

(F) Any kindergarten class offered by a day-care provider or 108  
 school described by division (B) (1) or (B) (2) (a) of this section 109

shall be developmentally appropriate. 110

(G) Upon written request of a day-care provider described by 111  
division (B) (2) (a) of this section, the department of education 112  
shall determine whether certification held by a teacher employed 113  
by the provider meets the requirement of division (B) (2) (b) (iii) 114  
of this section and, if so, shall furnish the provider a statement 115  
to that effect. 116

~~(H) As used in this division, "all day kindergarten" has the 117  
same meaning as in section 3317.029 of the Revised Code. 118~~

~~(1) Any school district that is not eligible to receive 119  
poverty based assistance for all day kindergarten under division 120  
(D) of section 3317.029 of the Revised Code may charge fees or 121  
tuition for students enrolled in all day kindergarten. If a 122  
district charges fees or tuition for all day kindergarten under 123  
this division, the district shall develop a sliding fee scale 124  
based on family incomes. 125~~

~~(2) The department of education shall conduct an annual 126  
survey of each school district described in division (H) (1) of 127  
this section to determine the following: 128~~

~~(a) Whether the district charges fees or tuition for students 129  
enrolled in all day kindergarten; 130~~

~~(b) The amount of the fees or tuition charged; 131~~

~~(c) (1) How many of the students for whom tuition is charged 132  
are eligible for free lunches under the "National School Lunch 133  
Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the 134  
"Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as 135  
amended, and how many of the students for whom tuition is charged 136  
are eligible for reduced price lunches under those acts; 137~~

~~(d) (2) How many students are enrolled in traditional half-day 138  
kindergarten rather than and how many students are enrolled in 139~~

all-day kindergarten, as defined in section 3321.05 of the Revised Code. 140  
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Each district shall report to the department, in the manner 142  
prescribed by the department, the information ~~described in~~ 143  
~~divisions (H) (2) (a) to (d) of this section~~ required by this 144  
division. 145

The department shall issue an annual report on the results of 146  
the survey and shall post the report on its web site. The 147  
department shall issue the first report not later than April 30, 148  
2008, and shall issue a report not later than the thirtieth day of 149  
April each year thereafter. 150

Sec. 3321.05. (A) As used in this section, "all-day 151  
kindergarten" means a kindergarten class that is in session five 152  
days per week for not less than the same number of clock hours 153  
each day as for students in grades one through six. 154

(B) Any school district may operate all-day kindergarten or 155  
extended kindergarten, but ~~no~~ beginning in fiscal year 2011, each 156  
city, local, and exempted village school district shall provide 157  
all-day kindergarten to each student enrolled in kindergarten, 158  
except as specified in divisions (C) and (D) of this section. 159

(C) The board of education of a school district may apply to 160  
the superintendent of public instruction for a waiver of the 161  
requirement to provide all-day kindergarten for all kindergarten 162  
students. In making the determination to grant or deny the waiver, 163  
the state superintendent may consider space concerns or 164  
alternative delivery approaches used by the school district. 165

(D) No district shall require any student to attend 166  
kindergarten for more than one-half of the number of clock hours 167  
required each day for ~~traditional kindergarten~~ grades one through 168  
six by the minimum standards adopted under division (D) of section 169



3301.07 of the Revised Code. Each school district ~~that operates~~ 170  
~~all-day or extended kindergarten~~ shall accommodate kindergarten 171  
students whose parents or guardians elect to enroll them for 172  
one-half of the minimum number of hours required each day for 173  
grades one through six. 174

(E) A school district may use space in child day-care centers 175  
licensed under Chapter 5104. of the Revised Code to provide 176  
all-day kindergarten under this section." 177

In line 90851, after "3319.63," insert "3321.01, 3321.05," 178

Between lines 95937 and 95938, insert: 179

"Section 265.70.70. As used in this section, "all-day 180  
kindergarten" has the same meaning as in section 3321.05 of the 181  
Revised Code. 182

Any school district or community school established under 183  
Chapter 3314. of the Revised Code that, in fiscal year 2009, 184  
offered all-day kindergarten and charged fees or tuition for 185  
students enrolled in all-day kindergarten in accordance with 186  
section 3321.01 of the Revised Code, as it existed prior to the 187  
effective date of this section, may charge fees or tuition for 188  
students enrolled in all-day kindergarten in fiscal years 2010 and 189  
2011, at a rate not higher than the per-student amount charged in 190  
fiscal year 2009 as specified in the sliding fee scale based on 191  
family incomes developed by the district or community school for 192  
that fiscal year. No district or community school shall charge 193  
fees or tuition for students enrolled in all-day kindergarten 194  
after fiscal year 2011." 195

In line 77 of the title, after "3319.63," insert "3321.01, 196  
3321.05," 197

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

All-Day Kindergarten	198
R.C. 3321.01 and 3321.05 and Section 265.10.70	199
Restores House version, which:	200
(1) Requires each school district to offer all-day kindergarten to all kindergarten students, beginning in fiscal year 2011 (the 2010-2011 school year), subject to the following exceptions:	201
(a) As under current law, districts must continue to accommodate kindergartners whose parents elect to enroll them for only half-day kindergarten; and	202
(b) Districts may apply to the Superintendent of Public Instruction for a waiver of the requirement. The Superintendent may consider space concerns or alternative delivery approaches when considering a waiver application.	203
(2) Permits a school district to use space in a child day-care center licensed by the Department of Job and Family Services to provide all-day kindergarten to district students.	204
(3) Permits school districts and community schools that, in FY 2009, offered all-day kindergarten and charged tuition for participating students to continue to charge tuition for all-day kindergarten in FY 2010 and FY 2011, at the same per-student rate charged in FY 2009 as specified in the sliding fee scale used by the district or school for that fiscal year.	205
(4) Prohibits districts and community schools from charging tuition for all-day kindergarten after FY 2011.	206

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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5002  
EDU-194

6 \_\_\_\_\_ moved to amend as follows:

7 Delete lines 95029 through 95054

8 The motion was \_\_\_\_\_ agreed to.

9 SYNOPSIS

10 **Reporting of Federal Stimulus Funding to School Districts**  
11 **Sections 265.30.55 and 265.30.56**

12 Removes the bill's provisions that require:

13 (1) The Department of Education to send a letter to each  
14 school district superintendent notifying the district of the  
15 amount of federal funds the Department expects the district to  
16 receive under the American Recovery and Reinvestment Act of 2009  
17 over the biennium;

18 (2) The district superintendent to sign an acknowledgement  
19 of receipt of the Department's letter and to return it to the  
20 Department;

21 (3) The district board, through its president, to sign an  
22 acknowledgement of receipt of the Department's letter and to  
23 return it to the Department; and

24 (4) The district board to adopt and submit to the  
25 Department a draft plan indicating how it plans to deploy the  
26 funds the district will receive under the federal stimulus act.

Am. Sub. H.B. 1

As Passed by the Senate

CC-5004

FBU-5

\_\_\_\_\_ moved to amend as follows:

In line 344, after "3313.978," insert "3314.012," 1

Between lines 38152 and 38153, insert: 2

"Sec. 3314.012. (A) Within ninety days of September 28, 1999, 3  
the superintendent of public instruction shall appoint 4  
representatives of the department of education, including 5  
employees who work with the education management information 6  
system and employees of the office of community schools 7  
established by section 3314.11 of the Revised Code, to a committee 8  
to develop report card models for community schools. The director 9  
of the legislative office of education oversight shall also 10  
appoint representatives to the committee. The committee shall 11  
design model report cards appropriate for the various types of 12  
community schools approved to operate in the state. Sufficient 13  
models shall be developed to reflect the variety of grade levels 14  
served and the missions of the state's community schools. All 15  
models shall include both financial and academic data. The initial 16  
models shall be developed by March 31, 2000. 17

(B) The department of education shall issue an annual report 18  
card for each community school, regardless of how long the school 19  
has been in operation. The report card shall report the academic 20

and financial performance of the school utilizing one of the 21  
models developed under division (A) of this section. The report 22  
card shall include all information applicable to school buildings 23  
under division (A) of section 3302.03 of the Revised Code and 24  
section 3302.032 of the Revised Code. The ratings a community 25  
school receives under section 3302.03 of the Revised Code for its 26  
first two full school years shall not be considered toward 27  
automatic closure of the school under section 3314.35 of the 28  
Revised Code or any other matter that is based on report card 29  
ratings. 30

(C) Upon receipt of a copy of a contract between a sponsor 31  
and a community school entered into under this chapter, the 32  
department of education shall notify the community school of the 33  
specific model report card that will be used for that school. 34

(D) Report cards shall be distributed to the parents of all 35  
students in the community school, to the members of the board of 36  
education of the school district in which the community school is 37  
located, and to any person who requests one from the department. 38

~~(E) No report card shall be issued for any community school 39~~  
~~under this section until the school has been open for instruction 40~~  
~~for two full school years." 41~~

In line 90846, after "3313.978," insert "3314.012," 42

In line 69 of the title, after "3313.978," insert "3314.012," 43

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Community School Report Cards 44

R.C. 3314.012 45

Eliminates the two-year wait before the Department of Education begins issuing annual report cards for a community school. 46  
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Exempts from consideration the ratings on the report cards for the first two years a community school has been in existence from automatic closure or any other matter based on report card ratings. 49  
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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5005  
EDU-87

\_\_\_\_\_ moved to amend as follows:

In line 344, after "3313.978," insert "3314.015,"; after  
"3314.02," insert "3314.021,"

In line 441, after "3314.028," insert "3314.191,"

In line 457, after "enacted" insert "; and Section 6 of H.B.  
364 of the 124th General Assembly be amended and Section 6 of H.B.  
364 of the 124th General Assembly be amended to codify as section  
3314.027 of the Revised Code"

Between lines 38152 and 38153, insert:

"Sec. 3314.015. (A) The department of education shall be  
responsible for the oversight of any and all sponsors of the  
community schools established under this chapter and shall provide  
technical assistance to schools and sponsors in their compliance  
with applicable laws and the terms of the contracts entered into  
under section 3314.03 of the Revised Code and in the development  
and start-up activities of those schools. In carrying out its  
duties under this section, the department shall do all of the  
following:

(1) In providing technical assistance to proposing parties,  
governing authorities, and sponsors, conduct training sessions and

distribute informational materials; 20

(2) Approve entities to be sponsors of community schools and 21  
monitor; 22

(3) Monitor the effectiveness of ~~those~~ any and all sponsors 23  
in their oversight of the schools with which they have contracted; 24

~~(3)~~(4) By December thirty-first of each year, issue a report 25  
to the governor, the speaker of the house of representatives, the 26  
president of the senate, and the chairpersons of the house and 27  
senate committees principally responsible for education matters 28  
regarding the effectiveness of academic programs, operations, and 29  
legal compliance and of the financial condition of all community 30  
schools established under this chapter and on the performance of 31  
community school sponsors; 32

~~(4)~~(5) From time to time, make legislative recommendations to 33  
the general assembly designed to enhance the operation and 34  
performance of community schools. 35

(B) (1) ~~No~~ Except as provided in sections 3314.021 and 36  
3314.027 of the Revised Code, no entity listed in division (C) (1) 37  
of section 3314.02 of the Revised Code shall enter into a 38  
preliminary agreement under division (C) (2) of section 3314.02 of 39  
the Revised Code until it has received approval from the 40  
department of education to sponsor community schools under this 41  
chapter and has entered into a written agreement with the 42  
department regarding the manner in which the entity will conduct 43  
such sponsorship. The department shall adopt in accordance with 44  
Chapter 119. of the Revised Code rules containing criteria, 45  
procedures, and deadlines for processing applications for such 46  
approval, for oversight of sponsors, for revocation of the 47  
approval of sponsors, and for entering into written agreements 48  
with sponsors. The rules shall require an entity to submit 49  
evidence of the entity's ability and willingness to comply with 50



the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after June 30, 2005, to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in need of continuous improvement under section 3302.03 of the Revised Code, as determined by the department.

An entity that sponsors community schools may enter into preliminary agreements and sponsor schools as follows, provided each school and the contract for sponsorship meets the requirements of this chapter:

(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.

(b) An entity that sponsored more than fifty but not more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.

(c) Until June 30, 2006, an entity that sponsored more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy-five schools.

Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.

The limit imposed on an entity to which division (B)(1) of this section applies shall be decreased by one for each school sponsored by the entity that permanently closes.

If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the

Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

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(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, ~~as provided in~~ under division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

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(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

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(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules."

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Between lines 38342 and 38343, insert:

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"Sec. 3314.021. (A) This section applies to any entity that

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is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section.

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's initial approval of its sponsorship under ~~division~~ divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code:

(1) Succeed the board of trustees of a state university located in the pilot project area or that board's designee as the sponsor of a community school established under this chapter;

(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its designee and the governing authority of the community school and renew that contract as provided in division (E) of section 3314.03 of the Revised Code.

(C) The entity that succeeds the board of trustees or the board's designee as sponsor of a community school under division (B) of this section also may enter into contracts to sponsor other community schools located in any challenged school district, without obtaining the department's initial approval of its sponsorship of those schools under ~~division~~ divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code, and not subject to the restriction of division (A)(7) of section 3314.013 of the Revised Code, as long as the contracts conform with and the entity complies with all other requirements of this chapter.

(D) Regardless of the entity's authority to sponsor community schools without the initial approval of the department, the entity

is under the continuing oversight of the department in accordance 174  
with rules adopted under section 3314.015 of the Revised Code. 175

~~Sec. 6 3314.027. The State Board of Education shall continue~~ 176  
~~to sponsor any community school for which it has entered into a~~ 177  
~~contract at the time of the effective date of this section until~~ 178  
~~the earlier of the expiration of two school years or until a new~~ 179  
~~sponsor, as described in division (C)(1) of section 3314.02 of the~~ 180  
~~Revised Code, as amended by this act, is secured by the school's~~ 181  
~~governing authority. The State Board shall not thereafter sponsor~~ 182  
~~any community school except as provided in division (C) of section~~ 183  
~~3314.015 of the Revised Code. The State Board may extend the term~~ 184  
~~of any existing contract with a community school governing~~ 185  
~~authority only as necessary to accommodate the term of the Board's~~ 186  
~~authorization to sponsor the school as specified in this section.~~ 187

Notwithstanding the requirement for initial approval of 188  
 sponsorship by the ~~Department~~ department of Education education 189  
 prescribed in ~~division~~ divisions (A)(2) and (B)(1) of section 190  
 3314.015 of the Revised Code, ~~as enacted by this act,~~ and any 191  
 geographical restriction or mission requirement prescribed in 192  
 division (C)(1) of section 3314.02 of the Revised Code, ~~as amended~~ 193  
~~by this act,~~ an entity ~~other than the State Board of Education~~ 194  
 that has entered into a contract to sponsor a community school on 195  
~~the effective date of this section~~ April 8, 2003, may continue to 196  
 sponsor the school in conformance with the terms of that contract 197  
 as long as the entity complies with all other sponsorship 198  
 provisions of ~~Chapter 3314. of the Revised Code as amended by this~~ 199  
~~act~~ this chapter. Such an entity also may enter into new contracts 200  
 to sponsor community schools after ~~the effective date of this~~ 201  
~~section~~ April 8, 2003, and need not be approved by the Department 202  
~~of Education~~ department for such sponsorship, as otherwise 203  
 required under ~~division~~ divisions (A)(2) and (B)(1) of section 204

3314.015 of the Revised Code, ~~as enacted by this act~~, as long as 205  
 the contracts conform to and the entity complies with all other 206  
 provisions of ~~Chapter 3314. of the Revised Code as amended by this~~ 207  
~~act~~ this chapter. 208

Regardless of the entity's authority to sponsor community 209  
schools without the initial approval of the department, each 210  
entity described in this section is under the continuing oversight 211  
of the department in accordance with rules adopted under section 212  
3314.015 of the Revised Code." 213

In line 90846, after "3313.978," insert "3314.015,"; after 214  
 "3314.02," insert "3314.021," 215

Between lines 90923 and 90924, insert: 216

"That existing Section 6 of H.B. 364 of the 124th General 217  
 Assembly is hereby repealed." 218

In line 69 of the title, after "3313.978," insert 219  
 "3314.015,"; after "3314.02," insert "3314.021," 220

In line 268, after the semicolon insert "to amend Section 6 221  
 of H.B. 364 of the 124th General Assembly and to amend Section 6 222  
 of H.B. 364 of the 124th General Assembly to codify the Section as 223  
 section 3314.027 of the Revised Code;" 224

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Community School Sponsor Oversight 225

R.C. 3314.015, 3314.021, and 3314.027 226

Reinstates the House provisions that do the following: 227

(1) Clarify that the Department of Education's authority to 228

oversee and monitor community school sponsors applies to all  
sponsors, regardless of whether they must initially be approved by  
the Department for sponsorship. 229  
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(2) Require the Department's annual report on community  
schools to include the performance of community school sponsors. 232  
233

Am. Sub. H.B. 1

As Passed by the Senate

CC-5006

EDU-12

\_\_\_\_\_ moved to amend as follows:

In line 344, after "3313.978," insert "3314.016,"

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Between lines 38152 and 38153, insert:

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"Sec. 3314.016. (A) After June 30, 2007, a new start-up school may be established under this chapter only if the school's governing authority enters into a contract with an operator that manages other schools in the United States that perform at a level higher than academic watch. The governing authority of the community school may sign a contract with an operator only if the operator has fewer contracts with the governing authorities of new start-up schools established under this chapter after June 30, 2007, than the number of schools managed by the operator in the United States that perform at a level higher than academic watch, as determined by the department of education. However, the governing authority shall not contract with an operator that currently manages any community schools in Ohio for which the department issues annual report cards under section 3314.012 of the Revised Code, unless the latest report card issued for at least one of those schools designates a performance rating under section 3302.03 of the Revised Code of in need of continuous improvement or higher.

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(B) Notwithstanding division (A) of this section, the governing authority of a start-up school sponsored by an entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may establish one additional school serving the same grade levels and providing the same educational program as the current start-up school and may open that additional school in the 2007-2008 school year, if both of the following conditions are met:

(1) The governing authority entered into another contract with the same sponsor or a different sponsor described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code and filed a copy of that contract with the superintendent of public instruction prior to March 15, 2006.

(2) The governing authority's current school satisfies all of the following conditions:

(a) The school currently is rated as excellent or effective pursuant to section 3302.03 of the Revised Code.

(b) The school made adequate yearly progress, as defined in section 3302.01 of the Revised Code, for the previous school year.

(c) The school has been in operation for at least four school years.

(d) The school is not managed by an operator.

(C) Notwithstanding division (A) of this section, the governing authority of a start-up school sponsored by the big eight school district in which the school is located may establish one additional start-up school that is located in the same school district and that provides a general educational program to students in any or all of grades kindergarten through five to facilitate their transition to the current start-up school, and may open the additional start-up school in the 2009-2010 school

year, if both of the following conditions are met:

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(1) The governing authority enters into another contract with the same sponsor and files a copy of the contract with the superintendent of public instruction prior to March 15, 2009.

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(2) The governing authority's current school satisfies all of the following conditions:

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(a) The school provided instruction to students for eleven months in the previous school year.

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(b) The school has been in operation for at least two school years.

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(c) The school qualified to be rated in need of continuous improvement or higher pursuant to section 3302.03 of the Revised Code for its first school year of operation, even though the department of education did not issue a report card for the school for that school year."

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In line 90846, after "3313.978," insert "3314.016,"

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In line 69 of the title, after "3313.978," insert "3314.016,"

67

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

New Start-Up Community School

68

R.C. 3314.016

69

Restores the House provision that revises the exception to the cap on new start-up community schools by prohibiting contracts with operators that manage other schools in Ohio, unless at least one of those schools has a report card rating higher than academic

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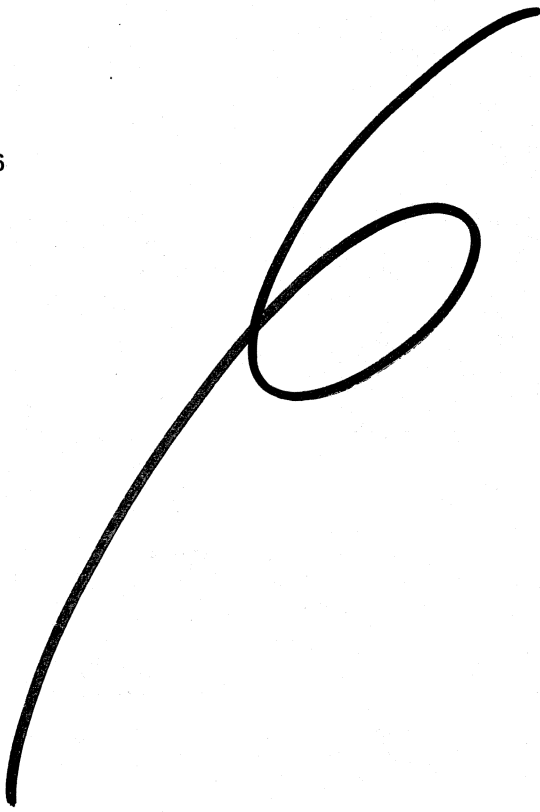
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Page 4

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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5007  
EDU-162

6 \_\_\_\_\_ moved to amend as follows:

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7 In line 39286, strike through "(2)" and insert "(3)"

8 In line 39288, after "2008" insert ", but before July 1,  
9 2009"

10 In line 39314, after "(2)" insert "Except as provided in  
11 division (A)(3) of this section, this section applies to any  
12 community school that meets one of the following criteria after  
13 July 1, 2009:

14 (a) The school does not offer a grade level higher than  
15 three and has been declared to be in a state of academic  
16 emergency under section 3302.03 of the Revised Code for three of  
17 the four most recent school years.

18 (b) The school satisfies all of the following conditions:

19 (i) The school offers any of grade levels four to eight but  
20 does not offer a grade level higher than nine.

21 (ii) The school has been declared to be in a state of  
22 academic emergency under section 3302.03 of the Revised Code for  
23 two of the three most recent school years.

24 (iii) In at least two of the three most recent school  
25 years, the school showed less than one standard year of academic  
26 growth in either reading or mathematics, as determined by the  
27 department in accordance with rules adopted under division (A)  
28 of section 3302.021 of the Revised Code.

29 (c) The school offers any of grade levels ten to twelve and  
30 has been declared to be in a state of academic emergency under  
31 section 3302.03 of the Revised Code for three of the four most  
32 recent school years.

33 (3)"

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34 The motion was \_\_\_\_\_ agreed to.

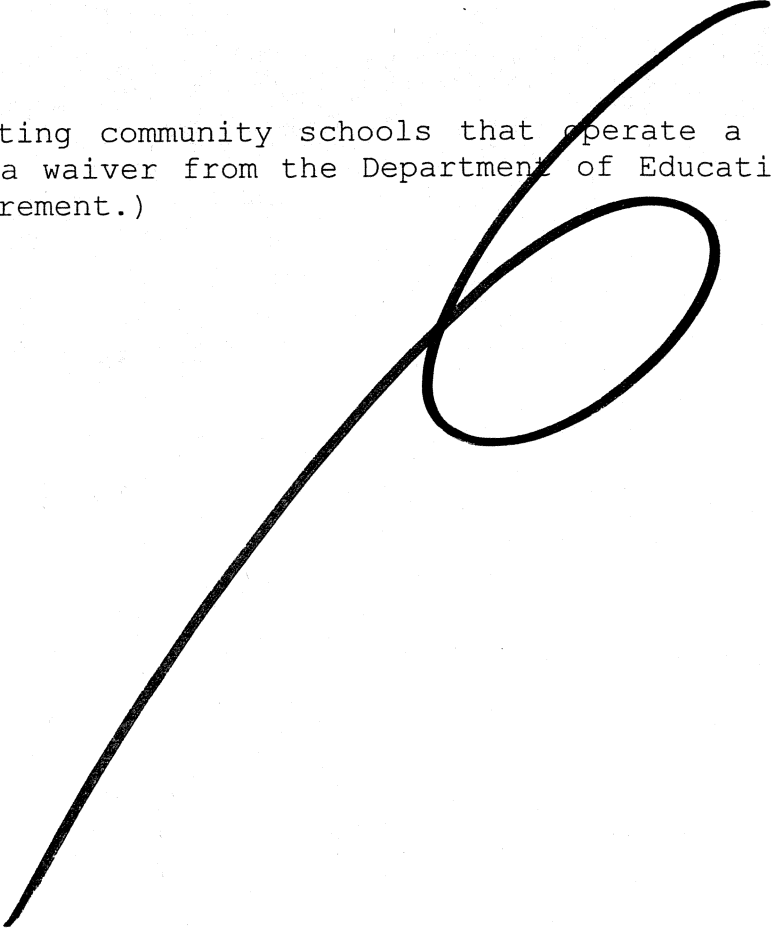
35 SYNOPSIS

36 **Closure of Community Schools**

37 **R.C. 3314.35**

38 Restores the House version that, beginning July 1, 2009,  
39 replaces the current performance criteria that trigger automatic  
40 closure of a community school with new performance criteria.  
41 Under the new criteria, a school must close if it (1) does not  
42 offer a grade higher than 3 and has been in academic emergency  
43 for three of the four most recent school years, (2) offers any  
44 of grades 4 to 8 but no grade higher than 9, has been in  
45 academic emergency for two of the three most recent school  
46 years, and showed less than one year of academic growth in  
47 reading or math for at least two of the three most recent school  
48 years, or (3) offers any of grades 10 to 12 and has been in  
49 academic emergency for three of the four most recent school  
50 years. (Community schools that meet the existing criteria  
51 between July 1, 2008, and June 30, 2009, still must close in  
52 accordance with current law. The bill retains current law

53 exempting community schools that operate a dropout program and  
54 have a waiver from the Department of Education from the closure  
55 requirement.)



6 \_\_\_\_\_ moved to amend as follows:

7 In line 341, delete "3301.56,"

8 Delete lines 34152 through 34257

9 In line 90843, delete "3301.56,"

10 In line 65 of the title, delete "3301.56,"

11 The motion was \_\_\_\_\_ agreed to.

12 SYNOPSIS

13 **Montessori Preschool Programs**

14 **R.C. 3301.56**

15 Removes a provision of the bill that requires preschool  
16 programs that are licensed by the Department of Education and  
17 use the Montessori instructional method to comply with staff  
18 member/child ratios and maximum group sizes specified in the  
19 accreditation standards of the American Montessori Society or  
20 the Association Montessori Internationale when combining  
21 preschool-aged children and kindergarteners in the same  
22 classroom. (Returns to current law, in which, in that situation,  
23 the maximum number of children per staff member is 12 and the  
24 maximum group size is 24 children.)

1 128HB1-CC5009.docx/ejs

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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5009  
EDU-182

6 \_\_\_\_\_ moved to amend as follows:

7 In line 345, delete "3317.022, 3317.03,"

8 In line 395, delete "4776.01,"

9 In line 438, delete "3310.51, 3310.52, 3310.521,"

10 Delete line 439

11 In line 440, delete "3310.60, 3310.61, 3310.62, 3310.63,  
12 3310.64,"

13 In line 442, delete "3323.052,"

14 In line 2007, delete "division (C) of section 3310.58, or  
15 section"

16 In line 2016, delete "the chief administrator of a"

17 Delete line 2017

18 In line 2018, delete "school;"

19 In line 2055, delete "or a registered private"

20 In line 2056, delete "provider"

21 In line 2057, delete "division"

22 In line 2058, delete "(C) of section 3310.58 or"

23 In line 2063, delete "or provider"

24 In line 2067, delete "or provider"



25 In line 2159, reinsert ", "sexually"; delete the underlined  
26 colon  
27 In line 2160, delete "(1) "Sexually"  
28 Delete lines 2163 through 2167  
29 In line 2700, after "(E)" delete the balance of the line  
30 Delete lines 2701 through 2706  
31 In line 2707, delete "(F)"  
32 Delete lines 2720 through 2724  
33 In line 33669, delete "3310.63,"  
34 Delete lines 35840 through 36224  
35 Delete lines 39926 through 40919  
36 Delete lines 43372 through 43394  
37 Delete lines 71767 through 71806  
38 In line 82907, delete "section"  
39 In line 82908, delete "3310.55;"  
40 In line 90847, delete "3317.022, 3317.03,"  
41 In line 90897, delete "4776.01,"  
42 Delete lines 96039 through 96055  
43 In line 106540, delete "3317.022, 3317.03,"  
44 In line 71 of the title, delete "3317.022, 3317.03,"  
45 In line 140 of the title, delete "4776.01,"  
46 In line 198 of the title, delete "3310.51,"  
47 In line 199 of the title, delete "3310.52, 3310.521,  
48 3310.53 to 3310.64,"

49 In line 201 of the title, delete "3323.052,"

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50 The motion was \_\_\_\_\_ agreed to.

51 SYNOPSIS

52 **Special Education Scholarship Pilot Program**

53 R.C. 109.57, 109.572, 3301.0714, 3310.51, 3310.52,  
54 3310.521, 3310.53 to 3310.54, 3317.022, 3317.03, 3323.052,  
55 4776.01, and 5727.84; Sections 265.80.10 and 265.80.51

56 Removes the provisions of the bill that:

57 (1) Create the Special Education Scholarship Pilot Program  
58 to provide scholarships for disabled children in grades K  
59 through 12 to attend alternative public or private special  
60 education programs in fiscal years 2012 through 2017.

61 (2) Require the Department of Education to develop a  
62 document that compares rights under state and federal special  
63 education law and rights under the pilot program, and require  
64 school districts to distribute that document to the parents of  
65 all special education students.

66 (3) Require the Department to conduct a formative  
67 evaluation of the pilot program by December 31, 2013.

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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5011  
EDU-205

6 \_\_\_\_\_ moved to amend as follows:

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7 In line 35296, reinsert "divisions"; delete "division"

8 In line 35297, reinsert "and (7)"

9 In line 35299, reinsert "fulfills one of the following  
10 requirements:"

11 Reinsert lines 35300 through 35304

12 In line 35305, reinsert "more than two consecutive years  
13 and either"

14 In line 35308, delete ", except that if it does not make  
15 adequate yearly"

16 Delete line 35309

17 In line 35310, delete all before the period

18 In line 35312, reinsert "fulfills one of the following  
19 requirements:"

20 In line 35313, reinsert "(a) It makes adequate yearly  
21 progress and either"

22 In line 35316, reinsert the stricken period

23 Reinsert lines 35317 through 35319

24 In line 35320, reinsert "established by the department"

25 In line 35321, delete "two or more of the same subgroups  
26 for"  
27 In line 35322, delete "or more"  
28 In line 35327, delete "at least"  
29 In line 35328, delete "thirty-one per cent but"  
30 In line 35336, delete "fulfills one of the following"  
31 In line 35337, delete "requirements:"  
32 Delete lines 35338 through 35341  
33 In line 35342, delete "(b) It"  
34 In line 35351, reinsert "When designating performance  
35 ratings for school districts"  
36 Reinsert lines 35352 through 35355  
37 In line 35356, reinsert "(7)" in both places; delete "(6)"

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38 The motion was \_\_\_\_\_ agreed to.

39 SYNOPSIS

40 **School Districts and Building Performance Ratings**

41 **R.C. 3302.03**

42 Removes the bill's provisions that do all of the following  
43 (and returns to current law):

44 (1) Revises the requirement to lower the excellent or  
45 effective rating of a school district or building that fails to  
46 make adequate yearly progress (AYP) for three or more  
47 consecutive years, by specifying (a) that the failure must  
48 involve two or more of the same student subgroups each year and

49 (b) that an excellent rating may be lowered only one level, to  
50 effective.

51 (2) Reduces the lowest performance rating a district or  
52 building that makes AYP may receive to academic watch.

53 (3) Repeals the prohibition against lowering a district's  
54 or building's performance rating from the previous year based  
55 solely on one subgroup not making AYP.

6 \_\_\_\_\_ moved to amend as follows:

7 In line 436, delete "3301.163,"

8 In line 437, delete "3301.164,"

9 Delete lines 33986 through 34071

10 In line 106538, delete "3301.163, 3301.164,"

11 In line 196 of the title, delete "3301.163, 3301.164,"

12 The motion was \_\_\_\_\_ agreed to.

13 SYNOPSIS

14 **Closure of School District School**

15 **R.C. 3301.163 and 3301.164**

16 Removes provisions of the bill that:

17 (1) Require the State Board of Education to revoke the  
18 charter of a school operated by a school district if it (a) does  
19 not offer a grade higher than three and has been in academic  
20 emergency for four consecutive school years, (b) offers any of  
21 grades four to eight but no grade higher than nine, has been in  
22 academic emergency for three consecutive school years, and has  
23 shown less than one year of academic growth in reading or  
24 mathematics for two of those school years, or (c) offers any of  
25 grades 10 to 12 and has been in academic emergency for four  
26 consecutive school years.

27 (2) Require that, if the revocation of a school's charter  
28 causes a school district to no longer maintain all grades K to  
29 12, the district enter into a contract with another school  
30 district.

31 (3) Specify that if the district fails to do so, the State  
32 Board must take action to dissolve the district.

33 (4) Exempt from the charter revocation provision district-  
34 operated schools in which a majority of the students are  
35 enrolled in a dropout program operated by the school, if the  
36 program has obtained a waiver from Department of Education.

Am. Sub. H.B. 1

As Passed by the Senate

CC-5013

EDU-9

\_\_\_\_\_ moved to amend as follows:

In line 343, after "3313.603," insert "3313.605," 1

Between lines 37085 and 37086, insert: 2

"Sec. 3313.605. (A) As used in this section: 3

(1) "Civic responsibility" means the patriotic and ethical 4  
duties of all citizens to take an active role in society and to 5  
consider the interests and concerns of other individuals in the 6  
community. 7

(2) "Volunteerism" means nonprofit activity in the United 8  
States, the benefits and limitations of nonprofit activities, and 9  
the presence and function of nonprofit civic and charitable 10  
organizations in the United States. 11

(3) "Community service" means a service performed through 12  
educational institutions, government agencies, nonprofit 13  
organizations, social service agencies, and philanthropies and 14  
generally designed to provide direct experience with people or 15  
project planning, with the goal of improving the quality of life 16  
for the community. Such activities may include but are not limited 17  
to tutoring, literacy training, neighborhood improvement, 18  
encouraging interracial and multicultural understanding, promoting 19



ideals of patriotism, increasing environmental safety, assisting  
the elderly or disabled, and providing mental health care,  
housing, drug abuse prevention programs, and other philanthropic  
programs, particularly for disadvantaged or low-income persons.

(B) ~~Any~~ The board of education of each city, local, exempted  
village, ~~or~~ and joint vocational school district ~~board of~~  
~~education may, the governing authority of each community school~~  
~~established under Chapter 3314. of the Revised Code, and the~~  
~~governing body of each STEM school established under Chapter 3326.~~  
of the Revised Code may include community service education in the  
its educational program ~~of the district by adopting a resolution~~  
~~to that effect.~~ A governing board of an educational service  
center, upon the request of a local school district board of  
education, may provide a community service education program for  
the local district pursuant to this section. ~~Any board~~  
~~implementing~~ If a board, governing authority, or governing body  
includes community service education in its education program, the  
~~board, governing authority, or governing body~~ shall do both of the  
following:

(1) Establish a community service advisory committee. The  
committee shall provide recommendations to the board, governing  
~~authority, or governing body~~ regarding a community service plan  
for students ~~in all grades of the schools under control of the~~  
~~board~~ and shall oversee and assist in the implementation of the  
plan adopted by the board, governing authority, or governing body  
under division (B) (2) of this section. Each board, governing  
~~authority, or governing body~~ shall determine the membership and  
organization of its advisory committee and may designate an  
existing committee established for another purpose to serve as the  
community service advisory committee; however, each such committee  
shall include two or more students and shall include or consult

with at least one person employed in the field of volunteer management who devotes at least fifty per cent of employment hours to coordinating volunteerism among community organizations. The committee members may include representatives of parents, teachers, administrators, other educational institutions, business, government, nonprofit organizations, veterans organizations, social service agencies, religious organizations, and philanthropies.

(2) Develop and implement a community service plan ~~for~~ ~~students in all grades of the schools under control of the board.~~ To assist in establishing its plan, the board, governing authority, or governing body shall consult with and may contract with one or more local or regional organizations with experience in volunteer program development and management. Each community service plan adopted under this division shall be based upon the recommendations of the advisory committee and shall provide for all of the following:

(a) Education of students in the value of community service and its contributions to the history of this state and this nation;

(b) Identification of opportunities for students to provide community service;

(c) Encouragement of students to provide community service;

(d) Integration of community service opportunities into the curriculum;

(e) A community service instructional program for teachers, including strategies for the teaching of community service education, for the discovery of community service opportunities, and for the motivation of students to become involved in community service.

Plans shall be reviewed periodically by the advisory committee and, if necessary, revised by the board, governing authority, or governing body at least once every five years.

~~Plans shall emphasize community service opportunities that can most effectively use the skills of students, such as tutoring or literacy programs.~~ Plans shall provide for students to perform services under the plan that will not supplant the hiring of, result in the displacement of, or impair any existing employment contract of any particular employee of any private or governmental entity for which the services are performed. The plan shall provide for any entity utilizing a student to perform community service under the plan to verify to the board that the student does not supplant the hiring of, displace, or impair the employment contract of any particular employee of the entity.

Upon adoption, a board, governing authority, or governing body shall submit a copy of its plan to the department of education. Each city and exempted village board of education and each governing board of a service center shall include a copy of its plan in any course of study adopted under section 3313.60 of the Revised Code that is required to be submitted for approval to the state board for review. A joint vocational school district board of education shall submit a copy of its plan to the state board for review when required to do so by the state board. A local board shall forward its plan to the educational service center governing board for inclusion in the governing board's course of study. ~~By December 1, 1992, and periodically thereafter,~~ the ~~The~~ department of ~~education~~ periodically shall review all plans and publish those plans that could serve as models for other school districts ~~or~~, educational service centers, community schools, or STEM schools.

(C) A Under this section, a board integrating community

~~service education into the curriculum, governing authority, or governing body~~ may only grant high school credit for a community service education course if approximately half of the course is devoted to classroom study of such matters as civic responsibility, the history of volunteerism, and community service training and approximately half of the course is devoted to community service.

Each board, governing authority, or governing body shall determine which specific activities will serve to fulfill the required hours of community service.

(D) The superintendent of public instruction shall develop guidelines for the development and implementation of a rubric to evaluate and rate community service education projects for use by districts, governing authorities, and governing boards that adopt a community service education plan.

(E) The state superintendent shall adopt rules for granting a student special certification, special recognition on a diploma, or special notification in the student's record upon the student's successful completion of an approved community service project.

The district board, governing authority, or governing body shall use a rubric developed in accordance with division (D) of this section to determine whether a community service project warrants recognition on a student's diploma under this division.

In line 90845, after "3313.603," insert "3313.605,"

In line 68 of the title, after "3313.603," insert "3313.605,"

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Community Service Education

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R.C. 3313.605

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Revises the current law permitting school districts to include community service education within their educational programs by:

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(1) Adding this permissive authority also for community schools and STEM schools;

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(2) Requiring the state Superintendent to develop guidelines for a scoring rubric for school officials to use to evaluate community service projects;

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(3) Requiring the state Superintendent to adopt rules for granting a student special certification, recognition, or notification upon successful completion of an approved community service project.

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(The Introduced and House versions required all school districts, community schools, and STEM schools to include community service education in their educational programs.)

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Am. Sub. H.B. 1

As Passed by the Senate

CC 5014

EDU 31

\_\_\_\_\_ moved to amend as follows:

In line 347, after "3319.22," insert "3319.221,"

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Between lines 42121 and 42122, insert:

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"Sec. 3319.221. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining a school nurse license and a school nurse wellness coordinator license. At a minimum, the rules shall require that an applicant for a school nurse license be licensed as a registered nurse under Chapter 4723. of the Revised Code.

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(B) If the state board requires any examinations for licensure under this section, the department of education shall provide the examination results received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

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(C) Any rules for licenses described in this section that the state board adopts, amends, or rescinds under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code, except that the authority to adopt, amend, or rescind emergency rules under division (F) of section 119.03 of

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the Revised Code shall not apply to the state board with respect to rules for licenses described in this section.

(D) Any registered nurse employed by a school district in the capacity of school nurse on January 1, 1973, or any registered nurse employed by a city or general health district on January 1, 1973, to serve full-time in the capacity of school nurse in one or more school districts, shall be considered to have fulfilled the requirements for the issuance of a school nurse license under this section 3319.22 of the Revised Code."

In line 42126, delete "and"

In line 42127, after "permits" insert ", and school nurse licenses"

In line 42160, after "(D)" insert "Any school nurse license issued under former section 3319.22 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section shall be valid until the license expires for employment as a school nurse, except as the license is limited, suspended, or revoked under section 3319.31 of the Revised Code."

(E)"

In line 42162, after "Code" insert ", a school nurse license or a school nurse wellness coordinator license issued under section 3319.221 of the Revised Code,"

In line 42166, delete "(E)" and insert "(F)"

In line 90849, after "3319.22," insert "3319.221,"

In line 106541, after "3318.011," insert "3319.221,"

In line 74 of the title, after "3319.22," insert "3319.221,"

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The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Licensure of School Nurses	47
R.C. 3319.221 and 3319.222	48
Restores to House version which:	49
(1) Requires the State Board of Education to adopt rules establishing standards and requirements for obtaining a school nurse license and a school nurse wellness coordinator license. At a minimum, the rules must require an applicant for the school nurse license to be a registered nurse.	50 51 52 53 54
(2) Directs the Department of Education to provide the results of any examinations required for licensure to the Chancellor of the Ohio Board of Regents, to the extent permitted by law.	55 56 57 58



Am. Sub. H.B. 1

As Passed by the Senate

CC 5016

FBU-32

\_\_\_\_\_ moved to amend as follows:

In line 442, after "3319.612," insert "3319.70, 3319.71,"

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Between lines 43147 and 43148, insert:

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"Sec. 3319.70. (A) The school health services advisory council is hereby established. The council shall consist of the following members:

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(1) A registered nurse licensed under Chapter 4723. of the Revised Code who also is licensed as a school nurse pursuant to section 3319.221 or former section 3319.22 of the Revised Code and is a member of the Ohio association of school nurses, appointed by the governor;

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(2) A representative of the board of nursing, appointed by the governor;

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(3) A representative of the department of health who has expertise in school and adolescent health services, appointed by the director of health;

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(4) A representative of the department of education, appointed by the superintendent of public instruction;

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(5) A representative of the chancellor of the Ohio board of

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regents, appointed by the chancellor;

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(6) A representative of a nurse education program, appointed by the chancellor;

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(7) A representative of the department of development who has expertise in workforce development, appointed by the director of development;

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(8) A representative of the department of job and family services who has expertise in child and adolescent care, appointed by the director of job and family services;

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(9) A representative of the public, appointed by the governor.

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(B) Initial appointments to the council shall be made within thirty days after the effective date of this section. Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the same manner as the original appointment. Members shall receive no compensation for their services, except to the extent that service on the council is part of their regular employment duties.

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(C) The representative of the department of education shall call the first meeting of the council. At that meeting, the members shall select a chairperson and vice-chairperson. Subsequent meetings of the council shall be held at the call of the chairperson.

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Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

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(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

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(2) The content of the course of instruction required to

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obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code; 48  
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(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code. 50  
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(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, the board of nursing, and the health care coverage and quality council." 55  
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In line 106541, after "3318.011," insert "3319.70, 3319.71," 61

In line 201 of the title, after "3319.612," insert "3319.70, 3319.71," 62  
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The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

School Health Services Advisory Council 64

R.C. 3319.70 and 3319.71 65

Restores House provisions that establish the nine-member School Health Services Advisory Council to make recommendations on: 66  
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(1) The content of courses of instruction required to obtain a school nurse license or a school nurse wellness coordinator license; and 69  
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(2) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of public schools. 72  
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Am. Sub. H.B. 1

As Passed by the Senate

CC-5017

EDU-22

\_\_\_\_\_ moved to amend as follows:

In line 345, after "3315.37," insert "3317.01," 1

Between lines 39388 and 39389, insert: 2

"Sec. 3317.01. As used in this section and section 3317.011 3  
of the Revised Code, "school district," unless otherwise 4  
specified, means any city, local, exempted village, joint 5  
vocational, or cooperative education school district and any 6  
educational service center. 7

This chapter shall be administered by the state board of 8  
education. The superintendent of public instruction shall 9  
calculate the amounts payable to each school district and shall 10  
certify the amounts payable to each eligible district to the 11  
treasurer of the district as provided by this chapter. As soon as 12  
possible after such amounts are calculated, the superintendent 13  
shall certify to the treasurer of each school district the 14  
district's adjusted charge-off increase, as defined in section 15  
5705.211 of the Revised Code. No moneys shall be distributed 16  
pursuant to this chapter without the approval of the controlling 17  
board. 18

The state board of education shall, in accordance with 19

appropriations made by the general assembly, meet the financial obligations of this chapter. 20  
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Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nondisabled students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the department shall calculate and report separately for each school district the district's total state and local funds for providing an adequate education for its students with disabilities, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code. 22  
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Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the department calculates the district will receive under each of divisions (C)(1) and (4) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that preliminary estimate. 32  
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Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed at least monthly to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other 40  
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than monthly, such distribution shall be on the same basis for 51  
each school district. 52

The total amounts paid each month shall constitute, as nearly 53  
as possible, one-twelfth of the total amount payable for the 54  
entire year. 55

Until fiscal year 2007, payments made during the first six 56  
months of the fiscal year may be based on an estimate of the 57  
amounts payable for the entire year. Payments made in the last six 58  
months shall be based on the final calculation of the amounts 59  
payable to each school district for that fiscal year. Payments 60  
made in the last six months may be adjusted, if necessary, to 61  
correct the amounts distributed in the first six months, and to 62  
reflect enrollment increases when such are at least three per 63  
cent. 64

Beginning in fiscal year 2007, payments shall be calculated 65  
to reflect the biannual reporting of average daily membership. In 66  
fiscal year 2007 and in each fiscal year thereafter, annualized 67  
periodic payments for each school district shall be based on the 68  
district's final student counts verified by the superintendent of 69  
public instruction based on reports under section 3317.03 of the 70  
Revised Code, as adjusted, if so ordered, under division (K) of 71  
that section, as follows: 72

the sum of one-half of the number of students verified 73  
and adjusted for the first full week in October 74  
plus one-half of the average of the numbers 75  
verified and adjusted for the first full week 76  
in October and for the first full week in February 77

Except as otherwise provided, payments under this chapter 78  
shall be made only to those school districts in which: 79

(A) The school district, except for any educational service 80  
center and any joint vocational or cooperative education school 81

district, levies for current operating expenses at least twenty  
mills. Levies for joint vocational or cooperative education school  
districts or county school financing districts, limited to or to  
the extent apportioned to current expenses, shall be included in  
this qualification requirement. School district income tax levies  
under Chapter 5748. of the Revised Code, limited to or to the  
extent apportioned to current operating expenses, shall be  
included in this qualification requirement to the extent  
determined by the tax commissioner under division (D) of section  
3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which  
such payments are authorized meets the requirement of section  
3313.48 or 3313.481 of the Revised Code, with regard to the  
minimum number of days or hours school must be open for  
instruction with pupils in attendance, for individualized  
parent-teacher conference and reporting periods, and for  
professional meetings of teachers. This requirement shall be  
waived by the superintendent of public instruction if it had been  
necessary for a school to be closed because of disease epidemic,  
hazardous weather conditions, inoperability of school buses or  
other equipment necessary to the school's operation, damage to a  
school building, or other temporary circumstances due to utility  
failure rendering the school building unfit for school use,  
provided that for those school districts operating pursuant to  
section 3313.48 of the Revised Code the number of days the school  
was actually open for instruction with pupils in attendance and  
for individualized parent-teacher conference and reporting periods  
is not less than one hundred seventy-five, or for those school  
districts operating on a trimester plan the number of days the  
school was actually open for instruction with pupils in attendance  
not less than seventy-nine days in any trimester, for those school  
districts operating on a quarterly plan the number of days the



school was actually open for instruction with pupils in attendance 114  
not less than fifty-nine days in any quarter, or for those school 115  
districts operating on a pentamester plan the number of days the 116  
school was actually open for instruction with pupils in attendance 117  
not less than forty-four days in any pentamester. However, for 118  
fiscal year 2012, the superintendent shall waive two fewer such 119  
days for the 2010-2011 school year. 120

A school district shall not be considered to have failed to 121  
comply with this division or section 3313.481 of the Revised Code 122  
because schools were open for instruction but either twelfth grade 123  
students were excused from attendance for up to three days or only 124  
a portion of the kindergarten students were in attendance for up 125  
to three days in order to allow for the gradual orientation to 126  
school of such students. 127

The superintendent of public instruction shall waive the 128  
requirements of this section with reference to the minimum number 129  
of days or hours school must be in session with pupils in 130  
attendance for the school year succeeding the school year in which 131  
a board of education initiates a plan of operation pursuant to 132  
section 3313.481 of the Revised Code. The minimum requirements of 133  
this section shall again be applicable to such a district 134  
beginning with the school year commencing the second July 135  
succeeding the initiation of one such plan, and for each school 136  
year thereafter. 137

A school district shall not be considered to have failed to 138  
comply with this division or section 3313.48 or 3313.481 of the 139  
Revised Code because schools were open for instruction but the 140  
length of the regularly scheduled school day, for any number of 141  
days during the school year, was reduced by not more than two 142  
hours due to hazardous weather conditions. 143

(C) The school district has on file, and is paying in 144

accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code. 145 146

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board. 147 148 149 150 151 152 153

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only." 154 155 156

In line 90847, after "3315.37," insert "3317.01," 157

Between lines 95906 and 95907, insert: 158

"Section \_\_\_\_ . RECOMMENDATIONS FOR MINIMUM SCHOOL YEAR 159

Not later than December 31, 2010, the Superintendent of Public Instruction shall submit to the General Assembly, in accordance with section 101.68 of the Revised Code, a report of the Superintendent's findings and recommendations on extending the school year." 160 161 162 163 164

In line 70 of the title, after "3315.37," insert "3317.01," 165

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Minimum School Year 166

R.C. 3317.01; Section \_\_\_\_ . 167

Reduces the five excused calamity days to three calamity days for the 2010-2011 school year. 168  
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Requires the Superintendent of Public Instruction to report recommendations on extending the school year to the General Assembly not later than December 31, 2010. 170  
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Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5018  
SFC-3

\_\_\_\_\_ moved to amend as follows:

In line 346, after "3318.011," insert "3318.061,"; after 1  
"3318.37," insert "3318.38," 2

Between lines 41138 and 41139, insert: 3

"Sec. 3318.061. This section applies only to school districts 4  
eligible to receive additional assistance under division (B) (2) of 5  
section 3318.04 of the Revised Code ~~and to big eight districts~~ 6  
~~segmenting projects under section 3318.38 of the Revised Code.~~ 7

The board of education of a school district in which a tax 9  
described by division (B) of section 3318.05 and levied under 10  
section 3318.06 of the Revised Code is in effect, may adopt a 11  
resolution by vote of a majority of its members to extend the term 12  
of that tax beyond the expiration of that tax as originally 13  
approved under that section. The school district board may include 14  
in the resolution a proposal to extend the term of that tax at the 15  
rate of not less than one-half mill for each dollar of valuation 16  
for a period of twenty-three years from the year in which the 17  
school district board and the Ohio school facilities commission 18  
enter into an agreement under division (B) (2) of section 3318.04 19  
of the Revised Code or in the following year, as specified in the 20

~~resolution or, as applicable in the case of a district segmenting~~  
~~a project under section 3318.38 of the Revised Code, from the year~~  
~~in which the last segment is undertaken.~~ Such a resolution may be  
adopted at any time before such an agreement is entered into and  
before the tax levied pursuant to section 3318.06 of the Revised  
Code expires. If the resolution is combined with a resolution to  
issue bonds to pay the school district's portion of the basic  
project cost, it shall conform with the requirements of divisions  
(A) (1), (2), and (3) of section 3318.06 of the Revised Code,  
except that the resolution also shall state that the tax levy  
proposed in the resolution is an extension of an existing tax  
levied under that section. A resolution proposing an extension  
adopted under this section does not take effect until it is  
approved by a majority of electors voting in favor of the  
resolution at a general, primary, or special election as provided  
in this section.

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A tax levy extended under this section is subject to the same  
terms and limitations to which the original tax levied under  
section 3318.06 of the Revised Code is subject under that section,  
except the term of the extension shall be as specified in this  
section.

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The school district board shall certify a copy of the  
resolution adopted under this section to the proper county board  
of elections not later than seventy-five days before the date set  
in the resolution as the date of the election at which the  
question will be submitted to electors. The notice of the election  
shall conform with the requirements of division (A) (3) of section  
3318.06 of the Revised Code, except that the notice also shall  
state that the maintenance tax levy is an extension of an existing  
tax levy.

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The form of the ballot shall be as follows:

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"Shall the existing tax levied to pay the cost of maintaining classroom facilities constructed with the proceeds of the previously issued bonds at the rate of ..... (here insert the number of mills, which shall not be less than one-half mill) mills per dollar of tax valuation, be extended until ..... (here insert the year that is twenty-three years after the year in which the district and commission will enter into an agreement under division (B) (2) of section 3318.04 of the Revised Code or the following year)?

	FOR EXTENDING THE EXISTING TAX LEVY
	AGAINST EXTENDING THE EXISTING TAX LEVY

"

Section 3318.07 of the Revised Code applies to ballot questions under this section."

Between lines 41227 and 41228, insert:

"Sec. 3318.38. (A) As used in this section, "big-eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(B) There is hereby established the accelerated urban school building assistance program. Under the program, notwithstanding section 3318.02 of the Revised Code, any big-eight school district that has not been approved to receive assistance under sections 3318.01 to 3318.20 of the Revised Code by July 1, 2002, may beginning on that date apply for approval of and be approved for such assistance. Except as otherwise provided in this section, any project approved and undertaken pursuant to this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code.

The Ohio school facilities commission shall provide 81  
assistance to any big-eight school district eligible for 82  
assistance under this section in the following manner: 83

(1) Notwithstanding section 3318.02 of the Revised Code: 84

(a) Not later than June 30, 2002, the commission shall 85  
conduct an on-site visit and shall assess the classroom facilities 86  
needs of each big-eight school district eligible for assistance 87  
under this section; 88

(b) Beginning July 1, 2002, any big-eight school district 89  
eligible for assistance under this section may apply to the 90  
commission for conditional approval of its project as determined 91  
by the assessment conducted under division (B) (1) (a) of this 92  
section. The commission may conditionally approve that project and 93  
submit it to the controlling board for approval pursuant to 94  
section 3318.04 of the Revised Code. 95

(2) If the controlling board approves the project of a 96  
big-eight school district eligible for assistance under this 97  
section, the commission and the school district shall enter into 98  
an agreement as prescribed in section 3318.08 of the Revised Code. 99  
Any agreement executed pursuant to this division shall include any 100  
applicable segmentation provisions as approved by the commission 101  
under division (B) (3) of this section. 102

(3) Notwithstanding any provision to the contrary in sections 103  
3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight 104  
school district eligible for assistance under this section may 105  
with the approval of the commission opt to divide the project as 106  
approved under division (B) (1) (b) of this section into discrete 107  
segments to be completed sequentially. Any project divided into 108  
segments shall comply with all other provisions of sections 109  
3318.05, 3318.06, and 3318.08 of the Revised Code except as 110  
otherwise specified in this division. 111

If a project is divided into segments under this division: 112

(a) The school district need raise only the amount equal to 113  
its proportionate share, as determined under section 3318.032 of 114  
the Revised Code, of each segment at any one time and may seek 115  
voter approval of each segment separately; 116

(b) The state's proportionate share, as determined under 117  
section 3318.032 of the Revised Code, of only the segment which 118  
has been approved by the school district electors or for which the 119  
district has applied a local donated contribution under section 120  
3318.084 of the Revised Code shall be encumbered in accordance 121  
with section 3318.11 of the Revised Code. Encumbrance of 122  
additional amounts to cover the state's proportionate share of 123  
later segments shall be approved separately as they are approved 124  
by the school district electors or as the district applies a local 125  
donated contribution to the segments under section 3318.084 of the 126  
Revised Code. 127

~~(c) If it is necessary to levy the additional tax for 128  
maintenance under division (B) of section 3318.05 of the Revised 129  
Code with respect to any segment of the project, the district may 130  
utilize the provisions of section 3318.061 of the Revised Code to 131  
ensure that the maintenance tax extends for twenty three years 132  
after the last segment of the project is undertaken. The school 133  
district's maintenance levy requirement, as defined in section 134  
3318.18 of the Revised Code, shall run for twenty-three years from 135  
the date the first segment is undertaken. 136~~

(4) For any project under this section, the state funds 137  
reserved and encumbered and the funds provided by the school 138  
district to pay the basic project cost of any segment of the 139  
project, or of the entire project if it is not divided into 140  
segments, shall be spent on the construction and acquisition of 141  
the project simultaneously in proportion to the state's and the 142



school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code." 143 144

In line 90848, after "3318.011," insert "3318.061,"; after "3318.37," insert "3318.38," 145 146

Between lines 101716 and 101717, insert: 147

"Section 385.30. AMENDMENT TO PROJECT AGREEMENT FOR MAINTENANCE LEVY 148 149

The Ohio School Facilities Commission shall amend the project agreement between the Commission and a school district that is participating in the Accelerated Urban School Building Assistance Program on the effective date of this section, if the Commission determines that it is necessary to do so in order to comply with division (B)(3)(c) of section 3318.38 of the Revised Code, as amended by this act." 150 151 152 153 154 155 156

In line 72 of the title, after "3318.011," insert "3318.061,"; after "3318.37," insert "3318.38," 157 158

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Changes to Maintenance Levy Requirements for Accelerated Urban Districts 159 160

R.C. 3318.061 and 3318.38; Section 385.30 161

Restores the House version, which: 162

(1) Eliminates the requirement that a school district's one-half-mill maintenance levy extend for 23 years after the district's last segment under the program is undertaken, if the project is divided into segments. The maintenance levy, instead, 163 164 165 166

will run for 23 years from the date the initial segment is 167  
undertaken, as required for all other districts undertaking 168  
projects under the Classroom Facilities Assistance Program. 169

(2) Requires the Commission to amend project agreements with 170  
the six Accelerated Urban districts, if necessary, to comply with 171  
this change. 172

Am. Sub. H.B. 1  
As Passed by the Senate  
CC-5019-1  
SFC-15

\_\_\_\_\_ moved to amend as follows:

In line 441, after "3314.44," insert "3318.312," 1

Between lines 41138 and 41139, insert: 2

"Sec. 3318.312. At the request of the superintendent of public instruction, the executive director of the Ohio school facilities commission shall advise the superintendent of demands upon and other issues related to existing classroom facilities that may arise due to new operating requirements specified in the rules adopted under section 3306.25 of the Revised Code establishing expenditure and reporting standards for operating funds paid under Chapter 3306. of the Revised Code." 3  
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In line 200 of the title, after "3314.44," insert "3318.312," 11

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

Classroom Facilities-Effect of New Operating Requirements 12

R.C. 3318.312 13

Requires the Executive Director of the Ohio School Facilities Commission, upon request of the Superintendent of Public Instruction, to advise the Superintendent of new demands upon and issues related to classroom facilities that may arise due to new operating requirements in rules adopted by the Superintendent relating to expenditure and reporting standards.

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