

The department and each county department and agency shall 93146
keep a record of their audits and investigations stating the time, 93147
place, charges, or subject, witnesses summoned and examined, and 93148
their conclusions. 93149

Witnesses shall be paid the fees and mileage provided for 93150
under section 119.094 of the Revised Code. 93151

(B) In conducting hearings pursuant to Chapters 3119., 3121., 93152
and 3123. or pursuant to division (B) of section 5101.35 of the 93153
Revised Code, the department and each child support enforcement 93154
agency have the same power as a judge of a county court to 93155
administer oaths and to enforce the attendance and testimony of 93156
witnesses and the production of books or papers. The department 93157
and each agency shall keep a record of those hearings stating the 93158
time, place, charges, or subject, witnesses summoned and 93159
examined, and their conclusions. 93160

The issuance of a subpoena by the department or a child 93161
support enforcement agency to enforce attendance and testimony of 93162
witnesses and the production of books or papers at a hearing is 93163
discretionary and the department or agency is not required to pay 93164
the fees of witnesses for attendance and travel. 93165

(C) Any judge of any division of the court of common pleas, 93166
upon application of the department or a county department or child 93167
support enforcement agency, may compel the attendance of 93168
witnesses, the production of books or papers, and the giving of 93169
testimony before the department, county department, or agency, by 93170
a judgment for contempt or otherwise, in the same manner as in 93171
cases before those courts. 93172

(D) Until an audit report is formally released by the 93173
department of job and family services, the audit report or any 93174
working paper or other document or record prepared by the 93175
department and related to the audit that is the subject of the 93176

audit report is not a public record under section 149.43 of the Revised Code. 93177
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(E) The director of job and family services may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 93179
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Sec. 5101.46. (A) As used in this section: 93183

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 93184
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(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 93186
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(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 93192
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(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals: 93198
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(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency; 93204
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(2) Achieving or maintaining self-sufficiency, including 93206

reduction or prevention of dependency;	93207
(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;	93208 93209 93210
(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;	93211 93212 93213
(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.	93214 93215 93216
(C)(1) All federal funds received under Title XX shall be appropriated as follows:	93217 93218
(a) Seventy-two and one-half per cent to the department of job and family services;	93219 93220
(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;	93221 93222
(c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities.	93223 93224
(2) Each <u>of the state department departments</u> shall, subject to the approval of the controlling board, develop <u>formulas a formula</u> for the distribution of <u>their the</u> Title XX <u>appropriations funds appropriated to the department to their its</u> respective local agencies. The <u>formulas formula</u> developed by each state department shall take into account <u>all of the following for each of its respective local agencies:</u>	93225 93226 93227 93228 93229 93230 93231
(a) <u>The</u> total population of the area that is served by the <u>respective local agency, the;</u>	93232 93233
(b) <u>The</u> percentage of the population in the area <u>served</u> that falls below the federal poverty guidelines, <u>and the;</u>	93234 93235
(c) <u>The respective local</u> agency's history of and ability to	93236

utilize Title XX funds. 93237

(3) Each of the state departments shall expend ~~no~~ for state 93238
administrative costs not more than three per cent of ~~its~~ the Title 93239
XX ~~appropriation for state administrative costs~~ funds appropriated 93240
to the department. ~~Each of the department's respective local~~ 93241
~~agencies shall expend no more than fourteen per cent of its Title~~ 93242
~~XX appropriation~~ 93243

Each state department shall establish for each of its 93244
respective local agencies the maximum percentage of the Title XX 93245
funds distributed to the respective local agency that the 93246
respective local agency may expend for local administrative costs. 93247
The percentage shall be established by rule and shall comply with 93248
federal law governing the use of Title XX funds. The rules shall 93249
be adopted in accordance with section 111.15 of the Revised Code 93250
as if they were internal management rules. 93251

(4) The department of job and family services shall expend ~~no~~ 93252
for the training of the following not more than two per cent of 93253
~~its~~ the Title XX ~~appropriation for the training of the following~~ 93254
funds appropriated to the department: 93255

(a) Employees of county departments of job and family 93256
services; 93257

(b) Providers of services under contract with the state 93258
departments' respective local agencies; 93259

(c) Employees of a public children services agency directly 93260
engaged in providing Title XX services. 93261

(D) The department of job and family services shall prepare a 93262
biennial comprehensive Title XX social services plan on the 93263
intended use of Title XX funds. The department shall develop a 93264
method for obtaining public comment during the development of the 93265
plan and following its completion. 93266

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on

the basis of alleged misuse or improper accounting of funds. If an 93299
audit is required, the social services provider shall reimburse 93300
the state department or respective local agency for the cost it 93301
incurred in conducting the audit or having the audit conducted. 93302

If an audit demonstrates that a social services provider is 93303
responsible for one or more adverse findings, the provider shall 93304
reimburse the appropriate state department or its respective local 93305
agency the amount of the adverse findings. The amount shall not be 93306
reimbursed with Title XX funds received under this section. The 93307
three state departments and their respective local agencies may 93308
terminate or refuse to enter into a Title XX contract with a 93309
social services provider if there are adverse findings in an audit 93310
that are the responsibility of the provider. 93311

(G) The Except with respect to the matters for which each of 93312
the state departments must adopt rules under division (C)(3) of 93313
this section, the department of job and family services may adopt 93314
any rules it considers necessary to implement and carry out the 93315
purposes of this section. Rules governing financial and 93316
operational matters of the department or matters between the 93317
department and county departments of job and family services shall 93318
be adopted as internal management rules in accordance with section 93319
111.15 of the Revised Code. Rules governing eligibility for 93320
services, program participation, and other matters pertaining to 93321
applicants and participants shall be adopted in accordance with 93322
Chapter 119. of the Revised Code. 93323

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions 93324
(B) and (C) of this section, the ~~director~~ department of job and 93325
family services may accept applications, determine eligibility, 93326
redetermine eligibility, and perform related administrative 93327
activities for one or more of the following: 93328

(1) The medicaid program established by Chapter 5111. of the 93329

Revised Code;	93330
(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50, 5101.51, and 5101.52 <u>to 5101.529</u> of the Revised Code;	93331 93332 93333
(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;	93334 93335
(4) The supplemental nutrition assistance program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code;	93336 93337 93338
(5) Other programs the director <u>of job and family services</u> determines are supportive of children, adults, or families;	93339 93340
(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.	93341 93342 93343 93344 93345
(B) <u>To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program.</u>	93346 93347 93348 93349 93350 93351 93352
<u>(C)</u> If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.	93353 93354 93355 93356 93357
(C) <u>(D)</u> Subject to division (B) <u>(C)</u> of this section, if the director <u>department</u> elects to accept applications, determine	93358 93359

eligibility, redetermine eligibility, and perform related 93360
administrative activities for a program specified in or pursuant 93361
to division (A) of this section, both of the following apply: 93362

(1) An individual seeking services under the program may 93363
apply for the program to the ~~director~~ department or to the entity 93364
that state law governing the program authorizes to accept 93365
applications for the program. 93366

(2) The ~~director~~ department is subject to federal statutes 93367
and regulations and state statutes and rules that require, permit, 93368
or prohibit an action regarding accepting applications, 93369
determining or redetermining eligibility, and performing related 93370
administrative activities for the program. 93371

~~(D)~~(E) The director may adopt rules as necessary to implement 93372
this section. 93373

Sec. 5101.57. (A) As used in this section: 93374

(1) "Nontherapeutic abortion" has the same meaning as in 93375
section 124.85 of the Revised Code. 93376

(2) "Political subdivision" means any body corporate and 93377
politic that is responsible for governmental activities in a 93378
geographic area smaller than the state, except that "political 93379
subdivision" does not include either of the following: 93380

(a) A municipal corporation; 93381

(b) A county that has adopted a charter under Section 3 of 93382
Article X, Ohio Constitution, to the extent that it is exercising 93383
the powers of local self-government as provided in that charter 93384
and is subject to Section 3 of Article XVIII, Ohio Constitution. 93385

(3) "Public facility" means any institution, structure, 93386
equipment, or physical asset that is owned, leased, or controlled 93387
by this state or any agency, institution, instrumentality, or 93388
political subdivision thereof. "Public facility" includes any 93389

state university, state medical college, health district, joint hospital, or public hospital agency. 93390
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(B) No public facility shall be used for the purpose of performing or inducing a nontherapeutic abortion. 93392
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Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code: 93394
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(A) "Information" means all of the following: 93396

(1) An individual's name, address, date of birth, and social security number; 93397
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(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage; 93399
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(3) Any other data the director of job and family services specifies in rules adopted under section 5101.591 of the Revised Code. 93402
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(B) "Medical assistance" means medical items or services provided under any of the following: 93405
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(1) Medicaid, as defined in section 5111.01 of the Revised Code; 93407
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(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code; 93409
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~~(3) The children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~ 93412
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(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency. 93414
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(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under 93417
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Chapter 5107. of the Revised Code.	93419
(E)(1) Subject to division (E)(2) of this section, and except	93420
as provided in division (E)(3) of this section, "third party"	93421
means all of the following:	93422
(a) A person authorized to engage in the business of sickness	93423
and accident insurance under Title XXXIX of the Revised Code;	93424
(b) A person or governmental entity providing coverage for	93425
medical services or items to individuals on a self-insurance	93426
basis;	93427
(c) A health insuring corporation as defined in section	93428
1751.01 of the Revised Code;	93429
(d) A group health plan as defined in 29 U.S.C. 1167;	93430
(e) A service benefit plan as referenced in 42 U.S.C.	93431
1396a(a)(25);	93432
(f) A managed care organization;	93433
(g) A pharmacy benefit manager;	93434
(h) A third party administrator;	93435
(i) Any other person or governmental entity that is, by law,	93436
contract, or agreement, responsible for the payment or processing	93437
of a claim for a medical item or service for a public assistance	93438
recipient or participant.	93439
(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a	93440
person or governmental entity listed in division (E)(1) of this	93441
section is a third party even if the person or governmental entity	93442
limits or excludes payments for a medical item or service in the	93443
case of a public assistance recipient.	93444
(3) "Third party" does not include the program for medically	93445
handicapped children established under section 3701.023 of the	93446
Revised Code.	93447

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than ~~three~~ six years after the date of the provision of such medical item or service;

(3) Not charge a fee to do either of the following for a claim described in division (A)(2) of this section:

(a) Determine whether the claim should be paid;

(b) Process the claim.

(4) Pay a claim described in division (A)(2) of this section;

~~(4)~~(5) Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:

(a) The claim was submitted by the department not later than ~~three~~ six years after the date of the provision of the medical item or service.

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

~~(5)~~(6) Consider the department's payment of a claim for a

medical item or service to be the equivalent of the medical 93477
assistance recipient having obtained prior authorization for the 93478
item or service from the third party; 93479

~~(6)~~(7) Not deny a claim described in division (A)~~(5)~~(6) of 93480
this section that is submitted by the department solely on the 93481
basis of the medical assistance recipient's failure to obtain 93482
prior authorization for the medical item or service. 93483

(B) For purposes of the requirements in division (A) of this 93484
section, a third party shall treat a managed care organization as 93485
the department for a claim in which both of the following are 93486
true: 93487

(1) The individual who is the subject of the claim received a 93488
medical item or service through a managed care organization that 93489
has entered into a contract with the department of job and family 93490
services under section 5111.17 of the Revised Code; 93491

(2) The department has assigned its right of recovery for the 93492
claim to the managed care organization. 93493

(C) The time limitations associated with the requirements in 93494
divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to 93495
submissions of claims to, and payments of claims by, a health 93496
insurer to which 42 U.S.C. 1396a(a)(25)(I) applies. 93497

Sec. 5101.58. (A) The acceptance of public assistance gives 93498
an automatic right of recovery to the department of job and family 93499
services and a county department of job and family services 93500
against the liability of a third party for the cost of medical 93501
assistance paid on behalf of the public assistance recipient or 93502
participant. When an action or claim is brought against a third 93503
party by a public assistance recipient or participant, any 93504
payment, settlement or compromise of the action or claim, or any 93505
court award or judgment, is subject to the recovery right of the 93506

department of job and family services or county department of job 93507
and family services. Except in the case of a recipient or 93508
participant who receives medical assistance through a managed care 93509
organization, the department's or county department's claim shall 93510
not exceed the amount of medical assistance paid by a department 93511
on behalf of the recipient or participant. A payment, settlement, 93512
compromise, judgment, or award that excludes the cost of medical 93513
assistance paid for by a department shall not preclude a 93514
department from enforcing its rights under this section. 93515

(B) In the case of a recipient or participant who receives 93516
medical assistance through a managed care organization, the amount 93517
of the department's or county department's claim shall be the 93518
amount the managed care organization pays for medical assistance 93519
rendered to the recipient or participant, even if that amount is 93520
more than the amount a department pays to the managed care 93521
organization for the recipient's or participant's medical 93522
assistance. 93523

(C) A recipient or participant, and the recipient's or 93524
participant's attorney, if any, shall cooperate with the 93525
departments. In furtherance of this requirement, the recipient or 93526
participant, or the recipient's or participant's attorney, if any, 93527
shall, not later than thirty days after initiating informal 93528
recovery activity or filing a legal recovery action against a 93529
third party, provide written notice of the activity or action to 93530
the department of job and family services when medical assistance 93531
under medicaid ~~or the children's buy in program~~ has been paid. 93532

(D) The written notice that must be given under division (C) 93533
of this section shall disclose the identity and address of any 93534
third party against whom the recipient or participant has or may 93535
have a right of recovery. 93536

(E) No settlement, compromise, judgment, or award or any 93537
recovery in any action or claim by a recipient or participant 93538

where the departments have a right of recovery shall be made final 93539
without first giving the appropriate departments written notice as 93540
described in division (C) of this section and a reasonable 93541
opportunity to perfect their rights of recovery. If the 93542
departments are not given the appropriate written notice, the 93543
recipient or participant and, if there is one, the recipient's or 93544
participant's attorney, are liable to reimburse the departments 93545
for the recovery received to the extent of medical payments made 93546
by the departments. 93547

(F) The departments shall be permitted to enforce their 93548
recovery rights against the third party even though they accepted 93549
prior payments in discharge of their rights under this section if, 93550
at the time the departments received such payments, they were not 93551
aware that additional medical expenses had been incurred but had 93552
not yet been paid by the departments. The third party becomes 93553
liable to the department of job and family services or county 93554
department of job and family services as soon as the third party 93555
is notified in writing of the valid claims for recovery under this 93556
section. 93557

(G)(1) Subject to division (G)(2) of this section, the right 93558
of recovery of a department does not apply to that portion of any 93559
judgment, award, settlement, or compromise of a claim, to the 93560
extent of attorneys' fees, costs, or other expenses incurred by a 93561
recipient or participant in securing the judgment, award, 93562
settlement, or compromise, or to the extent of medical, surgical, 93563
and hospital expenses paid by such recipient or participant from 93564
the recipient's or participant's own resources. 93565

(2) Reasonable attorneys' fees, not to exceed one-third of 93566
the total judgment, award, settlement, or compromise, plus costs 93567
and other expenses incurred by the recipient or participant in 93568
securing the judgment, award, settlement, or compromise, shall 93569
first be deducted from the total judgment, award, settlement, or 93570

compromise. After fees, costs, and other expenses are deducted 93571
from the total judgment, award, settlement, or compromise, the 93572
department of job and family services or appropriate county 93573
department of job and family services shall receive no less than 93574
one-half of the remaining amount, or the actual amount of medical 93575
assistance paid, whichever is less. 93576

(H) A right of recovery created by this section may be 93577
enforced separately or jointly by the department of job and family 93578
services or the appropriate county department of job and family 93579
services. To enforce their recovery rights, the departments may do 93580
any of the following: 93581

(1) Intervene or join in any action or proceeding brought by 93582
the recipient or participant or on the recipient's or 93583
participant's behalf against any third party who may be liable for 93584
the cost of medical assistance paid; 93585

(2) Institute and pursue legal proceedings against any third 93586
party who may be liable for the cost of medical assistance paid; 93587

(3) Initiate legal proceedings in conjunction with any 93588
injured, diseased, or disabled recipient or participant or the 93589
recipient's or participant's attorney or representative. 93590

(I) A recipient or participant shall not assess attorney 93591
fees, costs, or other expenses against the department of job and 93592
family services or a county department of job and family services 93593
when the department or county department enforces its right of 93594
recovery created by this section. 93595

(J) The right of recovery given to the department under this 93596
section does not include rights to support from any other person 93597
assigned to the state under sections 5107.20 and 5115.07 of the 93598
Revised Code, but includes payments made by a third party under 93599
contract with a person having a duty to support. 93600

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter ~~3722-~~ 5119. of the Revised Code, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or

personal benefit, profit, or gain. 93631

(H) "In need of protective services" means an adult known or 93632
suspected to be suffering from abuse, neglect, or exploitation to 93633
an extent that either life is endangered or physical harm, mental 93634
anguish, or mental illness results or is likely to result. 93635

(I) "Incapacitated person" means a person who is impaired for 93636
any reason to the extent that the person lacks sufficient 93637
understanding or capacity to make and carry out reasonable 93638
decisions concerning the person's self or resources, with or 93639
without the assistance of a caretaker. Refusal to consent to the 93640
provision of services shall not be the sole determinative that the 93641
person is incapacitated. "Reasonable decisions" are decisions made 93642
in daily living which facilitate the provision of food, shelter, 93643
clothing, and health care necessary for life support. 93644

(J) "Mental illness" means a substantial disorder of thought, 93645
mood, perception, orientation, or memory that grossly impairs 93646
judgment, behavior, capacity to recognize reality, or ability to 93647
meet the ordinary demands of life. 93648

(K) "Neglect" means the failure of an adult to provide for 93649
self the goods or services necessary to avoid physical harm, 93650
mental anguish, or mental illness or the failure of a caretaker to 93651
provide such goods or services. 93652

(L) "Peace officer" means a peace officer as defined in 93653
section 2935.01 of the Revised Code. 93654

(M) "Physical harm" means bodily pain, injury, impairment, or 93655
disease suffered by an adult. 93656

(N) "Protective services" means services provided by the 93657
county department of job and family services or its designated 93658
agency to an adult who has been determined by evaluation to 93659
require such services for the prevention, correction, or 93660
discontinuance of an act of as well as conditions resulting from 93661

abuse, neglect, or exploitation. Protective services may include, 93662
but are not limited to, case work services, medical care, mental 93663
health services, legal services, fiscal management, home health 93664
care, homemaker services, housing-related services, guardianship 93665
services, and placement services as well as the provision of such 93666
commodities as food, clothing, and shelter. 93667

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 93668
and Friday, except when such day is a holiday as defined in 93669
section 1.14 of the Revised Code. 93670

Sec. 5101.61. (A) As used in this section: 93671

(1) "Senior service provider" means any person who provides 93672
care or services to a person who is an adult as defined in 93673
division (B) of section 5101.60 of the Revised Code. 93674

(2) "Ambulatory health facility" means a nonprofit, public or 93675
proprietary freestanding organization or a unit of such an agency 93676
or organization that: 93677

(a) Provides preventive, diagnostic, therapeutic, 93678
rehabilitative, or palliative items or services furnished to an 93679
outpatient or ambulatory patient, by or under the direction of a 93680
physician or dentist in a facility which is not a part of a 93681
hospital, but which is organized and operated to provide medical 93682
care to outpatients; 93683

(b) Has health and medical care policies which are developed 93684
with the advice of, and with the provision of review of such 93685
policies, an advisory committee of professional personnel, 93686
including one or more physicians, one or more dentists, if dental 93687
care is provided, and one or more registered nurses; 93688

(c) Has a medical director, a dental director, if dental care 93689
is provided, and a nursing director responsible for the execution 93690
of such policies, and has physicians, dentists, nursing, and 93691

ancillary staff appropriate to the scope of services provided; 93692

(d) Requires that the health care and medical care of every 93693
patient be under the supervision of a physician, provides for 93694
medical care in a case of emergency, has in effect a written 93695
agreement with one or more hospitals and other centers or clinics, 93696
and has an established patient referral system to other resources, 93697
and a utilization review plan and program; 93698

(e) Maintains clinical records on all patients; 93699

(f) Provides nursing services and other therapeutic services 93700
in accordance with programs and policies, with such services 93701
supervised by a registered professional nurse, and has a 93702
registered professional nurse on duty at all times of clinical 93703
operations; 93704

(g) Provides approved methods and procedures for the 93705
dispensing and administration of drugs and biologicals; 93706

(h) Has established an accounting and record keeping system 93707
to determine reasonable and allowable costs; 93708

(i) "Ambulatory health facilities" also includes an 93709
alcoholism treatment facility approved by the joint commission on 93710
accreditation of healthcare organizations as an alcoholism 93711
treatment facility or certified by the department of alcohol and 93712
drug addiction services, and such facility shall comply with other 93713
provisions of this division not inconsistent with such 93714
accreditation or certification. 93715

(3) "Community mental health facility" means a facility which 93716
provides community mental health services and is included in the 93717
comprehensive mental health plan for the alcohol, drug addiction, 93718
and mental health service district in which it is located. 93719

(4) "Community mental health service" means services, other 93720
than inpatient services, provided by a community mental health 93721

facility. 93722

(5) "Home health agency" means an institution or a distinct 93723
part of an institution operated in this state which: 93724

(a) Is primarily engaged in providing home health services; 93725

(b) Has home health policies which are established by a group 93726
of professional personnel, including one or more duly licensed 93727
doctors of medicine or osteopathy and one or more registered 93728
professional nurses, to govern the home health services it 93729
provides and which includes a requirement that every patient must 93730
be under the care of a duly licensed doctor of medicine or 93731
osteopathy; 93732

(c) Is under the supervision of a duly licensed doctor of 93733
medicine or doctor of osteopathy or a registered professional 93734
nurse who is responsible for the execution of such home health 93735
policies; 93736

(d) Maintains comprehensive records on all patients; 93737

(e) Is operated by the state, a political subdivision, or an 93738
agency of either, or is operated not for profit in this state and 93739
is licensed or registered, if required, pursuant to law by the 93740
appropriate department of the state, county, or municipality in 93741
which it furnishes services; or is operated for profit in this 93742
state, meets all the requirements specified in divisions (A)(5)(a) 93743
to (d) of this section, and is certified under Title XVIII of the 93744
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 93745
amended. 93746

(6) "Home health service" means the following items and 93747
services, provided, except as provided in division (A)(6)(g) of 93748
this section, on a visiting basis in a place of residence used as 93749
the patient's home: 93750

(a) Nursing care provided by or under the supervision of a 93751

registered professional nurse;	93752
(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;	93753 93754
(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;	93755 93756 93757
(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;	93758 93759 93760
(e) Medical supplies and the use of medical appliances;	93761
(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;	93762 93763 93764 93765
(g) Any of the foregoing items and services which:	93766
(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;	93767 93768 93769
(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.	93770 93771 93772 93773 93774
Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 <u>5119.70</u> of the Revised Code, any employee of a nursing home,	93775 93776 93777 93778 93779 93780 93781

residential care facility, or home for the aging, as defined in 93782
section 3721.01 of the Revised Code, any senior service provider, 93783
any peace officer, coroner, clergyman, any employee of a community 93784
mental health facility, and any person engaged in social work or 93785
counseling having reasonable cause to believe that an adult is 93786
being abused, neglected, or exploited, or is in a condition which 93787
is the result of abuse, neglect, or exploitation shall immediately 93788
report such belief to the county department of job and family 93789
services. This section does not apply to employees of any hospital 93790
or public hospital as defined in section 5122.01 of the Revised 93791
Code. 93792

(B) Any person having reasonable cause to believe that an 93793
adult has suffered abuse, neglect, or exploitation may report, or 93794
cause reports to be made of such belief to the department. 93795

(C) The reports made under this section shall be made orally 93796
or in writing except that oral reports shall be followed by a 93797
written report if a written report is requested by the department. 93798
Written reports shall include: 93799

(1) The name, address, and approximate age of the adult who 93800
is the subject of the report; 93801

(2) The name and address of the individual responsible for 93802
the adult's care, if any individual is, and if the individual is 93803
known; 93804

(3) The nature and extent of the alleged abuse, neglect, or 93805
exploitation of the adult; 93806

(4) The basis of the reporter's belief that the adult has 93807
been abused, neglected, or exploited. 93808

(D) Any person with reasonable cause to believe that an adult 93809
is suffering abuse, neglect, or exploitation who makes a report 93810
pursuant to this section or who testifies in any administrative or 93811
judicial proceeding arising from such a report, or any employee of 93812

the state or any of its subdivisions who is discharging 93813
responsibilities under section 5101.62 of the Revised Code shall 93814
be immune from civil or criminal liability on account of such 93815
investigation, report, or testimony, except liability for perjury, 93816
unless the person has acted in bad faith or with malicious 93817
purpose. 93818

(E) No employer or any other person with the authority to do 93819
so shall discharge, demote, transfer, prepare a negative work 93820
performance evaluation, or reduce benefits, pay, or work 93821
privileges, or take any other action detrimental to an employee or 93822
in any way retaliate against an employee as a result of the 93823
employee's having filed a report under this section. 93824

(F) Neither the written or oral report provided for in this 93825
section nor the investigatory report provided for in section 93826
5101.62 of the Revised Code shall be considered a public record as 93827
defined in section 149.43 of the Revised Code. Information 93828
contained in the report shall upon request be made available to 93829
the adult who is the subject of the report, to agencies authorized 93830
by the department to receive information contained in the report, 93831
and to legal counsel for the adult. 93832

Sec. 5101.98. (A) There is hereby created in the state 93833
treasury the military injury relief fund, which shall consist of 93834
money contributed to it under section 5747.113 of the Revised 93835
Code, of incentive grants authorized by the "Jobs for Veterans 93836
Act," 116 Stat. 2033 (2002), and of contributions made directly to 93837
it. Any person or entity may contribute directly to the fund in 93838
addition to or independently of the income tax refund contribution 93839
system established in section 5747.113 of the Revised Code. 93840

(B) Upon application, the director of job and family services 93841
shall grant money in the fund to individuals injured while in 93842
active service as a member of the armed forces of the United 93843

States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations; and

(6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person. 93873
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(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code. 93876
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(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home. 93878
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(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care. 93881
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(E) "Career pathways model" means an alternative pathway to meeting the requirements for a child care staff member or administrator that uses one framework to integrate the pathways of formal education, training, experience, and specialized credentials, and certifications, and that allows the member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six. 93885
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(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child. 93892
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~~(F)~~(G) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to 93900
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receive public funds for providing child care pursuant to this 93904
chapter and any rules adopted under it. 93905

~~(G)~~(H) "Chartered nonpublic school" means a school that meets 93906
standards for nonpublic schools prescribed by the state board of 93907
education for nonpublic schools pursuant to section 3301.07 of the 93908
Revised Code. 93909

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, 93910
or school child. 93911

~~(I)~~(J) "Child care block grant act" means the "Child Care and 93912
Development Block Grant Act of 1990," established in section 5082 93913
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 93914
1388-236 (1990), 42 U.S.C. 9858, as amended. 93915

~~(J)~~(K) "Child day camp" means a program in which only school 93916
children attend or participate, that operates for no more than 93917
seven hours per day, that operates only during one or more public 93918
school district's regular vacation periods or for no more than 93919
fifteen weeks during the summer, and that operates outdoor 93920
activities for each child who attends or participates in the 93921
program for a minimum of fifty per cent of each day that children 93922
attend or participate in the program, except for any day when 93923
hazardous weather conditions prevent the program from operating 93924
outdoor activities for a minimum of fifty per cent of that day. 93925
For purposes of this division, the maximum seven hours of 93926
operation time does not include transportation time from a child's 93927
home to a child day camp and from a child day camp to a child's 93928
home. 93929

~~(K)~~(L) "Child care" means administering to the needs of 93930
infants, toddlers, preschool children, and school children outside 93931
of school hours by persons other than their parents or guardians, 93932
custodians, or relatives by blood, marriage, or adoption for any 93933
part of the twenty-four-hour day in a place or residence other 93934

than a child's own home. 93935

~~(L)~~(M) "Child day-care center" and "center" mean any place in 93936
which child care or publicly funded child care is provided for 93937
thirteen or more children at one time or any place that is not the 93938
permanent residence of the licensee or administrator in which 93939
child care or publicly funded child care is provided for seven to 93940
twelve children at one time. In counting children for the purposes 93941
of this division, any children under six years of age who are 93942
related to a licensee, administrator, or employee and who are on 93943
the premises of the center shall be counted. "Child day-care 93944
center" and "center" do not include any of the following: 93945

(1) A place located in and operated by a hospital, as defined 93946
in section 3727.01 of the Revised Code, in which the needs of 93947
children are administered to, if all the children whose needs are 93948
being administered to are monitored under the on-site supervision 93949
of a physician licensed under Chapter 4731. of the Revised Code or 93950
a registered nurse licensed under Chapter 4723. of the Revised 93951
Code, and the services are provided only for children who, in the 93952
opinion of the child's parent, guardian, or custodian, are 93953
exhibiting symptoms of a communicable disease or other illness or 93954
are injured; 93955

(2) A child day camp; 93956

(3) A place that provides child care, but not publicly funded 93957
child care, if all of the following apply: 93958

(a) An organized religious body provides the child care; 93959

(b) A parent, custodian, or guardian of at least one child 93960
receiving child care is on the premises and readily accessible at 93961
all times; 93962

(c) The child care is not provided for more than thirty days 93963
a year; 93964

(d) The child care is provided only for preschool and school children.	93965 93966
(M) <u>(N)</u> "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.	93967 93968 93969 93970
(N) <u>(O)</u> "Child care resource and referral services" means all of the following services:	93971 93972
(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	93973 93974 93975
(2) Provision of individualized consumer education to families seeking child care;	93976 93977
(3) Provision of timely referrals of available child care providers to families seeking child care;	93978 93979
(4) Recruitment of child care providers;	93980
(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;	93981 93982 93983 93984
(6) Collection and analysis of data on the supply of and demand for child care in the community;	93985 93986
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	93987 93988 93989
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	93990 93991 93992
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	93993 93994

(10) Coordination of services among child care resource and 93995
referral service organizations to assist in developing and 93996
maintaining a statewide system of child care resource and referral 93997
services if required by the department of job and family services; 93998

(11) Cooperation with the county department of job and family 93999
services in encouraging the establishment of parent cooperative 94000
child care centers and parent cooperative type A family day-care 94001
homes. 94002

~~(O)~~(P) "Child-care staff member" means an employee of a child 94003
day-care center or type A family day-care home who is primarily 94004
responsible for the care and supervision of children. The 94005
administrator may be a part-time child-care staff member when not 94006
involved in other duties. 94007

~~(P)~~(O) "Drop-in child day-care center," "drop-in center," 94008
"drop-in type A family day-care home," and "drop-in type A home" 94009
mean a center or type A home that provides child care or publicly 94010
funded child care for children on a temporary, irregular basis. 94011

~~(O)~~(R) "Employee" means a person who either: 94012

(1) Receives compensation for duties performed in a child 94013
day-care center or type A family day-care home; 94014

(2) Is assigned specific working hours or duties in a child 94015
day-care center or type A family day-care home. 94016

~~(R)~~(S) "Employer" means a person, firm, institution, 94017
organization, or agency that operates a child day-care center or 94018
type A family day-care home subject to licensure under this 94019
chapter. 94020

~~(S)~~(T) "Federal poverty line" means the official poverty 94021
guideline as revised annually in accordance with section 673(2) of 94022
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 94023
U.S.C. 9902, as amended, for a family size equal to the size of 94024

the family of the person whose income is being determined. 94025

~~(T)~~(U) "Head start program" means a comprehensive child 94026
development program that receives funds distributed under the 94027
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 94028
amended, and is licensed as a child day-care center. 94029

~~(U)~~(V) "Income" means gross income, as defined in section 94030
5107.10 of the Revised Code, less any amounts required by federal 94031
statutes or regulations to be disregarded. 94032

~~(V)~~(W) "Indicator checklist" means an inspection tool, used 94033
in conjunction with an instrument-based program monitoring 94034
information system, that contains selected licensing requirements 94035
that are statistically reliable indicators or predictors of a 94036
child day-care center or type A family day-care home's compliance 94037
with licensing requirements. 94038

~~(W)~~(X) "Infant" means a child who is less than eighteen 94039
months of age. 94040

~~(X)~~(Y) "In-home aide" means a person who does not reside with 94041
the child but provides care in the child's home and is certified 94042
by a county director of job and family services pursuant to 94043
section 5104.12 of the Revised Code to provide publicly funded 94044
child care to a child in a child's own home pursuant to this 94045
chapter and any rules adopted under it. 94046

~~(Y)~~(Z) "Instrument-based program monitoring information 94047
system" means a method to assess compliance with licensing 94048
requirements for child day-care centers and type A family day-care 94049
homes in which each licensing requirement is assigned a weight 94050
indicative of the relative importance of the requirement to the 94051
health, growth, and safety of the children that is used to develop 94052
an indicator checklist. 94053

~~(Z)~~(AA) "License capacity" means the maximum number in each 94054
age category of children who may be cared for in a child day-care 94055

center or type A family day-care home at one time as determined by 94056
the director of job and family services considering building 94057
occupancy limits established by the department of commerce, ~~number~~ 94058
~~of available child care staff members,~~ amount of available indoor 94059
floor space and outdoor play space, and amount of available play 94060
equipment, materials, and supplies. For the purposes of a 94061
provisional license issued under this chapter, the director shall 94062
also consider the number of available child-care staff members 94063
when determining "license capacity" for the provisional license. 94064

~~(AA)~~(BB) "Licensed preschool program" or "licensed school 94065
child program" means a preschool program or school child program, 94066
as defined in section 3301.52 of the Revised Code, that is 94067
licensed by the department of education pursuant to sections 94068
3301.52 to 3301.59 of the Revised Code. 94069

~~(BB)~~(CC) "Licensee" means the owner of a child day-care 94070
center or type A family day-care home that is licensed pursuant to 94071
this chapter and who is responsible for ensuring its compliance 94072
with this chapter and rules adopted pursuant to this chapter. 94073

~~(CC)~~(DD) "Operate a child day camp" means to operate, 94074
establish, manage, conduct, or maintain a child day camp. 94075

~~(DD)~~(EE) "Owner" includes a person, as defined in section 94076
1.59 of the Revised Code, or government entity. 94077

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent 94078
cooperative center," "parent cooperative type A family day-care 94079
home," and "parent cooperative type A home" mean a corporation or 94080
association organized for providing educational services to the 94081
children of members of the corporation or association, without 94082
gain to the corporation or association as an entity, in which the 94083
services of the corporation or association are provided only to 94084
children of the members of the corporation or association, 94085
ownership and control of the corporation or association rests 94086

solely with the members of the corporation or association, and at 94087
least one parent-member of the corporation or association is on 94088
the premises of the center or type A home during its hours of 94089
operation. 94090

~~(FF)~~(GG) "Part-time child day-care center," "part-time 94091
center," "part-time type A family day-care home," and "part-time 94092
type A home" mean a center or type A home that provides child care 94093
or publicly funded child care for no more than four hours a day 94094
for any child. 94095

~~(GG)~~(HH) "Place of worship" means a building where activities 94096
of an organized religious group are conducted and includes the 94097
grounds and any other buildings on the grounds used for such 94098
activities. 94099

~~(HH)~~(II) "Preschool child" means a child who is three years 94100
old or older but is not a school child. 94101

~~(II)~~(JJ) "Protective child care" means publicly funded child 94102
care for the direct care and protection of a child to whom either 94103
of the following applies: 94104

(1) A case plan prepared and maintained for the child 94105
pursuant to section 2151.412 of the Revised Code indicates a need 94106
for protective care and the child resides with a parent, 94107
stepparent, guardian, or another person who stands in loco 94108
parentis as defined in rules adopted under section 5104.38 of the 94109
Revised Code; 94110

(2) The child and the child's caretaker either temporarily 94111
reside in a facility providing emergency shelter for homeless 94112
families or are determined by the county department of job and 94113
family services to be homeless, and are otherwise ineligible for 94114
publicly funded child care. 94115

~~(JJ)~~(KK) "Publicly funded child care" means administering to 94116
the needs of infants, toddlers, preschool children, and school 94117

children under age thirteen during any part of the 94118
twenty-four-hour day by persons other than their caretaker parents 94119
for remuneration wholly or in part with federal or state funds, 94120
including funds available under the child care block grant act, 94121
Title IV-A, and Title XX, distributed by the department of job and 94122
family services. 94123

~~(KK)~~(LL) "Religious activities" means any of the following: 94124
worship or other religious services; religious instruction; Sunday 94125
school classes or other religious classes conducted during or 94126
prior to worship or other religious services; youth or adult 94127
fellowship activities; choir or other musical group practices or 94128
programs; meals; festivals; or meetings conducted by an organized 94129
religious group. 94130

~~(LL)~~(MM) "School child" means a child who is enrolled in or 94131
is eligible to be enrolled in a grade of kindergarten or above but 94132
is less than fifteen years old. 94133

~~(MM)~~(NN) "School child day-care center," "school child 94134
center," "school child type A family day-care home," and "school 94135
child type A family home" mean a center or type A home that 94136
provides child care for school children only and that does either 94137
or both of the following: 94138

(1) Operates only during that part of the day that 94139
immediately precedes or follows the public school day of the 94140
school district in which the center or type A home is located; 94141

(2) Operates only when the public schools in the school 94142
district in which the center or type A home is located are not 94143
open for instruction with pupils in attendance. 94144

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or 94145
certification rule violation that leads to a great risk of harm 94146
to, or death of, a child, and is observable, not inferable. 94147

(PP) "State median income" means the state median income 94148

calculated by the department of development pursuant to division 94149
(A)(1)(g) of section 5709.61 of the Revised Code. 94150

~~(OO)~~(QQ) "Title IV-A" means Title IV-A of the "Social 94151
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 94152

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security 94153
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 94154

~~(QQ)~~(SS) "Toddler" means a child who is at least eighteen 94155
months of age but less than three years of age. 94156

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean 94157
a permanent residence of the administrator in which child care or 94158
publicly funded child care is provided for seven to twelve 94159
children at one time or a permanent residence of the administrator 94160
in which child care is provided for four to twelve children at one 94161
time if four or more children at one time are under two years of 94162
age. In counting children for the purposes of this division, any 94163
children under six years of age who are related to a licensee, 94164
administrator, or employee and who are on the premises of the type 94165
A home shall be counted. "Type A family day-care home" and "type A 94166
home" do not include any child day camp. 94167

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean 94168
a permanent residence of the provider in which child care is 94169
provided for one to six children at one time and in which no more 94170
than three children are under two years of age at one time. In 94171
counting children for the purposes of this division, any children 94172
under six years of age who are related to the provider and who are 94173
on the premises of the type B home shall be counted. "Type B 94174
family day-care home" and "type B home" do not include any child 94175
day camp. 94176

Sec. 5104.011. (A) The director of job and family services 94177
shall adopt rules pursuant to Chapter 119. of the Revised Code 94178

governing the operation of child day-care centers, including, but 94179
not limited to, parent cooperative centers, part-time centers, 94180
drop-in centers, and school child centers, which rules shall 94181
reflect the various forms of child care and the needs of children 94182
receiving child care or publicly funded child care and shall 94183
include specific rules for school child care centers that are 94184
developed in consultation with the department of education. The 94185
rules shall not require an existing school facility that is in 94186
compliance with applicable building codes to undergo an additional 94187
building code inspection or to have structural modifications. The 94188
rules shall include the following: 94189

(1) Submission of a site plan and descriptive plan of 94190
operation to demonstrate how the center proposes to meet the 94191
requirements of this chapter and rules adopted pursuant to this 94192
chapter for the initial license application; 94193

(2) Standards for ensuring that the physical surroundings of 94194
the center are safe and sanitary including, but not limited to, 94195
the physical environment, the physical plant, and the equipment of 94196
the center; 94197

(3) Standards for the supervision, care, and discipline of 94198
children receiving child care or publicly funded child care in the 94199
center; 94200

(4) Standards for a program of activities, and for play 94201
equipment, materials, and supplies, to enhance the development of 94202
each child; however, any educational curricula, philosophies, and 94203
methodologies that are developmentally appropriate and that 94204
enhance the social, emotional, intellectual, and physical 94205
development of each child shall be permissible. As used in this 94206
division, "program" does not include instruction in religious or 94207
moral doctrines, beliefs, or values that is conducted at child 94208
day-care centers owned and operated by churches and does include 94209
methods of disciplining children at child day-care centers. 94210

(5) Admissions policies and procedures, health care policies	94211
and procedures, including, but not limited to, procedures for the	94212
isolation of children with communicable diseases, first aid and	94213
emergency procedures, procedures for discipline and supervision of	94214
children, standards for the provision of nutritious meals and	94215
snacks, and procedures for screening children and employees,	94216
including, but not limited to, that may include any necessary	94217
physical examinations and immunizations;	94218
(6) Methods for encouraging parental participation in the	94219
center and methods for ensuring that the rights of children,	94220
parents, and employees are protected and that responsibilities of	94221
parents and employees are met;	94222
(7) Procedures for ensuring the safety and adequate	94223
supervision of children traveling off the premises of the center	94224
while under the care of a center employee;	94225
(8) Procedures for record keeping, organization, and	94226
administration;	94227
(9) Procedures for issuing, renewing , denying, and revoking a	94228
license that are not otherwise provided for in Chapter 119. of the	94229
Revised Code;	94230
(10) Inspection procedures;	94231
(11) Procedures and standards for setting initial and renewal	94232
license application fees;	94233
(12) Procedures for receiving, recording, and responding to	94234
complaints about centers;	94235
(13) Procedures for enforcing section 5104.04 of the Revised	94236
Code;	94237
(14) A standard requiring the inclusion, on and after July 1,	94238
1987, of a current department of job and family services toll-free	94239
telephone number on each center provisional license or license	94240

which any person may use to report a suspected violation by the 94241
center of this chapter or rules adopted pursuant to this chapter; 94242

(15) Requirements for the training of administrators and 94243
child-care staff members in first aid, in prevention, recognition, 94244
and management of communicable diseases, and in child abuse 94245
recognition and prevention. Training requirements for child 94246
day-care centers adopted under this division shall be consistent 94247
with divisions (B)(6) and (C)(1) of this section. 94248

~~(16) Procedures to be used by licensees for checking the 94249
references of potential employees of centers and procedures to be 94250
used by the director for checking the references of applicants for 94251
licenses to operate centers; 94252~~

~~(17) Standards providing for the special needs of children 94253
who are handicapped or who require treatment for health conditions 94254
while the child is receiving child care or publicly funded child 94255
care in the center; 94256~~

~~(18)(17) A procedure for reporting of injuries of children 94257
that occur at the center; 94258~~

~~(19)(18) Any other procedures and standards necessary to 94259
carry out this chapter. 94260~~

(B)(1) The child day-care center shall have, for each child 94261
for whom the center is licensed, at least thirty-five square feet 94262
of usable indoor floor space wall-to-wall regularly available for 94263
the child care operation exclusive of any parts of the structure 94264
in which the care of children is prohibited by law or by rules 94265
adopted by the board of building standards. The minimum of 94266
thirty-five square feet of usable indoor floor space shall not 94267
include hallways, kitchens, storage areas, or any other areas that 94268
are not available for the care of children, as determined by the 94269
director, in meeting the space requirement of this division, and 94270
bathrooms shall be counted in determining square footage only if 94271

they are used exclusively by children enrolled in the center, 94272
except that the exclusion of hallways, kitchens, storage areas, 94273
bathrooms not used exclusively by children enrolled in the center, 94274
and any other areas not available for the care of children from 94275
the minimum of thirty-five square feet of usable indoor floor 94276
space shall not apply to: 94277

(a) Centers licensed prior to or on September 1, 1986, that 94278
continue under licensure after that date; 94279

(b) Centers licensed prior to or on September 1, 1986, that 94280
are issued a new license after that date solely due to a change of 94281
ownership of the center. 94282

(2) The child day-care center shall have on the site a safe 94283
outdoor play space which is enclosed by a fence or otherwise 94284
protected from traffic or other hazards. The play space shall 94285
contain not less than sixty square feet per child using such space 94286
at any one time, and shall provide an opportunity for supervised 94287
outdoor play each day in suitable weather. The director may exempt 94288
a center from the requirement of this division, if an outdoor play 94289
space is not available and if all of the following are met: 94290

(a) The center provides an indoor recreation area that has 94291
not less than sixty square feet per child using the space at any 94292
one time, that has a minimum of one thousand four hundred forty 94293
square feet of space, and that is separate from the indoor space 94294
required under division (B)(1) of this section. 94295

(b) The director has determined that there is regularly 94296
available and scheduled for use a conveniently accessible and safe 94297
park, playground, or similar outdoor play area for play or 94298
recreation. 94299

(c) The children are closely supervised during play and while 94300
traveling to and from the area. 94301

The director also shall exempt from the requirement of this 94302

division a child day-care center that was licensed prior to 94303
 September 1, 1986, if the center received approval from the 94304
 director prior to September 1, 1986, to use a park, playground, or 94305
 similar area, not connected with the center, for play or 94306
 recreation in lieu of the outdoor space requirements of this 94307
 section and if the children are closely supervised both during 94308
 play and while traveling to and from the area and except if the 94309
 director determines upon investigation and inspection pursuant to 94310
 section 5104.04 of the Revised Code and rules adopted pursuant to 94311
 that section that the park, playground, or similar area, as well 94312
 as access to and from the area, is unsafe for the children. 94313

(3) The child day-care center shall have at least two 94314
 responsible adults available on the premises at all times when 94315
 seven or more children are in the center. The center shall 94316
 organize the children in the center in small groups, shall provide 94317
 child-care staff to give continuity of care and supervision to the 94318
 children on a day-by-day basis, and shall ensure that no child is 94319
 left alone or unsupervised. Except as otherwise provided in 94320
 division (E) of this section, the maximum number of children per 94321
 child-care staff member and maximum group size, by age category of 94322
 children, are as follows: 94323

	Maximum Number of		
Age Category	Children Per	Maximum	
of Children	Child-Care	Group	
	Staff Member	Size	
(a) Infants:			94328
(i) Less than twelve			94329
months old	5:1, or		94330
	12:2 if two		94331
	child-care		94332
	staff members		94333
	are in the room	12	94334

(ii) At least twelve months old, but less than eighteen months old	6:1	12	94335 94336 94337 94338
(b) Toddlers:			94339
(i) At least eighteen months old, but less than thirty months old	7:1	14	94340 94341 94342 94343
(ii) At least thirty months old, but less than three years old	8:1	16	94344 94345 94346
(c) Preschool children:			94347 94348
(i) Three years old	12:1	24	94349
(ii) Four years old and five years old who are not school children	14:1	28	94350 94351 94352 94353
(d) School children:			94354
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36	94355 94356 94357 94358 94359 94360 94361 94362
(ii) Eleven through fourteen years old	20:1	40	94363 94364
Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall			94365 94366 94367

apply when age groups are combined. 94368

(4)(a) The child day-care center administrator shall show the 94369
director both of the following: 94370

(i) Evidence of at least high school graduation or 94371
certification of high school equivalency by the state board of 94372
education or the appropriate agency of another state; 94373

(ii) Evidence of having completed at least two years of 94374
training in an accredited college, university, or technical 94375
college, including courses in child development or early childhood 94376
education, ~~or~~ at least two years of experience in supervising and 94377
giving daily care to children attending an organized group 94378
program, or the equivalent based on a designation as an "early 94379
childhood professional level three" under the career pathways 94380
model of the quality-rating program established under section 94381
5104.30 of the Revised Code. 94382

(b) In addition to the requirements of division (B)(4)(a) of 94383
this section and except as provided in division (B)(4)(c) of this 94384
section, any administrator employed or designated ~~on or after 94385
September 1, 1986, as such prior to the effective date of this 94386
section, as amended~~, shall show evidence of, ~~and any administrator 94387
employed or designated prior to September 1, 1986, shall show 94388
evidence at least one of the following~~ within six years after ~~such 94389
the date of, at least one of the following~~ employment or 94390
designation: 94391

(i) Two years of experience working as a child-care staff 94392
member in a center and at least four courses in child development 94393
or early childhood education from an accredited college, 94394
university, or technical college, except that a person who has two 94395
years of experience working as a child-care staff member in a 94396
particular center and who has been promoted to or designated as 94397
administrator of that center shall have one year from the time the 94398

person was promoted to or designated as administrator to complete 94399
the required four courses; 94400

(ii) Two years of training, including at least four courses 94401
in child development or early childhood education from an 94402
accredited college, university, or technical college; 94403

(iii) A child development associate credential issued by the 94404
national child development associate credentialing commission; 94405

(iv) An associate or higher degree in child development or 94406
early childhood education from an accredited college, technical 94407
college, or university, or a license designated for teaching in an 94408
associate teaching position in a preschool setting issued by the 94409
state board of education. 94410

(c) For the purposes of division (B)(4)(b) of this section, 94411
any administrator employed or designated as such prior to the 94412
effective date of this section, as amended, may also show evidence 94413
of an administrator's credential as approved by the department of 94414
job and family services in lieu of, or in addition to, the 94415
evidence required under division (B)(4)(b) of this section. The 94416
evidence of an administrator's credential must be shown to the 94417
director not later than one year after the date of employment or 94418
designation. 94419

(d) In addition to the requirements of division (B)(4)(a) of 94420
this section, any administrator employed or designated as such on 94421
or after the effective date of this section, as amended, shall 94422
show evidence of at least one of the following not later than one 94423
year after the date of employment or designation: 94424

(i) Two years of experience working as a child-care staff 94425
member in a center and at least four courses in child development 94426
or early childhood education from an accredited college, 94427
university, or technical college, except that a person who has two 94428
years of experience working as a child-care staff member in a 94429

particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses; 94430
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(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college; 94434
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94436

(iii) A child development associate credential issued by the national child development associate credentialing commission; 94437
94438

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education; 94439
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(v) An administrator's credential as approved by the department of job and family services. 94444
94445

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows: 94446
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94453

(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following: 94454
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(i) A graduate of a two-year vocational child-care training program approved by the state board of education; 94456
94457

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of 94458
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education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; ~~or~~

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a

total of forty-five hours of training has been completed, unless 94491
the staff member furnishes one of the following to the director: 94492

(a) Evidence of an associate or higher degree in child 94493
development or early childhood education from an accredited 94494
college, university, or technical college; 94495

(b) A license designated for teaching in an associate 94496
teaching position in a preschool setting issued by the state board 94497
of education; 94498

(c) Evidence of a child development associate credential; 94499

(d) Evidence of a preprimary credential from the American 94500
Montessori society or the association Montessori internationale. 94501
For the purposes of division (B)(6) of this section, "hour" means 94502
sixty minutes. 94503

~~(7) The administrator of each child day care center shall 94504
prepare at least once annually and for each group of children at 94505
the center a roster of names and telephone numbers of parents, 94506
custodians, or guardians of each group of children attending the 94507
center and upon request shall furnish the roster for each group to 94508
the parents, custodians, or guardians of the children in that 94509
group. The administrator may prepare a roster of names and 94510
telephone numbers of all parents, custodians, or guardians of 94511
children attending the center and upon request shall furnish the 94512
roster to the parents, custodians, or guardians of the children 94513
who attend the center. The administrator shall not include in any 94514
roster the name or telephone number of any parent, custodian, or 94515
guardian who requests the administrator not to include the 94516
parent's, custodian's, or guardian's name or number and shall not 94517
furnish any roster to any person other than a parent, custodian, 94518
or guardian of a child who attends the center. 94519~~

(C)(1) Each child day-care center shall have on the center 94520
premises and readily available at all times at least one 94521

child-care staff member who has completed a course in first aid 94522
~~and, one staff member who has completed a course~~ in prevention, 94523
recognition, and management of communicable diseases which is 94524
approved by the state department of health, and a staff member who 94525
has completed a course in child abuse recognition and prevention 94526
training which is approved by the department of job and family 94527
services. 94528

(2) The administrator of each child day-care center shall 94529
maintain enrollment, health, and attendance records for all 94530
children attending the center and health and employment records 94531
for all center employees. The records shall be confidential, 94532
~~except as otherwise provided in division (B)(7) of this section~~ 94533
~~and~~ except that they shall be disclosed by the administrator to 94534
the director upon request for the purpose of administering and 94535
enforcing this chapter and rules adopted pursuant to this chapter. 94536
Neither the center nor the licensee, administrator, or employees 94537
of the center shall be civilly or criminally liable in damages or 94538
otherwise for records disclosed to the director by the 94539
administrator pursuant to this division. It shall be a defense to 94540
any civil or criminal charge based upon records disclosed by the 94541
administrator to the director that the records were disclosed 94542
pursuant to this division. 94543

(3)(a) Any parent who is the residential parent and legal 94544
custodian of a child enrolled in a child day-care center and any 94545
custodian or guardian of such a child shall be permitted unlimited 94546
access to the center during its hours of operation for the 94547
purposes of contacting their children, evaluating the care 94548
provided by the center, evaluating the premises of the center, or 94549
for other purposes approved by the director. A parent of a child 94550
enrolled in a child day-care center who is not the child's 94551
residential parent shall be permitted unlimited access to the 94552
center during its hours of operation for those purposes under the 94553

same terms and conditions under which the residential parent of 94554
that child is permitted access to the center for those purposes. 94555
However, the access of the parent who is not the residential 94556
parent is subject to any agreement between the parents and, to the 94557
extent described in division (C)(3)(b) of this section, is subject 94558
to any terms and conditions limiting the right of access of the 94559
parent who is not the residential parent, as described in division 94560
(I) of section 3109.051 of the Revised Code, that are contained in 94561
a parenting time order or decree issued under that section, 94562
section 3109.12 of the Revised Code, or any other provision of the 94563
Revised Code. 94564

(b) If a parent who is the residential parent of a child has 94565
presented the administrator or the administrator's designee with a 94566
copy of a parenting time order that limits the terms and 94567
conditions under which the parent who is not the residential 94568
parent is to have access to the center, as described in division 94569
(I) of section 3109.051 of the Revised Code, the parent who is not 94570
the residential parent shall be provided access to the center only 94571
to the extent authorized in the order. If the residential parent 94572
has presented such an order, the parent who is not the residential 94573
parent shall be permitted access to the center only in accordance 94574
with the most recent order that has been presented to the 94575
administrator or the administrator's designee by the residential 94576
parent or the parent who is not the residential parent. 94577

(c) Upon entering the premises pursuant to division (C)(3)(a) 94578
or (b) of this section, the parent who is the residential parent 94579
and legal custodian, the parent who is not the residential parent, 94580
or the custodian or guardian shall notify the administrator or the 94581
administrator's designee of the parent's, custodian's, or 94582
guardian's presence. 94583

(D) The director of job and family services, in addition to 94584
the rules adopted under division (A) of this section, shall adopt 94585

rules establishing minimum requirements for child day-care 94586
centers. The rules shall include, but not be limited to, the 94587
requirements set forth in divisions (B) and (C) of this section. 94588
Except as provided in section 5104.07 of the Revised Code, the 94589
rules shall not change the square footage requirements of division 94590
(B)(1) or (2) of this section; the maximum number of children per 94591
child-care staff member and maximum group size requirements of 94592
division (B)(3) of this section; the educational and experience 94593
requirements of division (B)(4) of this section; the age, 94594
educational, and experience requirements of division (B)(5) of 94595
this section; the number and type of inservice training hours 94596
required under division (B)(6) of this section; ~~or the requirement~~ 94597
~~for at least annual preparation of a roster for each group of~~ 94598
~~children of names and telephone numbers of parents, custodians, or~~ 94599
~~guardians of each group of children attending the center that must~~ 94600
~~be furnished upon request to any parent, custodian, or guardian of~~ 94601
~~any child in that group required under division (B)(7) of this~~ 94602
~~section;~~ however, the rules shall provide procedures for 94603
determining compliance with those requirements. 94604

(E)(1) When age groups are combined, the maximum number of 94605
children per child-care staff member shall be determined by the 94606
age of the youngest child in the group, except that when no more 94607
than one child thirty months of age or older receives services in 94608
a group in which all the other children are in the next older age 94609
group, the maximum number of children per child-care staff member 94610
and maximum group size requirements of the older age group 94611
established under division (B)(3) of this section shall apply. 94612

(2) The maximum number of toddlers or preschool children per 94613
child-care staff member in a room where children are napping shall 94614
be twice the maximum number of children per child-care staff 94615
member established under division (B)(3) of this section if all 94616
the following criteria are met: 94617

(a) At least one child-care staff member is present in the room. 94618
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(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section. 94620
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(c) Naptime preparations are complete and all napping children are resting or sleeping on cots. 94624
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(d) The maximum number established under division (E)(2) of this section is in effect for no more than ~~one and one-half~~ two hours during a twenty-four-hour day. 94626
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(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following: 94629
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(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application; 94637
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(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home; 94641
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(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home; 94645
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- (4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;
- (5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;
- (6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;
- (7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;
- (8) Procedures for record keeping, organization, and administration;
- (9) Procedures for issuing, ~~renewing~~, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;
- (10) Inspection procedures;
- (11) Procedures and standards for setting initial ~~and renewal~~ license application fees;
- (12) Procedures for receiving, recording, and responding to

complaints about type A homes;	94678
(13) Procedures for enforcing section 5104.04 of the Revised Code;	94679 94680
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;	94681 94682 94683 94684 94685 94686
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	94687 94688 94689 94690
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	94691 94692 94693 94694
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;	94695 94696 94697 94698
(18) <u>(17)</u> Standards for the maximum number of children per child-care staff member;	94699 94700
(19) <u>(18)</u> Requirements for the amount of usable indoor floor space for each child;	94701 94702
(20) <u>(19)</u> Requirements for safe outdoor play space;	94703
(21) <u>(20)</u> Qualifications and training requirements for administrators and for child-care staff members;	94704 94705
(22) <u>(21)</u> Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian	94706 94707

access to the type A home during its hours of operation; 94708

~~(23)~~(22) Standards for the preparation and distribution of a 94709
roster of parents, custodians, and guardians; 94710

~~(24)~~(23) Any other procedures and standards necessary to 94711
carry out this chapter. 94712

(G) The director of job and family services shall adopt rules 94713
pursuant to Chapter 119. of the Revised Code governing the 94714
certification of type B family day-care homes. 94715

(1) The rules shall include all of the following: 94716

(a) Procedures, standards, and other necessary provisions for 94717
granting limited certification to type B family day-care homes 94718
that are operated by the following adult providers: 94719

(i) Persons who provide child care for eligible children who 94720
are great-grandchildren, grandchildren, nieces, nephews, or 94721
siblings of the provider or for eligible children whose caretaker 94722
parent is a grandchild, child, niece, nephew, or sibling of the 94723
provider; 94724

(ii) Persons who provide child care for eligible children all 94725
of whom are the children of the same caretaker parent; 94726

(b) Procedures for the director to ensure, that type B homes 94727
that receive a limited certification provide child care to 94728
children in a safe and sanitary manner; 94729

(c) Requirements for the type B home to notify parents with 94730
children in the type B home that the type B home is also certified 94731
as a foster home under section 5103.03 of the Revised Code. 94732

With regard to providers who apply for limited certification, 94733
a provider shall be granted a provisional limited certification on 94734
signing a declaration under oath attesting that the provider meets 94735
the standards for limited certification. Such provisional limited 94736
certifications shall remain in effect for no more than sixty 94737

calendar days and shall entitle the provider to offer publicly 94738
funded child care during the provisional period. Except as 94739
otherwise provided in division (G)(1) of this section, section 94740
5104.013 or 5104.09 of the Revised Code, or division (A)(2) of 94741
section 5104.11 of the Revised Code, prior to the expiration of 94742
the provisional limited certificate, a county department of job 94743
and family services shall inspect the home and shall grant limited 94744
certification to the provider if the provider meets the 94745
requirements of this division. Limited certificates remain valid 94746
for two years unless earlier revoked. Except as otherwise provided 94747
in division (G)(1) of this section, providers operating under 94748
limited certification shall be inspected annually. 94749

If a provider is a person described in division (G)(1)(a)(i) 94750
of this section or a person described in division (G)(1)(a)(ii) of 94751
this section who is a friend of the caretaker parent, the provider 94752
and the caretaker parent may verify in writing to the county 94753
department of job and family services that minimum health and 94754
safety requirements are being met in the home. Except as otherwise 94755
provided in section 5104.013 or 5104.09 or in division (A)(2) of 94756
section 5104.11 of the Revised Code, if such verification is 94757
provided, the county shall waive any inspection required by this 94758
chapter and grant limited certification to the provider. 94759

(2) The rules shall provide for safeguarding the health, 94760
safety, and welfare of children receiving child care or publicly 94761
funded child care in a certified type B home and shall include the 94762
following: 94763

(a) Standards for ensuring that the type B home and the 94764
physical surroundings of the type B home are safe and sanitary, 94765
including, but not limited to, physical environment, physical 94766
plant, and equipment; 94767

(b) Standards for the supervision, care, and discipline of 94768
children receiving child care or publicly funded child care in the 94769

home;	94770
(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	94771 94772 94773 94774 94775 94776
(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;	94777 94778 94779 94780 94781 94782
(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	94783 94784 94785 94786
(f) Standards for the safe transport of children when under the care of authorized providers;	94787 94788
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	94789 94790
(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;	94791 94792 94793
(i) Procedures for record keeping and evaluation;	94794
(j) Procedures for receiving, recording, and responding to complaints;	94795 94796
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child	94797 94798 94799

care in the type B home;	94800
(1) Requirements for the amount of usable indoor floor space for each child;	94801 94802
(m) Requirements for safe outdoor play space;	94803
(n) Qualification and training requirements for authorized providers;	94804 94805
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	94806 94807 94808
(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;	94809 94810 94811
(q) Any other procedures and standards necessary to carry out this chapter.	94812 94813
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:	94814 94815 94816 94817 94818 94819 94820 94821 94822 94823 94824 94825 94826 94827 94828
(1) Standards for ensuring that the child's home and the	94829

physical surroundings of the child's home are safe and sanitary,	94830
including, but not limited to, physical environment, physical	94831
plant, and equipment;	94832
(2) Standards for the supervision, care, and discipline of	94833
children receiving publicly funded child care in their own home;	94834
(3) Standards for a program of activities, and for play	94835
equipment, materials, and supplies to enhance the development of	94836
each child; however, any educational curricula, philosophies, and	94837
methodologies that are developmentally appropriate and that	94838
enhance the social, emotional, intellectual, and physical	94839
development of each child shall be permissible;	94840
(4) Health care, first aid, and emergency procedures,	94841
procedures for the care of sick children, procedures for	94842
discipline and supervision of children, nutritional standards, and	94843
procedures for screening children and in-home aides, including,	94844
but not limited to, any necessary physical examinations and	94845
immunizations;	94846
(5) Methods of encouraging parental participation and	94847
ensuring that the rights of children, parents, and in-home aides	94848
are protected and the responsibilities of parents and in-home	94849
aides are met;	94850
(6) Standards for the safe transport of children when under	94851
the care of in-home aides;	94852
(7) Procedures for issuing, renewing, denying, refusing to	94853
renew, or revoking certificates;	94854
(8) Procedures for inspection of homes of children receiving	94855
publicly funded child care in their own homes;	94856
(9) Procedures for record keeping and evaluation;	94857
(10) Procedures for receiving, recording, and responding to	94858
complaints;	94859

(11) Qualifications and training requirements for in-home aides;	94860 94861
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;	94862 94863 94864 94865
(13) Any other procedures and standards necessary to carry out this chapter.	94866 94867
(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.	94868 94869 94870 94871 94872
(J)(1) The director of job and family services shall do all of the following:	94873 94874
(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;	94875 94876 94877
(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;	94878 94879 94880
(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.	94881 94882 94883
(2) The director shall do all of the following:	94884
(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;	94885 94886 94887 94888
(b) Give public notice of hearings regarding the proposed	94889

rules not less than thirty days in advance; 94890

(c) Provide to each county director of job and family 94891
services an electronic copy of each adopted rule at least 94892
forty-five days prior to the rule's effective date. 94893

(3) The county director of job and family services shall 94894
provide or make available in either paper or electronic form to 94895
each authorized provider and in-home aide copies of proposed rules 94896
and shall give public notice of hearings regarding the rules to 94897
each authorized provider and in-home aide at least thirty days 94898
prior to the date of the public hearing, in accordance with 94899
section 119.03 of the Revised Code. At least thirty days before 94900
the effective date of a rule, the county director of job and 94901
family services shall provide, in either paper or electronic form, 94902
copies of the adopted rule to each authorized provider and in-home 94903
aide. 94904

(4) Additional copies of proposed and adopted rules shall be 94905
made available by the director of job and family services to the 94906
public on request at no charge. 94907

(5) The director of job and family services ~~shall recommend~~ 94908
~~standards~~ may adopt rules pursuant to Chapter 119. of the Revised 94909
Code for imposing sanctions on persons and entities that are 94910
licensed or certified under this chapter ~~and that violate any~~ 94911
~~provision of this chapter.~~ Sanctions may be imposed only for an 94912
action or omission that constitutes a serious risk noncompliance. 94913
The ~~standards~~ sanctions imposed shall be based on the scope and 94914
severity of the violations. ~~The director shall provide copies of~~ 94915
~~the recommendations to the governor, the speaker and minority~~ 94916
~~leader of the house of representatives, and the president and~~ 94917
~~minority leader of the senate and, on request, shall make copies~~ 94918
~~available to the public~~ 94919

The director shall make a dispute resolution process 94920

available for the implementation of sanctions. The process may 94921
include an opportunity for appeal pursuant to Chapter 119. of the 94922
Revised Code. 94923

(6) The director of job and family services shall adopt rules 94924
pursuant to Chapter 119. of the Revised Code that establish 94925
standards for the training of individuals whom any county 94926
department of job and family services employs, with whom any 94927
county department of job and family services contracts, or with 94928
whom the director of job and family services contracts, to inspect 94929
or investigate type B family day-care homes pursuant to section 94930
5104.11 of the Revised Code. The department shall provide training 94931
in accordance with those standards for individuals in the 94932
categories described in this division. 94933

(K) The director of job and family services shall review all 94934
rules adopted pursuant to this chapter at least once every seven 94935
years. 94936

(L) Notwithstanding any provision of the Revised Code, the 94937
director of job and family services shall not regulate in any way 94938
under this chapter or rules adopted pursuant to this chapter, 94939
instruction in religious or moral doctrines, beliefs, or values. 94940

Sec. 5104.012. (A)(1) At the times specified in this 94941
division, the administrator of a child day-care center or a type A 94942
family day-care home shall request the superintendent of the 94943
bureau of criminal identification and investigation to conduct a 94944
criminal records check with respect to any applicant who has 94945
applied to the center or type A home for employment as a person 94946
responsible for the care, custody, or control of a child. 94947

The administrator shall request a criminal records check 94948
pursuant to this division at the time of the applicant's initial 94949
application for employment and every four years thereafter ~~at the~~ 94950
~~time of a license renewal~~. When the administrator requests 94951

pursuant to this division a criminal records check for an 94952
applicant at the time of the applicant's initial application for 94953
employment, the administrator shall request that the 94954
superintendent obtain information from the federal bureau of 94955
investigation as a part of the criminal records check for the 94956
applicant, including fingerprint-based checks of national crime 94957
information databases as described in 42 U.S.C. 671, for the 94958
person subject to the criminal records check. In all other cases 94959
in which the administrator requests a criminal records check for 94960
an applicant pursuant to this division, the administrator may 94961
request that the superintendent include information from the 94962
federal bureau of investigation in the criminal records check, 94963
including fingerprint-based checks of national crime information 94964
databases as described in 42 U.S.C. 671. 94965

(2) A person required by division (A)(1) of this section to 94966
request a criminal records check shall provide to each applicant a 94967
copy of the form prescribed pursuant to division (C)(1) of section 94968
109.572 of the Revised Code, provide to each applicant a standard 94969
impression sheet to obtain fingerprint impressions prescribed 94970
pursuant to division (C)(2) of section 109.572 of the Revised 94971
Code, obtain the completed form and impression sheet from each 94972
applicant, and forward the completed form and impression sheet to 94973
the superintendent of the bureau of criminal identification and 94974
investigation at the time the person requests a criminal records 94975
check pursuant to division (A)(1) of this section. On and after 94976
~~the effective date of this amendment~~ August 14, 2008, the 94977
administrator of a child day-care center or a type A family 94978
day-care home shall review the results of the criminal records 94979
check before the applicant has sole responsibility for the care, 94980
custody, or control of any child. 94981

(3) An applicant who receives pursuant to division (A)(2) of 94982
this section a copy of the form prescribed pursuant to division 94983

(C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request

pursuant to division (A)(1) of this section of the administrator 95016
or provider of the center or home. 95017

(2) A child day-care center and type A family day-care home 95018
may charge an applicant a fee for the costs it incurs in obtaining 95019
a criminal records check under this section. A fee charged under 95020
this division shall not exceed the amount of fees the center or 95021
home pays under division (C)(1) of this section. If a fee is 95022
charged under this division, the center or home shall notify the 95023
applicant at the time of the applicant's initial application for 95024
employment of the amount of the fee and that, unless the fee is 95025
paid, the center or type A home will not consider the applicant 95026
for employment. 95027

(D) The report of any criminal records check conducted by the 95028
bureau of criminal identification and investigation in accordance 95029
with section 109.572 of the Revised Code and pursuant to a request 95030
under division (A)(1) of this section is not a public record for 95031
the purposes of section 149.43 of the Revised Code and shall not 95032
be made available to any person other than the applicant who is 95033
the subject of the criminal records check or the applicant's 95034
representative; the center or type A home requesting the criminal 95035
records check or its representative; the department of job and 95036
family services or a county department of job and family services; 95037
and any court, hearing officer, or other necessary individual 95038
involved in a case dealing with the denial of employment to the 95039
applicant. 95040

(E) The director of job and family services shall adopt rules 95041
pursuant to Chapter 119. of the Revised Code to implement this 95042
section, including rules specifying circumstances under which a 95043
center or home may hire a person who has been convicted of an 95044
offense listed in division (B)(1) of this section but who meets 95045
standards in regard to rehabilitation set by the department. 95046

(F) Any person required by division (A)(1) of this section to 95047

request a criminal records check shall inform each person, at the 95048
time of the person's initial application for employment, that the 95049
person is required to provide a set of impressions of the person's 95050
fingerprints and that a criminal records check is required to be 95051
conducted and satisfactorily completed in accordance with section 95052
109.572 of the Revised Code if the person comes under final 95053
consideration for appointment or employment as a precondition to 95054
employment for that position. 95055

(G) As used in this section: 95056

(1) "Applicant" means a person who is under final 95057
consideration for appointment to or employment in a position with 95058
a child day-care center or a type A family day-care home as a 95059
person responsible for the care, custody, or control of a child; 95060
an in-home aide certified pursuant to section 5104.12 of the 95061
Revised Code; or any person who would serve in any position with a 95062
child day-care center or a type A family day-care home as a person 95063
responsible for the care, custody, or control of a child pursuant 95064
to a contract with another entity. 95065

(2) "Criminal records check" has the same meaning as in 95066
section 109.572 of the Revised Code. 95067

Sec. 5104.013. (A)(1) At the times specified in division 95068
(A)(3) of this section, the director of job and family services, 95069
as part of the process of licensure of child day-care centers and 95070
type A family day-care homes, shall request the superintendent of 95071
the bureau of criminal identification and investigation to conduct 95072
a criminal records check with respect to the following persons: 95073

(a) Any owner, licensee, or administrator of a child day-care 95074
center; 95075

(b) Any owner, licensee, or administrator of a type A family 95076
day-care home and any person eighteen years of age or older who 95077

resides in a type A family day-care home. 95078

(2) At the times specified in division (A)(3) of this 95079
section, the director of a county department of job and family 95080
services, as part of the process of certification of type B family 95081
day-care homes, shall request the superintendent of the bureau of 95082
criminal identification and investigation to conduct a criminal 95083
records check with respect to any authorized provider of a 95084
certified type B family day-care home and any person eighteen 95085
years of age or older who resides in a certified type B family 95086
day-care home. 95087

(3) The director of job and family services shall request a 95088
criminal records check pursuant to division (A)(1) of this section 95089
at the time of the initial application for licensure and every 95090
four years thereafter ~~at the time of a license renewal~~. The 95091
director of a county department of job and family services shall 95092
request a criminal records check pursuant to division (A)(2) of 95093
this section at the time of the initial application for 95094
certification and every four years thereafter at the time of a 95095
certification renewal. When the director of job and family 95096
services or the director of a county department of job and family 95097
services requests pursuant to division (A)(1) or (2) of this 95098
section a criminal records check for a person at the time of the 95099
person's initial application for licensure or certification, the 95100
director shall request that the superintendent of the bureau of 95101
criminal identification and investigation obtain information from 95102
the federal bureau of investigation as a part of the criminal 95103
records check for the person, including fingerprint-based checks 95104
of national crime information databases as described in 42 U.S.C. 95105
671 for the person subject to the criminal records check. In all 95106
other cases in which the director of job and family services or 95107
the director of a county department of job and family services 95108
requests a criminal records check for an applicant pursuant to 95109

division (A)(1) or (2) of this section, the director may request 95110
that the superintendent include information from the federal 95111
bureau of investigation in the criminal records check, including 95112
fingerprint-based checks of national crime information databases 95113
as described in 42 U.S.C. 671. 95114

(4) The director of job and family services shall review the 95115
results of a criminal records check subsequent to a request made 95116
pursuant to divisions (A)(1) and (3) of this section prior to 95117
approval of a license. The director of a county department of job 95118
and family services shall review the results of a criminal records 95119
check subsequent to a request made pursuant to divisions (A)(2) 95120
and (3) of this section prior to approval of certification. 95121

(B) The director of job and family services or the director 95122
of a county department of job and family services shall provide to 95123
each person for whom a criminal records check is required under 95124
this section a copy of the form prescribed pursuant to division 95125
(C)(1) of section 109.572 of the Revised Code and a standard 95126
impression sheet to obtain fingerprint impressions prescribed 95127
pursuant to division (C)(2) of that section, obtain the completed 95128
form and impression sheet from that person, and forward the 95129
completed form and impression sheet to the superintendent of the 95130
bureau of criminal identification and investigation. 95131

(C) A person who receives pursuant to division (B) of this 95132
section a copy of the form and standard impression sheet described 95133
in that division and who is requested to complete the form and 95134
provide a set of fingerprint impressions shall complete the form 95135
or provide all the information necessary to complete the form and 95136
shall provide the impression sheet with the impressions of the 95137
person's fingerprints. If the person, upon request, fails to 95138
provide the information necessary to complete the form or fails to 95139
provide impressions of the person's fingerprints, the director may 95140
consider the failure as a reason to deny licensure or 95141

certification. 95142

(D) Except as provided in rules adopted under division (G) of 95143
this section, the director of job and family services shall not 95144
grant a license to a child day-care center or type A family 95145
day-care home and a county director of job and family services 95146
shall not certify a type B family day-care home if a person for 95147
whom a criminal records check was required in connection with the 95148
center or home previously has been convicted of or pleaded guilty 95149
to any of the violations described in division (A)(9) of section 95150
109.572 of the Revised Code. 95151

(E) Each child day-care center, type A family day-care home, 95152
and type B family day-care home shall pay to the bureau of 95153
criminal identification and investigation the fee prescribed 95154
pursuant to division (C)(3) of section 109.572 of the Revised Code 95155
for each criminal records check conducted in accordance with that 95156
section upon a request made pursuant to division (A) of this 95157
section. 95158

(F) The report of any criminal records check conducted by the 95159
bureau of criminal identification and investigation in accordance 95160
with section 109.572 of the Revised Code and pursuant to a request 95161
made under division (A) of this section is not a public record for 95162
the purposes of section 149.43 of the Revised Code and shall not 95163
be made available to any person other than the person who is the 95164
subject of the criminal records check or the person's 95165
representative, the director of job and family services, the 95166
director of a county department of job and family services, the 95167
center, type A home, or type B home involved, and any court, 95168
hearing officer, or other necessary individual involved in a case 95169
dealing with a denial of licensure or certification related to the 95170
criminal records check. 95171

(G) The director of job and family services shall adopt rules 95172
pursuant to Chapter 119. of the Revised Code to implement this 95173

section, including rules specifying exceptions to the prohibition 95174
in division (D) of this section for persons who have been 95175
convicted of an offense listed in that division but who meet 95176
standards in regard to rehabilitation set by the department. 95177

(H) As used in this section, "criminal records check" has the 95178
same meaning as in section 109.572 of the Revised Code. 95179

Sec. 5104.03. (A) Any person, firm, organization, 95180
institution, or agency desiring to establish a child day-care 95181
center or type A family day-care home shall apply for a license to 95182
the director of job and family services on such form as the 95183
director prescribes. The director shall provide at no charge to 95184
each applicant for licensure a copy of the child care license 95185
requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and 95186
a copy of the rules adopted pursuant to ~~Chapter 5104. of the~~ 95187
~~Revised Code~~ this chapter. ~~The director shall mail application~~ 95188
~~forms for renewal of license at least one hundred twenty days~~ 95189
~~prior to the date of expiration of the license, and the~~ 95190
~~application for renewal shall be filed with the director at least~~ 95191
~~sixty days before the date of expiration. Fees~~ copies may be 95192
provided in paper or electronic form. 95193

Fees shall be set by the director pursuant to section 95194
5104.011 of the Revised Code and shall be paid at the time of 95195
application for ~~or renewal of~~ a license to operate a center or 95196
type A home. Fees collected under this section shall be paid into 95197
the state treasury to the credit of the general revenue fund. 95198

(B) Upon filing of the application for a license, the 95199
director shall investigate and inspect the center or type A home 95200
to determine the license capacity for each age category of 95201
children of the center or type A home and to determine whether the 95202
center or type A home complies with ~~Chapter 5104. of the Revised~~ 95203
~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of~~ 95204

~~the Revised Code~~ this chapter. When, after investigation and 95205
inspection, the director is satisfied that ~~Chapter 5104. of the~~ 95206
~~Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter~~ 95207
~~5104. of the Revised Code~~ it are complied with, subject to 95208
division (G) of this section, a provisional license shall be 95209
issued as soon as practicable in such form and manner as 95210
prescribed by the director. The provisional license shall be valid 95211
for ~~six~~ twelve months from the date of issuance unless revoked. 95212

(C) The director shall investigate and inspect the center or 95213
type A home at least once during operation under the provisional 95214
license. If after the investigation and inspection the director 95215
determines that the requirements of ~~Chapter 5104. of the Revised~~ 95216
~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of~~ 95217
~~the Revised Code~~ this chapter are met, subject to division (G) of 95218
this section, the director shall issue a license to ~~be effective~~ 95219
~~for two years from the date of issuance of the provisional license~~ 95220
the center or home. 95221

(D) ~~Upon the filing of an application for renewal of a~~ 95222
~~license by the center or type A home, the director shall~~ 95223
~~investigate and inspect the center or type A home. If the director~~ 95224
~~determines that the requirements of Chapter 5104. and rules~~ 95225
~~adopted pursuant to Chapter 5104. of the Revised Code are met,~~ 95226
~~subject to division (G) of this section, the director shall renew~~ 95227
~~the license to be effective for two years from the expiration date~~ 95228
~~of the previous license.~~ 95229

~~(E)~~ The license or provisional license shall state the name 95230
of the licensee, the name of the administrator, the address of the 95231
center or type A home, and the license capacity for each age 95232
category of children. ~~After July 1, 1987, the~~ The license or 95233
provisional license ~~or license~~ shall include thereon, in 95234
accordance with section 5104.011 of the Revised Code, the 95235
toll-free telephone number to be used by persons suspecting that 95236

the center or type A home has violated a provision of ~~Chapter~~ 95237
~~5104., this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of~~ 95238
~~the Revised Code this chapter~~. A license or provisional license is 95239
valid only for the licensee, administrator, address, and license 95240
capacity for each age category of children designated on the 95241
license. The license capacity specified on the license or 95242
provisional license is the maximum number of children in each age 95243
category that may be cared for in the center or type A home at one 95244
time. 95245

The center or type A home licensee shall notify the director 95246
when the administrator of the center or home changes. The director 95247
shall amend the current license or provisional license to reflect 95248
a change in an administrator, if the administrator meets the 95249
requirements of Chapter 5104. of the Revised Code and rules 95250
adopted pursuant to Chapter 5104. of the Revised Code, or a change 95251
in license capacity for any age category of children as determined 95252
by the director of job and family services. 95253

~~(F)~~(E) If the director revokes a the license ~~or refuses to~~ 95254
~~renew a license to~~ of a center or a type A home, the director 95255
shall not issue a another license to the owner of the center or 95256
type A home ~~within two~~ until five years have elapsed from the date 95257
~~of the revocation of a license or refusal to renew a license is~~ 95258
revoked. ~~If~~ 95259

If the director denies an application for a license, the 95260
director shall not accept another application from the applicant 95261
until five years have elapsed from the date the application is 95262
denied. 95263

~~(F)~~ If during the application for licensure ~~or renewal of~~ 95264
~~licensure~~ process the director determines that the license of the 95265
owner has been revoked ~~or renewal of licensure has been denied,~~ 95266
the investigation of the center or type A home shall cease, ~~and~~ 95267
shall. This action does not constitute denial of the application 95268

and may not be appealed under division (G) of this section. All 95269

(G) All actions of the director with respect to licensing 95270
centers or type A homes, ~~renewing a license,~~ refusal to license ~~or~~ 95271
~~renew a license,~~ and revocation of a license shall be in 95272
accordance with Chapter 119. of the Revised Code. Any applicant 95273
who is denied a license or any owner whose license ~~is not renewed~~ 95274
~~or~~ is revoked may appeal in accordance with section 119.12 of the 95275
Revised Code. 95276

~~(G)~~(H) In no case shall the director issue a license or 95277
provisional license ~~or license, or renew a license,~~ under this 95278
section for a type A home or center if the director, based on 95279
documentation provided by the appropriate county department of job 95280
and family services, determines that the applicant previously had 95281
been certified as a type B family day-care home, that the county 95282
department revoked that certification, that the revocation was 95283
based on the applicant's refusal or inability to comply with the 95284
criteria for certification, and that the refusal or inability 95285
resulted in a risk to the health or safety of children. 95286

Sec. 5104.04. (A) The department of job and family services 95287
shall establish procedures to be followed in investigating, 95288
inspecting, and licensing child day-care centers and type A family 95289
day-care homes. 95290

(B)(1)(a) The department shall, at least once during every 95291
twelve-month period of operation of a center or type A home, 95292
inspect the center or type A home. The department shall inspect a 95293
part-time center or part-time type A home at least once during 95294
every twelve-month period of operation. The department shall 95295
provide a written inspection report to the licensee within a 95296
reasonable time after each inspection. The licensee shall display 95297
all written reports of inspections conducted during the current 95298
licensing period in a conspicuous place in the center or type A 95299

home. 95300

Inspections may be unannounced. No person, firm, 95301
organization, institution, or agency shall interfere with the 95302
inspection of a center or type A home by any state or local 95303
official engaged in performing duties required of the state or 95304
local official by ~~Chapter 5104. of the Revised Code~~ this chapter 95305
or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ 95306
this chapter, including inspecting the center or type A home, 95307
reviewing records, or interviewing licensees, employees, children, 95308
or parents. 95309

(b) Upon receipt of any complaint that a center or type A 95310
home is out of compliance with the requirements of ~~Chapter 5104.~~ 95311
~~of the Revised Code~~ this chapter or rules adopted pursuant to 95312
~~Chapter 5104. of the Revised Code~~ this chapter, the department 95313
shall investigate the center or home, and both of the following 95314
apply: 95315

(i) If the complaint alleges that a child suffered physical 95316
harm while receiving child care at the center or home or that the 95317
noncompliance alleged in the complaint involved, resulted in, or 95318
poses a substantial risk of physical harm to a child receiving 95319
child care at the center or home, the department shall inspect the 95320
center or home. 95321

(ii) If division (B)(1)(b)(i) of this section does not apply 95322
regarding the complaint, the department may inspect the center or 95323
home. 95324

(c) Division (B)(1)(b) of this section does not limit, 95325
restrict, or negate any duty of the department to inspect a center 95326
or type A home that otherwise is imposed under this section, or 95327
any authority of the department to inspect a center or type A home 95328
that otherwise is granted under this section when the department 95329
believes the inspection is necessary and it is permitted under the 95330

grant. 95331

(2) If the department implements an instrument-based program 95332
monitoring information system, it may use an indicator checklist 95333
to comply with division (B)(1) of this section. 95334

(3) The department shall contract with a third party by the 95335
first day of October in each even-numbered year to collect 95336
information concerning the amounts charged by the center or home 95337
for providing child care services for use in establishing 95338
reimbursement ceilings and payment pursuant to section 5104.30 of 95339
the Revised Code. The third party shall compile the information 95340
and report the results of the survey to the department not later 95341
than the first day of December in each even-numbered year. 95342

~~(C) In the event a licensed center or type A home is 95343
determined to be out of compliance with the requirements of 95344
Chapter 5104. of the Revised Code or rules adopted pursuant to 95345
Chapter 5104. of the Revised Code, the department shall notify the 95346
licensee of the center or type A home in writing regarding the 95347
nature of the violation, what must be done to correct the 95348
violation, and by what date the correction must be made. If the 95349
correction is not made by the date established by the department, 95350
the department may commence action under Chapter 119. of the 95351
Revised Code to revoke the license. The department's commencement 95352
of an action to revoke the license is sufficient notice that the 95353
correction has not been made, and no other notice regarding the 95354
correction is required. 95355~~

~~(D) The department may deny an application or revoke a 95356
license, ~~or refuse to renew a license~~ of a center or type A home, 95357
if the applicant knowingly makes a false statement on the 95358
application, the center or home does not comply with the 95359
requirements of ~~Chapter 5104. this chapter~~ or rules adopted 95360
pursuant to ~~Chapter 5104. of the Revised Code this chapter~~, or the 95361
applicant or owner has pleaded guilty to or been convicted of an 95362~~

offense described in section 5104.09 of the Revised Code. 95363

~~(E)~~(D) If the department finds, after notice and hearing 95364
pursuant to Chapter 119. of the Revised Code, that any applicant, 95365
person, firm, organization, institution, or agency applying for 95366
licensure or licensed under section 5104.03 of the Revised Code is 95367
in violation of any provision of ~~Chapter 5104. of the Revised Code~~ 95368
this chapter or rules adopted pursuant to ~~Chapter 5104. of the~~ 95369
~~Revised Code~~ this chapter, the department may issue an order of 95370
denial to the applicant or an order of revocation to the center or 95371
type A home revoking the license previously issued by the 95372
department. Upon the issuance of any such an order ~~of revocation,~~ 95373
the person whose application is denied or whose license is revoked 95374
may appeal in accordance with section 119.12 of the Revised Code. 95375

~~(F)~~(E) The surrender of a center or type A home license to 95376
the department or the withdrawal of an application for licensure 95377
by the owner or administrator of the center or type A home shall 95378
not prohibit the department from instituting any of the actions 95379
set forth in this section. 95380

~~(G)~~(F) Whenever the department receives a complaint, is 95381
advised, or otherwise has any reason to believe that a center or 95382
type A home is providing child care without a license issued ~~or~~ 95383
~~renewed~~ pursuant to section 5104.03 and is not exempt from 95384
licensing pursuant to section 5104.02 of the Revised Code, the 95385
department shall investigate the center or type A home and may 95386
inspect the areas children have access to or areas necessary for 95387
the care of children in the center or type A home during suspected 95388
hours of operation to determine whether the center or type A home 95389
is subject to the requirements of ~~Chapter 5104. this chapter~~ or 95390
rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this 95391
chapter. 95392

~~(H)~~(G) The department, upon determining that the center or 95393
type A home is operating without a license, shall notify the 95394

attorney general, the prosecuting attorney of the county in which 95395
the center or type A home is located, or the city attorney, 95396
village solicitor, or other chief legal officer of the municipal 95397
corporation in which the center or type A home is located, that 95398
the center or type A home is operating without a license. Upon 95399
receipt of the notification, the attorney general, prosecuting 95400
attorney, city attorney, village solicitor, or other chief legal 95401
officer of a municipal corporation shall file a complaint in the 95402
court of common pleas of the county in which the center or type A 95403
home is located requesting that the court grant an order enjoining 95404
the owner from operating the center or type A home in violation of 95405
section 5104.02 of the Revised Code. The court shall grant such 95406
injunctive relief upon a showing that the respondent named in the 95407
complaint is operating a center or type A home and is doing so 95408
without a license. 95409

~~(I)~~(H) The department shall prepare an annual report on 95410
inspections conducted under this section. The report shall include 95411
the number of inspections conducted, the number and types of 95412
violations found, and the steps taken to address the violations. 95413
The department shall file the report with the governor, the 95414
president and minority leader of the senate, and the speaker and 95415
minority leader of the house of representatives on or before the 95416
first day of January of each year, beginning in 1999. 95417

Sec. 5104.05. (A) The director of job and family services 95418
shall issue a license or provisional license ~~or license or renew a~~ 95419
~~license~~ for the operation of a child day-care center, if the 95420
director finds, after investigation of the applicant and 95421
inspection of the center, that other requirements of ~~Chapter 5104.~~ 95422
~~of the Revised Code~~ this chapter, rules promulgated pursuant to 95423
~~Chapter 5104. of the Revised Code~~ this chapter, and the following 95424
requirements are met: 95425

(1) The buildings in which the center is housed, subsequent 95426
to any major modification, have been approved by the department of 95427
commerce or a certified municipal, township, or county building 95428
department for the purpose of operating a child day-care center. 95429
Any structure used for the operation of a center shall be 95430
constructed, equipped, repaired, altered, and maintained in 95431
accordance with applicable provisions of Chapters 3781. and 3791. 95432
of the Revised Code and with regulations adopted by the board of 95433
building standards under Chapter 3781. of the Revised Code and 95434
this division for the safety and sanitation of structures erected 95435
for this purpose. 95436

(2) The state fire marshal or the fire chief or fire 95437
prevention officer of the municipal corporation or township in 95438
which the center is located has inspected the center annually 95439
within the preceding license period and has found the center to be 95440
in compliance with rules promulgated by the fire marshal pursuant 95441
to section 3737.83 of the Revised Code regarding fire prevention 95442
and fire safety in a child day-care center. 95443

(3) The center has received a food service operation license 95444
under Chapter 3717. of the Revised Code if meals are to be served 95445
to children other than children of the licensee or administrator, 95446
whether or not a consideration is received for the meals. 95447

(B) The director of job and family services shall issue a 95448
license or provisional license ~~or license or renew a license~~ for 95449
the operation of a type A family day-care home, if the director 95450
finds, after investigation of the applicant and inspection of the 95451
type A home, that other requirements of ~~Chapter 5104. of the~~ 95452
~~Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter~~ 95453
~~5104. of the Revised Code~~ this chapter, and the following 95454
requirements are met: 95455

(1) The state fire marshal or the fire chief or fire 95456
prevention officer of the municipal corporation or township in 95457

which the type A family day-care home is located has inspected the 95458
type A home annually within the preceding license period and has 95459
found the type A home to be in compliance with rules promulgated 95460
by the fire marshal pursuant to section 3737.83 of the Revised 95461
Code regarding fire prevention and fire safety in a type A home. 95462

(2) The type A home is in compliance with rules set by the 95463
director of job and family services in cooperation with the 95464
director of health pursuant to section 3701.80 of the Revised Code 95465
regarding meal preparation and meal service in the home. The 95466
director of job and family services, in accordance with procedures 95467
recommended by the director of health, shall inspect each type A 95468
home to determine compliance with those rules. 95469

(3) The type A home is in compliance with rules promulgated 95470
by the director of job and family services in cooperation with the 95471
board of building standards regarding safety and sanitation 95472
pursuant to section 3781.10 of the Revised Code. 95473

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable~~ 95474
~~intervals thereafter, the~~ The department of job and family 95475
services shall ~~publish~~ prepare a guide describing the state 95476
statutes and rules governing the certification of type B family 95477
day-care homes. The department ~~shall distribute~~ may publish the 95478
guide ~~to county departments of job and family services in~~ 95479
~~sufficient number that a copy is available to each~~ electronically 95480
or otherwise and shall do so in a manner that the guide is 95481
accessible to the public, including type B home ~~provider~~ 95482
providers. 95483

Sec. 5104.30. (A) The department of job and family services 95484
is hereby designated as the state agency responsible for 95485
administration and coordination of federal and state funding for 95486
publicly funded child care in this state. Publicly funded child 95487

care shall be provided to the following: 95488

(1) Recipients of transitional child care as provided under 95489
section 5104.34 of the Revised Code; 95490

(2) Participants in the Ohio works first program established 95491
under Chapter 5107. of the Revised Code; 95492

(3) Individuals who would be participating in the Ohio works 95493
first program if not for a sanction under section 5107.16 of the 95494
Revised Code and who continue to participate in a work activity, 95495
developmental activity, or alternative work activity pursuant to 95496
an assignment under section 5107.42 of the Revised Code; 95497

(4) A family receiving publicly funded child care on October 95498
1, 1997, until the family's income reaches one hundred fifty per 95499
cent of the federal poverty line; 95500

(5) Subject to available funds, other individuals determined 95501
eligible in accordance with rules adopted under section 5104.38 of 95502
the Revised Code. 95503

The department shall apply to the United States department of 95504
health and human services for authority to operate a coordinated 95505
program for publicly funded child care, if the director of job and 95506
family services determines that the application is necessary. For 95507
purposes of this section, the department of job and family 95508
services may enter into agreements with other state agencies that 95509
are involved in regulation or funding of child care. The 95510
department shall consider the special needs of migrant workers 95511
when it administers and coordinates publicly funded child care and 95512
shall develop appropriate procedures for accommodating the needs 95513
of migrant workers for publicly funded child care. 95514

(B) The department of job and family services shall 95515
distribute state and federal funds for publicly funded child care, 95516
including appropriations of state funds for publicly funded child 95517
care and appropriations of federal funds available under the child 95518

care block grant act, Title IV-A, and Title XX. The department may 95519
use any state funds appropriated for publicly funded child care as 95520
the state share required to match any federal funds appropriated 95521
for publicly funded child care. 95522

(C) In the use of federal funds available under the child 95523
care block grant act, all of the following apply: 95524

(1) The department may use the federal funds to hire staff to 95525
prepare any rules required under this chapter and to administer 95526
and coordinate federal and state funding for publicly funded child 95527
care. 95528

(2) Not more than five per cent of the aggregate amount of 95529
the federal funds received for a fiscal year may be expended for 95530
administrative costs. 95531

(3) The department shall allocate and use at least four per 95532
cent of the federal funds for the following: 95533

(a) Activities designed to provide comprehensive consumer 95534
education to parents and the public; 95535

(b) Activities that increase parental choice; 95536

(c) Activities, including child care resource and referral 95537
services, designed to improve the quality, and increase the 95538
supply, of child care; 95539

(d) Establishing a voluntary child day-care center 95540
quality-rating program in which participation in the program may 95541
allow a child day-care center to be eligible for grants, technical 95542
assistance, training, or other assistance and become eligible for 95543
unrestricted monetary awards for maintaining a quality rating. 95544

(4) The department shall ensure that the federal funds will 95545
be used only to supplement, and will not be used to supplant, 95546
federal, state, and local funds available on the effective date of 95547
the child care block grant act for publicly funded child care and 95548

related programs. If authorized by rules adopted by the department 95549
pursuant to section 5104.42 of the Revised Code, county 95550
departments of job and family services may purchase child care 95551
from funds obtained through any other means. 95552

(D) The department shall encourage the development of 95553
suitable child care throughout the state, especially in areas with 95554
high concentrations of recipients of public assistance and 95555
families with low incomes. The department shall encourage the 95556
development of suitable child care designed to accommodate the 95557
special needs of migrant workers. On request, the department, 95558
through its employees or contracts with state or community child 95559
care resource and referral service organizations, shall provide 95560
consultation to groups and individuals interested in developing 95561
child care. The department of job and family services may enter 95562
into interagency agreements with the department of education, the 95563
board of regents, the department of development, and other state 95564
agencies and entities whenever the cooperative efforts of the 95565
other state agencies and entities are necessary for the department 95566
of job and family services to fulfill its duties and 95567
responsibilities under this chapter. 95568

The department shall develop and maintain a registry of 95569
persons providing child care. The director shall adopt rules 95570
pursuant to Chapter 119. of the Revised Code establishing 95571
procedures and requirements for the registry's administration. 95572

(E)(1) The director shall adopt rules in accordance with 95573
Chapter 119. of the Revised Code establishing both of the 95574
following: 95575

(a) Reimbursement ceilings for providers of publicly funded 95576
child care not later than the first day of July in each 95577
odd-numbered year; 95578

(b) A procedure for reimbursing and paying providers of 95579

publicly funded child care. 95580

(2) In establishing reimbursement ceilings under division 95581
(E)(1)(a) of this section, the director shall do all of the 95582
following: 95583

(a) Use the information obtained under division (B)(3) of 95584
section 5104.04 of the Revised Code; 95585

(b) Establish an enhanced reimbursement ceiling for providers 95586
who provide child care for caretaker parents who work 95587
nontraditional hours; 95588

(c) For a type B family day-care home provider that has 95589
received limited certification pursuant to rules adopted under 95590
division (G)(1) of section 5104.011 of the Revised Code, establish 95591
a reimbursement ceiling that is the following: 95592

(i) If the provider is a person described in division 95593
(G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five 95594
per cent of the reimbursement ceiling that applies to a type B 95595
family day-care home certified by the same county department of 95596
job and family services pursuant to section 5104.11 of the Revised 95597
Code; 95598

(ii) If the provider is a person described in division 95599
(G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per 95600
cent of the reimbursement ceiling that applies to a type B family 95601
day-care home certified by the same county department pursuant to 95602
section 5104.11 of the Revised Code. 95603

(d) With regard to the voluntary child day-care center 95604
quality-rating program established pursuant to division (C)(3)(d) 95605
of this section, do both of the following: 95606

(i) Establish enhanced reimbursement ceilings for child 95607
day-care centers that participate in the program and maintain 95608
quality ratings under the program; 95609

(ii) Weigh any reduction in reimbursement ceilings more heavily against child day-care centers that do not participate in the program or do not maintain quality ratings under the program.

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(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

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(a) Geographic location of the provider;

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(b) Type of care provided;

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(c) Age of the child served;

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(d) Special needs of the child served;

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(e) Whether the expanded hours of service are provided;

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(f) Whether weekend service is provided;

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(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

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(h) Any other factors the director considers appropriate.

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(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.

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Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the ~~county~~ department of job and family services. ~~A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a~~

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~~continuous basis for an unspecified period of time.~~ All contracts 95639
for publicly funded child care shall be contingent upon the 95640
availability of state and federal funds. The department ~~of job and~~ 95641
~~family services~~ shall prescribe a standard form to be used for all 95642
contracts for the purchase of publicly funded child care, 95643
regardless of the source of public funds used to purchase the 95644
child care. To the extent permitted by federal law and 95645
notwithstanding any other provision of the Revised Code that 95646
regulates state ~~or county~~ contracts or contracts involving the 95647
expenditure of state, ~~county,~~ or federal funds, all contracts for 95648
publicly funded child care shall be entered into in accordance 95649
with the provisions of this chapter and are exempt from any other 95650
provision of the Revised Code that regulates state ~~or county~~ 95651
contracts or contracts involving the expenditure of state, ~~county,~~ 95652
or federal funds. 95653

(B) Each contract for publicly funded child care shall 95654
specify at least the following: 95655

(1) That the provider of publicly funded child care agrees to 95656
be paid for rendering services at the ~~lowest~~ lower of the rate 95657
customarily charged by the provider for children enrolled for 95658
child care, or the reimbursement ceiling or rate of payment 95659
established pursuant to section 5104.30 of the Revised Code, ~~or a~~ 95660
~~rate the county department negotiates with the provider;~~ 95661

(2) That, if a provider provides child care to an individual 95662
potentially eligible for publicly funded child care who is 95663
subsequently determined to be eligible, the ~~county~~ department 95664
agrees to pay for all child care provided between the date the 95665
county department of job and family services receives the 95666
individual's completed application and the date the individual's 95667
eligibility is determined; 95668

(3) Whether the county department of job and family services, 95669
the provider, or a child care resource and referral service 95670

organization will make eligibility determinations, whether the 95671
provider or a child care resource and referral service 95672
organization will be required to collect information to be used by 95673
the county department to make eligibility determinations, and the 95674
time period within which the provider or child care resource and 95675
referral service organization is required to complete required 95676
eligibility determinations or to transmit to the county department 95677
any information collected for the purpose of making eligibility 95678
determinations; 95679

(4) That the provider, other than a border state child care 95680
provider, shall continue to be licensed, approved, or certified 95681
pursuant to this chapter and shall comply with all standards and 95682
other requirements in this chapter and in rules adopted pursuant 95683
to this chapter for maintaining the provider's license, approval, 95684
or certification; 95685

(5) That, in the case of a border state child care provider, 95686
the provider shall continue to be licensed, certified, or 95687
otherwise approved by the state in which the provider is located 95688
and shall comply with all standards and other requirements 95689
established by that state for maintaining the provider's license, 95690
certificate, or other approval; 95691

(6) Whether the provider will be paid by the ~~county~~ 95692
~~department of job and family services,~~ the state department of job 95693
and family services, or in some other manner as prescribed by 95694
rules adopted under section 5104.42 of the Revised Code; 95695

(7) That the contract is subject to the availability of state 95696
and federal funds. 95697

(C) Unless specifically prohibited by federal law or by rules 95698
adopted under section 5104.42 of the Revised Code, the county 95699
department of job and family services shall give individuals 95700
eligible for publicly funded child care the option of obtaining 95701

certificates ~~for payment~~ that the individual may use to purchase 95702
services from any provider qualified to provide publicly funded 95703
child care under section 5104.31 of the Revised Code. Providers of 95704
publicly funded child care may present these certificates for 95705
payment ~~for reimbursement~~ in accordance with rules that the 95706
director of job and family services shall adopt. Only providers 95707
may receive ~~reimbursement~~ payment for certificates ~~for payment~~. 95708
The value of the certificate ~~for payment~~ shall be based on the 95709
~~lowest~~ lower of the rate customarily charged by the provider, ~~the~~ 95710
~~reimbursement ceiling~~ or the rate of payment established pursuant 95711
to section 5104.30 of the Revised Code, ~~or a rate the county~~ 95712
~~department negotiates with the provider~~. The county department may 95713
provide the certificates ~~for payment~~ to the individuals or may 95714
contract with child care providers or child care resource and 95715
referral service organizations that make determinations of 95716
eligibility for publicly funded child care pursuant to contracts 95717
entered into under section 5104.34 of the Revised Code for the 95718
providers or resource and referral service organizations to 95719
provide the certificates ~~for payment~~ to individuals whom they 95720
determine are eligible for publicly funded child care. 95721

For each six-month period a provider of publicly funded child 95722
care provides publicly funded child ~~day care~~ care to the child of 95723
an individual given certificates ~~for payment~~, the individual shall 95724
provide the provider certificates for days the provider would have 95725
provided publicly funded child care to the child had the child 95726
been present. The maximum number of days providers shall be 95727
provided certificates shall not exceed ten days in a six-month 95728
period during which publicly funded child care is provided to the 95729
child regardless of the number of providers that provide publicly 95730
funded child care to the child during that period. 95731

Sec. 5104.34. (A)(1) Each county department of job and family 95732
services shall implement procedures for making determinations of 95733

eligibility for publicly funded child care. Under those 95734
procedures, the eligibility determination for each applicant shall 95735
be made no later than thirty calendar days from the date the 95736
county department receives a completed application for publicly 95737
funded child care. Each applicant shall be notified promptly of 95738
the results of the eligibility determination. An applicant 95739
aggrieved by a decision or delay in making an eligibility 95740
determination may appeal the decision or delay to the department 95741
of job and family services in accordance with section 5101.35 of 95742
the Revised Code. The due process rights of applicants shall be 95743
protected. 95744

To the extent permitted by federal law, the county department 95745
may make all determinations of eligibility for publicly funded 95746
child care, may contract with child care providers or child care 95747
resource and referral service organizations for the providers or 95748
resource and referral service organizations to make all or any 95749
part of the determinations, and may contract with child care 95750
providers or child care resource and referral service 95751
organizations for the providers or resource and referral service 95752
organizations to collect specified information for use by the 95753
county department in making determinations. If a county department 95754
contracts with a child care provider or a child care resource and 95755
referral service organization for eligibility determinations or 95756
for the collection of information, the contract shall require the 95757
provider or resource and referral service organization to make 95758
each eligibility determination no later than thirty calendar days 95759
from the date the provider or resource and referral organization 95760
receives a completed application that is the basis of the 95761
determination and to collect and transmit all necessary 95762
information to the county department within a period of time that 95763
enables the county department to make each eligibility 95764
determination no later than thirty days after the filing of the 95765
application that is the basis of the determination. 95766

The county department may station employees of the department 95767
in various locations throughout the county to collect information 95768
relevant to applications for publicly funded child care and to 95769
make eligibility determinations. The county department, child care 95770
provider, and child care resource and referral service 95771
organization shall make each determination of eligibility for 95772
publicly funded child care no later than thirty days after the 95773
filing of the application that is the basis of the determination, 95774
shall make each determination in accordance with any relevant 95775
rules adopted pursuant to section 5104.38 of the Revised Code, and 95776
shall notify promptly each applicant for publicly funded child 95777
care of the results of the determination of the applicant's 95778
eligibility. 95779

The director of job and family services shall adopt rules in 95780
accordance with Chapter 119. of the Revised Code for monitoring 95781
the eligibility determination process. In accordance with those 95782
rules, the state department shall monitor eligibility 95783
determinations made by county departments of job and family 95784
services and shall direct any entity that is not in compliance 95785
with this division or any rule adopted under this division to 95786
implement corrective action specified by the department. 95787

(2) All eligibility determinations for publicly funded child 95788
care shall be made in accordance with rules adopted pursuant to 95789
division (A) of section 5104.38 of the Revised Code and, if a 95790
county department of job and family services specifies, pursuant 95791
to rules adopted under division (B) of that section, a maximum 95792
amount of income a family may have to be eligible for publicly 95793
funded child care, the income maximum specified by the county 95794
department. Publicly funded child care may be provided only to 95795
eligible infants, toddlers, preschool children, and school 95796
children under age thirteen. For an applicant to be eligible for 95797
publicly funded child care, the caretaker parent must be employed 95798

or participating in a program of education or training for an 95799
amount of time reasonably related to the time that the parent's 95800
children are receiving publicly funded child care. This 95801
restriction does not apply to families whose children are eligible 95802
for protective child care. 95803

Subject to available funds, a county department of job and 95804
family services shall allow a family to receive publicly funded 95805
child care unless the family's income exceeds the maximum income 95806
eligibility limit. Initial and continued eligibility for publicly 95807
funded child care is subject to available funds unless the family 95808
is receiving child care pursuant to division (A)(1), (2), (3), or 95809
(4) of section 5104.30 of the Revised Code. If the county 95810
department must limit eligibility due to lack of available funds, 95811
it shall give first priority for publicly funded child care to an 95812
assistance group whose income is not more than the maximum income 95813
eligibility limit that received transitional child care in the 95814
previous month but is no longer eligible because the twelve-month 95815
period has expired. Such an assistance group shall continue to 95816
receive priority for publicly funded child care until its income 95817
exceeds the maximum income eligibility limit. 95818

(3) An assistance group that ceases to participate in the 95819
Ohio works first program established under Chapter 5107. of the 95820
Revised Code is eligible for transitional child care at any time 95821
during the immediately following twelve-month period that both of 95822
the following apply: 95823

(a) The assistance group requires child care due to 95824
employment; 95825

(b) The assistance group's income is not more than one 95826
hundred fifty per cent of the federal poverty line. 95827

An assistance group ineligible to participate in the Ohio 95828
works first program pursuant to section 5101.83 or section 5107.16 95829

of the Revised Code is not eligible for transitional child care. 95830

(B) To the extent permitted by federal law, a county 95831
department of job and family services may require a caretaker 95832
parent determined to be eligible for publicly funded child care to 95833
pay a fee according to the schedule of fees established in rules 95834
adopted under section 5104.38 of the Revised Code. Each county 95835
department shall make protective child care services available to 95836
children without regard to the income or assets of the caretaker 95837
parent of the child. 95838

(C) A caretaker parent receiving publicly funded child care 95839
shall report to the entity that determined eligibility any changes 95840
in status with respect to employment or participation in a program 95841
of education or training not later than ten calendar days after 95842
the change occurs. 95843

(D) If a county department of job and family services 95844
determines that available resources are not sufficient to provide 95845
publicly funded child care to all eligible families who request 95846
it, the county department may establish a waiting list. A county 95847
department may establish separate waiting lists within the waiting 95848
list based on income. When resources become available to provide 95849
publicly funded child care to families on the waiting list, a 95850
county department that establishes a waiting list shall assess the 95851
needs of the next family scheduled to receive publicly funded 95852
child care. If the assessment demonstrates that the family 95853
continues to need and is eligible for publicly funded child care, 95854
the county department shall offer it to the family. If the county 95855
department determines that the family is no longer eligible or no 95856
longer needs publicly funded child care, the county department 95857
shall remove the family from the waiting list. 95858

(E) A caretaker parent shall not receive full-time publicly 95859
funded child care from more than one child care provider per child 95860
during any period. 95861

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code if a caretaker parent reports changes in income, family size, or both.

(B) Division (A) of this section does not apply ~~in either of the following circumstances:~~

~~(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;~~

~~(2) The if the recipient of the publicly funded child care ceases to be eligible for publicly funded child care.~~

Sec. 5104.35. (A) ~~The~~ Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in 95891
certification as in-home aides or in developing and operating 95892
suitable licensed child day-care centers, type A family day-care 95893
homes, or certified type B family day-care homes, especially in 95894
areas with high concentrations of recipients of public assistance, 95895
and for that purpose provide consultation to interested 95896
individuals and groups on request; 95897

(3) Inform clients of the availability of child care 95898
services; 95899

~~(4) Pay to a child day care center, type A family day care 95900
home, certified type B family day care home, in-home aide, 95901
approved child day camp, licensed preschool program, licensed 95902
school child program, or border state child care provider for 95903
child care services, the amount provided for in division (B) of 95904
section 5104.32 of the Revised Code. If part of the cost of care 95905
of a child is paid by the child's parent or any other person, the 95906
amount paid shall be subtracted from the amount the provider is 95907
paid. 95908~~

~~(5) In accordance with rules adopted pursuant to section 95909
5104.39 of the Revised Code, provide monthly reports to the 95910
director of job and family services and the director of budget and 95911
management regarding expenditures for the purchase of publicly 95912
funded child care. 95913~~

(B) The A county department of job and family services may ~~do~~ 95914
~~any of the following:~~ 95915

~~(1) To, to~~ the extent permitted by federal law, use public 95916
child care funds to extend the hours of operation of the county 95917
department to accommodate the needs of working caretaker parents 95918
and enable those parents to apply for publicly funded child care; 95919

~~(2) In accordance with rules adopted by the director of job 95920
and family services, request a waiver of the reimbursement ceiling 95921~~

~~established pursuant to section 5104.30 of the Revised Code for 95922
the purpose of paying a higher rate for publicly funded child care 95923
based upon the special needs of a child; 95924~~

~~(3) To the extent permitted by federal law, use state and 95925
federal funds to pay deposits and other advance payments that a 95926
provider of child care customarily charges all children who 95927
receive child care from that provider; 95928~~

~~(4) To the extent permitted by federal law, pay for up to 95929
thirty days of child care for a child whose caretaker parent is 95930
seeking employment, taking part in employment orientation 95931
activities, or taking part in activities in anticipation of 95932
enrollment or attendance in an education or training program or 95933
activity, if the employment or education or training program or 95934
activity is expected to begin within the thirty day period. 95935~~

Sec. 5104.37. ~~The department of job and family services and a 95936
county department of job and family services may withhold any 95937
money due, and recover through any appropriate method any money 95938
erroneously paid, under this chapter if evidence exists of less 95939
than full compliance with this chapter and any rules adopted under 95940
it. 95941~~

Sec. 5104.38. In addition to any other rules adopted under 95942
this chapter, the director of job and family services shall adopt 95943
rules in accordance with Chapter 119. of the Revised Code 95944
governing financial and administrative requirements for publicly 95945
funded child care and establishing all of the following: 95946

(A) Procedures and criteria to be used in making 95947
determinations of eligibility for publicly funded child care that 95948
give priority to children of families with lower incomes and 95949
procedures and criteria for eligibility for publicly funded 95950
protective child care. The rules shall specify the maximum amount 95951

of income a family may have for initial and continued eligibility. 95952
The maximum amount shall not exceed two hundred per cent of the 95953
federal poverty line. The rules may specify exceptions to the 95954
eligibility requirements in the case of a family that previously 95955
received publicly funded child care and is seeking to have the 95956
child care reinstated after the family's eligibility was 95957
terminated. 95958

(B) Procedures under which a county department of job and 95959
family services may, if the department, under division (A) of this 95960
section, specifies a maximum amount of income a family may have 95961
for eligibility for publicly funded child care that is less than 95962
the maximum amount specified in that division, specify a maximum 95963
amount of income a family residing in the county the county 95964
department serves may have for initial and continued eligibility 95965
for publicly funded child care that is higher than the amount 95966
specified by the department but does not exceed the maximum amount 95967
specified in division (A) of this section; 95968

(C) A schedule of fees requiring all eligible caretaker 95969
parents to pay a fee for publicly funded child care according to 95970
income and family size, which shall be uniform for all types of 95971
publicly funded child care, except as authorized by rule, and, to 95972
the extent permitted by federal law, shall permit the use of state 95973
and federal funds to pay the customary deposits and other advance 95974
payments that a provider charges all children who receive child 95975
care from that provider. The schedule of fees may not provide for 95976
a caretaker parent to pay a fee that exceeds ten per cent of the 95977
parent's family income. 95978

(D) A formula ~~based upon a percentage of the county's total~~ 95979
~~expenditures for publicly funded child care~~ for determining the 95980
~~maximum~~ amount of state and federal funds appropriated for 95981
publicly funded child care that may be allocated to a county 95982
department ~~may~~ to use for administrative purposes; 95983

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;	95984 95985 95986
(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;	95987 95988 95989 95990 95991
(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;	95992 95993
(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;	95994 95995
(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;	95996 95997
(J) A definition of "person who stands in loco parentis" for the purposes of division (II)(1) <u>(JJ)(1)</u> of section 5104.01 of the Revised Code;	95998 95999 96000
(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;	96001 96002 96003 96004 96005
(L) <u>If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;</u>	96006 96007 96008 96009 96010
(M) <u>To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment</u>	96011 96012 96013

orientation activities, or taking part in activities in 96014
anticipation of enrolling in or attending an education or training 96015
program or activity, if the employment or the education or 96016
training program or activity is expected to begin within the 96017
thirty-day period; 96018

(N) Any other rules necessary to carry out sections 5104.30 96019
to ~~5104.39~~ 5104.43 of the Revised Code. 96020

Sec. 5104.39. (A) The director of job and family services 96021
shall adopt rules in accordance with Chapter 119. of the Revised 96022
Code establishing a procedure for monitoring the expenditures ~~of~~ 96023
~~county departments of job and family services~~ for publicly funded 96024
child care to ensure that expenditures do not exceed the available 96025
federal and state funds for publicly funded child care. The 96026
department of job and family services, with the assistance of the 96027
office of budget and management and the child care advisory 96028
council created pursuant to section 5104.08 of the Revised Code, 96029
shall monitor the anticipated future expenditures ~~of county~~ 96030
~~departments~~ for publicly funded child care and shall compare those 96031
anticipated future expenditures to available federal and state 96032
funds for publicly funded child care. Whenever the department 96033
determines that the anticipated future expenditures ~~of the county~~ 96034
~~departments will exceed the available federal and state funds~~ for 96035
publicly funded child care ~~and the department reimburses the~~ 96036
~~county departments in accordance with rules adopted under section~~ 96037
~~5104.42 of the Revised Code~~ will exceed the available federal and 96038
state funds, the department shall promptly notify the county 96039
departments of job and family services and, before the available 96040
state and federal funds are used, the director shall issue and 96041
implement an administrative order that shall specify both of the 96042
following: 96043

(1) Priorities for expending the remaining available federal 96044

and state funds for publicly funded child care; 96045

(2) Instructions and procedures to be used by the county 96046
departments regarding eligibility determinations. 96047

(B) The order may do any or all of the following: 96048

(1) Suspend enrollment of all new participants in any program 96049
of publicly funded child care; 96050

(2) Limit enrollment of new participants to those with 96051
incomes at or below a specified percentage of the federal poverty 96052
line; 96053

(3) Disenroll existing participants with income above a 96054
specified percentage of the federal poverty line; 96055

(4) Change the schedule of fees paid by eligible caretaker 96056
parents that has been established pursuant to section 5104.38 of 96057
the Revised Code; 96058

(5) Change the rate of payment for providers of publicly 96059
funded child care that has been established pursuant to section 96060
5104.30 of the Revised Code. 96061

(C) Each county department shall comply with the order no 96062
later than thirty days after it is issued. ~~If the department fails 96063
to notify the county departments and to implement the reallocation 96064
priorities specified in the order before the available federal and 96065
state funds for publicly funded child care are used, the state 96066
department shall provide sufficient funds to the county 96067
departments for publicly funded child care to enable each county 96068
department to pay for all publicly funded child care that was 96069
provided by providers pursuant to contract prior to the date that 96070
the county department received notice under this section and the 96071
state department implemented in that county the priorities.~~ 96072

(D) If after issuing an order under this section to suspend 96073
or limit enrollment of new participants or disenroll existing 96074

participants the department determines that available state and 96075
federal funds for publicly funded child care exceed the 96076
anticipated future expenditures ~~of the county departments for~~ 96077
publicly funded child care, the director may issue and implement 96078
another administrative order increasing income eligibility levels 96079
to a specified percentage of the federal poverty line. The order 96080
shall include instructions and procedures to be used by the county 96081
departments. Each county department shall comply with the order 96082
not later than thirty days after it is issued. 96083

(E) The department of job and family services shall do all of 96084
the following: 96085

(1) Conduct a quarterly evaluation of the program of publicly 96086
funded child care that is operated pursuant to sections 5104.30 to 96087
~~5104.39~~ 5104.43 of the Revised Code; 96088

(2) Prepare reports based upon the evaluations that specify 96089
for each county the number of participants and amount of 96090
expenditures; 96091

(3) Provide copies of the reports to both houses of the 96092
general assembly and, on request, to interested parties. 96093

Sec. 5104.42. ~~(A)~~ The director of job and family services 96094
shall adopt rules pursuant to section 111.15 of the Revised Code 96095
establishing a payment procedure for publicly funded child care. 96096
~~The rules may provide that the department of job and family~~ 96097
~~services will reimburse county departments of job and family~~ 96098
~~services for payments made to providers of publicly funded child~~ 96099
~~care, make direct payments to providers, or establish another~~ 96100
~~system for the payment of publicly funded child care.~~ 96101

~~Alternately, the~~ (B) The director, by rule adopted in 96102
accordance with section 111.15 of the Revised Code, may establish 96103
a methodology for allocating ~~among the county departments~~ the 96104

state and federal funds appropriated for all publicly funded child care services. If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.

The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.

Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. All expenditures by a county department for publicly funded child care shall be made from the public assistance fund.

Sec. 5104.99. (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type

A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home. 96135
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(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply: 96138
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(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home. 96140
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(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. 96148
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(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code. 96154
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(d) If the offender previously has been convicted of or 96166
pleaded guilty to three or more violations of section 5104.02 of 96167
the Revised Code, the offender is guilty of a felony of the fifth 96168
degree, and the court shall order the offender to cease the 96169
provision of child care to any person until it obtains a child 96170
day-care center license or a type A family day-care home license, 96171
as appropriate, under section 5104.03 of the Revised Code. The 96172
court shall impose the fine specified in division (A)(1) of this 96173
section and may impose an additional fine provided that the total 96174
amount of the fines so imposed does not exceed the maximum fine 96175
authorized for a felony of the fifth degree under section 2929.18 96176
of the Revised Code. 96177

(B) Whoever violates division (B) of section 5104.09 of the 96178
Revised Code is guilty of a misdemeanor of the first degree. If 96179
the offender is a licensee of a center or type A home, the 96180
conviction shall constitute grounds for denial, or revocation, ~~or~~ 96181
~~refusal to renew~~ of an application for licensure pursuant to 96182
section 5104.04 of the Revised Code. If the offender is a person 96183
eighteen years of age or older residing in a center or type A home 96184
or is an employee of a center or a type A home and if the licensee 96185
had knowledge of, and acquiesced in, the commission of the 96186
offense, the conviction shall constitute grounds for denial, or 96187
revocation, ~~or refusal to renew~~ of an application for licensure 96188
pursuant to section 5104.04 of the Revised Code. 96189

(C) Whoever violates division (C) of section 5104.09 of the 96190
Revised Code is guilty of a misdemeanor of the third degree. 96191

Sec. 5111.011. (A) The director of job and family services 96192
shall adopt rules establishing eligibility requirements for the 96193
medicaid program. The rules shall be adopted pursuant to section 96194
111.15 of the Revised Code and shall be consistent with federal 96195
and state law. The rules shall include rules that do all of the 96196

following:	96197
(1) Establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medicaid;	96198 96199 96200 96201
(2) Define the term "resources" as used in division (A)(1) of this section;	96202 96203
(3) Specify the number of months that is to be used for the purpose of the term "look-back date" used in section 5111.0116 of the Revised Code;	96204 96205 96206
(4) Establish processes to be used to determine both of the following:	96207 96208
(a) The date an institutionalized individual's ineligibility for services under section 5111.0116 of the Revised Code is to begin;	96209 96210 96211
(b) The number of months an institutionalized individual's ineligibility for such services is to continue.	96212 96213
(5) Establish exceptions to <u>For the purpose of division (C) of section 5111.0116 of the Revised Code, establish procedures for granting waivers of all or a portion of the period of ineligibility that an institutionalized individual would otherwise be subject to under that section 5111.0116 of the Revised Code and additional reasons for which such waivers may be granted;</u>	96214 96215 96216 96217 96218 96219
(6) Define the term "other medicaid-funded long-term care services" as used in sections 5111.0117 and 5111.0118 of the Revised Code;	96220 96221 96222
(7) For the purpose of division (C)(2)(c) of section 5111.0117 of the Revised Code, establish the process to determine whether the child of an aged, blind, or disabled individual is financially dependent on the individual for housing.	96223 96224 96225 96226

(B) Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under division (A)(1) of this section shall be used to determine eligibility for medicaid.

Sec. 5111.012. The (A) Except as provided in division (B) of this section, the county department of job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of job and family services elects to enter into agreements with county departments of job and family services pursuant to division (B) of section 5101.47 of the Revised Code, a county department of job and family services shall establish eligibility for medical assistance only if authorized to do so under such an agreement.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the

healthy start program: 96257

(1) Establish a short application form for the program that 96258
requires the applicant to provide no more information than is 96259
necessary for making determinations of eligibility for the healthy 96260
start program, except that the form may require applicants to 96261
provide their social security numbers. The form shall include a 96262
statement, which must be signed by the applicant, indicating that 96263
she does not choose at the time of making application for the 96264
program to apply for assistance provided under any other program 96265
administered by the department and that she understands that she 96266
is permitted at any other time to apply at the county department 96267
of job and family services of the county in which she resides for 96268
any other assistance administered by the department. 96269

(2) To the extent permitted by federal law, do one or both of 96270
the following: 96271

(a) Distribute the application form for the program to each 96272
public or private entity that serves as a women, infants, and 96273
children clinic or as a child and family health clinic and to each 96274
administrative body for such clinics and train employees of each 96275
such agency or entity to provide applicants assistance in 96276
completing the form; 96277

(b) In cooperation with the department of health, develop 96278
arrangements under which employees of county departments of job 96279
and family services are stationed at public or private agencies or 96280
entities selected by the department of job and family services 96281
that serve as women, infants, and children clinics; child and 96282
family health clinics; or administrative bodies for such clinics 96283
for the purpose both of assisting applicants for the program in 96284
completing the application form and of making determinations at 96285
that location of eligibility for the program. 96286

(3) Establish performance standards by which a county 96287

department of job and family services' level of enrollment of 96288
persons potentially eligible for the program can be measured, and 96289
establish acceptable levels of enrollment for each county 96290
department. 96291

(4) Direct any county department of job and family services 96292
whose rate of enrollment of potentially eligible enrollees in the 96293
program is below acceptable levels established under division 96294
(B)(3) of this section to implement corrective action. Corrective 96295
action may include but is not limited to any one or more of the 96296
following to the extent permitted by federal law: 96297

(a) Establishing formal referral and outreach methods with 96298
local health departments and local entities receiving funding 96299
through the bureau of maternal and child health; 96300

(b) Designating a specialized intake unit within the county 96301
department for healthy start applicants; 96302

(c) Establishing abbreviated timeliness requirements to 96303
shorten the time between receipt of an application and the 96304
scheduling of an initial application interview; 96305

(d) Establishing a system for telephone scheduling of intake 96306
interviews for applicants; 96307

(e) Establishing procedures to minimize the time an applicant 96308
must spend in completing the application and eligibility 96309
determination process, including permitting applicants to complete 96310
the process at times other than the regular business hours of the 96311
county department and at locations other than the offices of the 96312
county department. 96313

(C) To the extent permitted by federal law, local funds, 96314
whether from public or private sources, expended by a county 96315
department for administration of the healthy start program shall 96316
be considered to have been expended by the state for the purpose 96317
of determining the extent to which the state has complied with any 96318

federal requirement that the state provide funds to match federal 96319
funds for medical assistance, except that this division shall not 96320
affect the amount of funds the county is entitled to receive under 96321
section 5101.16, 5101.161, or 5111.012 of the Revised Code. 96322

~~(D) The director of job and family services shall do one or 96323
both of the following: 96324~~

~~(1) To the extent that federal funds are provided for such 96325
assistance, adopt a plan for granting presumptive eligibility for 96326
pregnant women applying for healthy start; 96327~~

~~(2) To the extent permitted by federal medicaid regulations, 96328
adopt a plan for making same day determinations of eligibility for 96329
pregnant women applying for healthy start. 96330~~

~~(E) A county department of job and family services that 96331
maintains offices at more than one location shall accept 96332
applications for the healthy start program at all of those 96333
locations. 96334~~

~~(F)(E) The director of job and family services shall adopt 96335
rules in accordance with section 111.15 of the Revised Code as 96336
necessary to implement this section. 96337~~

Sec. 5111.0112. (A) The director of job and family services 96338
shall institute a cost-sharing program under the medicaid program. 96339
In instituting the cost-sharing program, the director shall comply 96340
with federal law. ~~In the case of an individual participating in 96341
the children's buy in program established under sections 5101.5211 96342
to 5101.5216 of the Revised Code, the cost sharing program shall 96343
be consistent with sections 5101.5213 and 5101.5214 of the Revised 96344
Code if the children's buy in program is a component of the 96345
medicaid program.~~ The cost-sharing program shall establish a 96346
copayment requirement for at least dental services, vision 96347
services, nonemergency emergency department services, and 96348

prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an

outstanding debt. If the provider intends to refuse service to a
medicaid recipient who owes the provider an outstanding debt, the
provider shall notify the individual of the provider's intent to
refuse services.

(C) In the case of a provider that is a hospital, the
cost-sharing program shall permit the hospital to take action to
collect a copayment by providing, at the time services are
rendered to a medicaid recipient, notice that a copayment may be
owed. If the hospital provides the notice and chooses not to take
any further action to pursue collection of the copayment, the
prohibition against waiving copayments specified in division
(B)(3) of this section does not apply.

(D) The department of job and family services may work with a
state agency that is administering, pursuant to a contract entered
into under section 5111.91 of the Revised Code, one or more
components of the medicaid program or one or more aspects of a
component as necessary for the state agency to apply the
cost-sharing program to the components or aspects of the medicaid
program that the state agency administers.

Sec. 5111.0116. (A) As used in this section:

(1) "Assets" include all of an individual's income and
resources and those of the individual's spouse, including any
income or resources the individual or spouse is entitled to but
does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or
administrative agency, with legal authority to act in place of or
on behalf of the individual or spouse;

(c) A person or government entity, including a court or
administrative agency, acting at the direction or on the request

of the individual or spouse. 96409

(2) "Home and community-based services" means home and 96410
community-based services furnished under a medicaid waiver granted 96411
by the United States secretary of health and human services under 96412
42 U.S.C. 1396n(c) or (d). 96413

(3) "Institutionalized individual" means a resident of a 96414
nursing facility, an inpatient in a medical institution for whom a 96415
payment is made based on a level of care provided in a nursing 96416
facility, or an individual described in 42 U.S.C. 96417
1396a(a)(10)(A)(ii)(VI). 96418

(4) "Look-back date" means the date that is a number of 96419
months specified in rules adopted under section 5111.011 of the 96420
Revised Code immediately before either of the following: 96421

(a) The date an individual becomes an institutionalized 96422
individual if the individual is eligible for medicaid on that 96423
date; 96424

(b) The date an individual applies for medicaid while an 96425
institutionalized individual. 96426

(5) "Nursing facility" has the same meaning as in section 96427
5111.20 of the Revised Code. 96428

(6) "Nursing facility equivalent services" means services 96429
that are covered by the medicaid program, equivalent to nursing 96430
facility services, provided by an institution that provides the 96431
same level of care as a nursing facility, and provided to an 96432
inpatient of the institution who is a medicaid recipient eligible 96433
for medicaid-covered nursing facility equivalent services. 96434

(7) "Nursing facility services" means nursing facility 96435
services covered by the medicaid program that a nursing facility 96436
provides to a resident of the nursing facility who is a medicaid 96437
recipient eligible for medicaid-covered nursing facility services. 96438

(8) "Undue hardship" means being deprived of either of the 96439
following: 96440

(a) Medical care such that an individual's health or life is 96441
endangered; 96442

(b) Food, clothing, shelter, or other necessities of life. 96443

(B) Except as provided in division (C) of this section and 96444
rules adopted under section 5111.011 of the Revised Code, an 96445
institutionalized individual is ineligible for nursing facility 96446
services, nursing facility equivalent services, and home and 96447
community-based services if the individual or individual's spouse 96448
disposes of assets for less than fair market value on or after the 96449
look-back date. The institutionalized individual's ineligibility 96450
shall begin on a date determined in accordance with rules adopted 96451
under section 5111.011 of the Revised Code and shall continue for 96452
a number of months determined in accordance with such rules. 96453

(C) An institutionalized individual may be granted a waiver 96454
of all or a portion of the period of ineligibility to which the 96455
individual would otherwise be subjected under division (B) of this 96456
section if the ineligibility would cause an undue hardship for the 96457
individual. An institutionalized individual shall be granted a 96458
waiver of all or a portion of the period of ineligibility if the 96459
administrator of the nursing facility in which the individual 96460
resides has notified the individual of a proposed transfer or 96461
discharge under section 3721.16 of the Revised Code due to failure 96462
to pay for the care the nursing facility has provided to the 96463
individual, the individual or the individual's sponsor requests a 96464
hearing on the proposed transfer or discharge in accordance with 96465
section 3721.161 of the Revised Code, and the transfer or 96466
discharge is upheld by a final determination that is not subject 96467
to further appeal. Waivers shall be granted in accordance with 96468
rules adopted under section 5111.011 of the Revised Code. 96469

(D) To secure compliance with this section, the director of job and family services may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5111.0122. As used in this section, "maintenance of effort requirement" means the requirement established by section 1902(qg) of the "Social Security Act," 124 Stat. 275 (2010), 42 U.S.C. 1396a(qg), as amended, regarding medicaid eligibility standards, methodologies, and procedures.

Except to the extent, if any, otherwise authorized by the United States secretary of health and human services, the department of job and family services shall comply with the maintenance of effort requirement while the requirement is in effect.

Sec. 5111.0123. (A) Subject to division (B) of this section, the director of job and family services shall adopt rules under sections 5111.011 and 5111.85 of the Revised Code to reduce the complexity of the eligibility determination processes for the medicaid program caused by the different income and resource standards for the numerous medicaid eligibility categories.

(B) In implementing division (A) of this section, both of the following apply:

(1) Before implementing a revision to an eligibility determination process, the director shall obtain, to the extent necessary, the approval of the United States secretary of health

and human services in the form of a federal medicaid waiver, 96500
medicaid state plan amendment, or demonstration grant. 96501

(2) The director shall comply with section 5111.0122 of the 96502
Revised Code. 96503

Sec. 5111.0124. (A) As used in this section: 96504

"Children's hospital" has the same meaning as in section 96505
2151.86 of the Revised Code. 96506

"Federally-qualified health center" has the same meaning as 96507
in 42 U.S.C. 1396d(1)(2)(B). 96508

"Federally qualified health center look-alike" has the same 96509
meaning as in section 3701.047 of the Revised Code. 96510

"Presumptive eligibility for pregnant women option" means the 96511
option available under 42 U.S.C. 1396r-1 to make ambulatory 96512
prenatal care available to pregnant women under the medicaid 96513
program during presumptive eligibility periods. 96514

"Qualified provider" has the same meaning as in 42 U.S.C. 96515
1396r-1(b)(2). 96516

(B) The director of job and family services shall submit a 96517
medicaid state plan amendment to the United States secretary of 96518
health and human services to implement the presumptive eligibility 96519
for pregnant women option. The director shall include in the 96520
medicaid state plan amendment a request to authorize children's 96521
hospitals, federally qualified health centers, and federally 96522
qualified health center look-alikes, if they are eligible to be 96523
qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to 96524
serve as qualified providers, to serve as qualified providers for 96525
purposes of the presumptive eligibility for pregnant women option. 96526
The director may include in the medicaid state plan amendment a 96527
request to authorize other types of providers that are eligible to 96528
be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request 96529

to serve as qualified providers to serve as qualified providers 96530
for purposes of the presumptive eligibility for pregnant women 96531
option. The director shall begin to implement the medicaid state 96532
plan amendment on the later of April 1, 2012, or a date that is 96533
not later than ninety days after the effective date of the 96534
approval of the amendment. 96535

The director shall adopt rules under section 5111.011 of the 96536
Revised Code as necessary to implement this section. 96537

Sec. 5111.0125. (A) As used in this section: 96538

"Children's hospital" has the same meaning as in section 96539
2151.86 of the Revised Code. 96540

"Federally-qualified health center" has the same meaning as 96541
in 42 U.S.C. 1396d(1)(2)(B). 96542

"Federally qualified health center look-alike" has the same 96543
meaning as in section 3701.047 of the Revised Code. 96544

"Presumptive eligibility for children option" means the 96545
option available under 42 U.S.C. 1396r-1a to make medical 96546
assistance with respect to health care items and services 96547
available to children under the medicaid program during 96548
presumptive eligibility periods. 96549

"Qualified entity" has the same meaning as in 42 U.S.C. 96550
1396r-1a(b)(3). 96551

(B) The director of job and family services shall retain the 96552
presumptive eligibility for children option that was included in 96553
the state medicaid plan on the effective date of this section. The 96554
director shall submit a medicaid state plan amendment to the 96555
United States secretary of health and human services to authorize 96556
children's hospitals, federally qualified health centers, and 96557
federally qualified health center look-alikes, if they are 96558
eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) 96559

and request to serve as qualified entities, to serve as qualified entities for purposes of the presumptive eligibility for children option. The director may include in the medicaid state plan amendment a request to authorize other types of entities that are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities to serve as qualified entities for purposes of the presumptive eligibility for children option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.021. Under the medicaid program:

(A) Except as otherwise ~~permitted~~ required by federal statute or regulation ~~and at the department's discretion, reimbursement by the department of job and family services to~~ shall not reimburse a medical provider for any medical ~~service~~ assistance rendered under the program ~~shall not exceed~~ an amount that exceeds the following:

(1) If the provider is a hospital, nursing facility, or intermediate care facility for the mentally retarded, the limits established under Subpart C of 42 C.F.R. Part 447;

(2) If the provider is other than a provider described in division (A)(1) of this section, the authorized reimbursement level limits for the same service under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has a ~~quality~~

~~assurance program accredited by the joint commission on~~ 96621
~~accreditation of healthcare organizations or is its community~~ 96622
~~mental health services certified by the department of mental~~ 96623
~~health under section 5119.611 of the Revised Code or by the~~ 96624
~~department of job and family services.~~ 96625

(2) "Mental health professional" means a person qualified to 96626
work with mentally ill persons under the standards established by 96627
the director of mental health pursuant to section 5119.611 of the 96628
Revised Code. 96629

(B) The state medicaid plan ~~shall~~ may include provision of 96630
the following mental health services when provided by community 96631
mental health agencies or facilities: 96632

(1) Outpatient mental health services, including, but not 96633
limited to, preventive, diagnostic, therapeutic, rehabilitative, 96634
and palliative interventions rendered to individuals in an 96635
individual or group setting by a mental health professional in 96636
accordance with a plan of treatment appropriately established, 96637
monitored, and reviewed; 96638

(2) Partial-hospitalization mental health services rendered 96639
by persons directly supervised by a mental health professional; 96640

(3) Unscheduled, emergency mental health services of a kind 96641
ordinarily provided to persons in crisis when rendered by persons 96642
supervised by a mental health professional; 96643

(4) Subject to receipt of federal approval, assertive 96644
community treatment and intensive home-based mental health 96645
services. 96646

(C) ~~The comprehensive annual plan shall certify the~~ 96647
~~availability of sufficient unencumbered community mental health~~ 96648
~~state subsidy and local funds to match federal medicaid~~ 96649
~~reimbursement funds earned by community mental health facilities.~~ 96650

~~(D)~~ The department of job and family services shall enter 96651
into a separate contract with the department of mental health 96652
under section 5111.91 of the Revised Code with regard to the 96653
component of the medicaid program provided for by this section. 96654

~~(E)~~ Not later than July 21, 2006, the department of job and 96655
family services shall request federal approval to provide 96656
assertive community treatment and intensive home-based mental 96657
health services under medicaid pursuant to this section. 96658

~~(F)~~ On receipt of federal approval sought under division (E) 96659
of this section, the director of job and family services shall 96660
adopt rules in accordance with Chapter 119. of the Revised Code 96661
for assertive community treatment and intensive home-based mental 96662
health services provided under medicaid pursuant to this section. 96663
The director shall consult with the department of mental health in 96664
adopting the rules. 96665

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 96666
the Revised Code, the director of job and family services shall 96667
modify the manner or establish a new manner in which the following 96668
are paid under medicaid: 96669

(1) Community mental health agencies or facilities for 96670
providing community mental health services included in the state 96671
medicaid plan pursuant to section 5111.023 of the Revised Code; 96672

(2) Providers of alcohol and drug addiction services for 96673
providing alcohol and drug addiction services included in the 96674
medicaid program pursuant to rules adopted under section 5111.02 96675
of the Revised Code. 96676

(B) The director's authority to modify the manner, or to 96677
establish a new manner, for medicaid to pay for the services 96678
specified in division (A) of this section is not limited by any 96679
rules adopted under section 5111.02 or 5119.61 of the Revised Code 96680

that are in effect on June 26, 2003, and govern the way medicaid 96681
pays for those services. This is the case regardless of what state 96682
agency adopted the rules. 96683

Sec. 5111.0212. As necessary to comply with section 96684
1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 96685
42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law 96686
that requires public notice of proposed changes to reimbursement 96687
rates for medical assistance provided under the medicaid program, 96688
the director of job and family services shall give public notice 96689
in the register of Ohio of any change to a method or standard used 96690
to determine the medicaid reimbursement rate for medical 96691
assistance. 96692

Sec. 5111.0213. (A) As used in this section: 96693

(1) "Aide services" means all of the following: 96694

(a) Home health aide services available under the home health 96695
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 96696

(b) Home care attendant services available under a home and 96697
community-based services medicaid waiver component; 96698

(c) Personal care aide services available under a home and 96699
community-based services medicaid waiver component. 96700

(2) "Home and community-based services medicaid waiver 96701
component" has the same meaning as in section 5111.85 of the 96702
Revised Code. 96703

(3) "Independent provider" means an individual who personally 96704
provides aide services or nursing services and is not employed by, 96705
under contract with, or affiliated with another entity that 96706
provides those services. 96707

(4) "Nursing services" means all of the following: 96708

(a) Nursing services available under the home health services 96709

benefit pursuant to 42 C.F.R. 440.70(b)(1); 96710

(b) Private duty nursing services as defined in 42 C.F.R. 440.80; 96711
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(c) Nursing services available under a home and community-based services medicaid waiver component. 96713
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(B) The department of job and family services shall do both of the following: 96715
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(1) Effective October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011; 96717
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(2) Effective October 1, 2011, pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider; 96721
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(3) Not sooner than July 1, 2012, adjust the medicaid reimbursement rates for aide services and nursing services in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit. 96725
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(C) The department shall strive to have the adjustment made under division (B)(3) of this section go into effect on July 1, 2012. The reductions made under divisions (B)(1) and (2) of this section shall remain in effect until the adjustment made under division (B)(3) of this section goes into effect. 96730
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(D) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section. 96735
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Sec. 5111.0214. The department of job and family services shall not knowingly make a medicaid payment for a 96738
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provider-preventable condition for which federal financial 96740
participation is prohibited by regulations adopted under section 96741
2702 of the "Patient Protection and Affordable Care Act," 124 96742
Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and 96743
family services shall adopt rules under section 5111.02 of the 96744
Revised Code as necessary to implement this section. 96745

Sec. 5111.0215. (A) The department of job and family services 96746
may establish a program under which it provides incentive 96747
payments, as authorized by the "Health Information Technology for 96748
Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 96749
1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption 96750
and use of electronic health record technology by medicaid 96751
providers who are identified under that federal law as eligible 96752
professionals. 96753

(B) After the department has made a determination regarding 96754
the amount of a medicaid provider's electronic health record 96755
incentive payment or the denial of an incentive payment, the 96756
department shall notify the provider. The provider may request 96757
that the department reconsider its determination. 96758

A request for reconsideration shall be submitted in writing 96759
to the department not later than fifteen days after the provider 96760
receives notification of the determination. The request shall be 96761
accompanied by written materials setting forth the basis for, and 96762
supporting, the reconsideration request. 96763

On receipt of a timely request, the department shall 96764
reconsider the determination. On the basis of the written 96765
materials accompanying the request, the department may uphold, 96766
reverse, or modify its original determination. The department 96767
shall mail to the provider by certified mail a written notice of 96768
the reconsideration decision. 96769

In accordance with Chapter 2505. of the Revised Code, the 96770
medicaid provider may appeal the reconsideration decision by 96771
filing a notice of appeal with the court of common pleas of 96772
Franklin county. The notice shall identify the decision being 96773
appealed and the specific grounds for the appeal. The notice of 96774
appeal shall be filed not later than fifteen days after the 96775
department mails its notice of the reconsideration decision. A 96776
copy of the notice of appeal shall be filed with the department 96777
not later than three days after the notice is filed with the 96778
court. 96779

(C) The director of job and family services may adopt rules 96780
in accordance with Chapter 119. of the Revised Code as necessary 96781
to implement this section. 96782

Sec. 5111.031. (A) As used in this section: 96783

(1) "Independent provider" has the same meaning as in section 96784
5111.034 of the Revised Code. 96785

(2) "Intermediate care facility for the mentally retarded" 96786
and "nursing facility" have the same meanings as in section 96787
5111.20 of the Revised Code. 96788

(3) "Noninstitutional medicaid provider" means any person or 96789
entity with a medicaid provider agreement other than a hospital, 96790
nursing facility, or intermediate care facility for the mentally 96791
retarded. 96792

(4) "Owner" means any person having at least five per cent 96793
ownership in a noninstitutional medicaid provider. 96794

(B) Notwithstanding any provision of this chapter to the 96795
contrary, the department of job and family services shall take 96796
action under this section against a noninstitutional medicaid 96797
provider or its owner, officer, authorized agent, associate, 96798
manager, or employee. 96799

(C) Except as provided in division (D) of this section and in 96800
rules adopted by the department under division (H) of this 96801
section, on receiving notice and a copy of an indictment that is 96802
issued on or after ~~the effective date of this section~~ September 96803
29, 2007, and charges a noninstitutional medicaid provider or its 96804
owner, officer, authorized agent, associate, manager, or employee 96805
with committing an offense specified in division (E) of this 96806
section, the department shall suspend the provider agreement held 96807
by the noninstitutional medicaid provider. Subject to division (D) 96808
of this section, the department shall also terminate medicaid 96809
reimbursement to the provider for services rendered. 96810

The suspension shall continue in effect until the proceedings 96811
in the criminal case are completed through ~~conviction,~~ dismissal 96812
of the indictment, or through conviction, entry of a guilty plea, 96813
or finding of not guilty. If the department commences a process to 96814
terminate the suspended provider agreement, the suspension shall 96815
also continue in effect until the termination process is 96816
concluded. ~~Pursuant~~ 96817

Pursuant to section 5111.06 of the Revised Code, the 96818
department is not required to take action under this division by 96819
issuing an order pursuant to an adjudication conducted in 96820
accordance with Chapter 119. of the Revised Code. 96821

When subject to a suspension under this division, a provider, 96822
owner, officer, authorized agent, associate, manager, or employee 96823
shall not own or provide services to any other medicaid provider 96824
or risk contractor or arrange for, render, or order services for 96825
medicaid recipients during the period of suspension. During the 96826
period of suspension, the provider, owner, officer, authorized 96827
agent, associate, manager, or employee shall not receive 96828
reimbursement in the form of direct payments from the department 96829
or indirect payments of medicaid funds in the form of salary, 96830
shared fees, contracts, kickbacks, or rebates from or through any 96831

participating provider or risk contractor. 96832

(D)(1) The department shall not suspend a provider agreement 96833
or terminate medicaid reimbursement under division (C) of this 96834
section if the provider or owner can demonstrate through the 96835
submission of written evidence that the provider or owner did not 96836
directly or indirectly sanction the action of its authorized 96837
agent, associate, manager, or employee that resulted in the 96838
indictment. 96839

(2) The termination of medicaid reimbursement applies only to 96840
payments for medicaid services rendered subsequent to the date on 96841
which the notice required under division (F) of this section is 96842
sent. Claims for reimbursement for medicaid services rendered by 96843
the provider prior to the issuance of the notice may be subject to 96844
prepayment review procedures whereby the department reviews claims 96845
to determine whether they are supported by sufficient 96846
documentation, are in compliance with state and federal statutes 96847
and rules, and are otherwise complete. 96848

(E)(1) In the case of a noninstitutional medicaid provider 96849
that is not an independent provider, the suspension of a provider 96850
agreement under division (C) of this section applies when an 96851
indictment charges a person with committing an act that would be a 96852
felony or misdemeanor under the laws of this state and the act 96853
relates to or results from either of the following: 96854

(a) Furnishing or billing for medical care, services, or 96855
supplies under the medicaid program; 96856

(b) Participating in the performance of management or 96857
administrative services relating to furnishing medical care, 96858
services, or supplies under the medicaid program. 96859

(2) In the case of a noninstitutional medicaid provider that 96860
is an independent provider, the suspension of a provider agreement 96861
under division (C) of this section applies when an indictment 96862

charges a person with committing an act that would constitute one 96863
of the offenses specified in division (D) of section 5111.034 of 96864
the Revised Code. 96865

(F) Not later than five days after suspending a provider 96866
agreement under division (C) of this section, the department shall 96867
send notice of the suspension to the affected provider or owner. 96868
In providing the notice, the department shall do all of the 96869
following: 96870

(1) Describe the indictment that was the cause of the 96871
suspension, without necessarily disclosing specific information 96872
concerning any ongoing civil or criminal investigation; 96873

(2) State that the suspension will continue in effect until 96874
the proceedings in the criminal case are completed through 96875
~~conviction~~, dismissal of the indictment, or through conviction, 96876
entry of a guilty plea, or finding of not guilty and, if the 96877
department commences a process to terminate the suspended provider 96878
agreement, until the termination process is concluded; 96879

(3) Inform the provider or owner of the opportunity to submit 96880
to the department, not later than thirty days after receiving the 96881
notice, a request for a reconsideration pursuant to division (G) 96882
of this section. 96883

(G)(1) A Pursuant to the procedure specified in division 96884
(G)(2) of this section, a noninstitutional medicaid provider or 96885
owner subject to a suspension under this section may request a 96886
reconsideration. The request shall be made not later than thirty 96887
days after receipt of the notice provided under division (F) of 96888
this section. The reconsideration is not subject to an 96889
adjudication hearing pursuant to Chapter 119. of the Revised Code. 96890

(2) In requesting a reconsideration, the provider or owner 96891
shall submit written information and documents to the department. 96892
The information and documents may pertain to any of the following 96893

issues:	96894
(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;	96895 96896 96897
(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;	96898 96899
(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.	96900 96901 96902 96903
(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.	96904 96905 96906 96907 96908 96909 96910 96911
(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.	96912 96913 96914 96915
<u>Sec. 5111.035. (A) As used in this section:</u>	96916
<u>(1) "Creditable allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of job and family services.</u>	96917 96918 96919 96920
<u>(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code.</u>	96921 96922
<u>(3) "Owner" has the same meaning as in section 5111.031 of</u>	96923

the Revised Code. 96924

(B)(1) Except as provided in division (C) of this section and 96925
in rules adopted by the department of job and family services 96926
under division (J) of this section, on determining there is a 96927
creditable allegation of fraud for which an investigation is 96928
pending under the medicaid program against a provider, the 96929
department shall suspend the provider agreement held by the 96930
provider. Subject to division (C) of this section, the department 96931
shall also terminate medicaid reimbursement to the provider for 96932
services rendered. 96933

(2)(a) The suspension shall continue in effect until either 96934
of the following is the case: 96935

(i) The department or a prosecuting authority determines that 96936
there is insufficient evidence of fraud by the provider; 96937

(ii) The proceedings in any related criminal case are 96938
completed through dismissal of the indictment or through 96939
conviction, entry of a guilty plea, or finding of not guilty. 96940

(b) If the department commences a process to terminate the 96941
suspended provider agreement, the suspension shall also continue 96942
in effect until the termination process is concluded. 96943

(3) Pursuant to section 5111.06 of the Revised Code, the 96944
department is not required to take action under division (B)(1) of 96945
this section by issuing an order pursuant to an adjudication in 96946
accordance with Chapter 119. of the Revised Code. 96947

(4) When subject to a suspension under this section, a 96948
provider, owner, officer, authorized agent, associate, manager, or 96949
employee shall not own or provide services to any other medicaid 96950
provider or risk contractor or arrange for, render, or order 96951
services to any other medicaid provider or risk contractor or 96952
arrange for, render, or order services for medicaid recipients 96953
during the period of suspension. During the period of suspension, 96954

the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. 96955
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(C) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (B) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the creditable allegation of fraud. 96961
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(D) The termination of medicaid reimbursement under division (B) of this section applies only to payments for medicaid services rendered subsequent to the date on which the notice required by division (E) of this section is sent. Claims for reimbursement of medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete. 96968
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(E) After suspending a provider agreement under division (B) of this section, the department shall, as specified in 42 C.F.R. 455.23(b), send notice of the suspension to the affected provider or owner in accordance with the following timeframes: 96977
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(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice; 96981
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(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the 96984
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suspension occurs subject to the conditions specified in division 96986
(F) of this section. 96987

(F) A written request for a temporary delay described in 96988
division (E)(2) of this section may be renewed in writing by a law 96989
enforcement agency not more than two times except that under no 96990
circumstances shall the notice be issued more than ninety days 96991
after the suspension occurs. 96992

(G) The notice required by division (E) of this section shall 96993
do all of the following: 96994

(1) State that payments are being suspended in accordance 96995
with this section and 42 C.F.R. 455.23; 96996

(2) Set forth the general allegations related to the nature 96997
of the conduct leading to the suspension, except that it is not 96998
necessary to disclose any specific information concerning an 96999
ongoing investigation; 97000

(3) State that the suspension continues to be in effect until 97001
either of the following is the case: 97002

(a) The department or a prosecuting authority determines that 97003
there is insufficient evidence of fraud by the provider; 97004

(b) The proceedings in any related criminal case are 97005
completed through dismissal of the indictment or through 97006
conviction, entry of a guilty plea, or finding of not guilty and, 97007
if the department commences a process to terminate the suspended 97008
provider agreement, until the termination process is concluded. 97009

(4) Specify, if applicable, the type or types of medicaid 97010
claims or business units of the provider that are affected by the 97011
suspension; 97012

(5) Inform the provider or owner of the opportunity to submit 97013
to the department, not later than thirty days after receiving the 97014
notice, a request for reconsideration of the suspension in 97015

accordance with division (H) of this section. 97016

(H)(1) Pursuant to the procedure specified in division (H)(2) of this section, a provider or owner subject to a suspension under this section may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (E) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code. 97017
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(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues: 97024
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(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case. 97028
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(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section 5111.031 of the Revised Code. 97031
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(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case. 97035
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(I) The department shall review the information and documents submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving 97040
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the information and documents submitted in a request for 97047
reconsideration. 97048

(J) The department may adopt rules in accordance with Chapter 97049
119. of the Revised Code to implement this section. The rules may 97050
specify circumstances under which the department would not suspend 97051
a provider agreement pursuant to this section. 97052

Sec. 5111.051. The director of job and family services may 97053
submit a medicaid state plan amendment or request for a federal 97054
waiver to the United States secretary of health and human services 97055
as necessary to implement, at the director's discretion, a system 97056
under which payments for medical assistance provided under the 97057
medicaid program are made to an organization on behalf of the 97058
providers of the medical assistance. The system may not provide 97059
for an organization to receive an amount that exceeds, in 97060
aggregate, the amount the department would have paid directly to 97061
the providers if not for this section. 97062

Sec. 5111.052. (A) As used in this section, "electronic 97063
claims submission process" means any of the following: 97064

(1) Electronic interchange of data; 97065

(2) Direct entry of data through an internet-based mechanism 97066
implemented by the department of job and family services; 97067

(3) Any other process for the electronic submission of claims 97068
that is specified in rules adopted under this section. 97069

(B) Not later than January 1, 2013, and except as provided in 97070
division (C) of this section, each provider of services to 97071
medicaid recipients shall do both of the following: 97072

(1) Use only an electronic claims submission process to 97073
submit to the department of job and family services claims for 97074
medicaid reimbursement for services provided to medicaid 97075

<u>recipients;</u>	97076
<u>(2) Arrange to receive medicaid reimbursement from the department by means of electronic funds transfer.</u>	97077 97078
<u>(C) Division (B) of this section does not apply to any of the following:</u>	97079 97080
<u>(1) A nursing facility, as defined in section 5111.20 of the Revised Code;</u>	97081 97082
<u>(2) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;</u>	97083 97084
<u>(3) A medicaid managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code;</u>	97085 97086
<u>(4) Any other provider or type of provider designated in rules adopted under this section.</u>	97087 97088
<u>(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.</u>	97089 97090 97091 97092
<u>(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section.</u>	97093 97094 97095
<u>Sec. 5111.053. (A) As used in this section, "group practice" has the same meaning as in section 4731.65 of the Revised Code.</u>	97096 97097
<u>(B) The department of job and family services shall establish a process by which a physician assistant may enter into a medicaid provider agreement.</u>	97098 97099 97100
<u>(C)(1) Subject to division (C)(2) of this section, a claim for reimbursement for a service provided by a physician assistant to a medicaid recipient may be submitted by the physician assistant who provided the service or the physician, group</u>	97101 97102 97103 97104

practice, clinic, or other health care facility that employs the 97105
physician assistant. 97106

(2) A claim for reimbursement may be submitted by the 97107
physician assistant who provided the service only if the physician 97108
assistant has a valid provider agreement. When submitting the 97109
claim, the physician assistant shall use only the medicaid 97110
provider number the department has assigned to the physician 97111
assistant. 97112

(D) The director of job and family services may adopt rules 97113
under section 5111.02 of the Revised Code to implement this 97114
section. 97115

Sec. 5111.054. (A) As used in this section: 97116

(1) "Federal financial participation" means the federal 97117
government's share of expenditures made by an entity in 97118
implementing the medicaid program. 97119

(2) "OCHSPS" means the private, not-for-profit corporation 97120
known as the Ohio children's hospital solutions for patient 97121
safety, which was formed for the purpose of improving pediatric 97122
patient care in this state, which performs functions that are 97123
included within the functions of a peer review committee as 97124
defined in section 2305.25 of the Revised Code, and which consists 97125
of all of the following members: Akron children's hospital, 97126
Cincinnati children's hospital medical center, Cleveland clinic 97127
children's hospital, Dayton children's medical center, mercy 97128
children's hospital, nationwide children's hospital, rainbow 97129
babies & children's hospital, and Toledo children's hospital. 97130

(B) If, as authorized by section 5101.10 of the Revised Code, 97131
the department of job and family services chooses to contract with 97132
a person to perform either or both of the following services, it 97133
may contract with any qualified person, including OCHSPS, to 97134

<u>perform the service or services on the department's behalf:</u>	97135
<u>(1) Review and analyze claims for medical assistance made</u>	97136
<u>under this chapter to children in accordance with all state and</u>	97137
<u>federal laws governing the confidentiality of patient-identifying</u>	97138
<u>information;</u>	97139
<u>(2) Perform quality assurance and quality review functions,</u>	97140
<u>other than those described in division (B)(1) of this section,</u>	97141
<u>related to medical assistance made under this chapter to children.</u>	97142
<u>The functions specified in division (B)(2) of this section</u>	97143
<u>may include those recommended by the best evidence for advancing</u>	97144
<u>child health in Ohio now (BEACON) council.</u>	97145
<u>(C) If the department enters into a contract with OCHSPS for</u>	97146
<u>OCHSPS to perform either or both of the services described in</u>	97147
<u>division (B) of this section, OCHSPS shall, only for purposes of</u>	97148
<u>section 5101.11 of the Revised Code, be considered a public entity</u>	97149
<u>and the department shall seek federal financial participation for</u>	97150
<u>costs incurred by OCHSPS in performing the service or services.</u>	97151
Sec. 5111.06. (A)(1) As used in this section and in sections	97152
5111.061 and 5111.062 <u>5111.063</u> of the Revised Code:	97153
(a) "Provider" means any person, institution, or entity that	97154
furnishes medicaid services under a provider agreement with the	97155
department of job and family services pursuant to Title XIX of the	97156
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as	97157
amended.	97158
(b) "Party" has the same meaning as in division (G) of	97159
section 119.01 of the Revised Code.	97160
(c) "Adjudication" has the same meaning as in division (D) of	97161
section 119.01 of the Revised Code.	97162
(2) This section does not apply to any action taken by the	97163
department of job and family services under sections <u>5111.16 to</u>	97164

5111.177 or sections 5111.35 to 5111.62 of the Revised Code. 97165

(B) Except as provided in division (D) of this section and 97166
section 5111.914 of the Revised Code, the department shall do 97167
either of the following by issuing an order pursuant to an 97168
adjudication conducted in accordance with Chapter 119. of the 97169
Revised Code: 97170

(1) Enter into or refuse to enter into a provider agreement 97171
with a provider, or suspend, terminate, renew, or refuse to renew 97172
an existing provider agreement with a provider; 97173

(2) Take any action based upon a final fiscal audit of a 97174
provider. 97175

(C) Any party who is adversely affected by the issuance of an 97176
adjudication order under division (B) of this section may appeal 97177
to the court of common pleas of Franklin county in accordance with 97178
section 119.12 of the Revised Code. 97179

(D) The department is not required to comply with division 97180
(B)(1) of this section whenever any of the following occur: 97181

(1) The terms of a provider agreement require the provider to 97182
hold a license, permit, or certificate or maintain a certification 97183
issued by an official, board, commission, department, division, 97184
bureau, or other agency of state or federal government other than 97185
the department of job and family services, and the license, 97186
permit, certificate, or certification has been denied, revoked, 97187
not renewed, suspended, or otherwise limited. 97188

(2) The terms of a provider agreement require the provider to 97189
hold a license, permit, or certificate or maintain certification 97190
issued by an official, board, commission, department, division, 97191
bureau, or other agency of state or federal government other than 97192
the department of job and family services, and the provider has 97193
not obtained the license, permit, certificate, or certification. 97194

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(8) The Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended pursuant to section 5111.031 of the Revised Code and payments to the provider are suspended pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code. 97226
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(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited. 97231
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(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code. 97234
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(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 97239
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(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer. 97243
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~~(13)~~(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408. 97246
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In the case of a provider described in division (D)~~(12)~~(13) or ~~(13)~~(14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail. 97250
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(E) The department may withhold payments for services 97256

rendered by a medicaid provider under the medicaid program during 97257
the pendency of proceedings initiated under division (B)(1) of 97258
this section. If the proceedings are initiated under division 97259
(B)(2) of this section, the department may withhold payments only 97260
to the extent that they equal amounts determined in a final fiscal 97261
audit as being due the state. This division does not apply if the 97262
department fails to comply with section 119.07 of the Revised 97263
Code, requests a continuance of the hearing, or does not issue a 97264
decision within thirty days after the hearing is completed. This 97265
division does not apply to nursing facilities and intermediate 97266
care facilities for the mentally retarded as defined in section 97267
5111.20 of the Revised Code. 97268

Sec. 5111.061. (A) The (1) Except as provided in division 97269
(A)(2) of this section, the department of job and family services 97270
may recover a medicaid payment or portion of a payment made to a 97271
provider to which the provider is not entitled if the department 97272
notifies the provider of the overpayment during the five-year 97273
period immediately following the end of the state fiscal year in 97274
which the overpayment was made. 97275

(2) In the case of a hospital provider, if the department 97276
determines as a result of a medicare or medicaid cost report 97277
settlement that the provider received an amount under the medicaid 97278
program to which the provider is not entitled, the department may 97279
recover the overpayment if the department notifies the provider of 97280
the overpayment during the later of the following: 97281

(a) The five-year period immediately following the end of the 97282
state fiscal year in which the overpayment was made; 97283

(b) The one-year period immediately following the date the 97284
department receives from the United States centers for medicare 97285
and medicaid services a completed, audited, medicare cost report 97286
for the provider that applies to the state fiscal year in which 97287

<u>the overpayment was made.</u>	97288
(B) Among the overpayments that may be recovered under this section are the following:	97289 97290
(1) Payment for a service, or a day of service, not rendered;	97291
(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;	97292 97293
(3) Payment for a service, or day of service, that was paid by, or partially paid by, a third party <u>third party</u> , as defined in section 5101.571 of the Revised Code, and the third party's <u>third party's</u> payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;	97294 97295 97296 97297 97298 97299
(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.	97300 97301 97302
(C) The department may recover an overpayment under this section prior to or after any of the following:	97303 97304
(1) Adjudication of a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;	97305 97306 97307
(2) Adjudication of a finding under any other provision of this chapter or the rules adopted under it;	97308 97309
(3) Expiration of the time to issue a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;	97310 97311 97312
(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it.	97313 97314
(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:	97315 97316 97317

(a) Issuing a final fiscal audit in accordance with Chapter 97318
119. of the Revised Code, as required under section 5111.06 of the 97319
Revised Code; 97320

(b) Issuing a finding under any other provision of this 97321
chapter or the rules adopted under it. 97322

(2) A final fiscal audit or finding issued subsequent to the 97323
recovery of an overpayment under this section shall be reduced by 97324
the amount of the prior recovery, as appropriate. 97325

(E) Nothing in this section limits the department's authority 97326
to recover overpayments pursuant to any other provision of the 97327
Revised Code. 97328

Sec. 5111.063. For the purpose of raising funds necessary to 97329
pay the expenses of implementing the provider screening 97330
requirements of subpart E of 42 C.F.R. Part 455, the department of 97331
job and family services shall charge an application fee to a 97332
provider seeking to enter into or renew a medicaid provider 97333
agreement, unless the provider is exempt from paying the 97334
application fee under 42 C.F.R. 455.460(a). The application fees 97335
shall be deposited into the health care services administration 97336
fund created under section 5111.94 of the Revised Code. 97337

The director of job and family services shall adopt rules in 97338
accordance with Chapter 119. of the Revised Code as necessary to 97339
implement this section, including a rule establishing the amount 97340
of the application fee that is charged under this section. The 97341
amount of the application fee shall not be set at an amount that 97342
is more than necessary to pay for the expenses of implementing the 97343
provider screening requirements. 97344

Sec. 5111.086. As used in this section, "federal upper 97345
reimbursement limit" means the limit established pursuant to 97346
section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 97347

(1990), 42 U.S.C. 1396r-8(e), as amended. 97348

The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. 97349
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Sec. 5111.113. (A) As used in this section: 97354

(1) "Adult care facility" has the same meaning as in section 3722.01 5119.70 of the Revised Code. 97355
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(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner. 97357
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(3) "Home" has the same meaning as in section 3721.10 of the Revised Code. 97360
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(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident. 97362
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(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate. 97366
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(C) If funeral or burial expenses for a resident of an adult 97376

care facility or home who has died have not been paid and the only 97377
resource the resident had that could be used to pay for the 97378
expenses is the money in the resident's personal needs allowance 97379
account, or all other resources of the resident are inadequate to 97380
pay the full cost of the expenses, the money in the resident's 97381
personal needs allowance account shall be used to pay for the 97382
expenses rather than being transferred to the department of job 97383
and family services pursuant to division (B) of this section. 97384

(D) If, not later than sixty days after a resident of an 97385
adult care facility or home dies, letters testamentary or letters 97386
of administration are issued, or an application for release from 97387
administration is filed under section 2113.03 of the Revised Code, 97388
concerning the resident's estate, the owner or operator of the 97389
facility or home shall transfer the money in the resident's 97390
personal needs allowance account to the administrator, executor, 97391
commissioner, or person who filed the application for release from 97392
administration. 97393

(E) The transfer or use of money in a resident's personal 97394
needs allowance account in accordance with division (B), (C), or 97395
(D) of this section discharges and releases the adult care 97396
facility or home, and the owner or operator of the facility or 97397
home, from any claim for the money from any source. 97398

(F) If, sixty-one or more days after a resident of an adult 97399
care facility or home dies, letters testamentary or letters of 97400
administration are issued, or an application for release from 97401
administration under section 2113.03 of the Revised Code is filed, 97402
concerning the resident's estate, the department of job and family 97403
services shall transfer the funds to the administrator, executor, 97404
commissioner, or person who filed the application, unless the 97405
department is entitled to recover the money under the medicaid 97406
estate recovery program instituted under section 5111.11 of the 97407
Revised Code. 97408

Sec. 5111.13. (A) As used in this section, "cost-effective" 97409
and "group health plan" have the same meanings as in section 1906 97410
of the "Social Security Act," 49 104 Stat. ~~620 (1935)~~ 1388-161 97411
(1990), 42 U.S.C.A. 1396e, as amended, and any regulations adopted 97412
under that section. 97413

(B) The department of job and family services, ~~pursuant to~~ 97414
~~guidelines issued by~~ may submit a medicaid state plan amendment to 97415
the United States secretary of health and human services, ~~shall~~ 97416
~~identify cases in which enrollment of an individual otherwise~~ 97417
~~eligible for medical assistance under this chapter in a group~~ 97418
~~health plan in which the individual is eligible to enroll and~~ 97419
~~payment of the individual's premiums, deductibles, coinsurance,~~ 97420
~~and other cost sharing expenses is cost effective.~~ 97421

~~The department shall require, as a condition of eligibility~~ 97422
~~for medical assistance, individuals identified under this~~ 97423
~~division, or in the case of a child, the child's parent, to apply~~ 97424
~~for enrollment in the group health plan, except that the failure~~ 97425
~~of a parent to enroll self or the parent's child in a group health~~ 97426
~~plan does not affect the child's eligibility under the medical~~ 97427
~~assistance program.~~ 97428

~~The department shall pay enrollee premiums and deductibles,~~ 97429
~~coinsurance, and other cost sharing obligations for services and~~ 97430
~~items otherwise covered under the medical assistance program. The~~ 97431
~~department shall treat coverage under the group health plan in the~~ 97432
~~same manner as any other third party liability under the program.~~ 97433
~~If not all members of a family are eligible for medical assistance~~ 97434
~~and enrollment of the eligible members in a group health plan is~~ 97435
~~not possible without also enrolling the members who are ineligible~~ 97436
~~for medical assistance, the department shall pay the premiums for~~ 97437
~~the ineligible members if the payments are cost effective. The~~ 97438
~~department shall not pay deductibles, coinsurance, or other~~ 97439

~~cost sharing obligations of enrolled members who are not eligible
for medical assistance.~~ 97440
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~~The department may make payments under this section to
employers, insurers, or other entities. The department may make
the payments without entering into a contract with employers,
insurers, or other entities.~~ 97442
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~~(C) To the extent permitted by federal law and regulations,
the department of job and family services shall coordinate the
medical assistance program with group health plans in such a
manner that the medical assistance program serves as a supplement
to the group health plans. In its coordination efforts, the
department shall consider cost effectiveness and quality of care.
The department may enter into agreements with group health plans
as necessary to implement this division for the purpose of
implementing a program pursuant to section 1906 of the "Social
Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as
amended, for the enrollment of medicaid-eligible individuals in
group health plans when the department determines that enrollment
is cost-effective.~~ 97446
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~~(D)(C) The director of job and family services shall may
adopt rules in accordance with Chapter 119. of the Revised Code as
necessary to implement this section.~~ 97459
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Sec. 5111.14. The director of job and family services may
submit to the United States secretary of health and human services
an amendment to the medicaid state plan in order to implement
within the medicaid program a system under which medicaid
recipients with chronic conditions are provided with coordinated
care through health homes, as authorized by section 1945 of the
"Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4. 97462
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The director may adopt rules under section 5111.02 of the
Revised Code to implement this section. 97469
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~~Sec. 5111.14~~ 5111.141. The department of job and family 97471
services may require county departments of job and family services 97472
to provide case management of nonemergency transportation services 97473
provided under the medical assistance program. County departments 97474
shall provide the case management if required by the department in 97475
accordance with rules adopted by the director of job and family 97476
services. 97477

The department shall determine, for the purposes of claiming 97478
federal reimbursement under the medical assistance program, 97479
whether it will claim expenditures for nonemergency transportation 97480
services as administrative or program expenditures. 97481

Sec. 5111.151. (A)(1) This section applies only to either of 97482
the following: 97483

(a) Initial eligibility determinations for ~~all cases~~ 97484
~~involving medicaid provided pursuant to this chapter, qualified~~ 97485
~~medicare beneficiaries, specified low income medicare~~ 97486
~~beneficiaries, qualifying individuals 1, qualifying individuals 2,~~ 97487
~~and medical assistance for covered families and children~~ the 97488
medicaid program made by the department of job and family services 97489
pursuant to section 5101.47 of the Revised Code or by a county 97490
department of job and family services pursuant to section 5111.012 97491
of the Revised Code; 97492

(b) An appeal from a determination described in division 97493
(A)(1)(a) of this section pursuant to section 5101.35 of the 97494
Revised Code. 97495

(2)(a) Except as provided in division (A)(2)(b) of this 97496
section, this section shall not be used by a court to determine 97497
the effect of a trust on an individual's initial eligibility for 97498
the medicaid program. 97499

(b) The prohibition in division (A)(2)(a) of this section 97500

does not apply to an appeal described in division (A)(1)(b) of 97501
this section. 97502

(B) As used in this section: 97503

(1) "Trust" means any arrangement in which a grantor 97504
transfers real or personal property to a trust with the intention 97505
that it be held, managed, or administered by at least one trustee 97506
for the benefit of the grantor or beneficiaries. "Trust" includes 97507
any legal instrument or device similar to a trust. 97508

(2) "Legal instrument or device similar to a trust" includes, 97509
but is not limited to, escrow accounts, investment accounts, 97510
partnerships, contracts, and other similar arrangements that are 97511
not called trusts under state law but are similar to a trust and 97512
to which all of the following apply: 97513

(a) The property in the trust is held, managed, retained, or 97514
administered by a trustee. 97515

(b) The trustee has an equitable, legal, or fiduciary duty to 97516
hold, manage, retain, or administer the property for the benefit 97517
of the beneficiary. 97518

(c) The trustee holds identifiable property for the 97519
beneficiary. 97520

(3) "Grantor" is a person who creates a trust, including all 97521
of the following: 97522

(a) An individual; 97523

(b) An individual's spouse; 97524

(c) A person, including a court or administrative body, with 97525
legal authority to act in place of or on behalf of an individual 97526
or an individual's spouse; 97527

(d) A person, including a court or administrative body, that 97528
acts at the direction or on request of an individual or the 97529
individual's spouse. 97530

- (4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust. 97531
97532
- (5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries. 97533
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- (6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association. 97535
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- (7) "Applicant" is an individual who applies for medicaid or the individual's spouse. 97538
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- (8) "Recipient" is an individual who receives medicaid or the individual's spouse. 97540
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- (9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable: 97542
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- (a) A trust that provides that the trust can be terminated only by a court; 97545
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- (b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee. 97547
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- (10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor. 97550
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- (11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property. 97554
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- (12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient. 97557
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- (13) "Testamentary trust" is a trust that is established by a 97560

will and does not take effect until after the death of the person 97561
who created the trust. 97562

(C)(1) If an applicant or recipient is a beneficiary of a 97563
trust, the county department of job and family services shall 97564
determine what type of trust it is and shall treat the trust in 97565
accordance with the appropriate provisions of this section and 97566
rules adopted by the department of job and family services 97567
governing trusts. The county department of job and family services 97568
may determine that the trust or portion of the trust ~~is one of the~~ 97569
~~following:~~ 97570

~~(1) A countable (a) Is a resource available to the applicant~~ 97571
~~or recipient;~~ 97572

~~(2) Countable (b) Contains income available to the applicant~~ 97573
~~or recipient;~~ 97574

~~(3) A countable resource and countable income (c) Constitutes~~ 97575
~~both items described in divisions (C)(1)(a) and (b) of this~~ 97576
~~section;~~ 97577

~~(4) Not a countable resource or countable income (d) Is~~ 97578
~~neither an item described in division (C)(1)(a) nor (C)(1)(b) of~~ 97579
~~this section.~~ 97580

(2) Except as provided in division (F) of this section, a 97581
trust or portion of a trust that is a resource available to the 97582
applicant or recipient or contains income available to the 97583
applicant or recipient shall be counted for purposes of 97584
determining medicaid eligibility. 97585

(D)(1) A trust or legal instrument or device similar to a 97586
trust shall be considered a medicaid qualifying trust if all of 97587
the following apply: 97588

(a) The trust was established on or prior to August 10, 1993. 97589

(b) The trust was not established by a will. 97590

- (c) The trust was established by an applicant or recipient. 97591
- (d) The applicant or recipient is or may become the 97592
beneficiary of all or part of the trust. 97593
- (e) Payment from the trust is determined by one or more 97594
trustees who are permitted to exercise any discretion with respect 97595
to the distribution to the applicant or recipient. 97596
- (2) If a trust meets the requirement of division (D)(1) of 97597
this section, the amount of the trust that is considered by the 97598
county department of job and family services ~~as an available to be~~ 97599
a resource available to the applicant or recipient shall be the 97600
maximum amount of payments permitted under the terms of the trust 97601
to be distributed to the applicant or recipient, assuming the full 97602
exercise of discretion by the trustee or trustees. The maximum 97603
amount shall include only amounts that are permitted to be 97604
distributed but are not distributed from either the income or 97605
principal of the trust. 97606
- (3) Amounts that are actually distributed from a medicaid 97607
qualifying trust to a beneficiary for any purpose shall be treated 97608
in accordance with rules adopted by the department of job and 97609
family services governing income. 97610
- (4) Availability of a medicaid qualifying trust shall be 97611
considered without regard to any of the following: 97612
- (a) Whether or not the trust is irrevocable or was 97613
established for purposes other than to enable a grantor to qualify 97614
for medicaid, medical assistance for covered families and 97615
children, or as a qualified medicare beneficiary, specified 97616
low-income medicare beneficiary, qualifying individual-1, or 97617
qualifying individual-2; 97618
- (b) Whether or not the trustee actually exercises discretion. 97619
- (5) If any real or personal property is transferred to a 97620

medicaid qualifying trust that is not distributable to the 97621
applicant or recipient, the transfer shall be considered an 97622
improper disposition of assets and shall be subject to section 97623
5111.0116 of the Revised Code and rules to implement that section 97624
adopted under section 5111.011 of the Revised Code. 97625

(6) The baseline date for the look-back period for 97626
disposition of assets involving a medicaid qualifying trust shall 97627
be the date on which the applicant or recipient is both 97628
institutionalized and first applies for medicaid. 97629

(E)(1) A trust or legal instrument or device similar to a 97630
trust shall be considered a self-settled trust if all of the 97631
following apply: 97632

(a) The trust was established on or after August 11, 1993. 97633

(b) The trust was not established by a will. 97634

(c) The trust was established by an applicant or recipient, 97635
spouse of an applicant or recipient, or a person, including a 97636
court or administrative body, with legal authority to act in place 97637
of or on behalf of an applicant, recipient, or spouse, or acting 97638
at the direction or on request of an applicant, recipient, or 97639
spouse. 97640

(2) A trust that meets the requirements of division (E)(1) of 97641
this section and is a revocable trust shall be treated by the 97642
county department of job and family services as follows: 97643

(a) The corpus of the trust shall be considered a resource 97644
available to the applicant or recipient. 97645

(b) Payments from the trust to or for the benefit of the 97646
applicant or recipient shall be considered unearned income of the 97647
applicant or recipient. 97648

(c) Any other payments from the trust shall be considered an 97649
improper disposition of assets and shall be subject to section 97650

5111.0116 of the Revised Code and rules to implement that section 97651
adopted under section 5111.011 of the Revised Code. 97652

(3) A trust that meets the requirements of division (E)(1) of 97653
this section and is an irrevocable trust shall be treated by the 97654
county department of job and family services as follows: 97655

(a) If there are any circumstances under which payment from 97656
the trust could be made to or for the benefit of the applicant or 97657
recipient, including a payment that can be made only in the 97658
future, the portion from which payments could be made shall be 97659
considered a resource available to the applicant or recipient. The 97660
county department of job and family services shall not take into 97661
account when payments can be made. 97662

(b) Any payment that is actually made to or for the benefit 97663
of the applicant or recipient from either the corpus or income 97664
shall be considered unearned income. 97665

(c) If a payment is made to someone other than to the 97666
applicant or recipient and the payment is not for the benefit of 97667
the applicant or recipient, the payment shall be considered an 97668
improper disposition of assets and shall be subject to section 97669
5111.0116 of the Revised Code and rules to implement that section 97670
adopted under section 5111.011 of the Revised Code. 97671

(d) The date of the disposition shall be the later of the 97672
date of establishment of the trust or the date of the occurrence 97673
of the event. 97674

(e) When determining the value of the disposed asset under 97675
this provision, the value of the trust shall be its value on the 97676
date payment to the applicant or recipient was foreclosed. 97677

(f) Any income earned or other resources added subsequent to 97678
the foreclosure date shall be added to the total value of the 97679
trust. 97680

(g) Any payments to or for the benefit of the applicant or 97681
recipient after the foreclosure date but prior to the application 97682
date shall be subtracted from the total value. Any other payments 97683
shall not be subtracted from the value. 97684

(h) Any addition of assets after the foreclosure date shall 97685
be considered a separate disposition. 97686

(4) If a trust is funded with assets of another person or 97687
persons in addition to assets of the applicant or recipient, the 97688
applicable provisions of this section and rules adopted by the 97689
department of job and family services governing trusts shall apply 97690
only to the portion of the trust attributable to the applicant or 97691
recipient. 97692

(5) The availability of a self-settled trust shall be 97693
considered without regard to any of the following: 97694

(a) The purpose for which the trust is established; 97695

(b) Whether the trustees have exercised or may exercise 97696
discretion under the trust; 97697

(c) Any restrictions on when or whether distributions may be 97698
made from the trust; 97699

(d) Any restrictions on the use of distributions from the 97700
trust. 97701

(6) The baseline date for the look-back period for 97702
dispositions of assets involving a self-settled trust shall be the 97703
date on which the applicant or recipient is both institutionalized 97704
and first applies for medicaid. 97705

(F) The principal or income from any of the following shall 97706
~~be exempt from being counted as~~ not be a resource ~~by a county~~ 97707
~~department of job and family services~~ available to the applicant 97708
or recipient: 97709

(1)(a) A special needs trust that meets all of the following 97710

requirements: 97711

(i) The trust contains assets of an applicant or recipient 97712
under sixty-five years of age and may contain the assets of other 97713
individuals. 97714

(ii) The applicant or recipient is disabled as defined in 97715
rules adopted by the department of job and family services. 97716

(iii) The trust is established for the benefit of the 97717
applicant or recipient by a parent, grandparent, legal guardian, 97718
or a court. 97719

(iv) The trust requires that on the death of the applicant or 97720
recipient the state will receive all amounts remaining in the 97721
trust up to an amount equal to the total amount of medicaid paid 97722
on behalf of the applicant or recipient. 97723

(b) If a special needs trust meets the requirements of 97724
division (F)(1)(a) of this section and has been established for a 97725
disabled applicant or recipient under sixty-five years of age, the 97726
exemption for the trust granted pursuant to division (F) of this 97727
section shall continue after the disabled applicant or recipient 97728
becomes sixty-five years of age if the applicant or recipient 97729
continues to be disabled as defined in rules adopted by the 97730
department of job and family services. Except for income earned by 97731
the trust, the grantor shall not add to or otherwise augment the 97732
trust after the applicant or recipient attains sixty-five years of 97733
age. An addition or augmentation of the trust by the applicant or 97734
recipient with the applicant's own assets after the applicant or 97735
recipient attains sixty-five years of age shall be treated as an 97736
improper disposition of assets. 97737

(c) Cash distributions to the applicant or recipient shall be 97738
counted as unearned income. All other distributions from the trust 97739
shall be treated as provided in rules adopted by the department of 97740
job and family services governing in-kind income. 97741

(d) Transfers of assets to a special needs trust shall not be 97742
treated as an improper transfer of resources. ~~Assets~~ An Asset held 97743
prior to the transfer to the trust shall be considered as 97744
~~countable assets or countable~~ a resource available to the 97745
applicant or recipient, income available to the applicant or 97746
recipient, or ~~countable assets~~ both a resource and income 97747
available to the individual. 97748

(2)(a) A qualifying income trust that meets all of the 97749
following requirements: 97750

(i) The trust is composed only of pension, social security, 97751
and other income to the applicant or recipient, including 97752
accumulated interest in the trust. 97753

(ii) The income is received by the individual and the right 97754
to receive the income is not assigned or transferred to the trust. 97755

(iii) The trust requires that on the death of the applicant 97756
or recipient the state will receive all amounts remaining in the 97757
trust up to an amount equal to the total amount of medicaid paid 97758
on behalf of the applicant or recipient. 97759

(b) No resources shall be used to establish or augment the 97760
trust. 97761

(c) If an applicant or recipient has irrevocably transferred 97762
or assigned the applicant's or recipient's right to receive income 97763
to the trust, the trust shall not be considered a qualifying 97764
income trust by the county department of job and family services. 97765

(d) Income placed in a qualifying income trust shall not be 97766
counted in determining an applicant's or recipient's eligibility 97767
for medicaid. The recipient of the funds may place any income 97768
directly into a qualifying income trust without those funds 97769
adversely affecting the applicant's or recipient's eligibility for 97770
medicaid. Income generated by the trust that remains in the trust 97771
shall not be considered as income to the applicant or recipient. 97772

(e) All income placed in a qualifying income trust shall be 97773
combined with any ~~countable~~ income available to the individual 97774
that is not placed in the trust to arrive at a base income figure 97775
to be used for spend down calculations. 97776

(f) The base income figure shall be used for post-eligibility 97777
deductions, including personal needs allowance, monthly income 97778
allowance, family allowance, and medical expenses not subject to 97779
third party payment. Any income remaining shall be used toward 97780
payment of patient liability. Payments made from a qualifying 97781
income trust shall not be combined with the base income figure for 97782
post-eligibility calculations. 97783

(g) The base income figure shall be used when determining the 97784
spend down budget for the applicant or recipient. Any income 97785
remaining after allowable deductions are permitted as provided 97786
under rules adopted by the department of job and family services 97787
shall be considered the applicant's or recipient's spend down 97788
liability. 97789

(3)(a) A pooled trust that meets all of the following 97790
requirements: 97791

(i) The trust contains the assets of the applicant or 97792
recipient of any age who is disabled as defined in rules adopted 97793
by the department of job and family services. 97794

(ii) The trust is established and managed by a nonprofit 97795
association. 97796

(iii) A separate account is maintained for each beneficiary 97797
of the trust but, for purposes of investment and management of 97798
funds, the trust pools the funds in these accounts. 97799

(iv) Accounts in the trust are established by the applicant 97800
or recipient, the applicant's or recipient's parent, grandparent, 97801
or legal guardian, or a court solely for the benefit of 97802
individuals who are disabled. 97803

(v) The trust requires that, to the extent that any amounts 97804
remaining in the beneficiary's account on the death of the 97805
beneficiary are not retained by the trust, the trust pay to the 97806
state the amounts remaining in the trust up to an amount equal to 97807
the total amount of medicaid paid on behalf of the beneficiary. 97808

(b) Cash distributions to the applicant or recipient shall be 97809
counted as unearned income. All other distributions from the trust 97810
shall be treated as provided in rules adopted by the department of 97811
job and family services governing in-kind income. 97812

(c) Transfers of assets to a pooled trust shall not be 97813
treated as an improper disposition of assets. ~~Assets~~ An asset held 97814
prior to the transfer to the trust shall be considered as 97815
~~countable assets, countable a resource available to the applicant~~ 97816
or recipient, income available to the applicant or recipient, or 97817
~~countable assets both a resource and income available to the~~ 97818
applicant or recipient. 97819

(4) A supplemental services trust that meets the requirements 97820
of section 5815.28 of the Revised Code and to which all of the 97821
following apply: 97822

(a) A person may establish a supplemental services trust 97823
pursuant to section 5815.28 of the Revised Code only for another 97824
person who is eligible to receive services through one of the 97825
following agencies: 97826

(i) The department of developmental disabilities; 97827

(ii) A county board of developmental disabilities; 97828

(iii) The department of mental health; 97829

(iv) A board of alcohol, drug addiction, and mental health 97830
services. 97831

(b) A county department of job and family services shall not 97832
determine eligibility for another agency's program. An applicant 97833

or recipient shall do one of the following: 97834

(i) Provide documentation from one of the agencies listed in 97835
division (F)(4)(a) of this section that establishes that the 97836
applicant or recipient was determined to be eligible for services 97837
from the agency at the time of the creation of the trust; 97838

(ii) Provide an order from a court of competent jurisdiction 97839
that states that the applicant or recipient was eligible for 97840
services from one of the agencies listed in division (F)(4)(a) of 97841
this section at the time of the creation of the trust. 97842

(c) At the time the trust is created, the trust principal 97843
does not exceed the maximum amount permitted. The maximum amount 97844
permitted in calendar year 2006 is two hundred twenty-two thousand 97845
dollars. Each year thereafter, the maximum amount permitted is the 97846
prior year's amount plus two thousand dollars. 97847

(d) A county department of job and family services shall 97848
review the trust to determine whether it complies with the 97849
provisions of section 5815.28 of the Revised Code. 97850

(e) Payments from supplemental services trusts shall be 97851
exempt as long as the payments are for supplemental services as 97852
defined in rules adopted by the department of job and family 97853
services. All supplemental services shall be purchased by the 97854
trustee and shall not be purchased through direct cash payments to 97855
the beneficiary. 97856

(f) If a trust is represented as a supplemental services 97857
trust and a county department of job and family services 97858
determines that the trust does not meet the requirements provided 97859
in division (F)(4) of this section and section 5815.28 of the 97860
Revised Code, the county department of job and family services 97861
shall not consider it an exempt trust. 97862

(G)(1) A trust or legal instrument or device similar to a 97863
trust shall be considered a trust established by an individual for 97864

the benefit of the applicant or recipient if all of the following 97865
apply: 97866

(a) The trust is created by a person other than the applicant 97867
or recipient. 97868

(b) The trust names the applicant or recipient as a 97869
beneficiary. 97870

(c) The trust is funded with assets or property in which the 97871
applicant or recipient has never held an ownership interest prior 97872
to the establishment of the trust. 97873

(2) Any portion of a trust that meets the requirements of 97874
division (G)(1) of this section shall be ~~an available~~ a resource 97875
available to the applicant or recipient only if the trust permits 97876
the trustee to expend principal, corpus, or assets of the trust 97877
for the applicant's or recipient's medical care, care, comfort, 97878
maintenance, health, welfare, general well being, or any 97879
combination of these purposes. 97880

(3) A trust that meets the requirements of division (G)(1) of 97881
this section shall be considered ~~an available~~ a resource available 97882
to the applicant or recipient even if the trust contains any of 97883
the following types of provisions: 97884

(a) A provision that prohibits the trustee from making 97885
payments that would supplant or replace medicaid or other public 97886
assistance; 97887

(b) A provision that prohibits the trustee from making 97888
payments that would impact or have an effect on the applicant's or 97889
recipient's right, ability, or opportunity to receive medicaid or 97890
other public assistance; 97891

(c) A provision that attempts to prevent the trust or its 97892
corpus or principal from being ~~counted as an available~~ a resource 97893
available to the applicant or recipient. 97894

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as ~~an available~~ a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as ~~an available~~ a resource available to the applicant or recipient, the trust shall not be counted as ~~an available resource~~ such. Terms of a trust

that grant discretion to terminate the trust do not qualify as a 97927
clear statement requiring the trustee to terminate the trust. 97928

(e) If a person obtains a judgment from a court of competent 97929
jurisdiction that expressly prevents the trustee from using part 97930
or all of the trust for the medical care, care, comfort, 97931
maintenance, welfare, or general well being of the applicant or 97932
recipient, the trust or that portion of the trust subject to the 97933
court order shall not be counted as a resource available to the 97934
applicant or recipient. 97935

(f) If a trust is specifically exempt from being counted as 97936
~~an available a~~ resource available to the applicant or recipient by 97937
a provision of the Revised Code, rules, or federal law, the trust 97938
shall not be counted as ~~a resource~~ such. 97939

(g) If an applicant or recipient presents a final judgment 97940
from a court demonstrating that the applicant or recipient was 97941
unsuccessful in a civil action against the trustee to compel 97942
payments from the trust, the trust shall not be counted as ~~an~~ 97943
~~available a~~ resource available to the applicant or recipient. 97944

(h) If an applicant or recipient presents a final judgment 97945
from a court demonstrating that in a civil action against the 97946
trustee the applicant or recipient was only able to compel limited 97947
or periodic payments, the trust shall not be counted as ~~an~~ 97948
~~available a~~ resource available to the applicant or recipient and 97949
payments shall be treated in accordance with rules adopted by the 97950
department of job and family services governing income. 97951

(i) If an applicant or recipient provides written 97952
documentation showing that the cost of a civil action brought to 97953
compel payments from the trust would be cost prohibitive, the 97954
trust shall not be counted as ~~an available a~~ resource available to 97955
the applicant or recipient. 97956

(5) Any actual payments to the applicant or recipient from a 97957

trust that meet the requirements of division (G)(1) of this 97958
section, including trusts that are not counted as ~~an available a~~ 97959
resource available to the applicant or recipient, shall be treated 97960
as provided in rules adopted by the department of job and family 97961
services governing income. Payments to any person other than the 97962
applicant or recipient shall not be considered income to the 97963
applicant or recipient. Payments from the trust to a person other 97964
than the applicant or recipient shall not be considered an 97965
improper disposition of assets. 97966

Sec. 5111.16. (A) As part of the medicaid program, the 97967
department of job and family services shall establish a care 97968
management system. The department shall submit, if necessary, 97969
applications to the United States department of health and human 97970
services for waivers of federal medicaid requirements that would 97971
otherwise be violated in the implementation of the system. 97972

(B) The department shall implement the care management system 97973
in some or all counties and shall designate the medicaid 97974
recipients who are required or permitted to participate in the 97975
system. In the department's implementation of the system and 97976
designation of participants, all of the following apply: 97977

(1) In the case of individuals who receive medicaid on the 97978
basis of being included in the category identified by the 97979
department as covered families and children, the department shall 97980
implement the care management system in all counties. All 97981
individuals included in the category shall be designated for 97982
participation, except for individuals included in one or more of 97983
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 97984
The department shall ensure that all participants are enrolled in 97985
health insuring corporations under contract with the department 97986
pursuant to section 5111.17 of the Revised Code. 97987

(2) In the case of individuals who receive medicaid on the 97988

basis of being aged, blind, or disabled, as specified in division 97989
(A)(2) of section 5111.01 of the Revised Code, the department 97990
shall implement the care management system in all counties. ~~All~~ 97991
Except as provided in division (C) of this section, all 97992
individuals included in the category shall be designated for 97993
participation, ~~except for the individuals specified in divisions~~ 97994
~~(B)(2)(a) to (e) of this section.~~ The department shall ensure that 97995
all participants are enrolled in health insuring corporations 97996
under contract with the department pursuant to section 5111.17 of 97997
the Revised Code. 97998

~~In~~ (3) Alcohol, drug addiction, and mental health services 97999
covered by medicaid shall not be included in any component of the 98000
care management system when the nonfederal share of the cost of 98001
those services is provided by a board of alcohol, drug addiction, 98002
and mental health services or a state agency other than the 98003
department of job and family services, but the recipients of those 98004
services may otherwise be designated for participation in the 98005
system. 98006

(C)(1) In designating participants who receive medicaid on 98007
the basis of being aged, blind, or disabled, the department shall 98008
not include any of the following, except as provided under 98009
division (C)(2) of this section: 98010

(a) Individuals who are under twenty-one years of age; 98011

(b) Individuals who are institutionalized; 98012

(c) Individuals who become eligible for medicaid by spending 98013
down their income or resources to a level that meets the medicaid 98014
program's financial eligibility requirements; 98015

(d) Individuals who are dually eligible under the medicaid 98016
program and the medicare program established under Title XVIII of 98017
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 98018
amended; 98019

(e) Individuals to the extent that they are receiving 98020
medicaid services through a medicaid waiver component, as defined 98021
in section 5111.85 of the Revised Code. 98022

~~(3) Alcohol, drug addiction, and mental health services 98023
covered by medicaid shall not be included in any component of the 98024
care management system when the nonfederal share of the cost of 98025
those services is provided by a board of alcohol, drug addiction, 98026
and mental health services or a state agency other than the 98027
department of job and family services, but the recipients of those 98028
services may otherwise be designated for participation in the 98029
system. 98030~~

(C)(2) If any necessary waiver of federal medicaid 98031
requirements is granted, the department may designate any of the 98032
following individuals who receive medicaid on the basis of being 98033
aged, blind, or disabled as individuals who are permitted or 98034
required to participate in the care management system: 98035

(a) Individuals who are under twenty-one years of age; 98036

(b) Individuals who reside in a nursing facility, as defined 98037
in section 5111.20 of the Revised Code; 98038

(c) Individuals who, as an alternative to receiving nursing 98039
facility services, are participating in a home and community-based 98040
services medicaid waiver component, as defined in section 5111.85 98041
of the Revised Code; 98042

(d) Individuals who are dually eligible under the medicaid 98043
program and the medicare program. 98044

(D) Subject to division (B) of this section, the department 98045
may do both of the following under the care management system: 98046

(1) Require or permit participants in the system to obtain 98047
health care services from providers designated by the department; 98048

(2) Require or permit participants in the system to obtain 98049

health care services through managed care organizations under 98050
contract with the department pursuant to section 5111.17 of the 98051
Revised Code. 98052

~~(D)~~(E)(1) The department shall prepare an annual report on 98053
the care management system. The report shall address the 98054
department's ability to implement the system, including all of the 98055
following components: 98056

(a) The required designation of participants included in the 98057
category identified by the department as covered families and 98058
children; 98059

(b) The required designation of participants included in the 98060
aged, blind, or disabled category of medicaid recipients; 98061

(c) The use of any programs for enhanced care management. 98062

(2) The department shall submit each annual report to the 98063
general assembly. The first report shall be submitted not later 98064
than October 1, 2007. 98065

~~(E)~~(F) The director of job and family services may adopt 98066
rules in accordance with Chapter 119. of the Revised Code to 98067
implement this section. 98068

Sec. 5111.161. (A) As used in this section: 98069

(1) "Children's care network" means any of the following: 98070

(a) A children's hospital; 98071

(b) A group of children's hospitals; 98072

(c) A group of pediatric physicians; 98073

(2) "Children's hospital" has the same meaning as in section 98074
2151.86 of the Revised Code. 98075

(B) If the department of job and family services includes in 98076
the care management system, pursuant to section 5111.16 of the 98077

Revised Code, individuals under twenty-one years of age included 98078
in the category of individuals who receive medicaid on the basis 98079
of being aged, blind, or disabled, as specified in division (A)(2) 98080
of section 5111.01 of the Revised Code, the department shall 98081
develop a system to recognize entities as pediatric accountable 98082
care organizations. The purpose of the recognition system shall be 98083
to meet the complex medical and behavioral needs of disabled 98084
children through new approaches to care coordination. The 98085
department shall implement the recognition system not later than 98086
July 1, 2012. 98087

An entity recognized by the department as a pediatric 98088
accountable care organization may develop innovative partnerships 98089
between relevant groups and may contract directly or subcontract 98090
with the state to provide services to the medicaid recipients 98091
under twenty-one years of age described in this division who are 98092
permitted or required to participate in the care management 98093
system. 98094

(C)(1) To be recognized by the department as a pediatric 98095
accountable care organization, an entity shall meet the standards 98096
established in rules adopted under this section. Unless required 98097
by sections 2706 and 3022 of the "Patient Protection and 98098
Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the 98099
"Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, 98100
the regulations adopted pursuant to those sections, and the laws 98101
of this state, the department shall not require that an entity be 98102
a health insuring corporation as a condition of receiving the 98103
department's recognition. 98104

(2) Any of the following entities may receive the 98105
department's recognition, if the standards for recognition have 98106
been met: 98107

(a) A children's care network; 98108

<u>(b) A children's care network that may include one or more</u>	98109
<u>other entities, including, but not limited to, health insuring</u>	98110
<u>corporations or other managed care organizations;</u>	98111
<u>(c) Any other entity the department determines is qualified.</u>	98112
<u>(D) The department shall consult with all of the following in</u>	98113
<u>adopting rules under division (E) of this section necessary for an</u>	98114
<u>entity to be recognized by the department as a pediatric</u>	98115
<u>accountable care organization:</u>	98116
<u>(1) The superintendent of insurance;</u>	98117
<u>(2) Children's hospitals;</u>	98118
<u>(3) Managed care organizations under contract pursuant to</u>	98119
<u>section 5111.17 of the Revised Code;</u>	98120
<u>(4) Any other relevant entities, as determined necessary by</u>	98121
<u>the department, with interests in pediatric accountable care</u>	98122
<u>organizations.</u>	98123
<u>(E) The department shall adopt rules in accordance with</u>	98124
<u>Chapter 119. of the Revised Code as necessary to implement this</u>	98125
<u>section. In adopting the rules, the department shall do all of the</u>	98126
<u>following:</u>	98127
<u>(1) Establish application procedures to be followed by an</u>	98128
<u>entity seeking recognition as a pediatric accountable care</u>	98129
<u>organization;</u>	98130
<u>(2) Ensure that the standards for recognition as a pediatric</u>	98131
<u>accountable care organization are the same as and do not conflict</u>	98132
<u>with those specified in sections 2706 and 3022 of the "Patient</u>	98133
<u>Protection and Affordable Care Act," 124 Stat. 325 (2010) and</u>	98134
<u>Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42</u>	98135
<u>U.S.C. 1395jjj or the regulations adopted pursuant to those</u>	98136
<u>sections;</u>	98137
<u>(3) Establish requirements regarding the access to pediatric</u>	98138

specialty care provided through or by a pediatric accountable care organization; 98139
98140

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization; 98141
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(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department; 98143
98144

(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization; 98145
98146
98147

(7) Establish a process for sharing data. 98148

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state. 98149
98150
98151

Sec. 5111.17. (A) The department of job and family services 98152
may enter into contracts with managed care organizations, 98153
including health insuring corporations, under which the 98154
organizations are authorized to provide, or arrange for the 98155
provision of, health care services to medical assistance 98156
recipients who are required or permitted to obtain health care 98157
services through managed care organizations as part of the care 98158
management system established under section 5111.16 of the Revised 98159
Code. 98160

(B) The department or its actuary shall base the hospital inpatient capital payment portion of the payment made to managed care organizations on data for services provided to all recipients enrolled in managed care organizations with which the department contracts, as reported by hospitals on relevant cost reports submitted pursuant to rules adopted under this section. 98161
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(C) The director of job and family services may adopt rules 98167
in accordance with Chapter 119. of the Revised Code to implement 98168

this section. 98169

~~(C)~~(D) The department of job and family services shall allow 98170
a managed care ~~plans~~ organization to use providers to render care 98171
upon completion of the managed care ~~plan's~~ organization's 98172
credentialing process. 98173

Sec. 5111.172. (A) When contracting under section 5111.17 of 98174
the Revised Code with a managed care organization that is a health 98175
insuring corporation, the department of job and family services 98176
~~may~~ shall require the health insuring corporation to provide 98177
coverage of prescription drugs for medicaid recipients enrolled in 98178
the health insuring corporation. In providing the required 98179
coverage, the health insuring corporation may, subject to the 98180
department's approval and the limitations specified in division 98181
(B) of this section, use strategies for the management of drug 98182
utilization. 98183

(B) The department shall not permit a health insuring 98184
corporation to impose a prior authorization requirement in the 98185
case of a drug to which all of the following apply: 98186

(1) The drug is an antidepressant or antipsychotic. 98187

(2) The drug is administered or dispensed in a standard 98188
tablet or capsule form, except that in the case of an 98189
antipsychotic, the drug also may be administered or dispensed in a 98190
long-acting injectable form. 98191

(3) The drug is prescribed by either of the following: 98192

(a) A physician whom the health insuring corporation, 98193
pursuant to division (C) of section 5111.17 of the Revised Code, 98194
has credentialed to provide care as a psychiatrist; 98195

(b) A psychiatrist practicing at a community mental health 98196
agency certified by the department of mental health under section 98197
5119.611 of the Revised Code. 98198

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration. 98199
98200
98201

(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 98202
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~~If The department shall permit a health insuring corporation is required under this section to provide coverage of prescription drugs, the department shall permit the health insuring corporation~~ 98204
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98206
to develop and implement a pharmacy utilization management program 98207
under which prior authorization through the program is established 98208
as a condition of obtaining a controlled substance pursuant to a 98209
prescription. The program may include processes for requiring 98210
medicaid recipients at high risk for fraud or abuse involving 98211
controlled substances to have their prescriptions for controlled 98212
substances filled by a pharmacy, medical provider, or health care 98213
facility designated by the program. 98214

Sec. 5111.1711. (A)(1) The department of job and family services shall establish a managed care performance payment program. Under the program, the department may provide payments to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet performance standards established by the department. 98215
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(2) In establishing performance standards, the department may consult any of the following: 98221
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(a) Any quality measurements developed under the pediatric quality measures program established pursuant to 42 U.S.C. 1320b-9a; 98223
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(b) Any core set of adult health quality measures for medicaid eligible adults used for purposes of 42 U.S.C. 1320b-9b and any adult health quality used for purposes of the medicaid 98226
98227
98228

quality measurement program when the program is established under 98229
42 U.S.C. 1320b-9b; 98230

(c) The most recent healthcare effectiveness data and 98231
information set and quality measurement tool established by the 98232
national committee for quality assurance. 98233

(3) The standards that must be met to receive the payments 98234
may be specified in the contract the department enters into with a 98235
managed care organization. 98236

(4) If a managed care organization meets the performance 98237
standards established by the department, the department shall make 98238
one or more performance payments to the organization. The amount 98239
of each performance payment, the number of payments, and the 98240
schedule for making the payments shall be established by the 98241
department. The payments shall be discontinued if the department 98242
determines that the organization no longer meets the performance 98243
standards. The department shall not make or discontinue payments 98244
based on any performance standard that has been in effect as part 98245
of the organization's contract for less than six months. 98246

(B) For purposes of the program, the department shall 98247
establish an amount that is to be withheld each time a premium 98248
payment is made to a managed care organization. The amount shall 98249
be established as a percentage of each premium payment. The 98250
percentage shall be the same for all managed care organizations 98251
under contract with the department. The sum of all withholdings 98252
under this division shall not exceed one per cent of the total of 98253
all premium payments made to all managed care organizations under 98254
contract with the department. 98255

Each managed care organization shall agree to the withholding 98256
as a condition of receiving or maintaining its medicaid provider 98257
agreement with the department. 98258

When the amount is established and each time the amount is 98259

modified thereafter, the department shall certify the amount to 98260
the director of budget and management and begin withholding the 98261
amount from each premium the department pays to a managed care 98262
organization. 98263

(C) There is hereby created in the state treasury the managed 98264
care performance payment fund. The fund shall consist of amounts 98265
transferred to it by the director of budget and management for the 98266
purpose of the program. All investment earnings of the fund shall 98267
be credited to the fund. Amounts in the fund shall be used solely 98268
to make performance payments to managed care organizations in 98269
accordance with this section. 98270

(D) The department may adopt rules as necessary to implement 98271
this section. The rules shall be adopted in accordance with 98272
Chapter 119. of the Revised Code. 98273

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.331 98274
of the Revised Code: 98275

(A) "Allowable costs" are those costs determined by the 98276
department of job and family services to be reasonable and do not 98277
include fines paid under sections 5111.35 to 5111.61 and section 98278
5111.99 of the Revised Code. 98279

(B) "Ancillary and support costs" means all reasonable costs 98280
incurred by a nursing facility other than direct care costs or 98281
capital costs. "Ancillary and support costs" includes, but is not 98282
limited to, costs of activities, social services, pharmacy 98283
consultants, habilitation supervisors, qualified mental 98284
retardation professionals, program directors, medical and 98285
habilitation records, program supplies, incontinence supplies, 98286
food, enterals, dietary supplies and personnel, laundry, 98287
housekeeping, security, administration, medical equipment, 98288
utilities, liability insurance, bookkeeping, purchasing 98289
department, human resources, communications, travel, dues, license 98290

fees, subscriptions, home office costs not otherwise allocated, 98291
legal services, accounting services, minor equipment, wheelchairs, 98292
resident transportation, maintenance and repairs, help-wanted 98293
advertising, informational advertising, start-up costs, 98294
organizational expenses, other interest, property insurance, 98295
employee training and staff development, employee benefits, 98296
payroll taxes, and workers' compensation premiums or costs for 98297
self-insurance claims and related costs as specified in rules 98298
adopted by the director of job and family services under section 98299
5111.02 of the Revised Code, for personnel listed in this 98300
division. "Ancillary and support costs" also means the cost of 98301
equipment, including vehicles, acquired by operating lease 98302
executed before December 1, 1992, if the costs are reported as 98303
administrative and general costs on the facility's cost report for 98304
the cost reporting period ending December 31, 1992. 98305

(C) "Capital costs" means costs of ownership and, in the case 98306
of an intermediate care facility for the mentally retarded, costs 98307
of nonextensive renovation. 98308

(1) "Cost of ownership" means the actual expense incurred for 98309
all of the following: 98310

(a) Depreciation and interest on any capital assets that cost 98311
five hundred dollars or more per item, including the following: 98312

(i) Buildings; 98313

(ii) Building improvements that are not approved as 98314
nonextensive renovations under section 5111.251 of the Revised 98315
Code; 98316

(iii) Except as provided in division (B) of this section, 98317
equipment; 98318

(iv) In the case of an intermediate care facility for the 98319
mentally retarded, extensive renovations; 98320

(v) Transportation equipment.	98321
(b) Amortization and interest on land improvements and leasehold improvements;	98322 98323
(c) Amortization of financing costs;	98324
(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.	98325 98326
The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	98327 98328 98329
(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.	98330 98331 98332 98333
(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	98334 98335
(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	98336 98337 98338 98339 98340
(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.	98341 98342 98343 98344 98345 98346 98347 98348 98349 98350

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

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after 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	98382
provided in division (H)(2) of this section, other persons holding	98383
degrees qualifying them to provide therapy;	98384
(c) Costs of purchased nursing services;	98385
(d) Costs of quality assurance;	98386
(e) Costs of training and staff development, employee	98387
benefits, payroll taxes, and workers' compensation premiums or	98388
costs for self-insurance claims and related costs as specified in	98389
rules adopted by the director of job and family services in	98390
accordance with Chapter 119. of the Revised Code, for personnel	98391
listed in divisions (H)(1)(a), (b), and (d) of this section;	98392
(f) Costs of consulting and management fees related to direct	98393
care;	98394
(g) Allocated direct care home office costs.	98395
(2) In addition to the costs specified in division (H)(1) of	98396
this section, for nursing facilities only, direct care costs	98397
include costs of habilitation staff (other than habilitation	98398
supervisors), medical supplies, oxygen, over-the-counter pharmacy	98399
products, <u>behavioral and mental health services</u> , physical	98400
therapists, physical therapy assistants, occupational therapists,	98401
occupational therapy assistants, speech therapists, audiologists,	98402
habilitation supplies, and universal precautions supplies.	98403
(3) In addition to the costs specified in division (H)(1) of	98404
this section, for intermediate care facilities for the mentally	98405
retarded only, direct care costs include both of the following:	98406
(a) Costs for physical therapists and physical therapy	98407
assistants, occupational therapists and occupational therapy	98408
assistants, speech therapists, audiologists, habilitation staff	98409
(including habilitation supervisors), qualified mental retardation	98410
professionals, program directors, social services staff,	98411

activities staff, off-site day programming, psychologists and	98412
psychology assistants, and social workers and counselors;	98413
(b) Costs of training and staff development, employee	98414
benefits, payroll taxes, and workers' compensation premiums or	98415
costs for self-insurance claims and related costs as specified in	98416
rules adopted under section 5111.02 of the Revised Code, for	98417
personnel listed in division (H)(3)(a) of this section.	98418
(4) Costs of other direct-care resources that are specified	98419
as direct care costs in rules adopted under section 5111.02 of the	98420
Revised Code.	98421
(I) "Fiscal year" means the fiscal year of this state, as	98422
specified in section 9.34 of the Revised Code.	98423
(J) "Franchise permit fee" means the following:	98424
(1) In the context of nursing facilities, the fee imposed by	98425
sections 3721.50 to 3721.58 of the Revised Code;	98426
(2) In the context of intermediate care facilities for the	98427
mentally retarded, the fee imposed by sections 5112.30 to 5112.39	98428
of the Revised Code.	98429
(K) "Indirect care costs" means all reasonable costs incurred	98430
by an intermediate care facility for the mentally retarded other	98431
than direct care costs, other protected costs, or capital costs.	98432
"Indirect care costs" includes but is not limited to costs of	98433
habilitation supplies, pharmacy consultants, medical and	98434
habilitation records, program supplies, incontinence supplies,	98435
food, enterals, dietary supplies and personnel, laundry,	98436
housekeeping, security, administration, liability insurance,	98437
bookkeeping, purchasing department, human resources,	98438
communications, travel, dues, license fees, subscriptions, home	98439
office costs not otherwise allocated, legal services, accounting	98440
services, minor equipment, maintenance and repairs, help-wanted	98441
advertising, informational advertising, start-up costs,	98442

organizational expenses, other interest, property insurance, 98443
employee training and staff development, employee benefits, 98444
payroll taxes, and workers' compensation premiums or costs for 98445
self-insurance claims and related costs as specified in rules 98446
adopted under section 5111.02 of the Revised Code, for personnel 98447
listed in this division. Notwithstanding division (C)(1) of this 98448
section, "indirect care costs" also means the cost of equipment, 98449
including vehicles, acquired by operating lease executed before 98450
December 1, 1992, if the costs are reported as administrative and 98451
general costs on the facility's cost report for the cost reporting 98452
period ending December 31, 1992. 98453

(L) "Inpatient days" means all days during which a resident, 98454
regardless of payment source, occupies a bed in a nursing facility 98455
or intermediate care facility for the mentally retarded that is 98456
included in the facility's certified capacity under Title XIX. 98457
Therapeutic or hospital leave days for which payment is made under 98458
section 5111.33 or 5111.331 of the Revised Code are considered 98459
inpatient days proportionate to the percentage of the facility's 98460
per resident per day rate paid for those days. 98461

(M) "Intermediate care facility for the mentally retarded" 98462
means an intermediate care facility for the mentally retarded 98463
certified as in compliance with applicable standards for the 98464
medicaid program by the director of health in accordance with 98465
Title XIX. 98466

(N) "Maintenance and repair expenses" means, except as 98467
provided in division (BB)(2) of this section, expenditures that 98468
are necessary and proper to maintain an asset in a normally 98469
efficient working condition and that do not extend the useful life 98470
of the asset two years or more. "Maintenance and repair expenses" 98471
includes but is not limited to the cost of ordinary repairs such 98472
as painting and wallpapering. 98473

(O) "Medicaid days" means all days during which a resident 98474

who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility 98475
services occupies a bed in a nursing facility that is included in 98476
the nursing facility's certified capacity under Title XIX. 98477
Therapeutic or hospital leave days for which payment is made under 98478
section 5111.33 or 5111.331 of the Revised Code are considered 98479
~~Medicaid~~ medicaid days proportionate to the percentage of the 98480
nursing facility's per resident per day rate paid for those days. 98481

(P) "Nursing facility" means a facility, or a distinct part 98482
of a facility, that is certified as a nursing facility by the 98483
director of health in accordance with Title XIX and is not an 98484
intermediate care facility for the mentally retarded. "Nursing 98485
facility" includes a facility, or a distinct part of a facility, 98486
that is certified as a nursing facility by the director of health 98487
in accordance with Title XIX and is certified as a skilled nursing 98488
facility by the director in accordance with Title XVIII. 98489

(Q) "Operator" means the person or government entity 98490
responsible for the daily operating and management decisions for a 98491
nursing facility or intermediate care facility for the mentally 98492
retarded. 98493

(R) "Other protected costs" means costs incurred by an 98494
intermediate care facility for the mentally retarded for medical 98495
supplies; real estate, franchise, and property taxes; natural gas, 98496
fuel oil, water, electricity, sewage, and refuse and hazardous 98497
medical waste collection; allocated other protected home office 98498
costs; and any additional costs defined as other protected costs 98499
in rules adopted under section 5111.02 of the Revised Code. 98500

(S)(1) "Owner" means any person or government entity that has 98501
at least five per cent ownership or interest, either directly, 98502
indirectly, or in any combination, in any of the following 98503
regarding a nursing facility or intermediate care facility for the 98504
mentally retarded: 98505

(a) The land on which the facility is located;	98506
(b) The structure in which the facility is located;	98507
(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;	98508 98509 98510
(d) Any lease or sublease of the land or structure on or in which the facility is located.	98511 98512
(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.	98513 98514 98515 98516 98517 98518
(T) "Patient" includes "resident."	98519
(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.	98520 98521 98522 98523 98524
(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.	98525 98526 98527 98528 98529 98530 98531 98532
(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	98533 98534 98535

cost reporting period divided by the greater of the facility's 98536
inpatient days for that period or the number of inpatient days the 98537
facility would have had during that period if its occupancy rate 98538
had been ninety-five per cent. 98539

(V) "Provider" means an operator with a provider agreement. 98540

(W) "Provider agreement" means a contract between the 98541
department of job and family services and the operator of a 98542
nursing facility or intermediate care facility for the mentally 98543
retarded for the provision of nursing facility services or 98544
intermediate care facility services for the mentally retarded 98545
under the medicaid program. 98546

(X) "Purchased nursing services" means services that are 98547
provided in a nursing facility by registered nurses, licensed 98548
practical nurses, or nurse aides who are not employees of the 98549
facility. 98550

(Y) "Reasonable" means that a cost is an actual cost that is 98551
appropriate and helpful to develop and maintain the operation of 98552
patient care facilities and activities, including normal standby 98553
costs, and that does not exceed what a prudent buyer pays for a 98554
given item or services. Reasonable costs may vary from provider to 98555
provider and from time to time for the same provider. 98556

(Z) "Related party" means an individual or organization that, 98557
to a significant extent, has common ownership with, is associated 98558
or affiliated with, has control of, or is controlled by, the 98559
provider. 98560

(1) An individual who is a relative of an owner is a related 98561
party. 98562

(2) Common ownership exists when an individual or individuals 98563
possess significant ownership or equity in both the provider and 98564
the other organization. Significant ownership or equity exists 98565
when an individual or individuals possess five per cent ownership 98566

or equity in both the provider and a supplier. Significant 98567
ownership or equity is presumed to exist when an individual or 98568
individuals possess ten per cent ownership or equity in both the 98569
provider and another organization from which the provider 98570
purchases or leases real property. 98571

(3) Control exists when an individual or organization has the 98572
power, directly or indirectly, to significantly influence or 98573
direct the actions or policies of an organization. 98574

(4) An individual or organization that supplies goods or 98575
services to a provider shall not be considered a related party if 98576
all of the following conditions are met: 98577

(a) The supplier is a separate bona fide organization. 98578

(b) A substantial part of the supplier's business activity of 98579
the type carried on with the provider is transacted with others 98580
than the provider and there is an open, competitive market for the 98581
types of goods or services the supplier furnishes. 98582

(c) The types of goods or services are commonly obtained by 98583
other nursing facilities or intermediate care facilities for the 98584
mentally retarded from outside organizations and are not a basic 98585
element of patient care ordinarily furnished directly to patients 98586
by the facilities. 98587

(d) The charge to the provider is in line with the charge for 98588
the goods or services in the open market and no more than the 98589
charge made under comparable circumstances to others by the 98590
supplier. 98591

(AA) "Relative of owner" means an individual who is related 98592
to an owner of a nursing facility or intermediate care facility 98593
for the mentally retarded by one of the following relationships: 98594

(1) Spouse; 98595

(2) Natural parent, child, or sibling; 98596

(3) Adopted parent, child, or sibling;	98597
(4) Stepparent, stepchild, stepbrother, or stepsister;	98598
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	98599 98600
(6) Grandparent or grandchild;	98601
(7) Foster caregiver, foster child, foster brother, or foster sister.	98602 98603
(BB) "Renovation" and "extensive renovation" mean:	98604
(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.	98605 98606 98607 98608 98609
(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:	98610 98611 98612
(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.	98613 98614 98615 98616 98617 98618 98619 98620 98621 98622 98623 98624 98625
(b) "Extensive renovation" means a renovation that costs more	98626

than sixty-five per cent and no more than eighty-five per cent of 98627
the cost of constructing a new bed and that extends the useful 98628
life of the assets for at least ten years. 98629

For the purposes of division (BB)(2) of this section, the 98630
cost of constructing a new bed shall be considered to be forty 98631
thousand dollars, adjusted for the estimated rate of inflation 98632
from January 1, 1993, to the end of the calendar year during which 98633
the renovation is completed, using the consumer price index for 98634
shelter costs for all urban consumers for the north central 98635
region, as published by the United States bureau of labor 98636
statistics. 98637

The department of job and family services may treat a 98638
renovation that costs more than eighty-five per cent of the cost 98639
of constructing new beds as an extensive renovation if the 98640
department determines that the renovation is more prudent than 98641
construction of new beds. 98642

(CC) "Title XIX" means Title XIX of the "Social Security 98643
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 98644

(DD) "Title XVIII" means Title XVIII of the "Social Security 98645
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 98646

Sec. 5111.21. (A) In order to be eligible for medicaid 98647
payments, the operator of a nursing facility or intermediate care 98648
facility for the mentally retarded shall do all of the following: 98649

(1) Enter into a provider agreement with the department as 98650
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 98651
Code; 98652

(2) Apply for and maintain a valid license to operate if so 98653
required by law; 98654

(3) Subject to division (B) of this section, comply with all 98655
applicable state and federal laws and rules. 98656

(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.

(C)(1) Except as provided in division (C)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(2) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5111.211. (A) Except as provided in ~~division~~ divisions (C) and (D) of this section, the department of developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the

director of health as an intermediate care facility for the 98688
mentally retarded on or after June 1, 2003; 98689

(3) The facility, or a portion of the facility, is licensed 98690
by the director of developmental disabilities as a residential 98691
facility under section 5123.19 of the Revised Code; 98692

(4) There is a valid provider agreement for the facility. 98693

(B) Each month, the department of job and family services 98694
shall invoice the department of developmental disabilities by 98695
interagency transfer voucher for the claims for which the 98696
department of developmental disabilities is responsible pursuant 98697
to this section. 98698

(C) Division (A) of this section does not apply to claims 98699
submitted for an intermediate care facility for the mentally 98700
retarded if, under former section 5123.193 of the Revised Code as 98701
enacted by Am. Sub. H.B. 1 of the 128th general assembly or 98702
section 5123.197 of the Revised Code, a residential facility 98703
license was obtained or modified for the facility without 98704
obtaining approval of a plan for the proposed residential facility 98705
pursuant to section 5123.042 of the Revised Code. 98706

(D) Beginning on the date the department of developmental 98707
disabilities assumes, under section 5111.226 of the Revised Code, 98708
the powers and duties of the department of job and family services 98709
regarding the medicaid program's coverage of services provided by 98710
intermediate care facilities for the mentally retarded, this 98711
section shall apply only to the extent, if any, provided in the 98712
contract required by that section. 98713

Sec. 5111.212. As used in this section, "effective date of an 98714
involuntary termination" and "involuntary termination" have the 98715
same meanings as in section 5111.65 of the Revised Code. 98716

Medicaid payments may be made for nursing facility services 98717

and intermediate care facility for the mentally retarded services 98718
provided not later than thirty days after the effective date of an 98719
involuntary termination of the facility that provides the services 98720
if the services are provided to a medicaid recipient who is 98721
eligible for the services and resided in the facility before the 98722
effective date of the involuntary termination. 98723

Sec. 5111.22. A provider agreement between the department of 98724
job and family services and the provider of a nursing facility or 98725
intermediate care facility for the mentally retarded shall contain 98726
the following provisions: 98727

(A) The department agrees to make payments to the provider, 98728
as provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised 98729
Code, for medicaid-covered services the facility provides to a 98730
resident of the facility who is a medicaid recipient. No payment 98731
shall be made for the day a medicaid recipient is discharged from 98732
the facility. 98733

(B) The provider agrees to: 98734

(1) Maintain eligibility as provided in section 5111.21 of 98735
the Revised Code; 98736

(2) Keep records relating to a cost reporting period for the 98737
greater of seven years after the cost report is filed or, if the 98738
department issues an audit report in accordance with division (B) 98739
of section 5111.27 of the Revised Code, six years after all appeal 98740
rights relating to the audit report are exhausted; 98741

(3) File reports as required by the department; 98742

(4) Open all records relating to the costs of its services 98743
for inspection and audit by the department; 98744

(5) Open its premises for inspection by the department, the 98745
department of health, and any other state or local authority 98746
having authority to inspect; 98747

(6) Supply to the department such information as it requires 98748
concerning the facility's services to residents who are or are 98749
eligible to be medicaid recipients; 98750

(7) Comply with section 5111.31 of the Revised Code. 98751

The provider agreement may contain other provisions that are 98752
consistent with law and considered necessary by the department. 98753

A provider agreement shall be effective for no longer than 98754
twelve months, except that if federal statute or regulations 98755
authorize a longer term, it may be effective for a longer term so 98756
authorized. A provider agreement may be renewed only if the 98757
facility is certified by the department of health for 98758
participation in the medicaid program. 98759

The department of job and family services, in accordance with 98760
rules adopted under section 5111.02 of the Revised Code, may elect 98761
not to enter into, not to renew, or to terminate a provider 98762
agreement when the department determines that such an agreement 98763
would not be in the best interests of medicaid recipients or of 98764
the state. 98765

Sec. 5111.221. The department of job and family services 98766
shall make its best efforts each year to calculate rates under 98767
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code in time 98768
to use them to make the payments due to providers by the fifteenth 98769
day of August. If the department is unable to calculate the rates 98770
so that they can be paid by that date, the department shall pay 98771
each provider the rate calculated for the provider's nursing 98772
facilities and intermediate care facilities for the mentally 98773
retarded under those sections at the end of the previous fiscal 98774
year. If the department also is unable to calculate the rates to 98775
make the payments due by the fifteenth day of September and the 98776
fifteenth day of October, the department shall pay the previous 98777
fiscal year's rate to make those payments. The department may 98778

increase by five per cent the previous fiscal year's rate paid for 98779
any facility pursuant to this section at the request of the 98780
provider. The department shall use rates calculated for the 98781
current fiscal year to make the payments due by the fifteenth day 98782
of November. 98783

If the rate paid to a provider for a facility pursuant to 98784
this section is lower than the rate calculated for the facility 98785
for the current fiscal year, the department shall pay the provider 98786
the difference between the two rates for the number of days for 98787
which the provider was paid for the facility pursuant to this 98788
section. If the rate paid for a facility pursuant to this section 98789
is higher than the rate calculated for it for the current fiscal 98790
year, the provider shall refund to the department the difference 98791
between the two rates for the number of days for which the 98792
provider was paid for the facility pursuant to this section. 98793

Sec. 5111.222. (A) Except as otherwise provided by sections 98794
5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and by division 98795
(B) of this section, the payments that the department of job and 98796
family services shall agree to make to the provider of a nursing 98797
facility pursuant to a provider agreement shall equal the sum of 98798
all of the following: 98799

(1) The rate for direct care costs determined for the nursing 98800
facility under section 5111.231 of the Revised Code; 98801

(2) The rate for ancillary and support costs determined for 98802
the nursing facility's ancillary and support cost peer group under 98803
section 5111.24 of the Revised Code; 98804

(3) The rate for tax costs determined for the nursing 98805
facility under section 5111.242 of the Revised Code; 98806

~~(4) The rate for franchise permit fees determined for the 98807
nursing facility under section 5111.243 of the Revised Code;~~ 98808

~~(5)~~ The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code; 98809
98810

~~(6)~~~~(5)~~ The ~~median~~ rate for capital costs determined for the nursing facilities in the nursing facility's capital costs peer group ~~as determined~~ under section 5111.25 of the Revised Code. 98811
98812
98813

(B) The department shall adjust the rates otherwise determined under ~~divisions~~ division (A)~~(1), (2), (3), and (6)~~ of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that ~~does either of the following~~: 98814
98815
98816
98817
98818
98819

~~(1)~~ ~~Establishes~~ establishes factors by which the rates are to be adjusted: 98820
98821

~~(2)~~ ~~Establishes a methodology for phasing in the rates determined for fiscal year 2006 under uncodified law the general assembly enacts to rates determined for subsequent fiscal years under sections 5111.20 to 5111.33 of the Revised Code.~~ 98822
98823
98824
98825

Sec. 5111.224. (A) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of an intermediate care facility for the mentally retarded pursuant to a provider agreement shall equal the sum of all of the following: 98826
98827
98828
98829
98830
98831

(1) The rate for direct care costs determined for the facility under section 5111.23 of the Revised Code; 98832
98833

(2) The rate for other protected costs determined for the facility under section 5111.235 of the Revised Code; 98834
98835

(3) The rate for indirect care costs determined for the facility under section 5111.241 of the Revised Code; 98836
98837

(4) The rate for capital costs determined for the facility 98838

under section 5111.251 of the Revised Code. 98839

(B) The department shall adjust the total rate otherwise 98840
determined under division (A) of this section as directed by the 98841
general assembly through the enactment of law governing medicaid 98842
payments to providers of intermediate care facilities for the 98843
mentally retarded. 98844

Sec. 5111.225. (A) As used in this section: 98845

"Dual eligible individual" has the same meaning as in section 98846
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 98847
42 U.S.C. 1396n(h)(2)(B). 98848

"Medicaid maximum allowable amount" means one hundred per 98849
cent of a nursing facility's per diem rate for a medicaid day. 98850

(B) The department of job and family services shall pay the 98851
provider of a nursing facility the lesser of the following for 98852
nursing facility services the nursing facility provides on or 98853
after January 1, 2012, to a dual eligible individual who is 98854
eligible for nursing facility services under the medicaid program 98855
and post-hospital extended care services under Part A of Title 98856
XVIII: 98857

(1) The coinsurance amount for the services as provided under 98858
Part A of Title XVIII; 98859

(2) The medicaid maximum allowable amount for the services, 98860
less the amount paid under Part A of Title XVIII for the services. 98861

Sec. 5111.226. Subject, if needed, to the approval of the 98862
United States secretary of health and human services, the 98863
department of job and family services shall enter into a contract 98864
with the department of developmental disabilities under section 98865
5111.91 of the Revised Code that provides for the department of 98866
developmental disabilities to assume the powers and duties of the 98867

department of job and family services with regard to the medicaid 98868
program's coverage of services provided by intermediate care 98869
facilities for the mentally retarded. The contract shall include a 98870
schedule for the assumption of the powers and duties. Except as 98871
otherwise authorized by the United States secretary of health and 98872
human services, no provision of the contract may violate a federal 98873
law or regulation governing the medicaid program. Once the 98874
contract goes into effect, all references to the department of job 98875
and family services, and all references to the director of job and 98876
family services, with regard to intermediate care facilities for 98877
the mentally retarded that are in law enacted by the general 98878
assembly shall be deemed to be references to the department of 98879
developmental disabilities and director of developmental 98880
disabilities, respectively, to the extent necessary to implement 98881
the terms of the contract. 98882

Sec. 5111.23. (A) The department of job and family services 98883
shall pay a provider for each of the provider's eligible 98884
intermediate care facilities for the mentally retarded a per 98885
resident per day rate for direct care costs established 98886
prospectively for each facility. The department shall establish 98887
each facility's rate for direct care costs quarterly. 98888

(B) Each facility's rate for direct care costs shall be based 98889
on the facility's cost per case-mix unit, subject to the maximum 98890
costs per case-mix unit established under division (B)(2) of this 98891
section, from the calendar year preceding the fiscal year in which 98892
the rate is paid. To determine the rate, the department shall do 98893
all of the following: 98894

(1) Determine each facility's cost per case-mix unit for the 98895
calendar year preceding the fiscal year in which the rate will be 98896
paid by dividing the facility's desk-reviewed, actual, allowable, 98897
per diem direct care costs for that year by its average case-mix 98898

score determined under section 5111.232 of the Revised Code for 98899
the same calendar year. 98900

(2)(a) Set the maximum cost per case-mix unit for each peer 98901
group of intermediate care facilities for the mentally retarded 98902
with more than eight beds specified in rules adopted under 98903
division ~~(E)~~(F) of this section at a percentage above the cost per 98904
case-mix unit of the facility in the group that has the group's 98905
median medicaid inpatient day for the calendar year preceding the 98906
fiscal year in which the rate will be paid, as calculated under 98907
division (B)(1) of this section, that is no less than the 98908
percentage calculated under division ~~(D)~~(E)(2) of this section. 98909

(b) Set the maximum cost per case-mix unit for each peer 98910
group of intermediate care facilities for the mentally retarded 98911
with eight or fewer beds specified in rules adopted under division 98912
~~(E)~~(F) of this section at a percentage above the cost per case-mix 98913
unit of the facility in the group that has the group's median 98914
medicaid inpatient day for the calendar year preceding the fiscal 98915
year in which the rate will be paid, as calculated under division 98916
(B)(1) of this section, that is no less than the percentage 98917
calculated under division ~~(D)~~(E)(3) of this section. 98918

(c) In calculating the maximum cost per case-mix unit under 98919
divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer 98920
group, the department shall exclude from its calculations the cost 98921
per case-mix unit of any facility in the group that participated 98922
in the medicaid program under the same operator for less than 98923
twelve months during the calendar year preceding the fiscal year 98924
in which the rate will be paid. 98925

(3) Estimate the rate of inflation for the eighteen-month 98926
period beginning on the first day of July of the calendar year 98927
preceding the fiscal year in which the rate will be paid and 98928
ending on the thirty-first day of December of the fiscal year in 98929
which the rate will be paid, using the ~~employment cost~~ index ~~for~~ 98930

~~total compensation, health services component, published by the~~ 98931
~~United States bureau of labor statistics specified in division (C)~~ 98932
~~of this section.~~ If the estimated inflation rate for the 98933
eighteen-month period is different from the actual inflation rate 98934
for that period, as measured using the same index, the difference 98935
shall be added to or subtracted from the inflation rate estimated 98936
under division (B)(3) of this section for the following fiscal 98937
year. 98938

(4) The department shall not recalculate a maximum cost per 98939
case-mix unit under division (B)(2) of this section or a 98940
percentage under division ~~(D)~~(E) of this section based on 98941
additional information that it receives after the maximum costs 98942
per case-mix unit or percentages are set. The department shall 98943
recalculate a maximum cost per case-mix units or percentage only 98944
if it made an error in computing the maximum cost per case-mix 98945
unit or percentage based on information available at the time of 98946
the original calculation. 98947

(C) The department shall use the following index for the 98948
purpose of division (B)(3) of this section: 98949

(1) The employment cost index for total compensation, health 98950
services component, published by the United States bureau of labor 98951
statistics; 98952

(2) If the United States bureau of labor statistics ceases to 98953
publish the index specified in division (C)(1) of this section, 98954
the index that is subsequently published by the bureau and covers 98955
nursing facilities' staff costs. 98956

(D) Each facility's rate for direct care costs shall be 98957
determined as follows for each calendar quarter within a fiscal 98958
year: 98959

(1) Multiply the lesser of the following by the facility's 98960
average case-mix score determined under section 5111.232 of the 98961

Revised Code for the calendar quarter that preceded the 98962
immediately preceding calendar quarter: 98963

(a) The facility's cost per case-mix unit for the calendar 98964
year preceding the fiscal year in which the rate will be paid, as 98965
determined under division (B)(1) of this section; 98966

(b) The maximum cost per case-mix unit established for the 98967
fiscal year in which the rate will be paid for the facility's peer 98968
group under division (B)(2) of this section; 98969

(2) Adjust the product determined under division ~~(C)~~(D)(1) of 98970
this section by the inflation rate estimated under division (B)(3) 98971
of this section. 98972

~~(D)~~(E)(1) The department shall calculate the percentage above 98973
the median cost per case-mix unit determined under division (B)(1) 98974
of this section for the facility that has the median medicaid 98975
inpatient day for calendar year 1992 for all intermediate care 98976
facilities for the mentally retarded with more than eight beds 98977
that would result in payment of all desk-reviewed, actual, 98978
allowable direct care costs for eighty and one-half per cent of 98979
the medicaid inpatient days for such facilities for calendar year 98980
1992. 98981

(2) The department shall calculate the percentage above the 98982
median cost per case-mix unit determined under division (B)(1) of 98983
this section for the facility that has the median medicaid 98984
inpatient day for calendar year 1992 for all intermediate care 98985
facilities for the mentally retarded with eight or fewer beds that 98986
would result in payment of all desk-reviewed, actual, allowable 98987
direct care costs for eighty and one-half per cent of the medicaid 98988
inpatient days for such facilities for calendar year 1992. 98989

~~(E)~~(F) The director of job and family services shall adopt 98990
rules under section 5111.02 of the Revised Code that specify peer 98991
groups of intermediate care facilities for the mentally retarded 98992

with more than eight beds and intermediate care facilities for the 98993
mentally retarded with eight or fewer beds, based on findings of 98994
significant per diem direct care cost differences due to geography 98995
and facility bed-size. The rules also may specify peer groups 98996
based on findings of significant per diem direct care cost 98997
differences due to other factors which may include case-mix. 98998

~~(F)~~(G) The department, in accordance with division (D) of 98999
section 5111.232 of the Revised Code and rules adopted under 99000
division ~~(E)~~(F) of that section, may assign case-mix scores or 99001
costs per case-mix unit if a provider fails to submit assessment 99002
data necessary to calculate an intermediate care facility for the 99003
mentally retarded's case-mix score in accordance with that 99004
section. 99005

Sec. 5111.231. (A) As used in this section, ~~"applicable:~~ 99006

(1) "Applicable calendar year" means the following: 99007

~~(1)~~(a) For the purpose of the department of job and family 99008
services' initial determination under division (D) of this section 99009
of each peer group's cost per case-mix unit, calendar year 2003; 99010

~~(2)~~(b) For the purpose of the department's ~~subsequent~~ 99011
~~determinations under division (D) of this section of each peer~~ 99012
~~group's cost per case-mix unit~~ rebasings, the calendar year the 99013
department selects. 99014

(2) "Rebasing" means a redetermination under division (D) of 99015
this section of each peer groups' cost per case-mix unit using 99016
information from cost reports for an applicable calendar year that 99017
is later than the applicable calendar year used for the previous 99018
determination of such costs. 99019

(B) The department of job and family services shall pay a 99020
provider for each of the provider's eligible nursing facilities a 99021
per resident per day rate for direct care costs determined 99022

semiannually by multiplying the cost per case-mix unit determined 99023
under division (D) of this section for the facility's peer group 99024
by the facility's semiannual case-mix score determined under 99025
section 5111.232 of the Revised Code. 99026

(C) For the purpose of determining nursing facilities' rate 99027
for direct care costs, the department shall establish three peer 99028
groups. 99029

Each nursing facility located in any of the following 99030
counties shall be placed in peer group one: Brown, Butler, 99031
Clermont, Clinton, Hamilton, and Warren. 99032

Each nursing facility located in any of the following 99033
counties shall be placed in peer group two: Ashtabula, Champaign, 99034
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 99035
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 99036
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 99037
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 99038
and Wood. 99039

Each nursing facility located in any of the following 99040
counties shall be placed in peer group three: Adams, Allen, 99041
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 99042
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 99043
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 99044
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 99045
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 99046
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 99047
Washington, Wayne, Williams, and Wyandot. 99048

(D)(1) ~~At least once every ten years, the~~ The department 99049
shall determine a cost per case-mix unit for each peer group 99050
established under division (C) of this section. ~~A~~ The department 99051
is not required to conduct a rebasing more than once every ten 99052
years. Except as necessary to implement the amendments made by 99053

~~this act to this section, the~~ cost per case-mix unit determined 99054
under this division for a peer group shall be used for subsequent 99055
years until the department ~~redetermines it~~ conducts a rebasing. To 99056
determine a peer group's cost per case-mix unit, the department 99057
shall do all of the following: 99058

(a) Determine the cost per case-mix unit for each nursing 99059
facility in the peer group for the applicable calendar year by 99060
dividing each facility's desk-reviewed, actual, allowable, per 99061
diem direct care costs for the applicable calendar year by the 99062
facility's annual average case-mix score determined under section 99063
5111.232 of the Revised Code for the applicable calendar year. ~~i~~ 99064

(b) Subject to division (D)(2) of this section, identify 99065
which nursing facility in the peer group is at the twenty-fifth 99066
percentile of the cost per case-mix units determined under 99067
division (D)(1)(a) of this section. ~~i~~ 99068

(c) Calculate the amount that is ~~seven~~ two per cent above the 99069
cost per case-mix unit determined under division (D)(1)(a) of this 99070
section for the nursing facility identified under division 99071
(D)(1)(b) of this section. ~~i~~ 99072

(d) ~~Multiply the amount calculated under division (D)(1)(c)~~ 99073
~~of this section by~~ Using the index specified in division (D)(3) of 99074
this section, multiply the rate of inflation for the 99075
eighteen-month period beginning on the first day of July of the 99076
applicable calendar year and ending the last day of December of 99077
the calendar year immediately following the applicable calendar 99078
year ~~using the following:~~ 99079

~~(i) In the case of the initial calculation made under~~ 99080
~~division (D)(1)(d) of this section, the employment cost index for~~ 99081
~~total compensation, health services component, published by the~~ 99082
~~United States bureau of labor statistics, as the index existed on~~ 99083
~~July 1, 2005;~~ 99084

~~(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 employment cost index
for total compensation, nursing and residential care facilities
occupational group, published by the United States bureau of labor
statistics;~~ 99085
99086
99087
99088
99089
99090

~~(iii) If the United States bureau of labor statistics ceases
to publish the index specified in division (D)(1)(d)(ii) of this
section, the index the bureau subsequently publishes that covers
nursing facilities' staff costs by the amount calculated under
division (D)(1)(c) of this section;~~ 99091
99092
99093
99094
99095

(e) Until the first rebasing occurs, add one dollar and
eighty-eight cents to the amount calculated under division
(D)(1)(d) of this section. 99096
99097
99098

(2) In making the identification under division (D)(1)(b) of
this section, the department shall exclude both of the following: 99099
99100

(a) Nursing facilities that participated in the medicaid
program under the same provider for less than twelve months in the
applicable calendar year; 99101
99102
99103

(b) Nursing facilities whose cost per case-mix unit is more
than one standard deviation from the mean cost per case-mix unit
for all nursing facilities in the nursing facility's peer group
for the applicable calendar year. 99104
99105
99106
99107

(3) The following index shall be used for the purpose of the
calculation made under division (D)(1)(d) of this section: 99108
99109

(a) Until the first rebasing occurs, the employment cost
index for total compensation, health services component, published
by the United States bureau of labor statistics, as the index
existed on July 1, 2005; 99110
99111
99112
99113

(b) Effective with the first rebasing and except as provided 99114

in division (D)(3)(c) of this section, the employment cost index 99115
for total compensation, nursing and residential care facilities 99116
occupational group, published by the United States bureau of labor 99117
statistics; 99118

(c) If the United States bureau of labor statistics ceases to 99119
publish the index specified in division (D)(3)(b) of this section, 99120
the index the bureau subsequently publishes that covers nursing 99121
facilities' staff costs. 99122

(4) The department shall not redetermine a peer group's cost 99123
per case-mix unit under this division based on additional 99124
information that it receives after the peer group's per case-mix 99125
unit is determined. The department shall redetermine a peer 99126
group's cost per case-mix unit only if it made an error in 99127
determining the peer group's cost per case-mix unit based on 99128
information available to the department at the time of the 99129
original determination. 99130

Sec. 5111.232. (A)(1) The department of job and family 99131
services shall determine semiannual and annual average case-mix 99132
scores for nursing facilities by using all of the following: 99133

(a) Data from a resident assessment instrument specified in 99134
rules adopted under section 5111.02 of the Revised Code pursuant 99135
to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 99136
(1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following 99137
residents: 99138

(i) When determining semiannual case-mix scores for fiscal 99139
year 2012, each resident who is a medicaid recipient; 99140

(ii) When determining semiannual case-mix scores for fiscal 99141
year 2013 and thereafter, each resident who is a medicaid 99142
recipient and not placed in either of the two lowest resource 99143
utilization groups, excluding any resource utilization group that 99144

<u>is a default group used for residents with incomplete assessment</u>	99145
<u>data;</u>	99146
<u>(iii)</u> When determining annual average case-mix scores, each	99147
resident regardless of payment source.	99148
(b) Except as provided in rules authorized by divisions	99149
(A)(2)(a) and (b) of this section, the case-mix values established	99150
by the United States department of health and human services;	99151
(c) Except as modified in rules authorized by division	99152
(A)(2)(c) of this section, the grouper methodology used on June	99153
30, 1999, by the United States department of health and human	99154
services for prospective payment of skilled nursing facilities	99155
under the medicare program established by Title XVIII.	99156
(2) The director of job and family services may adopt rules	99157
under section 5111.02 of the Revised Code that do any of the	99158
following:	99159
(a) Adjust the case-mix values specified in division	99160
(A)(1)(b) of this section to reflect changes in relative wage	99161
differentials that are specific to this state;	99162
(b) Express all of those case-mix values in numeric terms	99163
that are different from the terms specified by the United States	99164
department of health and human services but that do not alter the	99165
relationship of the case-mix values to one another;	99166
(c) Modify the grouper methodology specified in division	99167
(A)(1)(c) of this section as follows:	99168
(i) Establish a different hierarchy for assigning residents	99169
to case-mix categories under the methodology;	99170
(ii) Prohibit the use of the index maximizer element of the	99171
methodology;	99172
(iii) Incorporate changes to the methodology the United	99173
States department of health and human services makes after June	99174

30, 1999; 99175

(iv) Make other changes the department determines are 99176
necessary. 99177

(B) The department shall determine case-mix scores for 99178
intermediate care facilities for the mentally retarded using data 99179
for each resident, regardless of payment source, from a resident 99180
assessment instrument and grouper methodology prescribed in rules 99181
adopted under section 5111.02 of the Revised Code and expressed in 99182
case-mix values established by the department in those rules. 99183

(C) Each calendar quarter, each provider shall compile 99184
complete assessment data, from the resident assessment instrument 99185
specified in rules authorized by division (A) or (B) of this 99186
section, for each resident of each of the provider's facilities, 99187
regardless of payment source, who was in the facility or on 99188
hospital or therapeutic leave from the facility on the last day of 99189
the quarter. Providers of a nursing facility shall submit the data 99190
to the department of health and, if required by rules, the 99191
department of job and family services. Providers of an 99192
intermediate care facility for the mentally retarded shall submit 99193
the data to the department of job and family services. The data 99194
shall be submitted not later than fifteen days after the end of 99195
the calendar quarter for which the data is compiled. 99196

Except as provided in division (D) of this section, the 99197
department, every six months and after the end of each calendar 99198
year, shall calculate a semiannual and annual average case-mix 99199
score for each nursing facility using the facility's quarterly 99200
case-mix scores for that six-month period or calendar year. Also 99201
except as provided in division (D) of this section, the 99202
department, after the end of each calendar year, shall calculate 99203
an annual average case-mix score for each intermediate care 99204
facility for the mentally retarded using the facility's quarterly 99205
case-mix scores for that calendar year. The department shall make 99206

the calculations pursuant to procedures specified in rules adopted 99207
under section 5111.02 of the Revised Code. 99208

(D)(1) If a provider does not timely submit information for a 99209
calendar quarter necessary to calculate a facility's case-mix 99210
score, or submits incomplete or inaccurate information for a 99211
calendar quarter, the department may assign the facility a 99212
quarterly average case-mix score that is five per cent less than 99213
the facility's quarterly average case-mix score for the preceding 99214
calendar quarter. If the facility was subject to an exception 99215
review under division (C) of section 5111.27 of the Revised Code 99216
for the preceding calendar quarter, the department may assign a 99217
quarterly average case-mix score that is five per cent less than 99218
the score determined by the exception review. If the facility was 99219
assigned a quarterly average case-mix score for the preceding 99220
quarter, the department may assign a quarterly average case-mix 99221
score that is five per cent less than that score assigned for the 99222
preceding quarter. 99223

The department may use a quarterly average case-mix score 99224
assigned under division (D)(1) of this section, instead of a 99225
quarterly average case-mix score calculated based on the 99226
provider's submitted information, to calculate the facility's rate 99227
for direct care costs being established under section 5111.23 or 99228
5111.231 of the Revised Code for one or more months, as specified 99229
in rules authorized by division (E) of this section, of the 99230
quarter for which the rate established under section 5111.23 or 99231
5111.231 of the Revised Code will be paid. 99232

Before taking action under division (D)(1) of this section, 99233
the department shall permit the provider a reasonable period of 99234
time, specified in rules authorized by division (E) of this 99235
section, to correct the information. In the case of an 99236
intermediate care facility for the mentally retarded, the 99237
department shall not assign a quarterly average case-mix score due 99238

to late submission of corrections to assessment information unless 99239
the provider fails to submit corrected information prior to the 99240
eighty-first day after the end of the calendar quarter to which 99241
the information pertains. In the case of a nursing facility, the 99242
department shall not assign a quarterly average case-mix score due 99243
to late submission of corrections to assessment information unless 99244
the provider fails to submit corrected information prior to the 99245
earlier of the forty-sixth day after the end of the calendar 99246
quarter to which the information pertains or the deadline for 99247
submission of such corrections established by regulations adopted 99248
by the United States department of health and human services under 99249
Titles XVIII and XIX. 99250

(2) If a provider is paid a rate for a facility calculated 99251
using a quarterly average case-mix score assigned under division 99252
(D)(1) of this section for more than six months in a calendar 99253
year, the department may assign the facility a cost per case-mix 99254
unit that is five per cent less than the facility's actual or 99255
assigned cost per case-mix unit for the preceding calendar year. 99256
The department may use the assigned cost per case-mix unit, 99257
instead of calculating the facility's actual cost per case-mix 99258
unit in accordance with section 5111.23 or 5111.231 of the Revised 99259
Code, to establish the facility's rate for direct care costs for 99260
the following fiscal year. 99261

(3) The department shall take action under division (D)(1) or 99262
(2) of this section only in accordance with rules authorized by 99263
division (E) of this section. The department shall not take an 99264
action that affects rates for prior payment periods except in 99265
accordance with sections 5111.27 and 5111.28 of the Revised Code. 99266

(E) The director shall adopt rules under section 5111.02 of 99267
the Revised Code that do all of the following: 99268

(1) Specify whether providers of a nursing facility must 99269
submit the assessment data to the department of job and family 99270

services;	99271
(2) Specify the medium or media through which the completed assessment data shall be submitted;	99272 99273
(3) Establish procedures under which the assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;	99274 99275 99276
(4) Establish procedures for providers to correct assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.	99277 99278 99279 99280 99281 99282
(5) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (D) of this section if information necessary to calculate the facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to 5111.33 <u>5111.331</u> of the Revised Code, the rules also may provide for the following:	99283 99284 99285 99286 99287 99288 99289
(a) Exclusion of case-mix scores assigned under division (D) of this section from calculation of an intermediate care facility for the mentally retarded's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group;	99290 99291 99292 99293
(b) Exclusion of case-mix scores assigned under division (D) of this section from calculation of a nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the facility's peer group.	99294 99295 99296 99297
Sec. 5111.235. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per	99298 99299 99300

resident per day rate for other protected costs established 99301
prospectively each fiscal year for each facility. The rate for 99302
each facility shall be the facility's desk-reviewed, actual, 99303
allowable, per diem other protected costs from the calendar year 99304
preceding the fiscal year in which the rate will be paid, all 99305
adjusted for the estimated inflation rate for the eighteen-month 99306
period beginning on the first day of July of the calendar year 99307
preceding the fiscal year in which the rate will be paid and 99308
ending on the thirty-first day of December of that fiscal year. 99309
The department shall estimate inflation using the ~~consumer price~~ 99310
~~index for all urban consumers for nonprescription drugs and~~ 99311
~~medical supplies, as published by the United States bureau of~~ 99312
~~labor statistics specified in division (B) of this section.~~ If the 99313
estimated inflation rate for the eighteen-month period is 99314
different from the actual inflation rate for that period, the 99315
difference shall be added to or subtracted from the inflation rate 99316
estimated for the following year. 99317

(B) The department shall use the following index for the 99318
purpose of division (A) of this section: 99319

(1) The consumer price index for all urban consumers for 99320
nonprescription drugs and medical supplies, as published by the 99321
United States bureau of labor statistics; 99322

(2) If the United States bureau of labor statistics ceases to 99323
publish the index specified in division (B)(1) of this section, 99324
the index that is subsequently published by the bureau and covers 99325
nonprescription drugs and medical supplies. 99326

Sec. 5111.24. (A) As used in this section, ~~"applicable:~~ 99327

(1) "Applicable calendar year" means the following: 99328

~~(1)~~(a) For the purpose of the department of job and family 99329
services' initial determination under division (D) of this section 99330

of each peer group's rate for ancillary and support costs, 99331
calendar year 2003; 99332

~~(2)(b)~~ For the purpose of the department's ~~subsequent~~ 99333
~~determinations under division (D) of this section of each peer~~ 99334
~~group's rate for ancillary and support costs~~ rebasings, the 99335
calendar year the department selects. 99336

(2) "Rebasing" means a redetermination under division (D) of 99337
this section of each peer groups' rate for ancillary and support 99338
costs using information from cost reports for an applicable 99339
calendar year that is later than the applicable calendar year used 99340
for the previous determination of such rates. 99341

(B) The department of job and family services shall pay a 99342
provider for each of the provider's eligible nursing facilities a 99343
per resident per day rate for ancillary and support costs 99344
determined for the nursing facility's peer group under division 99345
(D) of this section. 99346

(C) For the purpose of determining nursing facilities' rate 99347
for ancillary and support costs, the department shall establish 99348
six peer groups. 99349

Each nursing facility located in any of the following 99350
counties shall be placed in peer group one or two: Brown, Butler, 99351
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 99352
located in any of those counties that has fewer than one hundred 99353
beds shall be placed in peer group one. Each nursing facility 99354
located in any of those counties that has one hundred or more beds 99355
shall be placed in peer group two. 99356

Each nursing facility located in any of the following 99357
counties shall be placed in peer group three or four: Ashtabula, 99358
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 99359
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 99360
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 99361

Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 99362
Union, and Wood. Each nursing facility located in any of those 99363
counties that has fewer than one hundred beds shall be placed in 99364
peer group three. Each nursing facility located in any of those 99365
counties that has one hundred or more beds shall be placed in peer 99366
group four. 99367

Each nursing facility located in any of the following 99368
counties shall be placed in peer group five or six: Adams, Allen, 99369
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 99370
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 99371
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 99372
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 99373
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 99374
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 99375
Washington, Wayne, Williams, and Wyandot. Each nursing facility 99376
located in any of those counties that has fewer than one hundred 99377
beds shall be placed in peer group five. Each nursing facility 99378
located in any of those counties that has one hundred or more beds 99379
shall be placed in peer group six. 99380

(D)(1) ~~At least once every ten years, the~~ The department 99381
shall determine the rate for ancillary and support costs for each 99382
peer group established under division (C) of this section. The 99383
department is not required to conduct a rebasing more than once 99384
every ten years. Except as necessary to implement the amendments 99385
made by this act to this section, the rate for ancillary and 99386
support costs determined under this division for a peer group 99387
shall be used for subsequent years until the department 99388
~~redetermines it~~ conducts a rebasing. To determine a peer group's 99389
rate for ancillary and support costs, the department shall do all 99390
of the following: 99391

(a) ~~Determine~~ Subject to division (D)(2) of this section, 99392
determine the rate for ancillary and support costs for each 99393

nursing facility in the peer group for the applicable calendar 99394
year by using the greater of the nursing facility's actual 99395
inpatient days for the applicable calendar year or the inpatient 99396
days the nursing facility would have had for the applicable 99397
calendar year if its occupancy rate had been ninety per cent. ~~For~~ 99398
~~the purpose of determining a nursing facility's occupancy rate~~ 99399
~~under division (D)(1)(a) of this section, the department shall~~ 99400
~~include any beds that the nursing facility removes from its~~ 99401
~~medicaid-certified capacity unless the nursing facility also~~ 99402
~~removes the beds from its licensed bed capacity.;~~ 99403

(b) Subject to division (D)~~(2)~~(3) of this section, identify 99404
which nursing facility in the peer group is at the twenty-fifth 99405
percentile of the rate for ancillary and support costs for the 99406
applicable calendar year determined under division (D)(1)(a) of 99407
this section. ~~i~~ 99408

~~(c) Calculate the amount that is three per cent above the~~ 99409
~~rate for ancillary and support costs determined under division~~ 99410
~~(D)(1)(a) of this section for the nursing facility identified~~ 99411
~~under division (D)(1)(b) of this section.~~ 99412

~~(d) Multiply the amount calculated~~ rate for ancillary and 99413
support costs determined under division (D)(1)~~(c)~~(a) of this 99414
section for the nursing facility identified under division 99415
(D)(1)(b) of this section by the rate of inflation for the 99416
eighteen-month period beginning on the first day of July of the 99417
applicable calendar year and ending the last day of December of 99418
the calendar year immediately following the applicable calendar 99419
year using the following: 99420

(i) ~~In the case of the initial calculation made under~~ 99421
~~division (D)(1)(d) of this section~~ Until the first rebasing 99422
occurs, the consumer price index for all items for all urban 99423
consumers for the north central region, published by the United 99424
States bureau of labor statistics, as that index existed on July 99425

1, 2005; 99426

(ii) ~~In the case of subsequent calculations made under~~ 99427
~~division (D)(1)(d) of this section~~ Effective with the first 99428
rebasings and except as provided in division (D)(1)(~~d~~)(c)(iii) of 99429
this section, the consumer price index for all items for all urban 99430
consumers for the midwest region, published by the United States 99431
bureau of labor statistics; 99432

(iii) If the United States bureau of labor statistics ceases 99433
to publish the index specified in division (D)(1)(~~d~~)(c)(ii) of 99434
this section, the index the bureau subsequently publishes that 99435
covers urban consumers' prices for items for the region that 99436
includes this state. 99437

(2) For the purpose of determining a nursing facility's 99438
occupancy rate under division (D)(1)(a) of this section, the 99439
department shall include any beds that the nursing facility 99440
removes from its medicaid-certified capacity unless the nursing 99441
facility also removes the beds from its licensed bed capacity. 99442

(3) In making the identification under division (D)(1)(b) of 99443
this section, the department shall exclude both of the following: 99444

(a) Nursing facilities that participated in the medicaid 99445
program under the same provider for less than twelve months in the 99446
applicable calendar year; 99447

(b) Nursing facilities whose ancillary and support costs are 99448
more than one standard deviation from the mean desk-reviewed, 99449
actual, allowable, per diem ancillary and support cost for all 99450
nursing facilities in the nursing facility's peer group for the 99451
applicable calendar year. 99452

~~(3)~~(4) The department shall not redetermine a peer group's 99453
rate for ancillary and support costs under this division based on 99454
additional information that it receives after the rate is 99455
determined. The department shall redetermine a peer group's rate 99456

for ancillary and support costs only if ~~it~~ the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B)(1) The maximum rate for indirect care costs for each peer

group of intermediate care facilities for the mentally retarded 99487
with more than eight beds specified in rules adopted under 99488
division (D) of this section shall be determined as follows: 99489

(a) For fiscal years ending in even-numbered calendar years, 99490
the maximum rate for each peer group shall be the rate that is no 99491
less than twelve and four-tenths per cent above the median 99492
desk-reviewed, actual, allowable, per diem indirect care cost for 99493
all intermediate care facilities for the mentally retarded with 99494
more than eight beds in the group, excluding facilities in the 99495
group whose indirect care costs for that period are more than 99496
three standard deviations from the mean desk-reviewed, actual, 99497
allowable, per diem indirect care cost for all intermediate care 99498
facilities for the mentally retarded with more than eight beds, 99499
for the calendar year preceding the fiscal year in which the rate 99500
will be paid, adjusted by the inflation rate estimated under 99501
division (C)(1) of this section. 99502

(b) For fiscal years ending in odd-numbered calendar years, 99503
the maximum rate for each peer group is the group's maximum rate 99504
for the previous fiscal year, adjusted for the inflation rate 99505
estimated under division (C)(2) of this section. 99506

(2) The maximum rate for indirect care costs for each peer 99507
group of intermediate care facilities for the mentally retarded 99508
with eight or fewer beds specified in rules adopted under division 99509
(D) of this section shall be determined as follows: 99510

(a) For fiscal years ending in even-numbered calendar years, 99511
the maximum rate for each peer group shall be the rate that is no 99512
less than ten and three-tenths per cent above the median 99513
desk-reviewed, actual, allowable, per diem indirect care cost for 99514
all intermediate care facilities for the mentally retarded with 99515
eight or fewer beds in the group, excluding facilities in the 99516
group whose indirect care costs are more than three standard 99517
deviations from the mean desk-reviewed, actual, allowable, per 99518

diem indirect care cost for all intermediate care facilities for 99519
the mentally retarded with eight or fewer beds, for the calendar 99520
year preceding the fiscal year in which the rate will be paid, 99521
adjusted by the inflation rate estimated under division (C)(1) of 99522
this section. 99523

(b) For fiscal years that end in odd-numbered calendar years, 99524
the maximum rate for each peer group is the group's maximum rate 99525
for the previous fiscal year, adjusted for the inflation rate 99526
estimated under division (C)(2) of this section. 99527

(3) The department shall not recalculate a maximum rate for 99528
indirect care costs under division (B)(1) or (2) of this section 99529
based on additional information that it receives after the maximum 99530
rate is set. The department shall recalculate the maximum rate for 99531
indirect care costs only if it made an error in computing the 99532
maximum rate based on the information available at the time of the 99533
original calculation. 99534

(C)(1) When adjusting rates for inflation under divisions 99535
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 99536
shall estimate the rate of inflation for the eighteen-month period 99537
beginning on the first day of July of the calendar year preceding 99538
the fiscal year in which the rate will be paid and ending on the 99539
thirty-first day of December of the fiscal year in which the rate 99540
will be paid, ~~using the.~~ To estimate the rate of inflation, the 99541
department shall use the following: 99542

(a) The consumer price index for all items for all urban 99543
consumers for the north central region, published by the United 99544
States bureau of labor statistics; 99545

(b) If the United States bureau of labor statistics ceases to 99546
publish the index specified in division (C)(1)(a) of this section, 99547
a comparable index that the bureau publishes and the department 99548
determines is appropriate. 99549

(2) When adjusting rates for inflation under divisions 99550
(B)(1)(b) and (B)(2)(b) of this section, the department shall 99551
estimate the rate of inflation for the twelve-month period 99552
beginning on the first day of January of the fiscal year preceding 99553
the fiscal year in which the rate will be paid and ending on the 99554
thirty-first day of December of the fiscal year in which the rate 99555
will be paid, ~~using the.~~ To estimate the rate of inflation, the 99556
department shall use the following: 99557

(a) The consumer price index for all items for all urban 99558
consumers for the north central region, published by the United 99559
States bureau of labor statistics; 99560

(b) If the United States bureau of labor statistics ceases to 99561
publish the index specified in division (C)(2)(a) of this section, 99562
a comparable index that the bureau publishes and the department 99563
determines is appropriate. 99564

(3) If an inflation rate estimated under division (C)(1) or 99565
(2) of this section is different from the actual inflation rate 99566
for the relevant time period, as measured using the same index, 99567
the difference shall be added to or subtracted from the inflation 99568
rate estimated pursuant to this division for the following fiscal 99569
year. 99570

(D) The director of job and family services shall adopt rules 99571
under section 5111.02 of the Revised Code that specify peer groups 99572
of intermediate care facilities for the mentally retarded with 99573
more than eight beds, and peer groups of intermediate care 99574
facilities for the mentally retarded with eight or fewer beds, 99575
based on findings of significant per diem indirect care cost 99576
differences due to geography and facility bed-size. The rules also 99577
may specify peer groups based on findings of significant per diem 99578
indirect care cost differences due to other factors, including 99579
case-mix. 99580

Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) ~~Each fiscal year, the~~ The department of job and family services shall pay the provider of each nursing facility a quality incentive payment. The amount of a quality incentive payment paid to a provider ~~for a fiscal year~~ shall be based on the number of points the provider's nursing facility is awarded ~~under division (C) of this section for that fiscal year~~ meeting accountability measures. The amount of a quality incentive payment paid to a provider of a nursing facility that is awarded no points may be zero. ~~The mean payment for fiscal year 2007, weighted by medicaid days, shall be three dollars per medicaid day. The department shall adjust the mean payment for subsequent fiscal years by the same adjustment factors the department uses to adjust, pursuant to division (B) of section 5111.222 of the Revised Code, nursing facilities' rates otherwise determined under divisions (A)(1), (2), (3), and (6) of that section.~~

(C)(1) ~~Except as provided by~~ For fiscal year 2012 only and subject to division (C)(2) of this section, the department shall ~~annually~~ award each nursing facility participating in the medicaid program ~~one point~~ points for each of meeting the following accountability measures ~~the facility meets:~~

(a) The facility had no health deficiencies on the facility's most recent standard survey.

(b) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.

(c) The facility's resident satisfaction is above the statewide average.

(d) The facility's family satisfaction is above the statewide average. 99612
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(e) The number of hours the facility employs nurses is above the statewide average. 99614
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(f) The facility's employee retention rate is above the average for the facility's peer group established in division (C) of section 5111.231 of the Revised Code. 99616
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(g) The facility's occupancy rate is above the statewide average. 99619
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~~(h) The facility's medicaid utilization rate is above the statewide average.~~ 99621
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~~(i) The facility's case-mix score is above the statewide average.~~ 99623
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(i) The facility's medicaid utilization rate is above the statewide average. 99625
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(2) A nursing facility shall be awarded one point for each of the accountability measures specified in divisions (C)(1)(a) to (h) of this section that the nursing facility meets. A nursing facility shall be awarded three points for meeting the accountability measure specified in division (C)(1)(i) of this section. The department shall award points pursuant to division (C)(1)(c) or (d) of this section to a nursing facility only for a fiscal year immediately following a calendar year for which if a survey of resident or family satisfaction has been was conducted under section 173.47 of the Revised Code for the nursing facility in calendar year 2010. 99627
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(D)(1) For fiscal year 2013 and thereafter, the department shall award each nursing facility participating in the medicaid program points for meeting accountability measures in accordance with amendments to be made to this section not later than December 99638
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31, 2011, that provide for all of the following: 99642

(a) Meaningful accountability measures of quality of care, quality of life, and nursing facility staffing; 99643
99644

(b) The maximum number of points that a nursing facility may earn for meeting accountability measures; 99645
99646

(c) A methodology for calculating the quality incentive payment that recognizes different business and care models in nursing facilities by providing flexibility in nursing facilities' ability to earn the entire quality incentive payment; 99647
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99649
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(d) A quality bonus to be paid at the end of a fiscal year in a manner that provides for all funds that the general assembly intends to be used for the quality incentive payment for that fiscal year are distributed to nursing facilities. 99651
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(2) For the purpose of division (D)(1)(d) of this section, the amount of funds that the general assembly intends to be used for the quality incentive payment for a fiscal year shall be the product of the following: 99655
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(a) The number of medicaid days in the fiscal year; 99659

(b) The maximum quality incentive payment the general assembly has specified in law to be paid to nursing facilities for that fiscal year. 99660
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(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. ~~The rules shall include rules establishing the system for awarding points under division (C) of this section.~~ 99663
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Sec. 5111.25. (A) As used in this section, "applicable: 99667

(1) "Applicable calendar year" means the following: 99668

(1)(a) For the purpose of the department of job and family services' initial determination under division (D) of this section 99669
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of each peer group's ~~median~~ rate for capital costs, calendar year 2003;

~~(2)(b) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's median rate for capital costs~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(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 capital costs. ~~A nursing facility's rate for capital costs shall be the median rate for capital costs for the nursing facilities in~~ determined for the nursing facility's peer group ~~as determined~~ under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

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

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking,

Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 99702
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 99703
Union, and Wood. Each nursing facility located in any of those 99704
counties that has fewer than one hundred beds shall be placed in 99705
peer group three. Each nursing facility located in any of those 99706
counties that has one hundred or more beds shall be placed in peer 99707
group four. 99708

Each nursing facility located in any of the following 99709
counties shall be placed in peer group five or six: Adams, Allen, 99710
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 99711
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 99712
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 99713
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 99714
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 99715
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 99716
Washington, Wayne, Williams, and Wyandot. Each nursing facility 99717
located in any of those counties that has fewer than one hundred 99718
beds shall be placed in peer group five. Each nursing facility 99719
located in any of those counties that has one hundred or more beds 99720
shall be placed in peer group six. 99721

(D)(1) ~~At least once every ten years, the~~ The department 99722
shall determine the ~~median~~ rate for capital costs for each peer 99723
group established under division (C) of this section. ~~The median~~ 99724
department is not required to conduct a rebasing more than once 99725
every ten years. Except as necessary to implement the amendments 99726
made by this act to this section, the rate for capital costs 99727
determined under this division for a peer group shall be used for 99728
subsequent years until the department ~~redetermines it~~ conducts a 99729
rebasing. To determine a A peer group's ~~median~~ rate for capital 99730
costs shall be the rate for capital costs determined for the 99731
nursing facility in the peer group that is at the twenty-fifth 99732
percentile of the rate for capital costs for the applicable 99733

calendar year. In identifying that nursing facility, the 99734
department shall do both of the following: 99735

(a) Subject to division (D)(2) of this section, use the 99736
greater of each nursing facility's actual inpatient days for the 99737
applicable calendar year or the inpatient days the nursing 99738
facility would have had for the applicable calendar year if its 99739
occupancy rate had been one hundred per cent-; 99740

(b) Exclude both of the following: 99741

(i) Nursing facilities that participated in the medicaid 99742
program under the same provider for less than twelve months in the 99743
applicable calendar year; 99744

(ii) Nursing facilities whose capital costs are more than one 99745
standard deviation from the mean desk-reviewed, actual, allowable, 99746
per diem capital cost for all nursing facilities in the nursing 99747
facility's peer group for the applicable calendar year. 99748

(2) For the purpose of determining a nursing facility's 99749
occupancy rate under division (D)(1)(a) of this section, the 99750
department shall include any beds that the nursing facility 99751
removes from its medicaid-certified capacity after June 30, 2005, 99752
unless the nursing facility also removes the beds from its 99753
licensed bed capacity. 99754

(3) The department shall not redetermine a peer group's rate 99755
for capital costs under this division based on additional 99756
information that it receives after the rate is determined. The 99757
department shall redetermine a peer group's rate for capital costs 99758
only if the department made an error in determining the rate based 99759
on information available to the department at the time of the 99760
original determination. 99761

(E) Buildings shall be depreciated using the straight line 99762
method over forty years or over a different period approved by the 99763
department. Components and equipment shall be depreciated using 99764

the straight-line method over a period designated in rules adopted 99765
under section 5111.02 of the Revised Code, consistent with the 99766
guidelines of the American hospital association, or over a 99767
different period approved by the department. Any rules authorized 99768
by this division that specify useful lives of buildings, 99769
components, or equipment apply only to assets acquired on or after 99770
July 1, 1993. Depreciation for costs paid or reimbursed by any 99771
government agency shall not be included in capital costs unless 99772
that part of the payment under sections 5111.20 to ~~5111.33~~ 99773
5111.331 of the Revised Code is used to reimburse the government 99774
agency. 99775

(F) The capital cost basis of nursing facility assets shall 99776
be determined in the following manner: 99777

(1) Except as provided in division (F)(3) of this section, 99778
for purposes of calculating the rates to be paid for facilities 99779
with dates of licensure on or before June 30, 1993, the capital 99780
cost basis of each asset shall be equal to the desk-reviewed, 99781
actual, allowable, capital cost basis that is listed on the 99782
facility's cost report for the calendar year preceding the fiscal 99783
year during which the rate will be paid. 99784

(2) For facilities with dates of licensure after June 30, 99785
1993, the capital cost basis shall be determined in accordance 99786
with the principles of the medicare program established under 99787
Title XVIII, except as otherwise provided in sections 5111.20 to 99788
~~5111.33~~ 5111.331 of the Revised Code. 99789

(3) Except as provided in division (F)(4) of this section, if 99790
a provider transfers an interest in a facility to another provider 99791
after June 30, 1993, there shall be no increase in the capital 99792
cost basis of the asset if the providers are related parties or 99793
the provider to which the interest is transferred authorizes the 99794
provider that transferred the interest to continue to operate the 99795
facility under a lease, management agreement, or other 99796

arrangement. If the previous sentence does not prohibit the 99797
adjustment of the capital cost basis under this division, the 99798
basis of the asset shall be adjusted by ~~the lesser of the~~ 99799
~~following:~~ 99800

~~(a) One half of the change in construction costs during the 99801
time that the transferor held the asset, as calculated by the 99802
department of job and family services using the "Dodge building 99803
cost indexes, northeastern and north central states," published by 99804
Marshall and Swift;~~ 99805

~~(b) One half one-half of the change in the consumer price 99806
index for all items for all urban consumers, as published by the 99807
United States bureau of labor statistics, during the time that the 99808
transferor held the asset.~~ 99809

(4) If a provider transfers an interest in a facility to 99810
another provider who is a related party, the capital cost basis of 99811
the asset shall be adjusted as specified in division (F)(3) of 99812
this section if all of the following conditions are met: 99813

(a) The related party is a relative of owner; 99814

(b) Except as provided in division (F)(4)(c)(ii) of this 99815
section, the provider making the transfer retains no ownership 99816
interest in the facility; 99817

(c) The department of job and family services determines that 99818
the transfer is an arm's length transaction pursuant to rules 99819
adopted under section 5111.02 of the Revised Code. The rules shall 99820
provide that a transfer is an arm's length transaction if all of 99821
the following apply: 99822

(i) Once the transfer goes into effect, the provider that 99823
made the transfer has no direct or indirect interest in the 99824
provider that acquires the facility or the facility itself, 99825
including interest as an owner, officer, director, employee, 99826
independent contractor, or consultant, but excluding interest as a 99827

creditor. 99828

(ii) The provider that made the transfer does not reacquire 99829
an interest in the facility except through the exercise of a 99830
creditor's rights in the event of a default. If the provider 99831
reacquires an interest in the facility in this manner, the 99832
department shall treat the facility as if the transfer never 99833
occurred when the department calculates its reimbursement rates 99834
for capital costs. 99835

(iii) The transfer satisfies any other criteria specified in 99836
the rules. 99837

(d) Except in the case of hardship caused by a catastrophic 99838
event, as determined by the department, or in the case of a 99839
provider making the transfer who is at least sixty-five years of 99840
age, not less than twenty years have elapsed since, for the same 99841
facility, the capital cost basis was adjusted most recently under 99842
division (F)(4) of this section or actual, allowable cost of 99843
ownership was determined most recently under division (G)(9) of 99844
this section. 99845

(G) As used in this division: 99846

"Imputed interest" means the lesser of the prime rate plus 99847
two per cent or ten per cent. 99848

"Lease expense" means lease payments in the case of an 99849
operating lease and depreciation expense and interest expense in 99850
the case of a capital lease. 99851

"New lease" means a lease, to a different lessee, of a 99852
nursing facility that previously was operated under a lease. 99853

(1) Subject to division (B) of this section, for a lease of a 99854
facility that was effective on May 27, 1992, the entire lease 99855
expense is an actual, allowable capital cost during the term of 99856
the existing lease. The entire lease expense also is an actual, 99857

allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by ~~the lesser of the following amounts:~~

~~(a) One half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and

before July 1, 1993, actual, allowable capital costs shall include 99889
the lesser of the annual lease expense or the sum of the 99890
following: 99891

(a) The annual depreciation expense that would be calculated 99892
at the inception of the lease using the lessor's entire historical 99893
capital asset cost basis; 99894

(b) The greater of the lessor's actual annual amortization of 99895
financing costs and interest expense at the inception of the lease 99896
or the imputed interest expense calculated at the inception of the 99897
lease using seventy per cent of the lessor's historical capital 99898
asset cost basis. 99899

(4) Subject to division (B) of this section, for a lease of a 99900
facility with a date of licensure on or after May 27, 1992, that 99901
was not initially operated under a lease and has been in existence 99902
for ten years, actual, allowable capital costs shall include the 99903
lesser of the annual lease expense or the annual depreciation 99904
expense and imputed interest expense that would be calculated at 99905
the inception of the lease using the entire historical capital 99906
asset cost basis of the lessor, ~~adjusted by the lesser of the~~ 99907
~~following:~~ 99908

~~(a) One half of the change in construction costs during the 99909
time the lessor held each asset until the beginning of the lease,~~ 99910
~~as calculated by the department using the "Dodge building cost 99911
indexes, northeastern and north central states," published by 99912
Marshall and Swift;~~ 99913

~~(b) One half one-half of the change in the consumer price 99914
index for all items for all urban consumers, as published by the 99915
United States bureau of labor statistics, during the time the 99916
lessor held each asset until the beginning of the lease. 99917~~

(5) Subject to division (B) of this section, for a new lease 99918
of a facility that was operated under a lease on May 27, 1992, 99919

actual, allowable capital costs shall include the lesser of the 99920
annual new lease expense or the annual old lease payment. If the 99921
old lease was in effect for ten years or longer, the old lease 99922
payment from the beginning of the old lease shall be adjusted by 99923
~~the lesser of the following:~~ 99924

~~(a) One half of the change in construction costs from the 99925
beginning of the old lease to the beginning of the new lease, as 99926
ealculated by the department using the "Dodge building cost 99927
indexes, northeastern and north central states," published by 99928
Marshall and Swift;~~ 99929

~~(b) One half one-half of the change in the consumer price 99930
index for all items for all urban consumers, as published by the 99931
United States bureau of labor statistics, from the beginning of 99932
the old lease to the beginning of the new lease. 99933~~

(6) Subject to division (B) of this section, for a new lease 99934
of a facility that was not in existence or that was in existence 99935
but not operated under a lease on May 27, 1992, actual, allowable 99936
capital costs shall include the lesser of annual new lease expense 99937
or the annual amount calculated for the old lease under division 99938
(G)(2), (3), (4), or (6) of this section, as applicable. If the 99939
old lease was in effect for ten years or longer, the lessor's 99940
historical capital asset cost basis shall be ~~adjusted by the 99941
lesser of the following,~~ for purposes of calculating the annual 99942
amount under division (G)(2), (3), (4), or (6) of this section. 99943

~~(a) One half of the change in construction costs from the 99944
beginning of the old lease to the beginning of the new lease, as 99945
ealculated by the department using the "Dodge building cost 99946
indexes, northeastern and north central states," published by 99947
Marshall and Swift;~~ 99948

~~(b) One half, adjusted by one-half of the change in the 99949
consumer price index for all items for all urban consumers, as 99950~~

published by the United States bureau of labor statistics, from 99951
the beginning of the old lease to the beginning of the new lease. 99952

In the case of a lease under division (G)(3) of this section 99953
of a facility for which a substantial commitment of money was made 99954
after December 22, 1992, and before July 1, 1993, the old lease 99955
payment shall be adjusted for the purpose of determining the 99956
annual amount. 99957

(7) For any revision of a lease described in division (G)(1), 99958
(2), (3), (4), (5), or (6) of this section, or for any subsequent 99959
lease of a facility operated under such a lease, other than 99960
execution of a new lease, the portion of actual, allowable capital 99961
costs attributable to the lease shall be the same as before the 99962
revision or subsequent lease. 99963

(8) Except as provided in division (G)(9) of this section, if 99964
a provider leases an interest in a facility to another provider 99965
who is a related party or previously operated the facility, the 99966
related party's or previous operator's actual, allowable capital 99967
costs shall include the lesser of the annual lease expense or the 99968
reasonable cost to the lessor. 99969

(9) If a provider leases an interest in a facility to another 99970
provider who is a related party, regardless of the date of the 99971
lease, the related party's actual, allowable capital costs shall 99972
include the annual lease expense, subject to the limitations 99973
specified in divisions (G)(1) to (7) of this section, if all of 99974
the following conditions are met: 99975

(a) The related party is a relative of owner; 99976

(b) If the lessor retains an ownership interest, it is, 99977
except as provided in division (G)(9)(c)(ii) of this section, in 99978
only the real property and any improvements on the real property; 99979

(c) The department of job and family services determines that 99980
the lease is an arm's length transaction pursuant to rules adopted 99981

under section 5111.02 of the Revised Code. The rules shall provide 99982
that a lease is an arm's length transaction if all of the 99983
following apply: 99984

(i) Once the lease goes into effect, the lessor has no direct 99985
or indirect interest in the lessee or, except as provided in 99986
division (G)(9)(b) of this section, the facility itself, including 99987
interest as an owner, officer, director, employee, independent 99988
contractor, or consultant, but excluding interest as a lessor. 99989

(ii) The lessor does not reacquire an interest in the 99990
facility except through the exercise of a lessor's rights in the 99991
event of a default. If the lessor reacquires an interest in the 99992
facility in this manner, the department shall treat the facility 99993
as if the lease never occurred when the department calculates its 99994
reimbursement rates for capital costs. 99995

(iii) The lease satisfies any other criteria specified in the 99996
rules. 99997

(d) Except in the case of hardship caused by a catastrophic 99998
event, as determined by the department, or in the case of a lessor 99999
who is at least sixty-five years of age, not less than twenty 100000
years have elapsed since, for the same facility, the capital cost 100001
basis was adjusted most recently under division (F)(4) of this 100002
section or actual, allowable capital costs were determined most 100003
recently under division (G)(9) of this section. 100004

(10) This division does not apply to leases of specific items 100005
of equipment. 100006

Sec. 5111.251. (A) The department of job and family services 100007
shall pay a provider for each of the provider's eligible 100008
intermediate care facilities for the mentally retarded for its 100009
reasonable capital costs, a per resident per day rate established 100010
prospectively each fiscal year for each intermediate care facility 100011

for the mentally retarded. Except as otherwise provided in 100012
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rate 100013
shall be based on the facility's capital costs for the calendar 100014
year preceding the fiscal year in which the rate will be paid. The 100015
rate shall equal the sum of the following: 100016

(1) The facility's desk-reviewed, actual, allowable, per diem 100017
cost of ownership for the preceding cost reporting period, limited 100018
as provided in divisions (C) and (F) of this section; 100019

(2) Any efficiency incentive determined under division (B) of 100020
this section; 100021

(3) Any amounts for renovations determined under division (D) 100022
of this section; 100023

(4) Any amounts for return on equity determined under 100024
division ~~(I)~~(H) of this section. 100025

Buildings shall be depreciated using the straight line method 100026
over forty years or over a different period approved by the 100027
department. Components and equipment shall be depreciated using 100028
the straight line method over a period designated by the director 100029
of job and family services in rules adopted under section 5111.02 100030
of the Revised Code, consistent with the guidelines of the 100031
American hospital association, or over a different period approved 100032
by the department of job and family services. Any rules authorized 100033
by this division that specify useful lives of buildings, 100034
components, or equipment apply only to assets acquired on or after 100035
July 1, 1993. Depreciation for costs paid or reimbursed by any 100036
government agency shall not be included in costs of ownership or 100037
renovation unless that part of the payment under sections 5111.20 100038
to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the 100039
government agency. 100040

(B) The department of job and family services shall pay to a 100041
provider for each of the provider's eligible intermediate care 100042

facilities for the mentally retarded an efficiency incentive equal 100043
to fifty per cent of the difference between any desk-reviewed, 100044
actual, allowable cost of ownership and the applicable limit on 100045
cost of ownership payments under division (C) of this section. For 100046
purposes of computing the efficiency incentive, depreciation for 100047
costs paid or reimbursed by any government agency shall be 100048
considered as a cost of ownership, and the applicable limit under 100049
division (C) of this section shall apply both to facilities with 100050
more than eight beds and facilities with eight or fewer beds. The 100051
efficiency incentive paid to a provider for a facility with eight 100052
or fewer beds shall not exceed three dollars per patient day, 100053
adjusted annually for the inflation rate for the twelve-month 100054
period beginning on the first day of July of the calendar year 100055
preceding the calendar year that precedes the fiscal year for 100056
which the efficiency incentive is determined and ending on the 100057
thirtieth day of the following June, using the consumer price 100058
index for shelter costs for all urban consumers for the north 100059
central region, as published by the United States bureau of labor 100060
statistics. 100061

(C) Cost of ownership payments for intermediate care 100062
facilities for the mentally retarded with more than eight beds 100063
shall not exceed the following limits: 100064

(1) For facilities with dates of licensure prior to January 100065
1, 1958, not exceeding two dollars and fifty cents per patient 100066
day; 100067

(2) For facilities with dates of licensure after December 31, 100068
1957, but prior to January 1, 1968, not exceeding: 100069

(a) Three dollars and fifty cents per patient day if the cost 100070
of construction was three thousand five hundred dollars or more 100071
per bed; 100072

(b) Two dollars and fifty cents per patient day if the cost 100073

of construction was less than three thousand five hundred dollars	100074
per bed.	100075
(3) For facilities with dates of licensure after December 31,	100076
1967, but prior to January 1, 1976, not exceeding:	100077
(a) Four dollars and fifty cents per patient day if the cost	100078
of construction was five thousand one hundred fifty dollars or	100079
more per bed;	100080
(b) Three dollars and fifty cents per patient day if the cost	100081
of construction was less than five thousand one hundred fifty	100082
dollars per bed, but exceeds three thousand five hundred dollars	100083
per bed;	100084
(c) Two dollars and fifty cents per patient day if the cost	100085
of construction was three thousand five hundred dollars or less	100086
per bed.	100087
(4) For facilities with dates of licensure after December 31,	100088
1975, but prior to January 1, 1979, not exceeding:	100089
(a) Five dollars and fifty cents per patient day if the cost	100090
of construction was six thousand eight hundred dollars or more per	100091
bed;	100092
(b) Four dollars and fifty cents per patient day if the cost	100093
of construction was less than six thousand eight hundred dollars	100094
per bed but exceeds five thousand one hundred fifty dollars per	100095
bed;	100096
(c) Three dollars and fifty cents per patient day if the cost	100097
of construction was five thousand one hundred fifty dollars or	100098
less per bed, but exceeds three thousand five hundred dollars per	100099
bed;	100100
(d) Two dollars and fifty cents per patient day if the cost	100101
of construction was three thousand five hundred dollars or less	100102
per bed.	100103

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:	100104 100105
(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	100106 100107 100108
(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;	100109 100110 100111 100112
(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;	100113 100114 100115
(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;	100116 100117 100118
(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	100119 100120 100121
(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:	100122 100123
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	100124 100125 100126
(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	100127 100128
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	100129 100130
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	100131 100132 100133

(b) Six dollars and forty-five cents per patient day if the 100134
beds were originally licensed as nursing home beds by the 100135
department of health. 100136

(8) For facilities with dates of licensure after December 31, 100137
1981, but prior to January 1, 1983, not exceeding: 100138

(a) Twelve dollars per patient day if the beds were 100139
originally licensed as residential facility beds by the department 100140
of developmental disabilities; 100141

(b) Six dollars and seventy-nine cents per patient day if the 100142
beds were originally licensed as nursing home beds by the 100143
department of health. 100144

(9) For facilities with dates of licensure after December 31, 100145
1982, but prior to January 1, 1984, not exceeding: 100146

(a) Twelve dollars per patient day if the beds were 100147
originally licensed as residential facility beds by the department 100148
of developmental disabilities; 100149

(b) Seven dollars and nine cents per patient day if the beds 100150
were originally licensed as nursing home beds by the department of 100151
health. 100152

(10) For facilities with dates of licensure after December 100153
31, 1983, but prior to January 1, 1985, not exceeding: 100154

(a) Twelve dollars and twenty-four cents per patient day if 100155
the beds were originally licensed as residential facility beds by 100156
the department of developmental disabilities; 100157

(b) Seven dollars and twenty-three cents per patient day if 100158
the beds were originally licensed as nursing home beds by the 100159
department of health. 100160

(11) For facilities with dates of licensure after December 100161
31, 1984, but prior to January 1, 1986, not exceeding: 100162

(a) Twelve dollars and fifty-three cents per patient day if 100163

the beds were originally licensed as residential facility beds by	100164
the department of developmental disabilities;	100165
(b) Seven dollars and forty cents per patient day if the beds	100166
were originally licensed as nursing home beds by the department of	100167
health.	100168
(12) For facilities with dates of licensure after December	100169
31, 1985, but prior to January 1, 1987, not exceeding:	100170
(a) Twelve dollars and seventy cents per patient day if the	100171
beds were originally licensed as residential facility beds by the	100172
department of developmental disabilities;	100173
(b) Seven dollars and fifty cents per patient day if the beds	100174
were originally licensed as nursing home beds by the department of	100175
health.	100176
(13) For facilities with dates of licensure after December	100177
31, 1986, but prior to January 1, 1988, not exceeding:	100178
(a) Twelve dollars and ninety-nine cents per patient day if	100179
the beds were originally licensed as residential facility beds by	100180
the department of developmental disabilities;	100181
(b) Seven dollars and sixty-seven cents per patient day if	100182
the beds were originally licensed as nursing home beds by the	100183
department of health.	100184
(14) For facilities with dates of licensure after December	100185
31, 1987, but prior to January 1, 1989, not exceeding thirteen	100186
dollars and twenty-six cents per patient day;	100187
(15) For facilities with dates of licensure after December	100188
31, 1988, but prior to January 1, 1990, not exceeding thirteen	100189
dollars and forty-six cents per patient day;	100190
(16) For facilities with dates of licensure after December	100191
31, 1989, but prior to January 1, 1991, not exceeding thirteen	100192
dollars and sixty cents per patient day;	100193

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, 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.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and

for facilities of eight or fewer beds that have dates of licensure 100258
or have been granted project authorization after that date if the 100259
providers of the facilities demonstrate that they made substantial 100260
commitments of funds on or before that date, cost of ownership 100261
shall not exceed eighteen dollars and thirty cents per resident 100262
per day. The eighteen-dollar and thirty-cent amount shall be 100263
increased by the change in the "Dodge building cost indexes, 100264
northeastern and north central states," published by Marshall and 100265
Swift, during the period beginning June 30, 1990, and ending July 100266
1, 1993, and by the change in the consumer price index for shelter 100267
costs for all urban consumers for the north central region, as 100268
published by the United States bureau of labor statistics, 100269
annually thereafter. 100270

(2) For facilities with eight or fewer beds that have dates 100271
of licensure or have been granted project authorization by the 100272
department of developmental disabilities on or after July 1, 1993, 100273
for which substantial commitments of funds were not made before 100274
that date, cost of ownership payments shall not exceed the 100275
applicable amount calculated under division (F)(1) of this 100276
section, if the department of job and family services gives prior 100277
approval for construction of the facility. If the department does 100278
not give prior approval, cost of ownership payments shall not 100279
exceed the amount specified in division (C) of this section. 100280

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 100281
section, the total payment for cost of ownership, cost of 100282
ownership efficiency incentive, and capitalized costs of 100283
renovations for an intermediate care facility for the mentally 100284
retarded with eight or fewer beds shall not exceed the sum of the 100285
limitations specified in divisions (C) and (D) of this section. 100286

(G) Notwithstanding any provision of this section or section 100287
5111.241 of the Revised Code, the director of job and family 100288
services may adopt rules under section 5111.02 of the Revised Code 100289

that provide for a calculation of a combined maximum payment limit 100290
for indirect care costs and cost of ownership for intermediate 100291
care facilities for the mentally retarded with eight or fewer 100292
beds. 100293

~~(H) After the date on which a transaction of sale is closed, 100294
the provider shall refund to the department the amount of excess 100295
depreciation paid to the provider for the facility by the 100296
department for each year the provider has operated the facility 100297
under a provider agreement and prorated according to the number of 100298
medicaid patient days for which the provider has received payment 100299
for the facility. For the purposes of this division, "depreciation 100300
paid to the provider for the facility" means the amount paid to 100301
the provider for the intermediate care facility for the mentally 100302
retarded for cost of ownership pursuant to this section less any 100303
amount paid for interest costs. For the purposes of this division, 100304
"excess depreciation" is the intermediate care facility for the 100305
mentally retarded's depreciated basis, which is the provider's 100306
cost less accumulated depreciation, subtracted from the purchase 100307
price but not exceeding the amount of depreciation paid to the 100308
provider for the facility. 100309~~

~~(I) The department of job and family services shall pay a 100310
provider for each of the provider's eligible proprietary 100311
intermediate care facilities for the mentally retarded a return on 100312
the facility's net equity computed at the rate of one and one-half 100313
times the average of interest rates on special issues of public 100314
debt obligations issued to the federal hospital insurance trust 100315
fund for the cost reporting period. No facility's return on net 100316
equity paid under this division shall exceed one dollar per 100317
patient day. 100318~~

~~In calculating the rate for return on net equity, the 100319
department shall use the greater of the facility's inpatient days 100320
during the applicable cost reporting period or the number of 100321~~

inpatient days the facility would have had during that period if 100322
its occupancy rate had been ninety-five per cent. 100323

~~(J)~~(I)(1) Except as provided in division ~~(J)~~(I)(2) of this 100324
section, if a provider leases or transfers an interest in a 100325
facility to another provider who is a related party, the related 100326
party's allowable cost of ownership shall include the lesser of 100327
the following: 100328

(a) The annual lease expense or actual cost of ownership, 100329
whichever is applicable; 100330

(b) The reasonable cost to the lessor or provider making the 100331
transfer. 100332

(2) If a provider leases or transfers an interest in a 100333
facility to another provider who is a related party, regardless of 100334
the date of the lease or transfer, the related party's allowable 100335
cost of ownership shall include the annual lease expense or actual 100336
cost of ownership, whichever is applicable, subject to the 100337
limitations specified in divisions (B) to ~~(I)~~(H) of this section, 100338
if all of the following conditions are met: 100339

(a) The related party is a relative of owner; 100340

(b) In the case of a lease, if the lessor retains any 100341
ownership interest, it is, except as provided in division 100342
~~(J)~~(I)(2)(d)(ii) of this section, in only the real property and 100343
any improvements on the real property; 100344

(c) In the case of a transfer, the provider making the 100345
transfer retains, except as provided in division ~~(J)~~(I)(2)(d)(iv) 100346
of this section, no ownership interest in the facility; 100347

(d) The department of job and family services determines that 100348
the lease or transfer is an arm's length transaction pursuant to 100349
rules adopted under section 5111.02 of the Revised Code. The rules 100350
shall provide that a lease or transfer is an arm's length 100351

transaction if all of the following, as applicable, apply: 100352

(i) In the case of a lease, once the lease goes into effect, 100353
the lessor has no direct or indirect interest in the lessee or, 100354
except as provided in division ~~(J)~~(I)(2)(b) of this section, the 100355
facility itself, including interest as an owner, officer, 100356
director, employee, independent contractor, or consultant, but 100357
excluding interest as a lessor. 100358

(ii) In the case of a lease, the lessor does not reacquire an 100359
interest in the facility except through the exercise of a lessor's 100360
rights in the event of a default. If the lessor reacquires an 100361
interest in the facility in this manner, the department shall 100362
treat the facility as if the lease never occurred when the 100363
department calculates its reimbursement rates for capital costs. 100364

(iii) In the case of a transfer, once the transfer goes into 100365
effect, the provider that made the transfer has no direct or 100366
indirect interest in the provider that acquires the facility or 100367
the facility itself, including interest as an owner, officer, 100368
director, employee, independent contractor, or consultant, but 100369
excluding interest as a creditor. 100370

(iv) In the case of a transfer, the provider that made the 100371
transfer does not reacquire an interest in the facility except 100372
through the exercise of a creditor's rights in the event of a 100373
default. If the provider reacquires an interest in the facility in 100374
this manner, the department shall treat the facility as if the 100375
transfer never occurred when the department calculates its 100376
reimbursement rates for capital costs. 100377

(v) The lease or transfer satisfies any other criteria 100378
specified in the rules. 100379

(e) Except in the case of hardship caused by a catastrophic 100380
event, as determined by the department, or in the case of a lessor 100381
or provider making the transfer who is at least sixty-five years 100382

of age, not less than twenty years have elapsed since, for the 100383
same facility, allowable cost of ownership was determined most 100384
recently under this division. 100385

Sec. 5111.254. (A) The department of job and family services 100386
shall establish initial rates for a nursing facility with a first 100387
date of licensure that is on or after July 1, 2006, including a 100388
facility that replaces one or more existing facilities, or for a 100389
nursing facility with a first date of licensure before that date 100390
that was initially certified for the medicaid program on or after 100391
that date, in the following manner: 100392

(1) The rate for direct care costs shall be the product of 100393
the cost per case-mix unit determined under division (D) of 100394
section 5111.231 of the Revised Code for the facility's peer group 100395
and the nursing facility's case-mix score. For the purpose of 100396
division (A)(1) of this section, the nursing facility's case-mix 100397
score shall be the following: 100398

(a) Unless the nursing facility replaces an existing nursing 100399
facility that participated in the medicaid program immediately 100400
before the replacement nursing facility begins participating in 100401
the medicaid program, the median annual average case-mix score for 100402
the nursing facility's peer group; 100403

(b) If the nursing facility replaces an existing nursing 100404
facility that participated in the medicaid program immediately 100405
before the replacement nursing facility begins participating in 100406
the medicaid program, the semiannual case-mix score most recently 100407
determined under section 5111.232 of the Revised Code for the 100408
replaced nursing facility as adjusted, if necessary, to reflect 100409
any difference in the number of beds in the replaced and 100410
replacement nursing facilities. 100411

(2) The rate for ancillary and support costs shall be the 100412
rate for the facility's peer group determined under division (D) 100413

of section 5111.24 of the Revised Code. 100414

(3) The rate for capital costs shall be the ~~median~~ rate for 100415
the facility's peer group determined under division (D) of section 100416
5111.25 of the Revised Code. 100417

(4) The rate for tax costs as defined in section 5111.242 of 100418
the Revised Code shall be the median rate for tax costs for the 100419
facility's peer group in which the facility is placed under 100420
division (C) of section 5111.24 of the Revised Code. 100421

(5) The quality incentive payment shall be the mean payment 100422
~~specified in division (B) of~~ made to nursing facilities under 100423
section 5111.244 of the Revised Code. 100424

(B) Subject to division (C) of this section, the department 100425
shall adjust the rates established under division (A) of this 100426
section effective the first day of July, to reflect new rate 100427
calculations for all nursing facilities under sections 5111.20 to 100428
~~5111.33~~ 5111.331 of the Revised Code. 100429

(C) If a rate for direct care costs is determined under this 100430
section for a nursing facility using the median annual average 100431
case-mix score for the nursing facility's peer group, the rate 100432
shall be redetermined to reflect the replacement nursing 100433
facility's actual semiannual case-mix score determined under 100434
section 5111.232 of the Revised Code after the nursing facility 100435
submits its first two quarterly assessment data that qualify for 100436
use in calculating a case-mix score in accordance with rules 100437
authorized by division (E) of section 5111.232 of the Revised 100438
Code. If the nursing facility's quarterly submissions do not 100439
qualify for use in calculating a case-mix score, the department 100440
shall continue to use the median annual average case-mix score for 100441
the nursing facility's peer group in lieu of the nursing 100442
facility's semiannual case-mix score until the nursing facility 100443
submits two consecutive quarterly assessment data that qualify for 100444

use in calculating a case-mix score. 100445

Sec. 5111.255. (A) The department of job and family services 100446
shall establish initial rates for an intermediate care facility 100447
for the mentally retarded with a first date of licensure that is 100448
on or after January 1, 1993, including a facility that replaces 100449
one or more existing facilities, or for an intermediate care 100450
facility for the mentally retarded with a first date of licensure 100451
before that date that was initially certified for the medicaid 100452
program on or after that date, in the following manner: 100453

(1) The rate for direct care costs shall be determined as 100454
follows: 100455

(a) If there are no cost or resident assessment data as 100456
necessary to calculate a rate under section 5111.23 of the Revised 100457
Code, the rate shall be the median cost per case-mix unit 100458
calculated under division (B)(1) of that section for the relevant 100459
peer group for the calendar year preceding the fiscal year in 100460
which the rate will be paid, multiplied by the median annual 100461
average case-mix score for the peer group for that period and by 100462
the rate of inflation estimated under division (B)(3) of that 100463
section. This rate shall be recalculated to reflect the facility's 100464
actual quarterly average case-mix score, in accordance with that 100465
section, after it submits its first quarterly assessment data that 100466
qualifies for use in calculating a case-mix score in accordance 100467
with rules authorized by division (E) of section 5111.232 of the 100468
Revised Code. If the facility's first two quarterly submissions do 100469
not contain assessment data that qualifies for use in calculating 100470
a case-mix score, the department shall continue to calculate the 100471
rate using the median annual case-mix score for the peer group in 100472
lieu of an assigned quarterly case-mix score. The department shall 100473
assign a case-mix score or, if necessary, a cost per case-mix unit 100474
under division (D) of section 5111.232 of the Revised Code for any 100475

subsequent submissions that do not contain assessment data that 100476
qualifies for use in calculating a case-mix score. 100477

(b) If the facility is a replacement facility and the 100478
facility or facilities that are being replaced are in operation 100479
immediately before the replacement facility opens, the rate shall 100480
be the same as the rate for the replaced facility or facilities, 100481
proportionate to the number of beds in each replaced facility. If 100482
one or more of the replaced facilities is not in operation 100483
immediately before the replacement facility opens, its proportion 100484
shall be determined under division (A)(1)(a) of this section. 100485

(2) The rate for other protected costs shall be one hundred 100486
fifteen per cent of the median rate for intermediate care 100487
facilities for the mentally retarded calculated for the fiscal 100488
year under section 5111.235 of the Revised Code. 100489

(3) The rate for indirect care costs shall be the applicable 100490
maximum rate for the facility's peer group as specified in 100491
division (B) of section 5111.241 of the Revised Code. 100492

(4) The rate for capital costs shall be determined under 100493
section 5111.251 of the Revised Code using the greater of actual 100494
inpatient days or an imputed occupancy rate of eighty per cent. 100495

(B) The department shall adjust the rates established under 100496
division (A) of this section at both of the following times: 100497

(1) Effective the first day of July, to reflect new rate 100498
calculations for all facilities under sections 5111.20 to ~~5111.33~~ 100499
5111.331 of the Revised Code; 100500

(2) Following the provider's submission of the facility's 100501
cost report under division (A)(1)(b) of section 5111.26 of the 100502
Revised Code. 100503

The department shall pay the rate adjusted based on the cost 100504
report beginning the first day of the calendar quarter that begins 100505

more than ninety days after the department receives the cost report. 100506
100507

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to 100508
~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of 100509
the Revised Code), the director of job and family services shall 100510
adopt rules under section 5111.02 of the Revised Code that 100511
establish a methodology for calculating the prospective rates that 100512
will be paid each fiscal year to a provider for each of the 100513
provider's eligible nursing facilities and intermediate care 100514
facilities for the mentally retarded, and discrete units of the 100515
provider's nursing facilities or intermediate care facilities for 100516
the mentally retarded, that serve residents who have diagnoses or 100517
special care needs that require direct care resources that are not 100518
measured adequately by the applicable assessment instrument 100519
specified in rules authorized by section 5111.232 of the Revised 100520
Code, or who have diagnoses or special care needs specified in the 100521
rules as otherwise qualifying for consideration under this 100522
section. The facilities and units of facilities whose rates are 100523
established under this division may include, but shall not be 100524
limited to, any of the following: 100525

(1) In the case of nursing facilities, facilities and units 100526
of facilities that serve medically fragile pediatric residents, 100527
residents who are dependent on ventilators, or residents who have 100528
severe traumatic brain injury, end-stage Alzheimer's disease, or 100529
end-stage acquired immunodeficiency syndrome; 100530

(2) In the case of intermediate care facilities for the 100531
mentally retarded, facilities and units of facilities that serve 100532
residents who have complex medical conditions or severe behavioral 100533
problems. 100534

The department shall use the methodology established under 100535
this division to pay for services rendered by such facilities and 100536

units after June 30, 1993. 100537

The rules authorized by this division shall specify the 100538
criteria and procedures the department will apply when designating 100539
facilities and units that qualify for calculation of rates under 100540
this division. The criteria shall include consideration of whether 100541
all of the allowable costs of the facility or unit would be paid 100542
by rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of 100543
the Revised Code, and shall establish a minimum bed size for a 100544
facility or unit to qualify to have its rates established under 100545
this division. The criteria shall not be designed to require that 100546
residents be served only in facilities located in large cities. 100547
The methodology established by the rules shall consider the 100548
historical costs of providing care to the residents of the 100549
facilities or units. 100550

The rules may require that a facility designated under this 100551
division or containing a unit designated under this division 100552
receive authorization from the department to admit or retain a 100553
resident to the facility or unit and shall specify the criteria 100554
and procedures the department will apply when granting that 100555
authorization. 100556

Notwithstanding any other provision of sections 5111.20 to 100557
~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of 100558
the Revised Code), the costs incurred by facilities or units whose 100559
rates are established under this division shall not be considered 100560
in establishing payment rates for other facilities or units. 100561

(B) The director may adopt rules under section 5111.02 of the 100562
Revised Code under which the department, notwithstanding any other 100563
provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised 100564
Code (except section 5111.259 of the Revised Code), may adjust the 100565
rates determined under sections 5111.20 to ~~5111.33~~ 5111.331 of the 100566
Revised Code for a facility that serves a resident who has a 100567
diagnosis or special care need that, in the rules authorized by 100568

division (A) of this section, would qualify a facility or unit of 100569
a facility to have its rate determined under that division, but 100570
who is not in such a unit. The rules may require that a facility 100571
that qualifies for a rate adjustment under this division receive 100572
authorization from the department to admit or retain a resident 100573
who qualifies the facility for the rate adjustment and shall 100574
specify the criteria and procedures the department will apply when 100575
granting that authorization. 100576

Sec. 5111.259. The director of job and family services may 100577
submit a request to the United States secretary of health and 100578
human services for approval to establish a centers of excellence 100579
component of the medicaid program. The purpose of the centers of 100580
excellence component is to increase the efficiency and quality of 100581
nursing facility services provided to medicaid recipients with 100582
complex nursing facility service needs. If federal approval for 100583
the centers of excellence component is granted, the director may 100584
adopt rules under section 5111.02 of the Revised Code governing 100585
the component, including rules that establish a method of 100586
determining the medicaid reimbursement rates for nursing 100587
facilities providing nursing facility services to medicaid 100588
recipients participating in the component. The rules may specify 100589
the extent to which, if any, of the provisions of section 5111.258 100590
of the Revised Code are to apply to the centers of excellence 100591
component. If such rules are adopted, the nursing facilities that 100592
provide nursing facility services to medicaid recipients 100593
participating in the centers of excellence component shall be paid 100594
for those services in accordance with the method established in 100595
the rules notwithstanding anything to the contrary in sections 100596
5111.20 to 5111.331 of the Revised Code. 100597

Sec. 5111.261. (A) Except as provided in division (B) of this 100598
section and not later than three years after a provider files a 100599

cost report with the department of job and family services under 100600
section 5111.26 of the Revised Code, the provider may amend the 100601
cost report if the provider discovers a material error in the cost 100602
report or additional information to be included in the cost 100603
report. The department shall review the amended cost report for 100604
accuracy and notify the provider of its determination. 100605

(B) A provider may not amend a cost report if the department 100606
has notified the provider that an audit of the cost report or a 100607
cost report of the provider for a subsequent cost reporting period 100608
is to be conducted under section 5111.27 of the Revised Code. The 100609
provider may, however, provide the department information that 100610
affects the costs included in the cost report. Such information 100611
may not be provided after the adjudication of the final settlement 100612
of the cost report. 100613

Sec. 5111.262. No person, other than the provider of a 100614
nursing facility, shall submit a claim for medicaid reimbursement 100615
for a service provided to a nursing facility resident if the 100616
service is included in a medicaid payment made to the provider of 100617
a nursing facility under sections 5111.20 to 5111.33 of the 100618
Revised Code or in the reimbursable expenses reported on a 100619
provider's cost report for a nursing facility. No provider of a 100620
nursing facility shall submit a separate claim for medicaid 100621
reimbursement for a service provided to a resident of the nursing 100622
facility if the service is included in a medicaid payment made to 100623
the provider under sections 5111.20 to ~~5111.33~~ 5111.331 of the 100624
Revised Code or in the reimbursable expenses on the provider's 100625
cost report for the nursing facility. 100626

Sec. ~~5111.261~~ 5111.263. Except as otherwise provided in 100627
section 5111.264 of the Revised Code, the department of job and 100628
family services, in determining whether an intermediate care 100629

facility for the mentally retarded's direct care costs and 100630
indirect care costs are allowable, shall place no limit on 100631
specific categories of reasonable costs other than compensation of 100632
owners, compensation of relatives of owners, and compensation of 100633
administrators. 100634

Compensation cost limits for owners and relatives of owners 100635
shall be based on compensation costs for individuals who hold 100636
comparable positions but who are not owners or relatives of 100637
owners, as reported on facility cost reports. As used in this 100638
section, "comparable position" means the position that is held by 100639
the owner or the owner's relative, if that position is listed 100640
separately on the cost report form, or if the position is not 100641
listed separately, the group of positions that is listed on the 100642
cost report form and that includes the position held by the owner 100643
or the owner's relative. In the case of an owner or owner's 100644
relative who serves the facility in a capacity such as corporate 100645
officer, proprietor, or partner for which no comparable position 100646
or group of positions is listed on the cost report form, the 100647
compensation cost limit shall be based on civil service 100648
equivalents and shall be specified in rules adopted under section 100649
5111.02 of the Revised Code. 100650

Compensation cost limits for administrators shall be based on 100651
compensation costs for administrators who are not owners or 100652
relatives of owners, as reported on facility cost reports. 100653
Compensation cost limits for administrators of four or more 100654
intermediate care facilities for the mentally retarded shall be 100655
the same as the limits for administrators of intermediate care 100656
facilities for the mentally retarded with one hundred fifty or 100657
more beds. 100658

Sec. 5111.27. (A) The department of job and family services 100659
shall conduct a desk review of each cost report it receives under 100660

section 5111.26 of the Revised Code. Based on the desk review, the 100661
department shall make a preliminary determination of whether the 100662
reported costs are allowable costs. The department shall notify 100663
each provider of whether any of the reported costs are 100664
preliminarily determined not to be allowable, the rate calculation 100665
under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code 100666
that results from that determination, and the reasons for the 100667
determination and resulting rate. The department shall allow the 100668
provider to verify the calculation and submit additional 100669
information. 100670

(B) The department may conduct an audit, as defined by rule 100671
adopted under section 5111.02 of the Revised Code, of any cost 100672
report ~~and shall notify the provider of its findings.~~ 100673

~~Audits shall be conducted by auditors under contract with or~~ 100674
~~employed by the department.~~ The decision whether to conduct an 100675
audit and the scope of the audit, which may be a desk or field 100676
audit, ~~shall~~ may be determined based on prior performance of the 100677
provider ~~and may be based on~~, a risk analysis, or other evidence 100678
that gives the department reason to believe that the provider has 100679
reported costs improperly. A desk or field audit may be performed 100680
annually, but is required whenever a provider does not pass the 100681
risk analysis tolerance factors. An audit shall be conducted by 100682
auditors under contract with or employed by the department. The 100683
department shall notify a provider of the findings of an audit by 100684
issuing an audit report. An audit report regarding a nursing 100685
facility shall include notice of any fine imposed under section 100686
5111.271 of the Revised Code. The department shall issue the audit 100687
report no later than three years after the cost report is filed, 100688
or upon the completion of a desk or field audit on the report or a 100689
report for a subsequent cost reporting period, whichever is 100690
earlier. ~~During the time within which the department may issue an~~ 100691
~~audit report, the provider may amend the cost report upon~~ 100692

~~discovery of a material error or material additional information.~~ 100693
~~The department shall review the amended cost report for accuracy~~ 100694
~~and notify the provider of its determination.~~ 100695

The department may establish a contract for the auditing of 100696
facilities by outside firms. Each contract entered into by bidding 100697
shall be effective for one to two years. The department shall 100698
establish an audit manual and program which shall require that all 100699
field audits, conducted either pursuant to a contract or by 100700
department employees: 100701

(1) Comply with the applicable rules prescribed pursuant to 100702
Titles XVIII and XIX; 100703

(2) Consider generally accepted auditing standards prescribed 100704
by the American institute of certified public accountants; 100705

(3) Include a written summary as to whether the costs 100706
included in the report examined during the audit are allowable and 100707
are presented fairly in accordance with ~~generally accepted~~ 100708
~~accounting principles and department rules~~ state and federal laws 100709
and regulations, and whether, in all material respects, allowable 100710
costs are documented, reasonable, and related to patient care; 100711

(4) Are conducted by accounting firms or auditors who, during 100712
the period of the auditors' professional engagement or employment 100713
and during the period covered by the cost reports, do not have nor 100714
are committed to acquire any direct or indirect financial interest 100715
in the ownership, financing, or operation of a nursing facility or 100716
intermediate care facility for the mentally retarded in this 100717
state; 100718

(5) Are conducted by accounting firms or auditors who, as a 100719
condition of the contract or employment, shall not audit any 100720
facility that has been a client of the firm or auditor; 100721

(6) Are conducted by auditors who are otherwise independent 100722
as determined by the standards of independence ~~established by~~ 100723

included in the American institute of certified public accountants 100724
government auditing standards produced by the United States 100725
government accountability office; 100726

(7) Are completed within the time period specified by the 100727
department; 100728

(8) Provide to the provider complete written interpretations 100729
that explain in detail the application of all relevant contract 100730
provisions, regulations, auditing standards, rate formulae, and 100731
departmental policies, with explanations and examples, that are 100732
sufficient to permit the provider to calculate with reasonable 100733
certainty those costs that are allowable and the rate to which the 100734
provider's facility is entitled. 100735

For the purposes of division (B)(4) of this section, 100736
employment of a member of an auditor's family by a nursing 100737
facility or intermediate care facility for the mentally retarded 100738
that the auditor does not review does not constitute a direct or 100739
indirect financial interest in the ownership, financing, or 100740
operation of the facility. 100741

(C) The department, pursuant to rules adopted under section 100742
5111.02 of the Revised Code, may conduct an exception review of 100743
assessment data submitted under section 5111.232 of the Revised 100744
Code. The department may conduct an exception review based on the 100745
findings of a certification survey conducted by the department of 100746
health, a risk analysis, or prior performance of the provider. 100747

Exception reviews shall be conducted at the facility by 100748
appropriate health professionals under contract with or employed 100749
by the department of job and family services. The professionals 100750
may review resident assessment forms and supporting documentation, 100751
conduct interviews, and observe residents to identify any patterns 100752
or trends of inaccurate assessments and resulting inaccurate 100753
case-mix scores. 100754

The rules shall establish an exception review program that requires that exception reviews do all of the following:

- (1) Comply with Titles XVIII and XIX;
- (2) Provide a written summary that states whether the resident assessment forms have been completed accurately;
- (3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;
- (4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any 100786
audit disallowance or exception review finding that is made after 100787
the effective date of the rate that is based on the cost or 100788
case-mix data. Where the provider is pursuing judicial or 100789
administrative remedies in good faith regarding the disallowance 100790
or finding, the department shall not withhold from the provider's 100791
current payments any amounts the department claims to be due from 100792
the provider pursuant to section 5111.28 of the Revised Code. 100793

(E) The department shall not reduce rates calculated under 100794
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code on the 100795
basis that the provider charges a lower rate to any resident who 100796
is not eligible for the medicaid program. 100797

(F) The department shall adjust the rates calculated under 100798
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code to 100799
account for reasonable additional costs that must be incurred by 100800
intermediate care facilities for the mentally retarded to comply 100801
with requirements of federal or state statutes, rules, or policies 100802
enacted or amended after January 1, 1992, or with orders issued by 100803
state or local fire authorities. 100804

Sec. 5111.271. (A) Subject to division (D) of this section, 100805
the department of job and family services shall fine the provider 100806
of a nursing facility if the report of an audit conducted under 100807
division (B) of section 5111.27 of the Revised Code regarding a 100808
cost report for the nursing facility includes either of the 100809
following: 100810

(1) Adverse findings that exceed three per cent of the total 100811
amount of medicaid-reimbursable costs reported in the cost report; 100812

(2) Adverse findings that exceed twenty per cent of 100813
medicaid-reimbursable costs for a particular cost center reported 100814
in the cost report. 100815

(B) A fine issued under this section shall equal the greatest 100816
of the following: 100817

(1) If the adverse findings exceed three per cent but do not 100818
exceed ten per cent of the total amount of medicaid-reimbursable 100819
costs reported in the cost report, the greater of three per cent 100820
of those reported costs or ten thousand dollars; 100821

(2) If the adverse findings exceed ten per cent but do not 100822
exceed twenty per cent of the total amount of 100823
medicaid-reimbursable costs reported in the cost report, the 100824
greater of six per cent of those reported costs or twenty-five 100825
thousand dollars; 100826

(3) If the adverse findings exceed twenty per cent of the 100827
total amount of medicaid-reimbursable costs reported in the cost 100828
report, the greater of ten per cent of those reported costs or 100829
fifty thousand dollars; 100830

(4) If the adverse findings exceed twenty per cent but do not 100831
exceed twenty-five per cent of medicaid-reimbursable costs for a 100832
particular cost center reported in the cost report, the greater of 100833
three per cent of the total amount of medicaid-reimbursable costs 100834
reported in the cost report or ten thousand dollars; 100835

(5) If the adverse findings exceed twenty-five per cent but 100836
do not exceed thirty per cent of medicaid-reimbursable costs for a 100837
particular cost center reported in the cost report, the greater of 100838
six per cent of the total amount of medicaid-reimbursable costs 100839
reported in the cost report or twenty-five thousand dollars; 100840

(6) If the adverse findings exceed thirty per cent of 100841
medicaid-reimbursable costs for a particular cost center reported 100842
in the cost report, the greater of ten per cent of the total 100843
amount of medicaid-reimbursable costs reported in the cost report 100844
or fifty thousand dollars. 100845

(C) Fines paid under this section shall be deposited into the 100846

health care services administration fund created under section 100847
5111.94 of the Revised Code. 100848

(D) The department may not collect a fine under this section 100849
until all appeal rights relating to the audit report that is the 100850
basis for the fine are exhausted. 100851

Sec. 5111.28. (A) If a provider properly amends its cost 100852
report under section ~~5111.27~~ 5111.261 of the Revised Code and the 100853
amended report shows that the provider received a lower rate under 100854
the original cost report than it was entitled to receive, the 100855
department of job and family services shall adjust the provider's 100856
rate prospectively to reflect the corrected information. The 100857
department shall pay the adjusted rate beginning two months after 100858
the first day of the month after the provider files the amended 100859
cost report. If the department finds, from an exception review of 100860
resident assessment information conducted after the effective date 100861
of the rate for direct care costs that is based on the assessment 100862
information, that inaccurate assessment information resulted in 100863
the provider receiving a lower rate than it was entitled to 100864
receive, the department prospectively shall adjust the provider's 100865
rate accordingly and shall make payments using the adjusted rate 100866
for the remainder of the calendar quarter for which the assessment 100867
information is used to determine the rate, beginning one month 100868
after the first day of the month after the exception review is 100869
completed. 100870

(B) If the provider properly amends its cost report under 100871
section ~~5111.27~~ 5111.261 of the Revised Code, the department makes 100872
a finding based on an audit under ~~that~~ section 5111.27 of the 100873
Revised Code, or the department makes a finding based on an 100874
exception review of resident assessment information conducted 100875
under ~~that~~ section 5111.27 of the Revised Code after the effective 100876
date of the rate for direct care costs that is based on the 100877

assessment information, any of which results in a determination 100878
that the provider has received a higher rate than it was entitled 100879
to receive, the department shall recalculate the provider's rate 100880
using the revised information. The department shall apply the 100881
recalculated rate to the periods when the provider received the 100882
incorrect rate to determine the amount of the overpayment. The 100883
provider shall refund the amount of the overpayment. 100884

In addition to requiring a refund under this division, the 100885
department may charge the provider interest at the applicable rate 100886
specified in this division from the time the overpayment was made. 100887

(1) If the overpayment resulted from costs reported for 100888
calendar year 1993, the interest shall be no greater than one and 100889
one-half times the average bank prime rate. 100890

(2) If the overpayment resulted from costs reported for 100891
subsequent calendar years: 100892

(a) The interest shall be no greater than two times the 100893
average bank prime rate if the overpayment was equal to or less 100894
than one per cent of the total medicaid payments to the provider 100895
for the fiscal year for which the incorrect information was used 100896
to establish a rate. 100897

(b) The interest shall be no greater than two and one-half 100898
times the current average bank prime rate if the overpayment was 100899
greater than one per cent of the total medicaid payments to the 100900
provider for the fiscal year for which the incorrect information 100901
was used to establish a rate. 100902

(C) The department also may impose the following penalties: 100903

(1) If a provider does not furnish invoices or other 100904
documentation that the department requests during an audit within 100905
sixty days after the request, no more than the greater of one 100906
thousand dollars per audit or twenty-five per cent of the 100907
cumulative amount by which the costs for which documentation was 100908

not furnished increased the total medicaid payments to the 100909
provider during the fiscal year for which the costs were used to 100910
establish a rate; 100911

(2) If an exiting operator or owner fails to provide notice 100912
of a facility closure, voluntary termination, or voluntary 100913
withdrawal of participation in the medicaid program as required by 100914
section 5111.66 of the Revised Code, or an exiting operator or 100915
owner and entering operator fail to provide notice of a change of 100916
operator as required by section 5111.67 of the Revised Code, no 100917
more than the current average bank prime rate plus four per cent 100918
of the last two monthly payments. 100919

(D) If the provider continues to participate in the medicaid 100920
program, the department shall deduct any amount that the provider 100921
is required to refund under this section, and the amount of any 100922
interest charged or penalty imposed under this section, from the 100923
next available payment from the department to the provider. The 100924
department and the provider may enter into an agreement under 100925
which the amount, together with interest, is deducted in 100926
installments from payments from the department to the provider. 100927

(E) The department shall transmit refunds and penalties to 100928
the treasurer of state for deposit in the general revenue fund. 100929

(F) For the purpose of this section, the department shall 100930
determine the average bank prime rate using statistical release 100931
H.15, "selected interest rates," a weekly publication of the 100932
federal reserve board, or any successor publication. If 100933
statistical release H.15, or its successor, ceases to contain the 100934
bank prime rate information or ceases to be published, the 100935
department shall request a written statement of the average bank 100936
prime rate from the federal reserve bank of Cleveland or the 100937
federal reserve board. 100938

Sec. 5111.29. (A) The director of job and family services 100939

shall adopt rules under section 5111.02 of the Revised Code that 100940
establish a process under which a provider, or a group or 100941
association of providers, may seek reconsideration of rates 100942
established under sections 5111.20 to ~~5111.33~~ 5111.331 of the 100943
Revised Code, including a rate for direct care costs recalculated 100944
before the effective date of the rate as a result of an exception 100945
review of resident assessment information conducted under section 100946
5111.27 of the Revised Code. 100947

(1) Except as provided in divisions (A)(2) to (4) of this 100948
section, the only issue that a provider, group, or association may 100949
raise in the rate reconsideration shall be whether the rate was 100950
calculated in accordance with sections 5111.20 to ~~5111.33~~ 5111.331 100951
of the Revised Code and the rules adopted under section 5111.02 of 100952
the Revised Code. The rules shall permit a provider, group, or 100953
association to submit written arguments or other materials that 100954
support its position. The rules shall specify time frames within 100955
which the provider, group, or association and the department must 100956
act. If the department determines, as a result of the rate 100957
reconsideration, that the rate established for one or more 100958
facilities of a provider is less than the rate to which the 100959
facility is entitled, the department shall increase the rate. If 100960
the department has paid the incorrect rate for a period of time, 100961
the department shall pay the provider the difference between the 100962
amount the provider was paid for that period for the facility and 100963
the amount the provider should have been paid for the facility. 100964

(2) The rules shall provide that during a fiscal year, the 100965
department, by means of the rate reconsideration process, may 100966
increase the rate determined for an intermediate care facility for 100967
the mentally retarded as calculated under sections 5111.20 to 100968
~~5111.33~~ 5111.331 of the Revised Code if the provider of the 100969
facility demonstrates that the facility's actual, allowable costs 100970
have increased because of extreme circumstances. A facility may 100971

qualify for a rate increase only if the facility's per diem, 100972
actual, allowable costs have increased to a level that exceeds its 100973
total rate. The rules shall specify the circumstances that would 100974
justify a rate increase under division (A)(2) of this section. The 100975
rules shall provide that the extreme circumstances include natural 100976
disasters, renovations approved under division (D) of section 100977
5111.251 of the Revised Code, an increase in workers' compensation 100978
experience rating of greater than five per cent for a facility 100979
that has an appropriate claims management program, increased 100980
security costs for an inner-city facility, and a change of 100981
ownership that results from bankruptcy, foreclosure, or findings 100982
of violations of certification requirements by the department of 100983
health. An increase under division (A)(2) of this section is 100984
subject to any rate limitations or maximum rates established by 100985
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for 100986
specific cost centers. Any rate increase granted under division 100987
(A)(2) of this section shall take effect on the first day of the 100988
first month after the department receives the request. 100989

(3) The rules shall provide that the department, through the 100990
rate reconsideration process, may increase an intermediate care 100991
facility for the mentally retarded's rate as calculated under 100992
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the 100993
department, in the department's sole discretion, determines that 100994
the rate as calculated under those sections works an extreme 100995
hardship on the facility. 100996

(4) The rules shall provide that when beds certified for the 100997
medicaid program are added to an existing intermediate care 100998
facility for the mentally retarded or replaced at the same site, 100999
the department, through the rate reconsideration process, shall 101000
increase the intermediate care facility for the mentally 101001
retarded's rate for capital costs proportionately, as limited by 101002
any applicable limitation under section 5111.251 of the Revised 101003

Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;

(2) Any adverse finding that results from an exception review

of resident assessment information conducted under section 5111.27 101035
of the Revised Code after the effective date of the facility's 101036
rate that is based on the assessment information; 101037

(3) Any medicaid payment deemed an overpayment under section 101038
5111.683 of the Revised Code; 101039

(4) Any penalty the department imposes under division (C) of 101040
section 5111.28 of the Revised Code or section 5111.683 of the 101041
Revised Code. 101042

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.33~~ 101043
5111.331 of the Revised Code, the department of job and family 101044
services may compute the rate for intermediate care facilities for 101045
the mentally retarded operated by the department of developmental 101046
disabilities or the department of mental health according to the 101047
reasonable cost principles of Title XVIII. 101048

Sec. 5111.33. Reimbursement to a provider of an intermediate 101049
care facility for the mentally retarded under sections 5111.20 to 101050
~~5111.32~~ 5111.331 of the Revised Code shall include payments to the 101051
provider, at a rate equal to the percentage of the per resident 101052
per day rates that the department of job and family services has 101053
established for the provider's ~~nursing facility or intermediate~~ 101054
~~care facility for the mentally retarded~~ under sections 5111.20 to 101055
~~5111.33~~ 5111.331 of the Revised Code for the fiscal year for which 101056
the cost of services is reimbursed, to reserve a bed for a 101057
recipient during a temporary absence under conditions prescribed 101058
by the department, to include hospitalization for an acute 101059
condition, visits with relatives and friends, and participation in 101060
therapeutic programs outside the facility, when the resident's 101061
plan of care provides for such absence and federal participation 101062
in the payments is available. The maximum period during which 101063
payments may be made to reserve a bed shall not exceed the maximum 101064

period specified under federal regulations, and shall not be more 101065
than thirty days during any calendar year for hospital stays, 101066
visits with relatives and friends, and participation in 101067
therapeutic programs. 101068

~~Recipients who have been identified by the department as~~ 101069
~~requiring the level of care of an intermediate care facility for~~ 101070
~~the mentally retarded~~ shall not be subject to a maximum period 101071
during which payments may be made to reserve a bed in an 101072
intermediate care facility for the mentally retarded if prior 101073
authorization of the department is obtained for hospital stays, 101074
visits with relatives and friends, and participation in 101075
therapeutic programs. The director of job and family services 101076
shall adopt rules under section 5111.02 of the Revised Code 101077
establishing conditions under which prior authorization may be 101078
obtained. 101079

Sec. 5111.331. (A) The department of job and family services 101080
may make payments to a provider of a nursing facility under 101081
sections 5111.20 to 5111.331 of the Revised Code to reserve a bed 101082
for a recipient during a temporary absence under conditions 101083
prescribed by the department, to include hospitalization for an 101084
acute condition, visits with relatives and friends, and 101085
participation in therapeutic programs outside the facility, when 101086
the resident's plan of care provides for such absence and federal 101087
participation in the payments is available. 101088

(B) The maximum period for which payments may be made to 101089
reserve a bed in a nursing facility shall not exceed thirty days 101090
in a calendar year. 101091

(C) The department shall establish the per diem rates to be 101092
paid to providers of nursing facilities for reserving beds under 101093
this section. In establishing the per diem rates, the department 101094
shall do the following: 101095

(1) In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day; 101096
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(2) In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem rate at an amount equal to the following: 101101
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(a) In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding ninety-five per cent, an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day; 101104
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(b) In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding ninety-five per cent, an amount not exceeding eighteen per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day. 101109
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Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations issued under those subsections. 101114
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As used in sections 5111.35 to 5111.62 of the Revised Code: 101120

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act." 101121
101122
101123

(B) "Compliance" means substantially meeting all applicable certification requirements. 101124
101125

(C) "Contracting agency" means a state agency that has entered into a contract with the department of job and family services under section 5111.38 of the Revised Code.	101126 101127 101128
(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.	101129 101130 101131 101132 101133 101134 101135 101136 101137 101138
(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.	101139 101140 101141 101142
(E) "Emergency" means either of the following:	101143
(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;	101144 101145
(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following:	101146 101147 101148 101149
(a) A flood or other natural disaster, civil disaster, or similar event;	101150 101151
(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care.	101152 101153 101154
(F) "Finding" means a finding of noncompliance with	101155

certification requirements determined by the department of health 101156
under section 5111.41 of the Revised Code. 101157

(G) "Immediate jeopardy" means that one or more residents of 101158
a nursing facility are in imminent danger of serious physical or 101159
life-threatening harm. 101160

(H) "Medicaid eligible resident" means a person who is a 101161
resident of a nursing facility, or is applying for admission to a 101162
nursing facility, and is eligible to receive financial assistance 101163
under the medical assistance program for the care the person 101164
receives in such a facility. 101165

(I) "Noncompliance" means failure to substantially meet all 101166
applicable certification requirements. 101167

(J) "Nursing facility" has the same meaning as in section 101168
5111.20 of the Revised Code. 101169

(K) "Provider" means a person, institution, or entity that 101170
furnishes nursing facility services under a medical assistance 101171
program provider agreement. 101172

(L) "Provider agreement" means a contract between the 101173
department of job and family services and a provider for the 101174
provision of nursing facility services under the medicaid program. 101175

(M) "Repeat finding" or "repeat deficiency" means a finding 101176
or deficiency cited pursuant to a survey, to which both of the 101177
following apply: 101178

(1) The finding or deficiency involves noncompliance with the 101179
same certification requirement, and the same kind of actions, 101180
practices, situations, or incidents caused by or resulting from 101181
the noncompliance, as were cited in the immediately preceding 101182
standard survey or another survey conducted subsequent to the 101183
immediately preceding standard survey of the facility. For 101184
purposes of this division, actions, practices, situations, or 101185

incidents may be of the same kind even though they involve 101186
different residents, staff, or parts of the facility. 101187

(2) The finding or deficiency is cited subsequent to a 101188
determination by the department of health that the finding or 101189
deficiency cited on the immediately preceding standard survey, or 101190
another survey conducted subsequent to the immediately preceding 101191
standard survey, had been corrected. 101192

~~(M)~~(N)(1) "Scope level one finding" means a finding of 101193
noncompliance by a nursing facility in which the actions, 101194
situations, practices, or incidents causing or resulting from the 101195
noncompliance affect one or a very limited number of facility 101196
residents and involve one or a very limited number of facility 101197
staff members. 101198

(2) "Scope level two finding" means a finding of 101199
noncompliance by a nursing facility in which the actions, 101200
situations, practices, or incidents causing or resulting from the 101201
noncompliance affect more than a limited number of facility 101202
residents or involve more than a limited number of facility staff 101203
members, but the number or percentage of facility residents 101204
affected or staff members involved and the number or frequency of 101205
the actions, situations, practices, or incidents in short 101206
succession does not establish any reasonable degree of 101207
predictability of similar actions, situations, practices, or 101208
incidents occurring in the future. 101209

(3) "Scope level three finding" means a finding of 101210
noncompliance by a nursing facility in which the actions, 101211
situations, practices, or incidents causing or resulting from the 101212
noncompliance affect more than a limited number of facility 101213
residents or involve more than a limited number of facility staff 101214
members, and the number or percentage of facility residents 101215
affected or staff members involved or the number or frequency of 101216
the actions, situations, practices, or incidents in short 101217

succession establishes a reasonable degree of predictability of 101218
similar actions, situations, practices, or incidents occurring in 101219
the future. 101220

(4) "Scope level four finding" means a finding of 101221
noncompliance by a nursing facility causing or resulting from 101222
actions, situations, practices, or incidents that involve a 101223
sufficient number or percentage of facility residents or staff 101224
members or occur with sufficient regularity over time that the 101225
noncompliance can be considered systemic or pervasive in the 101226
facility. 101227

~~(N)~~(O)(1) "Severity level one finding" means a finding of 101228
noncompliance by a nursing facility that has not caused and, if 101229
continued, is unlikely to cause physical harm to a facility 101230
resident, mental or emotional harm to a resident, or a violation 101231
of a resident's rights that results in physical, mental, or 101232
emotional harm to the resident. 101233

(2) "Severity level two finding" means a finding of 101234
noncompliance by a nursing facility that, if continued over time, 101235
will cause, or is likely to cause, physical harm to a facility 101236
resident, mental or emotional harm to a resident, or a violation 101237
of a resident's rights that results in physical, mental, or 101238
emotional harm to the resident. 101239

(3) "Severity level three finding" means a finding of 101240
noncompliance by a nursing facility that has caused physical harm 101241
to a facility resident, mental or emotional harm to a resident, or 101242
a violation of a resident's rights that results in physical, 101243
mental, or emotional harm to the resident. 101244

(4) "Severity level four finding" means a finding of 101245
noncompliance by a nursing facility that has caused 101246
life-threatening harm to a facility resident or caused a 101247
resident's death. 101248

~~(O)~~(P) "State agency" has the same meaning as in section 1.60 of the Revised Code. 101249
101250

~~(P)~~(Q) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute one of the following: 101251
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101253

(1) A severity level four finding, regardless of scope; 101254

(2) A severity level three and scope level four finding, in the quality of care provided to residents; 101255
101256

(3) A severity level three and scope level three finding, in the quality of care provided to residents. 101257
101258

~~(Q)~~(R)(1) "Survey" means a survey of a nursing facility conducted under section 5111.39 of the Revised Code. 101259
101260

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section 5111.39 of the Revised Code and includes an extended survey. 101261
101262
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(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey. 101264
101265
101266

Sec. 5111.511. (A) If the department of job and family services determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the department determines are appropriate to ensure the health, safety, and welfare of the residents. 101267
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(B) A temporary resident safety assurance manager appointed under this section is vested with the authority necessary to take actions the department of job and family services determines are 101276
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<u>appropriate to ensure the health, safety, and welfare of the</u>	101279
<u>residents.</u>	101280
<u>(C) A temporary resident safety assurance manager appointed</u>	101281
<u>under this section may use any of the following funds to pay for</u>	101282
<u>costs the manager incurs on behalf of the nursing facility:</u>	101283
<u>(1) Medicaid payments made in accordance with the provider</u>	101284
<u>agreement for the nursing facility;</u>	101285
<u>(2) Funds from the residents protection fund that the</u>	101286
<u>department provides the manager under section 5111.62 of the</u>	101287
<u>Revised Code;</u>	101288
<u>(3) Other funds the department determines are appropriate if</u>	101289
<u>such use of the funds is consistent with the appropriations that</u>	101290
<u>authorize the use of the funds and all other state and federal</u>	101291
<u>laws governing the use of the funds.</u>	101292
<u>(D) The provider is liable to the department for the amount</u>	101293
<u>of any payments the department makes to the temporary resident</u>	101294
<u>safety assurance manager, other than payments specified in</u>	101295
<u>division (C)(1) of this section. The department may recover the</u>	101296
<u>amount the provider owes the department by doing any of the</u>	101297
<u>following:</u>	101298
<u>(1) Offsetting medicaid payments made to the provider in</u>	101299
<u>accordance with the provider agreement;</u>	101300
<u>(2) Placing a lien on any of the provider's real and personal</u>	101301
<u>property;</u>	101302
<u>(3) Initiating other collection actions.</u>	101303
<u>(E) No action the department takes under this section is</u>	101304
<u>subject to appeal under Chapter 119. of the Revised Code.</u>	101305
<u>(F) In rules adopted under section 5111.36 of the Revised</u>	101306
<u>Code, the director of job and family services may establish all of</u>	101307
<u>the following:</u>	101308

<u>(1) Qualifications persons must meet to be appointed</u>	101309
<u>temporary resident safety assurance managers under this section;</u>	101310
<u>(2) Procedures for maintaining a list of qualified temporary</u>	101311
<u>resident safety assurance managers;</u>	101312
<u>(3) Procedures consistent with federal law for paying for the</u>	101313
<u>services of temporary resident safety assurance managers;</u>	101314
<u>(4) Accounting and reporting requirements for temporary</u>	101315
<u>resident safety assurance managers;</u>	101316
<u>(5) Other procedures and requirements the director determines</u>	101317
<u>are necessary to implement this section.</u>	101318
Sec. 5111.52. (A) As used in this section:	101319
(1) "Provider agreement" means a contract between the	101320
department of job and family services and a nursing facility for	101321
the provision of nursing facility services under the medical	101322
assistance program.	101323
(2) "Terminating", "terminating" includes not renewing.	101324
(B) A nursing facility's participation in the medical	101325
assistance program shall be terminated under sections 5111.35 to	101326
5111.62 of the Revised Code as follows:	101327
(1) If the department of job and family services is	101328
terminating the facility's participation, it shall issue an order	101329
terminating the facility's provider agreement.	101330
(2) If the department of health, acting as a contracting	101331
agency, is terminating the facility's participation, it shall	101332
issue an order terminating certification of the facility's	101333
compliance with certification requirements. When the department of	101334
health terminates certification, the department of job and family	101335
services shall terminate the facility's provider agreement. The	101336
department of job and family services is not required to provide	101337

an adjudication hearing when it terminates a provider agreement 101338
following termination of certification by the department of 101339
health. 101340

(3) If a state agency other than the department of health, 101341
acting as a contracting agency, is terminating the facility's 101342
participation, it shall notify the department of job and family 101343
services, and the department of job and family services shall 101344
issue an order terminating the facility's provider agreement. The 101345
contracting agency shall conduct any administrative proceedings 101346
concerning the order. 101347

(C) If the following conditions are met, the department of 101348
job and family services may make medical assistance payments to a 101349
nursing facility for a period not exceeding thirty days after the 101350
effective date of termination under sections 5111.35 to 5111.62 of 101351
the Revised Code of the facility's participation in the medical 101352
assistance program: 101353

(1) The payments are for medicaid eligible residents admitted 101354
to the facility prior to the effective date of the termination; 101355

(2) The provider is making reasonable efforts to transfer 101356
medicaid eligible residents to other care settings. 101357

The period during which payments may be made under this 101358
division begins on the later of the effective date of the 101359
termination or, if the facility has appealed a termination order, 101360
the date of issuance of the adjudication order upholding 101361
termination. 101362

Sec. 5111.54. (A) A temporary manager of a nursing facility 101363
appointed by the department of job and family services or a 101364
contracting agency under sections 5111.35 to 5111.62 of the 101365
Revised Code shall meet all of the following qualifications: 101366

(1) Be licensed as a nursing home administrator under Chapter 101367

4751. of the Revised Code; 101368

(2) Have demonstrated competence as a nursing home administrator; 101369
101370

(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state. 101371
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101373

(B) The salary of a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility and set by the department of job and family services or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medical assistance program. The extent to which this compensation is allowable under the medical assistance program is subject to and limited by this chapter and rules of the department. 101374
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Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility. The allowability of these costs under the medical assistance program shall be subject to and governed by this chapter and the rules of the department. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under rules of the department. 101384
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(C) No temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from either 101393
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the provider or the court. 101399

(D)(1) A temporary manager appointed for a nursing facility 101400
under section 5111.46 of the Revised Code is hereby vested, 101401
subject to division (C) of this section, with the legal authority 101402
necessary to correct any deficiency or cluster of deficiencies at 101403
a facility, bring the facility into compliance with certification 101404
requirements, and otherwise ensure the health and safety of the 101405
residents. 101406

(2) A temporary manager appointed under section 5111.51 of 101407
the Revised Code is hereby vested, subject to division (C) of this 101408
section, with the authority necessary to eliminate the emergency, 101409
bring the facility into compliance with certification 101410
requirements, and otherwise ensure the health and safety of the 101411
residents. 101412

(3) A temporary manager appointed under section 5111.53 of 101413
the Revised Code is hereby vested, subject to division (C) of this 101414
section, with the authority necessary to ensure the transfer of 101415
medicaid eligible residents to other appropriate care settings 101416
and, if applicable, the orderly closure of the facility, and to 101417
otherwise ensure the health and safety of the residents. 101418

(E) Prior to acting under division (A)(1)(b) or (2)(b) of 101419
section 5111.46 of the Revised Code to appoint a temporary manager 101420
or apply for a special master, the department of job and family 101421
services or contracting agency shall order the facility to 101422
substantially correct the deficiency or deficiencies within five 101423
days after receiving the statement and inform the facility, in the 101424
statement it provides pursuant to division (B) of section 5111.49 101425
of the Revised Code, of the order and that it will not take that 101426
action unless the facility fails to substantially correct the 101427
deficiency or deficiencies within that five-day period. At the end 101428
of the five-day period, the department of health shall conduct a 101429
follow-up survey that focuses on the deficiency or deficiencies. 101430

If the department of health determines that the facility has 101431
substantially corrected the deficiency or deficiencies within that 101432
time, the department of job and family services or contracting 101433
agency shall not appoint a temporary manager or apply for a 101434
special master. If the department of health determines that the 101435
facility has failed to substantially correct the deficiency or 101436
deficiencies within that time, the department of job and family 101437
services or contracting agency may proceed with appointment of the 101438
temporary manager or application for a special master. Until the 101439
statement required under division (B) of section 5111.49 of the 101440
Revised Code is actually delivered, no action taken by the 101441
department or agency to appoint a temporary manager or apply for a 101442
temporary manager under division (A)(1)(b) or (2)(b) of section 101443
5111.46 of the Revised Code shall have any legal effect. No action 101444
taken by a facility under this division to substantially correct a 101445
deficiency or deficiencies shall be considered an admission by the 101446
facility of the existence of a deficiency or deficiencies. 101447

(F) Appointment of a temporary manager under division 101448
(A)(1)(b) or (2)(b) of section 5111.46 or division (A)(1)(d) of 101449
section 5111.51 of the Revised Code shall expire at the end of the 101450
seventh day following the appointment. If the department of job 101451
and family services or contracting agency finds that the 101452
deficiency or deficiencies that prompted the appointment under 101453
division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised 101454
Code cannot be substantially corrected, or the condition of 101455
immediate jeopardy that prompted the appointment under division 101456
(A)(1)(d) of section 5111.51 of the Revised Code cannot be 101457
eliminated, prior to the expiration of the appointment, it may 101458
take one of the following actions: 101459

(1) Appoint, subject to the continuing consent of the 101460
provider, a temporary manager for the facility; 101461

(2) Apply to the common pleas court of the county in which 101462

the facility is located for an order appointing a special master 101463
who, under the authority and direct supervision of the court and 101464
subject to divisions (B) and (C) of this section, may take such 101465
additional actions as are necessary to correct the deficiency or 101466
deficiencies or eliminate the condition of immediate jeopardy and 101467
bring the facility into compliance with certification 101468
requirements. 101469

(G) The court, on finding that the deficiency or deficiencies 101470
for which a special master was appointed under division (F)(2) of 101471
this section or division (A)(1)(b) or (2)(b) of section 5111.46 of 101472
the Revised Code has been substantially corrected, or the 101473
emergency for which a special master was appointed under division 101474
(F)(2) of this section or division (A)(1)(b) or (B)(2) of section 101475
5111.51 of the Revised Code has been eliminated, that the facility 101476
has been brought into compliance with certification requirements, 101477
and that the provider has established the management capability to 101478
ensure continued compliance with the certification requirements, 101479
shall immediately terminate its jurisdiction over the facility and 101480
return control and management of the facility to the provider. If 101481
the deficiency or deficiencies cannot be substantially corrected, 101482
or the emergency cannot be eliminated practicably within a 101483
reasonable time following appointment of the special master, the 101484
court may order the special master to close the facility and 101485
transfer all residents to other nursing facilities or other 101486
appropriate care settings. 101487

(H) This section does not apply to temporary resident safety 101488
assurance managers appointed under section 5111.511 of the Revised 101489
Code. 101490

Sec. 5111.62. The proceeds of all fines, including interest, 101491
collected under sections 5111.35 to 5111.62 of the Revised Code 101492
shall be deposited in the state treasury to the credit of the 101493

residents protection fund, which is hereby created. The proceeds 101494
of all fines, including interest, collected under section 173.42 101495
of the Revised Code shall be deposited in the state treasury to 101496
the credit of the residents protection fund. 101497

~~Moneys~~ Money in the fund shall be used for the protection of 101498
the health or property of residents of nursing facilities in which 101499
the department of health finds deficiencies, including payment for 101500
the costs of relocation of residents to other facilities, 101501
maintenance of operation of a facility pending correction of 101502
deficiencies or closure, and reimbursement of residents for the 101503
loss of money managed by the facility under section 3721.15 of the 101504
Revised Code. Money in the fund may also be used to make payments 101505
under section 5111.511 of the Revised Code. 101506

The fund shall be maintained and administered by the 101507
department of job and family services under rules developed in 101508
consultation with the departments of health and aging and adopted 101509
by the director of job and family services under Chapter 119. of 101510
the Revised Code. 101511

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the 101512
Revised Code: 101513

(A) "Affiliated operator" means an operator affiliated with 101514
either of the following: 101515

(1) The exiting operator for whom the affiliated operator is 101516
to assume liability for the entire amount of the exiting 101517
operator's debt under the medicaid program or the portion of the 101518
debt that represents the franchise permit fee the exiting operator 101519
owes; 101520

(2) The entering operator involved in the change of operator 101521
with the exiting operator specified in division (A)(1) of this 101522
section. 101523

(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing facility or

intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(D) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(E) "Effective date of an involuntary termination" means the following:

(1) In the context of a nursing facility, the date the department of job and family services terminates the operator's provider agreement for the nursing facility;

(2) In the context of an intermediate care facility for the mentally retarded, the date the department terminates the operator's provider agreement for the facility or the last day that such a provider agreement is in effect when the department cancels or refuses to renew it.

(F) "Effective date of a voluntary termination" means the day

the intermediate care facility for the mentally retarded ceases to 101584
accept medicaid patients. 101585

~~(F)~~(G) "Effective date of a voluntary withdrawal of 101586
participation" means the day the nursing facility ceases to accept 101587
new medicaid patients other than the individuals who reside in the 101588
nursing facility on the day before the effective date of the 101589
voluntary withdrawal of participation. 101590

~~(G)~~(H) "Entering operator" means the person or government 101591
entity that will become the operator of a nursing facility or 101592
intermediate care facility for the mentally retarded when a change 101593
of operator occurs or following an involuntary termination. 101594

~~(H)~~(I) "Exiting operator" means any of the following: 101595

(1) An operator that will cease to be the operator of a 101596
nursing facility or intermediate care facility for the mentally 101597
retarded on the effective date of a change of operator; 101598

(2) An operator that will cease to be the operator of a 101599
nursing facility or intermediate care facility for the mentally 101600
retarded on the effective date of a facility closure; 101601

(3) An operator of an intermediate care facility for the 101602
mentally retarded that is undergoing or has undergone a voluntary 101603
termination; 101604

(4) An operator of a nursing facility that is undergoing or 101605
has undergone a voluntary withdrawal of participation; 101606

(5) An operator of a nursing facility or intermediate care 101607
facility for the mentally retarded that is undergoing or has 101608
undergone an involuntary termination. 101609

~~(I)~~(J)(1) "Facility Subject to divisions (J)(2) and (3) of 101610
this section, "facility closure" means discontinuance either of 101611
the following: 101612

(a) Discontinuance of the use of the building, or part of the 101613

building, that houses the facility as a nursing facility or 101614
intermediate care facility for the mentally retarded that results 101615
in the relocation of all of the facility's residents; 101616

(b) Conversion of the building, or part of the building, that 101617
houses a nursing facility or intermediate care facility for the 101618
mentally retarded to a different use with any necessary license or 101619
other approval needed for that use being obtained and one or more 101620
of the facility's residents remaining in the facility to receive 101621
services under the new use. A 101622

(2) A facility closure occurs regardless of any of the 101623
following: 101624

(a) The operator completely or partially replacing the 101625
facility by constructing a new facility or transferring the 101626
facility's license to another facility; 101627

(b) The facility's residents relocating to another of the 101628
operator's facilities; 101629

(c) Any action the department of health takes regarding the 101630
facility's certification under Title XIX of the "Social Security 101631
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may 101632
result in the transfer of part of the facility's survey findings 101633
to another of the operator's facilities; 101634

(d) Any action the department of health takes regarding the 101635
facility's license under Chapter 3721. of the Revised Code; 101636

(e) Any action the department of developmental disabilities 101637
takes regarding the facility's license under section 5123.19 of 101638
the Revised Code. 101639

~~(2)~~(3) A facility closure does not occur if all of the 101640
facility's residents are relocated due to an emergency evacuation 101641
and one or more of the residents return to a medicaid-certified 101642
bed in the facility not later than thirty days after the 101643

evacuation occurs. 101644

~~(J)~~(K) "Fiscal year," "franchise permit fee," "intermediate 101645
care facility for the mentally retarded," "nursing facility," 101646
"operator," "owner," and "provider agreement" have the same 101647
meanings as in section 5111.20 of the Revised Code. 101648

~~(K)~~(L) "Involuntary termination" means the following: 101649

(1) In the context of a nursing facility, the department of 101650
job and family services' termination of the operator's provider 101651
agreement for the nursing facility when the termination is not 101652
taken at the operator's request; 101653

(2) In the context of an intermediate care facility for the 101654
mentally retarded, the department's termination of, cancellation 101655
of, or refusal to renew the operator's provider agreement for the 101656
facility when such action is not taken at the operator's request. 101657

(M) "Voluntary termination" means an operator's voluntary 101658
election to terminate the participation of an intermediate care 101659
facility for the mentally retarded in the medicaid program but to 101660
continue to provide service of the type provided by a residential 101661
facility as defined in section 5123.19 of the Revised Code. 101662

~~(L)~~(N) "Voluntary withdrawal of participation" means an 101663
operator's voluntary election to terminate the participation of a 101664
nursing facility in the medicaid program but to continue to 101665
provide service of the type provided by a nursing facility. 101666

Sec. 5111.66. An exiting operator or owner of a nursing 101667
facility or intermediate care facility for the mentally retarded 101668
participating in the medicaid program shall provide the department 101669
of job and family services written notice of a facility closure, 101670
voluntary termination, or voluntary withdrawal of participation 101671
not less than ninety days before the effective date of the 101672
facility closure, voluntary termination, or voluntary withdrawal 101673

of participation. The written notice shall be provided to the 101674
department in accordance with the method specified in rules 101675
adopted under section 5111.689 of the Revised Code. 101676

The written notice shall include all of the following: 101677

(A) The name of the exiting operator and, if any, the exiting 101678
operator's authorized agent; 101679

(B) The name of the nursing facility or intermediate care 101680
facility for the mentally retarded that is the subject of the 101681
written notice; 101682

(C) The exiting operator's medicaid provider agreement number 101683
for the facility that is the subject of the written notice; 101684

(D) The effective date of the facility closure, voluntary 101685
termination, or voluntary withdrawal of participation; 101686

(E) The signature of the exiting operator's or owner's 101687
representative. 101688

Sec. 5111.67. (A) An exiting operator or owner and entering 101689
operator shall provide the department of job and family services 101690
written notice of a change of operator if the nursing facility or 101691
intermediate care facility for the mentally retarded participates 101692
in the medicaid program and the entering operator seeks to 101693
continue the facility's participation. The written notice shall be 101694
provided to the department in accordance with the method specified 101695
in rules adopted under section 5111.689 of the Revised Code. The 101696
written notice shall be provided to the department not later than 101697
forty-five days before the effective date of the change of 101698
operator if the change of operator does not entail the relocation 101699
of residents. The written notice shall be provided to the 101700
department not later than ninety days before the effective date of 101701
the change of operator if the change of operator entails the 101702
relocation of residents. ~~The~~ 101703

<u>The</u> written notice shall include all of the following:	101704
(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;	101705 101706
(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;	101707 101708 101709
(3) The exiting operator's medicaid provider agreement <u>seven-digit medicaid legacy number and ten-digit national provider identifier number</u> for the facility that is the subject of the change of operator;	101710 101711 101712 101713
(4) The name of the entering operator;	101714
(5) The effective date of the change of operator;	101715
(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;	101716 101717 101718
(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;	101719 101720 101721
(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;	101722 101723 101724
(9) <u>The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;</u>	101725 101726 101727
(10) <u>If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare provider agreement;</u>	101728 101729 101730 101731
(11) The signature of the exiting operator's or owner's representative.	101732 101733

~~(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:~~

~~(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;~~

~~(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator. An exiting operator or owner and entering operator immediately shall provide the department written notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department. The notice of the changes shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.~~

Sec. 5111.671. The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section.

~~(B) The entering operator furnishes to the department copies~~

~~of all the fully executed leases, management agreements, merger~~ 101765
~~agreements and supporting documents, and sales contracts and~~ 101766
~~supporting documents relating to the change of operator not later~~ 101767
~~than ten days after the effective date of the change of operator~~ 101768
receives both of the following in accordance with the method 101769
specified in rules adopted under section 5111.689 of the Revised 101770
Code and not later than ten days after the effective date of the 101771
change of operator: 101772

(1) From the entering operator, a completed application for a 101773
provider agreement and all other forms and documents specified in 101774
rules adopted under section 5111.689 of the Revised Code; 101775

(2) From the exiting operator or owner, all forms and 101776
documents specified in rules adopted under section 5111.689 of the 101777
Revised Code. 101778

(C) The entering operator is eligible for medicaid payments 101779
as provided in section 5111.21 of the Revised Code. 101780

Sec. 5111.672. (A) The department of job and family services 101781
may enter into a provider agreement with an entering operator that 101782
goes into effect at 12:01 a.m. on the date determined under 101783
division (B) of this section if all of the following are the case: 101784

(1) The department receives a properly completed written 101785
notice required by section 5111.67 of the Revised Code. 101786

(2) ~~The entering operator furnishes to the department copies~~ 101787
~~of all the fully executed leases, management agreements, merger~~ 101788
~~agreements and supporting documents, and sales contracts and~~ 101789
~~supporting documents relating to the change of operator~~ receives, 101790
from the entering operator and in accordance with the method 101791
specified in rules adopted under section 5111.689 of the Revised 101792
Code, a completed application for a provider agreement and all 101793
other forms and documents specified in rules adopted under that 101794

<u>section.</u>	101795
<u>(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code, all forms and documents specified in rules adopted under that section.</u>	101796 101797 101798 101799
(3) The <u>(4) One or more of the following apply:</u>	101800
<u>(a) The</u> requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the;	101801 101802 101803
<u>(b) The</u> requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both;	101804 101805 101806
<u>(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator.</u>	101807 101808 101809
(4)(5) <u>The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.</u>	101810 101811
(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:	101812 101813 101814
(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, <u>and</u> make the withholding required by section 5111.681 of the Revised Code, and withhold the final payment to the exiting operator until one hundred eighty days after either of the following:	101815 101816 101817 101818 101819 101820
(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code;	101821 101822 101823
(b) The date that the department waives the cost report	101824

~~requirement of section 5111.682 of the Revised Code.~~ 101825

(2) The effective date shall be not earlier than the ~~later~~ 101826
latest of the following: 101827

(a) The effective date of the change of operator ~~or the~~ 101828

(b) The date that the ~~exiting operator or owner and~~ entering 101829
operator ~~comply~~ complies with section 5111.67 of the Revised Code 101830
and division (A)(2) of this section; 101831

(c) The date that the exiting operator or owner complies with 101832
section 5111.67 of the Revised Code and division (A)(3) of this 101833
section. 101834

(3) The effective date shall be not later than the following 101835
after the later of the dates specified in division (B)(2) of this 101836
section: 101837

(a) Forty-five days if the change of operator does not entail 101838
the relocation of residents; 101839

(b) Ninety days if the change of operator entails the 101840
relocation of residents. 101841

Sec. 5111.68. (A) On receipt of a written notice under 101842
section 5111.66 of the Revised Code of a facility closure, 101843
voluntary termination, or voluntary withdrawal of participation 101844
~~or, on receipt of~~ a written notice under section 5111.67 of the 101845
Revised Code of a change of operator, or on the effective date of 101846
an involuntary termination, the department of job and family 101847
services shall estimate the amount of any overpayments made under 101848
the medicaid program to the exiting operator, including 101849
overpayments the exiting operator disputes, and other actual and 101850
potential debts the exiting operator owes or may owe to the 101851
department and United States centers for medicare and medicaid 101852
services under the medicaid program, including a franchise permit 101853
fee. 101854

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the director of job and family services shall establish in rules adopted under section 5111.689 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section 5111.27 of the Revised Code;

(2) Interest owed to the department and United States centers for medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section 5111.66 of the Revised Code of the facility closure, voluntary termination, or voluntary withdrawal of participation ~~or~~; the department receives the notice under section 5111.67 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, 101885
(C), and (D) of this section, the department of job and family 101886
services may withhold from payment due an exiting operator under 101887
the medicaid program the total amount specified in the notice 101888
provided under division (C) of section 5111.68 of the Revised Code 101889
that the exiting operator owes or may owe to the department and 101890
United States centers for medicare and medicaid services under the 101891
medicaid program. 101892

(B) In the case of a change of operator and subject to 101893
division ~~(D)~~(E) of this section, the following shall apply 101894
regarding a withholding under division (A) of this section if the 101895
exiting operator or entering operator or an affiliated operator 101896
executes a successor liability agreement meeting the requirements 101897
of division ~~(E)~~(F) of this section: 101898

(1) If the exiting operator, entering operator, or affiliated 101899
operator assumes liability for the total, actual amount of debt 101900
the exiting operator owes the department and the United States 101901
centers for medicare and medicaid services under the medicaid 101902
program as determined under section 5111.685 of the Revised Code, 101903
the department shall not make the withholding. 101904

(2) If the exiting operator, entering operator, or affiliated 101905
operator assumes liability for only the portion of the amount 101906
specified in division (B)(1) of this section that represents the 101907
franchise permit fee the exiting operator owes, the department 101908
shall withhold not more than the difference between the total 101909
amount specified in the notice provided under division (C) of 101910
section 5111.68 of the Revised Code and the amount for which the 101911
exiting operator, entering operator, or affiliated operator 101912
assumes liability. 101913

(C) In the case of a voluntary termination, voluntary 101914
withdrawal of participation, or facility closure and subject to 101915

division ~~(D)~~(E) of this section, the following shall apply 101916
regarding a withholding under division (A) of this section if the 101917
exiting operator or an affiliated operator executes a successor 101918
liability agreement meeting the requirements of division ~~(E)~~(F) of 101919
this section: 101920

(1) If the exiting operator or affiliated operator assumes 101921
liability for the total, actual amount of debt the exiting 101922
operator owes the department and the United States centers for 101923
medicare and medicaid services under the medicaid program as 101924
determined under section 5111.685 of the Revised Code, the 101925
department shall not make the withholding. 101926

(2) If the exiting operator or affiliated operator assumes 101927
liability for only the portion of the amount specified in division 101928
(C)(1) of this section that represents the franchise permit fee 101929
the exiting operator owes, the department shall withhold not more 101930
than the difference between the total amount specified in the 101931
notice provided under division (C) of section 5111.68 of the 101932
Revised Code and the amount for which the exiting operator or 101933
affiliated operator assumes liability. 101934

(D) In the case of an involuntary termination and subject to 101935
division (E) of this section, the following shall apply regarding 101936
a withholding under division (A) of this section if the exiting 101937
operator, the entering operator, or an affiliated operator 101938
executes a successor liability agreement meeting the requirements 101939
of division (F) of this section and the department approves the 101940
successor liability agreement: 101941

(1) If the exiting operator, entering operator, or affiliated 101942
operator assumes liability for the total, actual amount of debt 101943
the exiting operator owes the department and the United States 101944
centers for medicare and medicaid services under the medicaid 101945
program as determined under section 5111.685 of the Revised Code, 101946
the department shall not make the withholding. 101947

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability. 101948
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(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B) ~~or~~, (C), or (D) of this section, both of the following must apply: 101957
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(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator; 101961
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(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination, voluntary withdrawal of participation, or facility closure under section 5111.66 of the Revised Code or the notice of the change of operator under section 5111.67 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of 101967
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operator, must equal at least ninety per cent of the sum of the 101980
following: 101981

(a) The average monthly medicaid payment made to the exiting 101982
operator pursuant to the exiting operator's provider agreement for 101983
the nursing facility or intermediate care facility for the 101984
mentally retarded that is the subject of the involuntary 101985
termination, voluntary termination, voluntary withdrawal of 101986
participation, facility closure, or change of operator; 101987

(b) Whichever of the following apply: 101988

(i) If the exiting operator or affiliated operator has 101989
assumed liability under one or more other successor liability 101990
agreements, the total amount for which the exiting operator or 101991
affiliated operator has assumed liability under the other 101992
successor liability agreements; 101993

(ii) If the exiting operator or affiliated operator has not 101994
assumed liability under any other successor liability agreements, 101995
zero. 101996

~~(E)~~(F) A successor liability agreement executed under this 101997
section must comply with all of the following: 101998

(1) It must provide for the operator who executes the 101999
successor liability agreement to assume liability for either of 102000
the following as specified in the agreement: 102001

(a) The total, actual amount of debt the exiting operator 102002
owes the department and the United States centers for medicare and 102003
medicaid services under the medicaid program as determined under 102004
section 5111.685 of the Revised Code; 102005

(b) The portion of the amount specified in division 102006
~~(E)~~(F)(1)(a) of this section that represents the franchise permit 102007
fee the exiting operator owes. 102008

(2) It may not require the operator who executes the 102009

successor liability agreement to furnish a surety bond. 102010

(3) It must provide that the department, after determining 102011
under section 5111.685 of the Revised Code the actual amount of 102012
debt the exiting operator owes the department and United States 102013
centers for medicare and medicaid services under the medicaid 102014
program, may deduct the lesser of the following from medicaid 102015
payments made to the operator who executes the successor liability 102016
agreement: 102017

(a) The total, actual amount of debt the exiting operator 102018
owes the department and the United States centers for medicare and 102019
medicaid services under the medicaid program as determined under 102020
section 5111.685 of the Revised Code; 102021

(b) The amount for which the operator who executes the 102022
successor liability agreement assumes liability under the 102023
agreement. 102024

(4) It must provide that the deductions authorized by 102025
division ~~(E)~~(F)(3) of this section are to be made for a number of 102026
months, not to exceed six, agreed to by the operator who executes 102027
the successor liability agreement and the department or, if the 102028
operator who executes the successor liability agreement and 102029
department cannot agree on a number of months that is less than 102030
six, a greater number of months determined by the attorney general 102031
pursuant to a claims collection process authorized by statute of 102032
this state. 102033

(5) It must provide that, if the attorney general determines 102034
the number of months for which the deductions authorized by 102035
division ~~(E)~~(F)(3) of this section are to be made, the operator 102036
who executes the successor liability agreement shall pay, in 102037
addition to the amount collected pursuant to the attorney 102038
general's claims collection process, the part of the amount so 102039
collected that, if not for division ~~(G)~~(H) of this section, would 102040

be required by section 109.081 of the Revised Code to be paid into 102041
the attorney general claims fund. 102042

~~(F)~~(G) Execution of a successor liability agreement does not 102043
waive an exiting operator's right to contest the amount specified 102044
in the notice the department provides the exiting operator under 102045
division (C) of section 5111.68 of the Revised Code. 102046

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, 102047
the entire amount that the attorney general, whether by employees 102048
or agents of the attorney general or by special counsel appointed 102049
pursuant to section 109.08 of the Revised Code, collects under a 102050
successor liability agreement, other than the additional amount 102051
the operator who executes the agreement is required by division 102052
~~(E)~~(F)(5) of this section to pay, shall be paid to the department 102053
of job and family services for deposit into the appropriate fund. 102054
The additional amount that the operator is required to pay shall 102055
be paid into the state treasury to the credit of the attorney 102056
general claims fund created under section 109.081 of the Revised 102057
Code. 102058

Sec. 5111.687. The department of job and family services, at 102059
its sole discretion, may release the amount withheld under 102060
division (A) of section 5111.681 of the Revised Code if the 102061
exiting operator submits to the department written notice of a 102062
postponement of a change of operator, facility closure, voluntary 102063
termination, or voluntary withdrawal of participation and the 102064
transactions leading to the change of operator, facility closure, 102065
voluntary termination, or voluntary withdrawal of participation 102066
are postponed for at least thirty days but less than ninety days 102067
after the date originally proposed for the change of operator, 102068
facility closure, voluntary termination, or voluntary withdrawal 102069
of participation as reported in the written notice required by 102070
section 5111.66 or 5111.67 of the Revised Code. The department 102071

shall release the amount withheld if the exiting operator submits 102072
to the department written notice of a cancellation or postponement 102073
of a change of operator, facility closure, voluntary termination, 102074
or voluntary withdrawal of participation and the transactions 102075
leading to the change of operator, facility closure, voluntary 102076
termination, or voluntary withdrawal of participation are canceled 102077
or postponed for more than ninety days after the date originally 102078
proposed for the change of operator, facility closure, voluntary 102079
termination, or voluntary withdrawal of participation as reported 102080
in the written notice required by section 5111.66 or 5111.67 of 102081
the Revised Code. A written notice shall be provided to the 102082
department in accordance with the method specified in rules 102083
adopted under section 5111.689 of the Revised Code. 102084

After the department receives a written notice regarding a 102085
cancellation or postponement of a facility closure, voluntary 102086
termination, or voluntary withdrawal of participation, the exiting 102087
operator or owner shall provide new written notice to the 102088
department under section 5111.66 of the Revised Code regarding any 102089
transactions leading to a facility closure, voluntary termination, 102090
or voluntary withdrawal of participation at a future time. After 102091
the department receives a written notice regarding a cancellation 102092
or postponement of a change of operator, the exiting operator or 102093
owner and entering operator shall provide new written notice to 102094
the department under section 5111.67 of the Revised Code regarding 102095
any transactions leading to a change of operator at a future time. 102096

Sec. 5111.689. The director of job and family services shall 102097
adopt rules under section 5111.02 of the Revised Code to implement 102098
sections 5111.65 to 5111.689 of the Revised Code, including rules 102099
applicable to an exiting operator that provides written 102100
notification under section 5111.66 of the Revised Code of a 102101
voluntary withdrawal of participation. Rules adopted under this 102102

section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5111.65 to 5111.689 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5111.671 and 5111.672 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5111.83. (A) Not later than January 1, 2012, the director of job and family services shall apply to the United States secretary of health and human services for approval of a medicaid administrative claiming program under which federal financial participation is received as reimbursement for administrative costs incurred by the department of health and the Arthur G. James and Richard J. Solove research institute of the Ohio state university in analyzing and evaluating both of the following pursuant to sections 3701.261 to 3701.236 of the Revised

<u>Code:</u>	102134
<u>(1) Cancer reports under the Ohio cancer incidence</u>	102135
<u>surveillance system;</u>	102136
<u>(2) The incidence, prevalence, costs, and medical</u>	102137
<u>consequences of cancer on medicaid recipients and other low-income</u>	102138
<u>populations.</u>	102139
<u>(B) The director of job and family services shall consult</u>	102140
<u>with the director of health in seeking approval of the medicaid</u>	102141
<u>administrative claiming program. The directors shall cooperate in</u>	102142
<u>seeking the approval to the extent they find the approval</u>	102143
<u>necessary for the effective and efficient administration of the</u>	102144
<u>medicaid program.</u>	102145
Sec. 5111.85. (A) As used in this section and sections	102146
5111.851 to 5111.856 of the Revised Code:	102147
"Home and community-based services medicaid waiver component"	102148
means a medicaid waiver component under which home and	102149
community-based services are provided as an alternative to	102150
hospital, nursing facility, or intermediate care facility for the	102151
mentally retarded services.	102152
"Hospital" has the same meaning as in section 3727.01 of the	102153
Revised Code.	102154
"Intermediate care facility for the mentally retarded" has	102155
the same meaning as in section 5111.20 of the Revised Code.	102156
"Medicaid waiver component" means a component of the medicaid	102157
program authorized by a waiver granted by the United States	102158
department of health and human services under section 1115 or 1915	102159
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.	102160
1315 or 1396n. "Medicaid waiver component" does not include a care	102161
management system established under section 5111.16 of the Revised	102162

Code.	102163
"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	102164 102165
(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:	102166 102167 102168
(1) Eligibility requirements for the medicaid waiver components;	102169 102170
(2) The type, amount, duration, and scope of services the medicaid waiver components provide;	102171 102172
(3) The conditions under which the medicaid waiver components cover services;	102173 102174
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	102175 102176
(5) The manner in which the medicaid waiver components pay for services;	102177 102178
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	102179 102180
(7) Procedures for both of the following :	102181
(a) Identifying individuals who meet all of the following requirements :	102182 102183
(i) <u>Are prioritizing and approving for enrollment individuals who are</u> eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;	102184 102185 102186
(ii) <u>Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component)</u>;	102187 102188 102189
(iii) <u>Choose choose</u> to be enrolled in the component ;	102190
(b) Approving the enrollment of individuals identified under	102191

~~the procedures established under division (B)(7)(a) of this section into the home and community based services medicaid waiver component.~~ 102192
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(8) Procedures for enforcing the rules, including 102195
establishing corrective action plans for, and imposing financial 102196
and administrative sanctions on, persons and government entities 102197
that violate the rules. Sanctions shall include terminating 102198
medicaid provider agreements. The procedures shall include due 102199
process protections. 102200

(9) Other policies necessary for the efficient administration 102201
of the medicaid waiver components. 102202

(C) The director of job and family services may adopt 102203
different rules for the different medicaid waiver components. The 102204
rules shall be consistent with the terms of the waiver authorizing 102205
the medicaid waiver component. 102206

(D) ~~Any~~ The following apply to procedures established under 102207
division (B)(7) of this section: 102208

(1) Any such procedures established for the medicaid-funded 102209
component of the PASSPORT program shall be consistent with section 102210
173.401 of the Revised Code. ~~Any~~ 102211

(2) Any such procedures established for the Ohio home care 102212
program shall be consistent with section 5111.862 of the Revised 102213
Code. 102214

(3) Any such procedures established for the unified long-term 102215
services and support medicaid waiver program shall be consistent 102216
with section 5111.865 of the Revised Code. 102217

(4) Any such procedures established ~~under division (B)(7) of~~ 102218
~~this section~~ for the medicaid-funded component of the assisted 102219
living program shall be consistent with section 5111.894 of the 102220
Revised Code. 102221

<u>Sec. 5111.861. (A) As used in this section:</u>	102222
<u>"Medicaid waiver component" has the same meaning as in</u>	102223
<u>section 5111.85 of the Revised Code.</u>	102224
<u>"Unified long-term services and support medicaid waiver</u>	102225
<u>component" means the medicaid waiver component authorized by</u>	102226
<u>section 5111.864 of the Revised Code.</u>	102227
<u>(B) Subject to division (C) of this section, there is hereby</u>	102228
<u>created the Ohio home care program. The program shall provide home</u>	102229
<u>and community-based services. The department of job and family</u>	102230
<u>services shall administer the program.</u>	102231
<u>(C) If the unified long-term services and support medicaid</u>	102232
<u>waiver component is created, the departments of aging and job and</u>	102233
<u>family services shall work together to determine whether the Ohio</u>	102234
<u>home care program should continue to operate as a separate</u>	102235
<u>medicaid waiver component or be terminated. If the departments</u>	102236
<u>determine that the Ohio home care program should be terminated,</u>	102237
<u>the program shall cease to exist on a date the departments shall</u>	102238
<u>specify.</u>	102239
<u>Sec. 5111.862. (A) As used in this section:</u>	102240
<u>"Hospital long-term care unit" has the same meaning as in</u>	102241
<u>section 3721.50 of the Revised Code.</u>	102242
<u>"Nursing facility" has the same meaning as in section 5111.20</u>	102243
<u>of the Revised Code.</u>	102244
<u>"Ohio home care program" means the medicaid waiver component</u>	102245
<u>created under section 5111.861 of the Revised Code.</u>	102246
<u>"Residential treatment facility" means a residential facility</u>	102247
<u>licensed by the department of mental health under section 5119.22</u>	102248
<u>of the Revised Code that serves children and either has more than</u>	102249
<u>sixteen beds or is part of a campus of multiple facilities that,</u>	102250

combined, have a total of more than sixteen beds. 102251

(B) Subject to division (C) of section 5111.861 of the 102252
Revised Code, the department of job and family services shall 102253
establish a home first component for the Ohio home care program. 102254
An individual is eligible for the Ohio home care program's home 102255
first component if the individual has been determined to be 102256
eligible for the Ohio home care program and at least one of the 102257
following applies: 102258

(1) If the individual is under twenty-one years of age, the 102259
individual received inpatient hospital services for at least 102260
fourteen consecutive days, or had at least three inpatient 102261
hospital stays during the twelve months, immediately preceding the 102262
date the individual applies for the Ohio home care program. 102263

(2) If the individual is at least twenty-one but less than 102264
sixty years of age, the individual received inpatient hospital 102265
services for at least fourteen consecutive days immediately 102266
preceding the date the individual applies for the Ohio home care 102267
program. 102268

(3) The individual received private duty nursing services 102269
under the medicaid program for at least twelve consecutive months 102270
immediately preceding the date the individual applies for the Ohio 102271
home care program. 102272

(4) The individual does not reside in a nursing facility or 102273
hospital long-term care unit at the time the individual applies 102274
for the Ohio home care program but is at risk of imminent 102275
admission to a nursing facility or hospital long-term care unit 102276
due to a documented loss of a primary caregiver. 102277

(5) The individual resides in a nursing facility at the time 102278
the individual applies for the Ohio home care program. 102279

(6) At the time the individual applies for the Ohio home care 102280
program, the individual participates in the money follows the 102281

person demonstration project authorized by section 6071 of the 102282
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 102283
and either resides in a residential treatment facility or 102284
inpatient hospital setting. 102285

(C) An individual determined to be eligible for the home 102286
first component of the Ohio home care program shall be enrolled in 102287
the Ohio home care program in accordance with rules adopted under 102288
section 5111.85 of the Revised Code. 102289

Sec. 5111.863. (A) As used in this section: 102290

"Medicaid waiver component" has the same meaning as in 102291
section 5111.85 of the Revised Code. 102292

"Unified long-term services and support medicaid waiver 102293
component" means the medicaid waiver component authorized by 102294
section 5111.864 of the Revised Code. 102295

(B) Subject to division (C) of this section, there is hereby 102296
created the Ohio transitions II aging carve-out program. The 102297
program shall provide home and community-based services. The 102298
department of job and family services shall administer the 102299
program. 102300

(C) If the unified long-term services and support medicaid 102301
waiver component is created, the departments of aging and job and 102302
family services shall work together to determine whether the Ohio 102303
transitions II aging carve-out program should continue to operate 102304
as a separate medicaid waiver component or be terminated. If the 102305
departments determine that the Ohio transitions II aging carve-out 102306
program should be terminated, the program shall cease to exist on 102307
a date the departments shall specify. 102308

Sec. 5111.864. (A) As used in this section: 102309

"Medicaid waiver component" has the same meaning as in 102310

section 5111.85 of the Revised Code. 102311

"Nursing facility" has the same meaning as in section 5111.20 102312
of the Revised Code. 102313

(B) The director of job and family services shall submit a 102314
request to the United States secretary of health and human 102315
services pursuant to section 1915n of the "Social Security Act," 102316
95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain 102317
approval to create a unified long-term services and support 102318
medicaid waiver component to provide home and community-based 102319
services to eligible individuals of any age who require the level 102320
of care provided by nursing facilities. The director of job and 102321
family services shall work with the director of aging in seeking 102322
approval of the unified long-term services and support medicaid 102323
waiver component and, if the approval is obtained, in creating and 102324
implementing the component. 102325

If the request to create the unified long-term services and 102326
support medicaid waiver component is approved, the director of job 102327
and family services, working with the director of aging, shall 102328
adopt rules under section 5111.85 of the Revised Code to implement 102329
the component. The rules may authorize the director of aging to 102330
adopt rules in accordance with Chapter 119. of the Revised Code 102331
governing aspects of the unified long-term services and support 102332
medicaid waiver component. 102333

Sec. 5111.865. (A) As used in this section, "unified 102334
long-term services and support medicaid waiver program" or 102335
"program" means the medicaid waiver component authorized by 102336
section 5111.864 of the Revised Code. 102337

(B) If the United States secretary of health and human 102338
services approves the request submitted under section 5111.864 of 102339
the Revised Code to create the unified long-term services and 102340
support medicaid waiver program, the department of job and family 102341

services shall establish a home first component for the program. 102342
The home first component shall be similar to the home first 102343
component of the medicaid-funded component of the PASSPORT program 102344
established under section 173.401 of the Revised Code, the home 102345
first component of the Ohio home care program established under 102346
section 5111.862 of the Revised Code, and the home first component 102347
of the medicaid-funded component of the assisted living program 102348
established under section 5111.894 of the Revised Code. 102349

Sec. 5111.871. The department of job and family services 102350
shall enter into a contract with the department of developmental 102351
disabilities under section 5111.91 of the Revised Code with regard 102352
to one or more of the medicaid waiver components ~~of the medicaid~~ 102353
~~program~~ established by the department of job and family services 102354
under ~~one or more of the medicaid waivers sought under~~ section 102355
5111.87 of the Revised Code. Subject, if needed, to the approval 102356
of the United States secretary of health and human services, the 102357
contract shall include the medicaid waiver component known as the 102358
transitions developmental disabilities waiver. The contract shall 102359
provide for the department of developmental disabilities to 102360
administer the components in accordance with the terms of the 102361
waivers. The contract shall include a schedule for the department 102362
of developmental disabilities to begin administering the 102363
transitions developmental disabilities waiver. The directors of 102364
job and family services and developmental disabilities shall adopt 102365
rules in accordance with Chapter 119. of the Revised Code 102366
governing the components. 102367

If the department of developmental disabilities or the 102368
department of job and family services denies an individual's 102369
application for home and community-based services provided under 102370
any of these medicaid components, the department that denied the 102371
services shall give timely notice to the individual that the 102372
individual may request a hearing under section 5101.35 of the 102373

Revised Code. 102374

The departments of developmental disabilities and job and 102375
family services may approve, reduce, deny, or terminate a service 102376
included in the individualized service plan developed for a 102377
medicaid recipient eligible for home and community-based services 102378
provided under any of these medicaid components. The departments 102379
shall consider the recommendations a county board of developmental 102380
disabilities makes under division (A)(1)(c) of section 5126.055 of 102381
the Revised Code. If either department approves, reduces, denies, 102382
or terminates a service, that department shall give timely notice 102383
to the medicaid recipient that the recipient may request a hearing 102384
under section 5101.35 of the Revised Code. 102385

If supported living, as defined in section 5126.01 of the 102386
Revised Code, is to be provided as a service under any of these 102387
components, any person or government entity with a current, valid 102388
medicaid provider agreement and a current, valid certificate under 102389
section 5123.161 of the Revised Code may provide the service. 102390

If a service is to be provided under any of these components 102391
by a residential facility, as defined in section 5123.19 of the 102392
Revised Code, any person or government entity with a current, 102393
valid medicaid provider agreement and a current, valid license 102394
under section 5123.19 of the Revised Code may provide the service. 102395

Sec. 5111.872. ~~When~~ (A) Subject to division (B) of this 102396
section, when the department of developmental disabilities 102397
allocates enrollment numbers to a county board of developmental 102398
disabilities for home and community-based services specified in 102399
division (B)(1) of section 5111.87 of the Revised Code and 102400
provided under any of the medicaid waiver components ~~of the~~ 102401
~~medicaid program~~ that the department administers under section 102402
5111.871 of the Revised Code, the department shall consider all of 102403
the following: 102404

~~(A)(1)~~ The number of individuals with mental retardation or 102405
other developmental disability who are on a waiting list the 102406
county board establishes under ~~division (C) of~~ section 5126.042 of 102407
the Revised Code for those services and are given priority on the 102408
waiting list ~~pursuant to division (D) or (E) of that section;~~ 102409

~~(B)(2)~~ The implementation component required by division 102410
(A)(3) of section 5126.054 of the Revised Code of the county 102411
board's plan approved under section 5123.046 of the Revised Code; 102412

~~(C)(3)~~ Anything else the department considers necessary to 102413
enable county boards to provide those services to individuals in 102414
accordance with the priority requirements ~~of divisions (D) and (E)~~ 102415
~~of~~ for waiting lists established under section 5126.042 of the 102416
Revised Code for those services. 102417

(B) Division (A) of this section applies to home and 102418
community-based services provided under the medicaid waiver 102419
component known as the transitions developmental disabilities 102420
waiver only to the extent, if any, provided by the contract 102421
required by section 5111.871 of the Revised Code regarding the 102422
waiver. 102423

Sec. 5111.873. ~~(A) Not later than the effective date of the 102424
first of any medicaid waivers the United States secretary of 102425
health and human services grants pursuant to a request made under 102426
section 5111.87 of the Revised Code Subject to division (D) of 102427
this section, the director of job and family services shall adopt 102428
rules in accordance with Chapter 119. of the Revised Code 102429
establishing ~~statewide fee schedules~~ the amount of reimbursement 102430
or the methods by which amounts of reimbursement are to be 102431
determined for home and community-based services specified in 102432
division (B)(1) of section 5111.87 of the Revised Code and 102433
provided under the components of the medicaid program that the 102434
department of developmental disabilities administers under section 102435~~

5111.871 of the Revised Code. ~~The~~ With respect to these rules 102436
~~shall provide for,~~ all of the following apply: 102437

(1) The rules shall establish procedures for the department 102438
of developmental disabilities to follow in arranging for the 102439
initial and ongoing collection of cost information from a 102440
comprehensive, statistically valid sample of persons and 102441
government entities providing the services at the time the 102442
information is obtained~~.~~ 102443

(2) The rules shall establish procedures for the collection 102444
of consumer-specific information through an assessment instrument 102445
the department of developmental disabilities shall provide to the 102446
department of job and family services~~.~~ 102447

(3) With the information collected pursuant to divisions 102448
(A)(1) and (2) of this section, an analysis of that information, 102449
and other information the director determines relevant, ~~methods~~ 102450
~~and the rules shall establish reimbursement~~ standards ~~for~~ 102451
~~calculating the fee schedules~~ that do all of the following: 102452

(a) Assure that ~~the fees are~~ reimbursement is consistent with 102453
efficiency, economy, and quality of care; 102454

(b) Consider the intensity of consumer resource need; 102455

(c) Recognize variations in different geographic areas 102456
regarding the resources necessary to assure the health and welfare 102457
of consumers; 102458

(d) Recognize variations in environmental supports available 102459
to consumers. 102460

(B) As part of the process of adopting rules under this 102461
section, the director shall consult with the director of 102462
developmental disabilities, representatives of county boards of 102463
developmental disabilities, persons who provide the home and 102464
community-based services, and other persons and government 102465

entities the director identifies. 102466

(C) The directors of job and family services and 102467
developmental disabilities shall review the rules adopted under 102468
this section at times they determine are necessary to ensure that 102469
the ~~methods and~~ amount of reimbursement or the methods by which 102470
the amounts of reimbursement are to be determined continue to meet 102471
the reimbursement standards established ~~by the rules for~~ 102472
~~calculating the fee schedules continue to do everything that~~ under 102473
division (A)(3) of this section ~~requires~~. 102474

(D) This section applies to home and community-based services 102475
provided under the medicaid waiver component known as the 102476
transitions developmental disabilities waiver only to the extent, 102477
if any, provided by the contract required by section 5111.871 of 102478
the Revised Code regarding the waiver. 102479

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 102480
of the Revised Code: 102481

"Home and community-based services" has the same meaning as 102482
in section 5123.01 of the Revised Code. 102483

"ICF/MR services" means intermediate care facility for the 102484
mentally retarded services covered by the medicaid program that an 102485
intermediate care facility for the mentally retarded provides to a 102486
resident of the facility who is a medicaid recipient eligible for 102487
medicaid-covered intermediate care facility for the mentally 102488
retarded services. 102489

"Intermediate care facility for the mentally retarded" means 102490
an intermediate care facility for the mentally retarded that is 102491
certified as in compliance with applicable standards for the 102492
medicaid program by the director of health in accordance with 102493
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 102494
U.S.C. 1396, as amended, and licensed as a residential facility 102495

under section 5123.19 of the Revised Code. 102496

"Residential facility" has the same meaning as in section 102497
5123.19 of the Revised Code. 102498

(B) For the purpose of increasing the number of slots 102499
available for home and community-based services and subject to 102500
sections 5111.877 and 5111.878 of the Revised Code, the operator 102501
of an intermediate care facility for the mentally retarded may 102502
convert some or all of the beds in the facility from providing 102503
ICF/MR services to providing home and community-based services if 102504
all of the following requirements are met: 102505

(1) The operator provides the directors of health, job and 102506
family services, and developmental disabilities at least ninety 102507
days' notice of the operator's intent to ~~relinquish the facility's~~ 102508
~~certification as an intermediate care facility for the mentally~~ 102509
~~retarded and to begin providing home and community based services~~ 102510
make the conversion. 102511

(2) The operator complies with the requirements of sections 102512
5111.65 to 5111.689 of the Revised Code regarding a voluntary 102513
termination as defined in section 5111.65 of the Revised Code if 102514
those requirements are applicable. 102515

(3) ~~The~~ If the operator intends to convert all of the 102516
facility's beds, the operator notifies each of the facility's 102517
residents that the facility is to cease providing ICF/MR services 102518
and inform each resident that the resident may do either of the 102519
following: 102520

(a) Continue to receive ICF/MR services by transferring to 102521
another facility that is an intermediate care facility for the 102522
mentally retarded willing and able to accept the resident if the 102523
resident continues to qualify for ICF/MR services; 102524

(b) Begin to receive home and community-based services 102525
instead of ICF/MR services from any provider of home and 102526

community-based services that is willing and able to provide the 102527
services to the resident if the resident is eligible for the 102528
services and a slot for the services is available to the resident. 102529

(4) If the operator intends to convert some but not all of 102530
the facility's beds, the operator notifies each of the facility's 102531
residents that the facility is to convert some of its beds from 102532
providing ICF/MR services to providing home and community-based 102533
services and inform each resident that the resident may do either 102534
of the following: 102535

(a) Continue to receive ICF/MR services from any provider of 102536
ICF/MR services that is willing and able to provide the services 102537
to the resident if the resident continues to qualify for ICF/MR 102538
services; 102539

(b) Begin to receive home and community-based services 102540
instead of ICF/MR services from any provider of home and 102541
community-based services that is willing and able to provide the 102542
services to the resident if the resident is eligible for the 102543
services and a slot for the services is available to the resident. 102544

(5) The operator meets the requirements for providing home 102545
and community-based services, including the following: 102546

(a) Such requirements applicable to a residential facility if 102547
the operator maintains the facility's license as a residential 102548
facility; 102549

(b) Such requirements applicable to a facility that is not 102550
licensed as a residential facility if the operator surrenders the 102551
facility's residential facility license under section 5123.19 of 102552
the Revised Code. 102553

~~(5)~~(6) The ~~director~~ directors of developmental disabilities 102554
approve and job and family services approve the conversion. 102555

(C) A decision by the directors to approve or refuse to 102556

approve a proposed conversion of beds is final. In making a 102557
decision, the directors shall consider all of the following: 102558

(1) The fiscal impact on the facility if some but not all of 102559
the beds are converted; 102560

(2) The fiscal impact on the medical assistance program; 102561

(3) The availability of home and community-based services. 102562

(D) The notice provided to the directors under division 102563
(B)(1) of this section shall specify whether some or all of the 102564
facility's beds are to be converted. If some but not all of the 102565
beds are to be converted, the notice shall specify how many of the 102566
facility's beds are to be converted and how many of the beds are 102567
to continue to provide ICF/MR services. The notice to the director 102568
of developmental disabilities under division (B)(1) of this 102569
section shall specify whether the operator wishes to surrender the 102570
facility's license as a residential facility under section 5123.19 102571
of the Revised Code. 102572

(D)(E)(1) If the ~~director~~ directors of developmental 102573
disabilities ~~approves~~ and job and family services approve a 102574
conversion under division (B)(C) of this section, the director of 102575
health shall ~~terminate~~ do the following: 102576

(a) Terminate the certification of the intermediate care 102577
facility for the mentally retarded if the notice specifies that 102578
all of the facility's beds are to be converted; 102579

(b) Reduce the facility's certified capacity by the number of 102580
beds being converted if the notice specifies that some but not all 102581
of the beds are to be converted. The 102582

(2) The director of health shall notify the director of job 102583
and family services of the termination or reduction. On receipt of 102584
the director of health's notice, the director of job and family 102585
services shall ~~terminate~~ do the following: 102586

(a) Terminate the operator's medicaid provider agreement that 102587
authorizes the operator to provide ICF/MR services at the facility 102588
if the facility's certification was terminated; 102589

(b) Amend the operator's medicaid provider agreement to 102590
reflect the facility's reduced certified capacity if the 102591
facility's certified capacity is reduced. The 102592

(3) In the case of action taken under division (E)(2)(a) of 102593
this section, the operator is not entitled to notice or a hearing 102594
under Chapter 119. of the Revised Code before the director of job 102595
and family services terminates the medicaid provider agreement. 102596

Sec. 5111.877. The director of job and family services may 102597
seek approval from the United States secretary of health and human 102598
services for not more than a total of ~~one~~ two hundred slots for 102599
home and community-based services for the purposes of sections 102600
5111.874, 5111.875, and 5111.876 of the Revised Code. 102601

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 102602
the Revised Code: 102603

(1) "Adult" means an individual at least eighteen years of 102604
age. 102605

(2) "Authorized representative" means the following: 102606

(a) In the case of a consumer who is a minor, the consumer's 102607
parent, custodian, or guardian; 102608

(b) In the case of a consumer who is an adult, an individual 102609
selected by the consumer pursuant to section 5111.8810 of the 102610
Revised Code to act on the consumer's behalf for purposes 102611
regarding home care attendant services. 102612

(3) "Authorizing health care professional" means a health 102613
care professional who, pursuant to section 5111.887 of the Revised 102614
Code, authorizes a home care attendant to assist a consumer with 102615

self-administration of medication, nursing tasks, or both.	102616
(4) "Consumer" means an individual to whom all of the following apply:	102617
	102618
(a) The individual is enrolled in a participating medicaid waiver component.	102619
	102620
(b) The individual has a medically determinable physical impairment to which both of the following apply:	102621
	102622
(i) It is expected to last for a continuous period of not less than twelve months.	102623
	102624
(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.	102625
	102626
	102627
	102628
(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.	102629
	102630
	102631
	102632
(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.	102633
	102634
	102635
	102636
(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	102637
	102638
(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.	102639
	102640
(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.	102641
	102642
(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.	102643
	102644

(9) "Health care professional" means a physician or registered nurse.	102645 102646
(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.	102647 102648 102649 102650
(11) "Home care attendant services" means all of the following as provided by a home care attendant:	102651 102652
(a) Personal care aide services;	102653
(b) Assistance with the self-administration of medication;	102654
(c) Assistance with nursing tasks.	102655
(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.	102656 102657
(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	102658 102659
(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.	102660 102661
(15) "Minor" means an individual under eighteen years of age.	102662
(16) "Participating medicaid waiver component" means both of the following:	102663 102664
(a) The medicaid waiver component known as Ohio home care that the department of job and family services administers <u>program created under section 5111.861 of the Revised Code;</u>	102665 102666 102667
(b) The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers <u>program created under section 5111.863 of the Revised Code.</u>	102668 102669 102670 102671
(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or	102672 102673

osteopathic medicine and surgery. 102674

(18) "Practice of nursing as a registered nurse," "practice 102675
of nursing as a licensed practical nurse," and "registered nurse" 102676
have the same meanings as in section 4723.01 of the Revised Code. 102677
"Registered nurse" includes an advanced practice nurse, as defined 102678
in section 4723.01 of the Revised Code. 102679

(19) "Schedule II," "schedule III," "schedule IV," and 102680
"schedule V" have the same meanings as in section 3719.01 of the 102681
Revised Code. 102682

(B) The director of job and family services may submit 102683
requests to the United States secretary of health and human 102684
services to amend the federal medicaid waivers authorizing the 102685
participating medicaid waiver components to have those components 102686
cover home care attendant services in accordance with sections 102687
5111.88 to 5111.8810 and rules adopted under section 5111.8811 of 102688
the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 102689
of the Revised Code, those sections shall be implemented regarding 102690
a participating medicaid waiver component only if the secretary 102691
approves a waiver amendment for the component. 102692

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of 102693
the Revised Code: 102694

"Area agency on aging" has the same meaning as in section 102695
173.14 of the Revised Code. 102696

"Assisted living program" means the program created under 102697
this section. 102698

"Assisted living services" means the following home and 102699
community-based services: personal care, homemaker, chore, 102700
attendant care, companion, medication oversight, and therapeutic 102701
social and recreational programming. 102702

"Assisted living waiver" means the federal medicaid waiver 102703

granted by the United States secretary of health and human 102704
services that authorizes the medicaid-funded component of the 102705
assisted living program. 102706

"County or district home" means a county or district home 102707
operated under Chapter 5155. of the Revised Code. 102708

"Long-term care consultation program" means the program the 102709
department of aging is required to develop under section 173.42 of 102710
the Revised Code. 102711

"Long-term care consultation program administrator" or 102712
"administrator" means the department of aging or, if the 102713
department contracts with an area agency on aging or other entity 102714
to administer the long-term care consultation program for a 102715
particular area, that agency or entity. 102716

"Medicaid waiver component" has the same meaning as in 102717
section 5111.85 of the Revised Code. 102718

"Nursing facility" has the same meaning as in section 5111.20 102719
of the Revised Code. 102720

"Residential care facility" has the same meaning as in 102721
section 3721.01 of the Revised Code. 102722

~~"State administrative agency" means the department of job and 102723
family services if the department of job and family services 102724
administers the assisted living program or the department of aging 102725
if the department of aging administers the assisted living 102726
program.~~ 102727

"Unified long-term services and support medicaid waiver 102728
component" means the medicaid waiver component authorized by 102729
section 5111.864 of the Revised Code. 102730

(B) There is hereby created the assisted living program. The 102731
program shall provide assisted living services to individuals who 102732
meet the program's applicable eligibility requirements ~~established~~ 102733

~~under section 5111.891 of the Revised Code. The Subject to~~ 102734
~~division (C) of this section, the program may not serve more~~ 102735
~~individuals than the number that is set by the United States~~ 102736
~~secretary of health and human services when the medicaid waiver~~ 102737
~~authorizing the program is approved shall have a medicaid-funded~~ 102738
~~component and a state-funded component.~~ 102739

(C)(1) Unless the medicaid-funded component of the assisted 102740
living program is terminated under division (C)(2) of this 102741
section, all of the following apply: 102742

(a) The department of aging shall administer the 102743
medicaid-funded component through a contract entered into with the 102744
department of job and family services under section 5111.91 of the 102745
Revised Code. 102746

(b) The contract shall include an estimate of the 102747
medicaid-funded component's costs. The program 102748

(c) The medicaid-funded component shall be operated as a 102749
separate medicaid waiver component until the United States 102750
secretary approves the consolidated federal medicaid waiver sought 102751
under section 5111.861 of the Revised Code. The program shall be 102752
part of the consolidated federal medicaid waiver sought under that 102753
section if the United States secretary approves the waiver. 102754

~~If the director of budget and management approves the~~ 102755
~~contract, the department of job and family services shall enter~~ 102756
~~into a contract with the department of aging under section 5111.91~~ 102757
~~of the Revised Code that provides for the department of aging to~~ 102758
~~administer the assisted living program. The contract shall include~~ 102759
~~an estimate of the program's costs.~~ 102760

The (d) The medicaid-funded component may not serve more 102761
individuals than is set by the United States secretary of health 102762
and human services in the assisted living waiver. 102763

(e) The director of job and family services may adopt rules 102764

under section 5111.85 of the Revised Code regarding the ~~assisted~~ 102765
~~living program~~ medicaid-funded component. The 102766

(f) The director of aging may adopt rules under Chapter 119. 102767
of the Revised Code regarding the ~~program~~ medicaid-funded 102768
component that the rules adopted by the director of job and family 102769
services under division (C)(1)(e) of this section authorize the 102770
director of aging to adopt. 102771

(2) If the unified long-term services and support medicaid 102772
waiver component is created, the departments of aging and job and 102773
family services shall work together to determine whether the 102774
medicaid-funded component of the assisted living program should 102775
continue to operate as a separate medicaid waiver component or be 102776
terminated. If the departments determine that the medicaid-funded 102777
component of the assisted living program should be terminated, the 102778
medicaid-funded component shall cease to exist on a date the 102779
departments shall specify. 102780

(D) The department of aging shall administer the state-funded 102781
component of the assisted living program. The state-funded 102782
component shall not be administered as part of the medicaid 102783
program. 102784

An individual who is eligible for the state-funded component 102785
may participate in the component for not more than three months. 102786

The director of aging shall adopt rules in accordance with 102787
section 111.15 of the Revised Code to implement the state-funded 102788
component. 102789

Sec. 5111.891. To be eligible for the medicaid-funded 102790
component of the assisted living program, an individual must meet 102791
all of the following requirements: 102792

(A) Need an intermediate level of care as determined under 102793
rule 5101:3-3-06 of the Administrative Code; 102794

(B) At the time the individual applies for the assisted living program, be one of the following:	102795
	102796
(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;	102797
	102798
	102799
(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:	102800
	102801
	102802
(a) The PASSPORT program created under section 173.40 of the Revised Code;	102803
	102804
(b) The choices program created under section 173.403 of the Revised Code;	102805
	102806
(c) A medicaid waiver component that the department of job and family services administers.	102807
	102808
(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.	102809
	102810
	102811
	102812
(C) At the time the individual receives <u>While receiving</u> assisted living services under the <u>assisted living program medicaid-funded component</u>, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the <u>assisted living program component</u>, including both of the following:	102813
	102814
	102815
	102816
	102817
	102818
(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;	102819
	102820
	102821
	102822
	102823
(2) A county or district home licensed as a residential care	102824

facility. 102825

~~(D)~~(C) Meet all other eligibility requirements for the 102826
~~assisted living program~~ medicaid-funded component established in 102827
rules adopted ~~under~~ pursuant to division (C) of section 5111.85 102828
5111.89 of the Revised Code. 102829

Sec. 5111.892. To be eligible for the state-funded component 102830
of the assisted living program, an individual must meet all of the 102831
following requirements: 102832

(A) The individual must need an intermediate level of care as 102833
determined under rule 5101:3-3-06 of the Administrative Code; 102834

(B) The individual must have an application for the 102835
medicaid-funded component of the assisted living program (or, if 102836
the medicaid-funded component is terminated under division (C)(2) 102837
of section 5111.89 of the Revised Code, the unified long-term 102838
services and support medicaid waiver component) pending and the 102839
department or the department's designee must have determined that 102840
the individual meets the nonfinancial eligibility requirements of 102841
the medicaid-funded component (or, if the medicaid-funded 102842
component is terminated under division (C)(2) of section 5111.89 102843
of the Revised Code, the unified long-term services and support 102844
medicaid waiver component) and not have reason to doubt that the 102845
individual meets the financial eligibility requirements of the 102846
medicaid-funded component (or, if the medicaid-funded component is 102847
terminated under division (C)(2) of section 5111.89 of the Revised 102848
Code, the unified long-term services and support medicaid waiver 102849
component). 102850

(C) While receiving assisted living services under 102851
state-funded component, the individual must reside in a 102852
residential care facility that is authorized by a valid provider 102853
agreement to participate in the component, including both of the 102854
following: 102855

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility; 102856
102857
102858
102859
102860

(2) A county or district home licensed as a residential care facility. 102861
102862

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under division (D) of section 5111.89 of the Revised Code. 102863
102864
102865

Sec. ~~5111.892~~ 5111.893. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 102866
102867
102868
102869
102870

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 102871
102872
102873

(B) Provide supervision services for those individuals; 102874

(C) Help keep the individuals safe and secure. 102875

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to division (C)(2) of section 5111.89 of the Revised Code, the department of aging shall establish a home first component of the assisted living program under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if ~~all~~ both of the following apply: 102876
102877
102878
102879
102880
102881
102882
102883

(1) The individual ~~is~~ has been determined to be eligible for 102884

the medicaid-funded component of the assisted living program. 102885

~~(2) The individual is on the unified waiting list established~~ 102886
~~under section 173.404 of the Revised Code.~~ 102887

~~(3)~~ At least one of the following applies: 102888

(a) The individual has been admitted to a nursing facility. 102889

(b) A physician has determined and documented in writing that 102890
the individual has a medical condition that, unless the individual 102891
is enrolled in home and community-based services such as the 102892
assisted living program, will require the individual to be 102893
admitted to a nursing facility within thirty days of the 102894
physician's determination. 102895

(c) The individual has been hospitalized and a physician has 102896
determined and documented in writing that, unless the individual 102897
is enrolled in home and community-based services such as the 102898
assisted living program, the individual is to be transported 102899
directly from the hospital to a nursing facility and admitted. 102900

(d) Both of the following apply: 102901

(i) The individual is the subject of a report made under 102902
section 5101.61 of the Revised Code regarding abuse, neglect, or 102903
exploitation or such a report referred to a county department of 102904
job and family services under section 5126.31 of the Revised Code 102905
or has made a request to a county department for protective 102906
services as defined in section 5101.60 of the Revised Code. 102907

(ii) A county department of job and family services and an 102908
area agency on aging have jointly documented in writing that, 102909
unless the individual is enrolled in home and community-based 102910
services such as the assisted living program, the individual 102911
should be admitted to a nursing facility. 102912

(e) The individual resided in a residential care facility for 102913
at least six months immediately before applying for the 102914

medicaid-funded component of the assisted living program and is at 102915
risk of imminent admission to a nursing facility because the costs 102916
of residing in the residential care facility have depleted the 102917
individual's resources such that the individual is unable to 102918
continue to afford the cost of residing in the residential care 102919
facility. 102920

(B) Each month, each area agency on aging shall identify 102921
individuals residing in the area that the area agency on aging 102922
serves who are eligible for the home first component of the 102923
assisted living program. When an area agency on aging identifies 102924
such an individual and determines that there is a vacancy in a 102925
residential care facility participating in the medicaid-funded 102926
component of the assisted living program that is acceptable to the 102927
individual, the agency shall notify the long-term care 102928
consultation program administrator serving the area in which the 102929
individual resides. The administrator shall determine whether the 102930
assisted living program is appropriate for the individual and 102931
whether the individual would rather participate in the assisted 102932
living program than continue or begin to reside in a nursing 102933
facility. If the administrator determines that the assisted living 102934
program is appropriate for the individual and the individual would 102935
rather participate in the assisted living program than continue or 102936
begin to reside in a nursing facility, the administrator shall so 102937
notify the ~~state administrative agency~~ department of aging. On 102938
receipt of the notice from the administrator, the ~~state~~ 102939
~~administrative agency~~ department shall approve the individual's 102940
enrollment in the medicaid-funded component of the assisted living 102941
program regardless of the unified waiting list established under 102942
section 173.404 of the Revised Code, unless the enrollment would 102943
cause the ~~assisted living program~~ component to exceed any limit on 102944
the number of individuals who may participate in the ~~program~~ 102945
component as set by the United States secretary of health and 102946
human services ~~when the medicaid waiver authorizing in the program~~ 102947

~~is approved~~ assisted living waiver. 102948

~~(C) Each quarter, the state administrative agency shall 102949
certify to the director of budget and management the estimated 102950
increase in costs of the assisted living program resulting from 102951
enrollment of individuals in the assisted living program pursuant 102952
to this section. 102953~~

Sec. 5111.911. Any contract the department of job and family 102954
services enters into with the department of mental health or 102955
department of alcohol and drug addiction services under section 102956
5111.91 of the Revised Code is subject to the approval of the 102957
director of budget and management and shall require or specify all 102958
of the following: 102959

(A) In the case of a contract with the department of mental 102960
health, that section 5111.912 of the Revised Code be complied 102961
with; 102962

(B) In the case of a contract with the department of alcohol 102963
and drug addiction services, that section 5111.913 of the Revised 102964
Code be complied with; 102965

(C) How providers will be paid for providing the services; 102966

(D) The department of mental health's or department of 102967
alcohol and drug addiction services' responsibilities ~~for~~ 102968
~~reimbursing~~ with regard to providers, including program oversight 102969
and quality assurance. 102970

Sec. 5111.912. If the department of job and family services 102971
enters into a contract with the department of mental health under 102972
section 5111.91 of the Revised Code, the department of ~~mental~~ 102973
~~health and boards of alcohol, drug addiction, and mental health~~ 102974
job and family services shall pay the nonfederal share of any 102975
medicaid payment to a provider for services under the component, 102976
or aspect of the component, the department of mental health 102977

administers. If necessary, the director of job and family services 102978
shall submit a medicaid state plan amendment to the United States 102979
secretary of health and human services regarding the department of 102980
job and family services' duty under this section. 102981

Sec. 5111.913. If the department of job and family services 102982
enters into a contract with the department of alcohol and drug 102983
addiction services under section 5111.91 of the Revised Code, the 102984
~~department of alcohol and drug addiction services and boards of~~ 102985
~~alcohol, drug addiction, and mental health~~ job and family services 102986
shall pay the nonfederal share of any medicaid payment to a 102987
provider for services under the component, or aspect of the 102988
component, the department of alcohol and drug addiction services 102989
administers. If necessary, the director of job and family services 102990
shall submit a medicaid state plan amendment to the United States 102991
secretary of health and human services regarding the department of 102992
job and family services' duty under this section. 102993

Sec. 5111.94. (A) As used in this section, "vendor offset" 102994
means a reduction of a medicaid payment to a medicaid provider to 102995
correct a previous, incorrect medicaid payment to that provider. 102996

(B) There is hereby created in the state treasury the health 102997
care services administration fund. Except as provided in division 102998
(C) of this section, all the following shall be deposited into the 102999
fund: 103000

(1) Amounts deposited into the fund pursuant to sections 103001
5111.92 and 5111.93 of the Revised Code; 103002

(2) The amount of the state share of all money the department 103003
of job and family services, in fiscal year 2003 and each fiscal 103004
year thereafter, recovers pursuant to a tort action under the 103005
department's right of recovery under section 5101.58 of the 103006
Revised Code that exceeds the state share of all money the 103007

department, in fiscal year 2002, recovers pursuant to a tort	103008
action under that right of recovery;	103009
(3) Subject to division (D) of this section, the amount of	103010
the state share of all money the department of job and family	103011
services, in fiscal year 2003 and each fiscal year thereafter,	103012
recovers through audits of medicaid providers that exceeds the	103013
state share of all money the department, in fiscal year 2002,	103014
recovers through such audits;	103015
(4) Amounts from assessments on hospitals under section	103016
5112.06 of the Revised Code and intergovernmental transfers by	103017
governmental hospitals under section 5112.07 of the Revised Code	103018
that are deposited into the fund in accordance with the law;	103019
(5) Amounts that the department of education pays to the	103020
department of job and family services, if any, pursuant to an	103021
interagency agreement entered into under section 5111.713 of the	103022
Revised Code;	103023
<u>(6) The application fees charged to providers under section</u>	103024
<u>5111.063 of the Revised Code;</u>	103025
<u>(7) The fines collected under section 5111.271 of the Revised</u>	103026
<u>Code.</u>	103027
(C) No funds shall be deposited into the health care services	103028
administration fund in violation of federal statutes or	103029
regulations.	103030
(D) In determining under division (B)(3) of this section the	103031
amount of money the department, in a fiscal year, recovers through	103032
audits of medicaid providers, the amount recovered in the form of	103033
vendor offset shall be excluded.	103034
(E) The director of job and family services shall use funds	103035
available in the health care services administration fund to pay	103036
for costs associated with the administration of the medicaid	103037

program. 103038

Sec. 5111.941. ~~(A)~~ The medicaid revenue and collections fund 103039
is hereby created in the state treasury. Except as otherwise 103040
provided by statute or as authorized by the controlling board, 103041
~~both of the following shall be credited to the fund:~~ 103042

~~(1) The the nonfederal share of all medicaid-related 103043
revenues, collections, and recoveries:~~ 103044

~~(2) The monthly premiums charged under the children's buy in 103045
program pursuant to section 5101.5213 of the Revised Code shall be 103046
credited to the fund. 103047~~

~~(B) The department of job and family services shall use money 103048
credited to the medicaid revenue and collections fund to pay for 103049
medicaid services and contracts ~~and the children's buy in program~~ 103050
~~established under sections 5101.5211 to 5101.5216 of the Revised~~ 103051
~~Code.~~ 103052~~

Sec. 5111.944. (A) As used in this section: 103053

"Dual eligible individual" has the same meaning as in section 103054
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 103055
42 U.S.C. 1396n(h)(2)(B). 103056

"Dual eligible integrated care demonstration project" means 103057
the demonstration project authorized by section 5111.981 of the 103058
Revised Code. 103059

"Medicare program" means the program created under Title 103060
XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 103061
1395, as amended. 103062

(B) There is created in the state treasury the integrated 103063
care delivery systems fund. If the terms of the federal approval 103064
for the dual eligible integrated care demonstration project 103065
provide for the state to receive a portion of the amounts that the 103066

demonstration project saves the medicare program, such amounts 103067
shall be deposited into the fund. The department of job and family 103068
services shall use the money in the fund to further develop 103069
integrated delivery systems and improved care coordination for 103070
dual eligible individuals. 103071

Sec. 5111.945. There is created in the state treasury the 103072
health care special activities fund. The department of job and 103073
family services shall deposit all funds it receives pursuant to 103074
the administration of the medicaid program into the fund, other 103075
than any such funds that are required by law to be deposited into 103076
another fund. The department shall use the money in the fund to 103077
pay for expenses related to the services provided under, and the 103078
administration of, the medicaid program. 103079

Sec. 5111.97. (A) As used in this section and in section 103080
5111.971 of the Revised Code, "nursing facility" has the same 103081
meaning as in section 5111.20 of the Revised Code. 103082

(B) To the extent funds are available, the director of job 103083
and family services may establish the Ohio access success project 103084
to help medicaid recipients make the transition from residing in a 103085
nursing facility to residing in a community setting. The ~~program~~ 103086
project may be established as a separate ~~non-medicaid~~ nonmedicaid 103087
program or integrated into a new or existing program of 103088
medicaid-funded home and community-based services authorized by a 103089
waiver approved by the United States department of health and 103090
human services. The director shall permit any recipient of 103091
medicaid-funded nursing facility services to apply for 103092
participation in the ~~program~~ project, but may limit the number of 103093
program project participants. ~~If an application is received before~~ 103094
~~the applicant has been a recipient of medicaid-funded nursing~~ 103095
~~facility services for six months, the~~ 103096

The director shall ensure that an assessment of an applicant 103097
is conducted as soon as practicable to determine whether the 103098
applicant is eligible for participation in the ~~program~~ project. To 103099
the maximum extent possible, the assessment and eligibility 103100
determination shall be completed not later than the date that 103101
occurs six months after the applicant became a recipient of 103102
medicaid-funded nursing facility services. 103103

(C) To be eligible for benefits under the project, a medicaid 103104
recipient must satisfy all of the following requirements: 103105

(1) ~~Be~~ The medicaid recipient must be a recipient of 103106
medicaid-funded nursing facility services, at the time of applying 103107
for the project benefits~~;~~. 103108

~~(2) Need the level of care provided by nursing facilities;~~ 103109

~~(3) For participation in a non-medicaid~~ If the project is 103110
established as a nonmedicaid program, ~~receive services~~ the 103111
medicaid recipient must be able to remain in the community ~~with a~~ 103112
as a result of receiving project benefits and the projected cost 103113
of the benefits to the project does not exceeding ~~exceed~~ eighty 103114
per cent of the average monthly medicaid cost of a medicaid 103115
recipient in a nursing facility~~;~~ 103116

~~(4) For participation in a program established as part of.~~ 103117

(3) If the project is integrated into a medicaid-funded home 103118
and community-based services waiver program, the medicaid 103119
recipient must meet waiver enrollment criteria. 103120

(D) If the director establishes the Ohio access success 103121
project, the benefits provided under the project may include 103122
payment of all of the following: 103123

(1) The first month's rent in a community setting; 103124

(2) Rental deposits; 103125

(3) Utility deposits; 103126

(4) Moving expenses;	103127
(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.	103128 103129 103130
(E) If the project is established as a non-medicaid <u>nonmedicaid</u> program, no participant may receive more than two thousand dollars worth of benefits under the project.	103131 103132 103133
(F) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program <u>project</u> .	103134 103135 103136 103137 103138 103139 103140 103141
<u>Sec. 5111.981.</u> (A) As used in this section:	103142
<u>"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).</u>	103143 103144 103145
<u>"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.</u>	103146 103147 103148
<u>(B) Subject to division (C) of this section, the director of job and family services may implement a demonstration project to test and evaluate the integration of the care that dual eligible individuals receive under the medicare and medicaid programs. No provision of Title LI of the Revised Code applies to the demonstration project if that provision implements or incorporates a provision of federal law governing the medicaid program and that provision of federal law does not apply to the demonstration</u>	103149 103150 103151 103152 103153 103154 103155 103156

project. 103157

(C) Before implementing the demonstration project under 103158
division (B) of this section, the director shall obtain the 103159
approval of the United States secretary of health and human 103160
services in the form of a federal medicaid waiver, medicaid state 103161
plan amendment, or demonstration grant. The director is required 103162
to seek the federal approval only if the director seeks to 103163
implement the demonstration project. The director shall implement 103164
the demonstration project in accordance with the terms of the 103165
federal approval, including the terms regarding the duration of 103166
the demonstration project. 103167

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 103168
Revised Code: 103169

(A) "Franchise permit fee rate" means the following: 103170

~~(1) Until August 1, 2009, eleven dollars and ninety eight~~ 103171
~~cents;~~ 103172

~~(2) For the period beginning August 1, 2009, and ending June~~ 103173
~~30, 2010, fourteen dollars and seventy five cents;~~ 103174

~~(3) For fiscal year 2011 2012, thirteen seventeen dollars and~~ 103175
~~fifty five ninety-nine cents;~~ 103176

~~(4)(2) For fiscal year 2012 2013 and each fiscal year~~ 103177
~~thereafter, the rate used for the immediately preceding fiscal~~ 103178
~~year as adjusted in accordance with the composite inflation factor~~ 103179
~~established in rules adopted under section 5112.39 of the Revised~~ 103180
~~Code eighteen dollars and thirty-two cents.~~ 103181

(B) "Indirect guarantee percentage" means the percentage 103182
specified in section 1903(w)(4)(C)(ii) of the "Social Security 103183
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as 103184
amended, that is to be used in determining whether a class of 103185
providers is indirectly held harmless for any portion of the costs 103186

of a broad-based health-care-related tax. If the indirect 103187
guarantee percentage changes during a fiscal year, the indirect 103188
guarantee percentage is the following: 103189

(1) For the part of the fiscal year before the change takes 103190
effect, the percentage in effect before the change; 103191

(2) For the part of the fiscal year beginning with the date 103192
the indirect guarantee percentage changes, the new percentage. 103193

(C) "Intermediate care facility for the mentally retarded" 103194
has the same meaning as in section 5111.20 of the Revised Code, 103195
except that, until August 1, 2009, it does not include any such 103196
facility operated by the department of developmental disabilities. 103197

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 103198
of the Revised Code. 103199

Sec. 5112.31. The department of job and family services shall 103200
do all of the following: 103201

(A) Subject to ~~division~~ divisions (B) and (C) of this section 103202
and for the purposes specified in sections 5112.37 and 5112.371 of 103203
the Revised Code, assess for each fiscal year each intermediate 103204
care facility for the mentally retarded a franchise permit fee 103205
equal to the franchise permit fee rate multiplied by the product 103206
of the following: 103207

(1) The number of beds certified under Title XIX of the 103208
"Social Security Act" on the first day of May of the calendar year 103209
in which the assessment is determined pursuant to division (A) of 103210
section 5112.33 of the Revised Code; 103211

(2) The ~~following number of days:~~ 103212

~~(a) For fiscal year 2010, the following:~~ 103213

~~(i) For the part of fiscal year 2010 during which the~~ 103214
~~franchise permit fee rate is eleven dollars and ninety eight~~ 103215

~~cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;~~ 103216
103217

~~(ii) For the part of fiscal year 2010 during which the franchise permit fee rate is fourteen dollars and seventy five cents, the number of days during fiscal year 2010 during which the franchise permit fee is that amount;~~ 103218
103219
103220
103221

~~(iii) For fiscal year 2011 and each fiscal year thereafter, the number of days in the fiscal year.~~ 103222
103223

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds ~~five and one half per cent~~ the indirect guarantee percentage of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year, do both of the following: 103224
103225
103226
103227
103228
103229

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to ~~five and one half per cent~~ the indirect guarantee percentage of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year; 103230
103231
103232
103233
103234

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year. 103235
103236
103237
103238
103239

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised 103240
103241
103242
103243
103244
103245
103246

Code. 103247

Sec. 5112.37. There is hereby created in the state treasury 103248
the home and community-based services for the mentally retarded 103249
and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two~~ 103250
~~tenths~~ seventy-seven hundredths per cent of all installment 103251
payments and penalties paid by an intermediate care facility for 103252
the mentally retarded under sections 5112.33 and 5112.34 of the 103253
Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited 103254
into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve hundredths~~ two 103255
tenths per cent of all installment payments and penalties paid by 103256
an intermediate care facility for the mentally retarded under 103257
sections 5112.33 and 5112.34 of the Revised Code for state fiscal 103258
year ~~2011~~ 2013 and thereafter shall be deposited into the fund. 103259
The department of job and family services shall distribute the 103260
money in the fund in accordance with rules adopted under section 103261
5112.39 of the Revised Code. The departments of job and family 103262
services and developmental disabilities shall use the money for 103263
the medicaid program established under Chapter 5111. of the 103264
Revised Code and home and community-based services to mentally 103265
retarded and developmentally disabled persons. 103266

Sec. 5112.371. There is hereby created in the state treasury 103267
the department of developmental disabilities operating and 103268
services fund. ~~Fifteen and eight tenths per cent of all~~ All 103269
installment payments and penalties paid by an intermediate care 103270
facility for the mentally retarded under sections 5112.33 and 103271
5112.34 of the Revised Code ~~for state fiscal year 2010~~ that are 103272
not deposited into the home and community-based services for the 103273
mentally retarded and developmentally disabled fund shall be 103274
deposited into the department of developmental disabilities 103275
operating and services fund. ~~Twenty and eighty eight hundredths~~ 103276
~~per cent of all installment payments and penalties paid by an~~ 103277

~~intermediate care facility for the mentally retarded under~~ 103278
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 103279
~~year 2011 and thereafter shall be deposited into the fund.~~ The 103280
money in the fund shall be used for the expenses of the programs 103281
that the department of ~~mental retardation and~~ developmental 103282
disabilities administers and the department's administrative 103283
expenses. 103284

Sec. 5112.39. The director of job and family services shall 103285
adopt rules in accordance with Chapter 119. of the Revised Code to 103286
do all of the following: 103287

~~(A) Establish a composite inflation factor for the purpose of~~ 103288
~~division (A)(4) of section 5112.30 of the Revised Code;~~ 103289

~~(B)~~ Prescribe the actions the department will take to cease 103290
implementation of sections 5112.30 to 5112.39 of the Revised Code 103291
if the United States secretary of health and human services 103292
determines that the franchise permit fee imposed under section 103293
5112.31 of the Revised Code is an impermissible health 103294
care-related tax under section 1903(w) of the "Social Security 103295
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended; 103296

~~(C)~~(B) Establish the method of distributing the money in the 103297
home and community-based services for the mentally retarded and 103298
developmentally disabled fund created by section 5112.37 of the 103299
Revised Code; 103300

~~(D)~~(C) Establish any other requirements or procedures the 103301
director considers necessary to implement sections 5112.30 to 103302
5112.39 of the Revised Code. 103303

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the 103304
Revised Code: 103305

(A) "Applicable assessment percentage" means the percentage 103306

specified in rules adopted under section 5112.46 of the Revised Code that is used in calculating a hospital's assessment under section 5112.41 of the Revised Code. 103307
103308
103309

(B) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year. 103310
103311
103312

~~(B)~~(C) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program. 103313
103314
103315

~~(C)~~(D) "Federal fiscal year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year. 103316
103317
103318

~~(D)~~(E)(1) Except as provided in division ~~(D)~~(E)(2) of this section, "hospital" means a hospital to which any of the following applies: 103319
103320
103321

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10. 103322
103323
103324
103325

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system. 103326
103327
103328

(c) The hospital is a psychiatric hospital licensed under section 5119.20 of the Revised Code. 103329
103330

(2) "Hospital" does not include either of the following: 103331

(a) A federal hospital; 103332

(b) A hospital that does not charge any of its patients for its services. 103333
103334

~~(E)~~(F) "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code. 103335
103336

~~(F)~~(G) "Medicaid" has the same meaning as in section 5111.01 103337
of the Revised Code. 103338

~~(G)~~(H) "Medicare" means the program established under Title 103339
XVIII of the Social Security Act. 103340

~~(H)~~(I) "State fiscal year" means the twelve-month period 103341
beginning the first day of July of a calendar year and ending the 103342
last day of June of the following calendar year. 103343

~~(I)~~(J)(1) Except as provided in divisions ~~(I)~~(J)(2) and (3) 103344
of this section, "total facility costs" means the total costs to a 103345
hospital for all care provided to all patients, including the 103346
direct, indirect, and overhead costs to the hospital of all 103347
services, supplies, equipment, and capital related to the care of 103348
patients, regardless of whether patients are enrolled in a health 103349
insuring corporation. 103350

(2) "Total facility costs" excludes all of the following of a 103351
hospital's costs as shown on the cost-reporting data used for 103352
purposes of determining the hospital's assessment under section 103353
5112.41 of the Revised Code: 103354

(a) Skilled nursing services provided in distinct-part 103355
nursing facility units; 103356

(b) Home health services; 103357

(c) Hospice services; 103358

(d) Ambulance services; 103359

(e) Renting durable medical equipment; 103360

(f) Selling durable medical equipment. 103361

(3) "Total facility costs" excludes any costs excluded from a 103362
hospital's total facility costs pursuant to rules, if any, adopted 103363
under division (B)(1) of section 5112.46 of the Revised Code. 103364

Sec. 5112.41. (A) For the purposes specified in section 103365

5112.45 of the Revised Code and subject to section 5112.48 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal, ~~except as provided in division (D) of this section,~~ the applicable assessment percentage specified in division (B) of this section of the hospital's total facility costs for the period of time specified in division ~~(C)~~(B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.

~~(B) The percentage specified in this division is the following:~~

~~(1) For the first assessment program year beginning after the effective date of this section, one and fifty two hundredths per cent;~~

~~(2) Subject to division (D) of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty one hundredths per cent.~~

~~(C) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the~~

federal fiscal year that precedes the assessment program year for 103397
which the assessment is imposed. 103398

~~(D) The department of job and family services shall apply to 103399
the United States secretary of health and human services for a 103400
waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second 103401
assessment program year after the effective date of this section 103402
and each successive assessment program year, a tiered assessment 103403
on hospitals' total facility costs instead of applying the 103404
percentage specified in division (B)(2) of this section. If the 103405
United States secretary denies the waiver, the department shall 103406
apply the percentage specified in division (B)(2) of this section 103407
for the second assessment program year after the effective date of 103408
this section and each successive assessment program year. 103409~~

~~(E)(C) The assessment imposed by this section on a hospital 103410
is in addition to the assessment imposed by section 5112.06 of the 103411
Revised Code. 103412~~

Sec. 5112.46. (A) The director of job and family services ~~may~~ 103413
shall adopt, amend, and rescind rules in accordance with Chapter 103414
119. of the Revised Code as necessary to implement sections 103415
5112.40 to 5112.48 of the Revised Code, including rules that 103416
specify the percentage of hospitals' total facility costs to be 103417
used in calculating hospitals' assessments under section 5112.41 103418
of the Revised Code. 103419

(B) The rules adopted under this section may ~~provide~~ do the 103420
following: 103421

(1) Provide that a hospital's total facility costs for the 103422
purpose of the assessment under section 5112.41 of the Revised 103423
Code exclude any of the following: 103424

~~(1)(a)~~ (a) A hospital's costs associated with providing care to 103425
recipients of any of the following: 103426

(a) (i) The medicaid program;	103427
(b) (ii) The medicare program;	103428
(c) (iii) The disability financial assistance program established under Chapter 5115. of the Revised Code;	103429 103430
(d) (iv) The program for medically handicapped children established under section 3701.023 of the Revised Code;	103431 103432
(e) (v) Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.	103433 103434 103435
(2) (b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.	103436 103437 103438
<u>(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;</u>	103439 103440 103441
<u>(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5112.43 of the Revised Code.</u>	103442 103443 103444 103445
<u>(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under section 1903(w)(3)(E) of the "Social Security Act," 105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if the varied percentages would cause the assessments to not be imposed uniformly.</u>	103446 103447 103448 103449 103450 103451 103452 103453
Sec. 5112.99. (A) The director of job and family services shall impose a penalty for each day that a hospital fails to report the information required under section 5112.04 of the	103454 103455 103456

Revised Code on or before the dates specified in that section. The 103457
amount of the penalty shall be established by the director in 103458
rules adopted under section 5112.03 of the Revised Code. 103459

(B) In addition to any other remedy available to the 103460
department of job and family services under law to collect unpaid 103461
assessments and transfers under sections 5112.01 to 5112.21 of the 103462
Revised Code, the director shall impose a penalty of ten per cent 103463
of the amount due on any hospital that fails to pay assessments or 103464
make intergovernmental transfers by the dates required by rules 103465
adopted under section 5112.03 of the Revised Code. 103466

(C) In addition to any other remedy available to the 103467
department of job and family services under law to collect unpaid 103468
assessments imposed under section 5112.41 of the Revised Code, the 103469
director shall impose a penalty of ten per cent of the amount due 103470
on any hospital that fails to pay the assessment by the date it is 103471
due. 103472

(D) The director shall waive the penalties provided for in 103473
~~divisions (A) and (B)~~ of this section for good cause shown by the 103474
hospital. 103475

~~(D)~~(E) All penalties imposed under this section shall be 103476
deposited into the health care administration fund created by 103477
section 5111.94 of the Revised Code. 103478

Sec. 5112.991. The department of job and family services may 103479
offset the amount of a hospital's unpaid penalty imposed under 103480
section 5112.99 of the Revised Code from one or more payments due 103481
the hospital under the medicaid program. The total amount that may 103482
be offset from one or more payments shall not exceed the amount of 103483
the unpaid penalty. 103484

Sec. 5119.01. The director of mental health is the chief 103485
executive and administrative officer of the department of mental 103486

health. The director may establish procedures for the governance 103487
of the department, conduct of its employees and officers, 103488
performance of its business, and custody, use, and preservation of 103489
departmental records, papers, books, documents, and property. 103490
Whenever the Revised Code imposes a duty upon or requires an 103491
action of the department or any of its institutions, the director 103492
shall perform the action or duty in the name of the department, 103493
except that the medical director appointed pursuant to section 103494
5119.07 of the Revised Code shall be responsible for decisions 103495
relating to medical diagnosis, treatment, rehabilitation, quality 103496
assurance, and the clinical aspects of the following: licensure of 103497
hospitals and residential facilities, research, community mental 103498
health plans, and delivery of mental health services. 103499

The director shall: 103500

(A) Adopt rules for the proper execution of the powers and 103501
duties of the department with respect to the institutions under 103502
its control, and require the performance of additional duties by 103503
the officers of the institutions as necessary to fully meet the 103504
requirements, intents, and purposes of this chapter. In case of an 103505
apparent conflict between the powers conferred upon any managing 103506
officer and those conferred by such sections upon the department, 103507
the presumption shall be conclusive in favor of the department. 103508

(B) Adopt rules for the nonpartisan management of the 103509
institutions under the department's control. An officer or 103510
employee of the department or any officer or employee of any 103511
institution under its control who, by solicitation or otherwise, 103512
exerts influence directly or indirectly to induce any other 103513
officer or employee of the department or any of its institutions 103514
to adopt the exerting officer's or employee's political views or 103515
to favor any particular person, issue, or candidate for office 103516
shall be removed from the exerting officer's or employee's office 103517
or position, by the department in case of an officer or employee, 103518

and by the governor in case of the director. 103519

(C) Appoint such employees, including the medical director, 103520
as are necessary for the efficient conduct of the department, and 103521
prescribe their titles and duties; 103522

(D) Prescribe the forms of affidavits, applications, medical 103523
certificates, orders of hospitalization and release, and all other 103524
forms, reports, and records that are required in the 103525
hospitalization or admission and release of all persons to the 103526
institutions under the control of the department, or are otherwise 103527
required under this chapter or Chapter 5122. of the Revised Code; 103528

(E) Contract with hospitals licensed by the department under 103529
section 5119.20 of the Revised Code for the care and treatment of 103530
mentally ill patients, or with persons, organizations, or agencies 103531
for the custody, evaluation, supervision, care, or treatment of 103532
mentally ill persons receiving services elsewhere than within the 103533
enclosure of a hospital operated under section 5119.02 of the 103534
Revised Code; 103535

(F) Exercise the powers and perform the duties relating to 103536
community mental health facilities and services that are assigned 103537
to the director under this chapter and Chapter 340. of the Revised 103538
Code; 103539

(G) Develop and implement clinical evaluation and monitoring 103540
of services that are operated by the department; 103541

~~(H) At the director's discretion, adopt rules establishing 103542
standards for the adequacy of services provided by community 103543
mental health facilities, and certify the compliance of such 103544
facilities with the standards for the purpose of authorizing their 103545
participation in the health care plans of health insuring 103546
corporations under Chapter 1751. and sickness and accident 103547
insurance policies issued under Chapter 3923. of the Revised Code. 103548
The director shall cease to certify such compliance two years 103549~~

~~after June 6, 2001. The director shall rescind the rules after the date the director ceases to certify such compliance.~~

~~(I)~~ Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(J)~~(I) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;

~~(K)~~(J) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

Sec. 5119.012. The department of mental health has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. 5119.013. Pursuant to the director of mental health's authority under division (I) of section 5119.01 of the Revised Code, the director may contract with agencies, institutions, and

other entities both public and private, as necessary for the 103580
department of mental health to carry out its duties under this 103581
chapter and Chapters 340., 2919., 2945., and 5122. of the Revised 103582
Code. Chapter 125. of the Revised Code does not apply to contracts 103583
the director enters into under this section for services provided 103584
to individuals with mental illness by agencies, institutions, and 103585
other entities not owned or operated by the department of mental 103586
health. 103587

Sec. 5119.02. (A) The department of mental health shall 103588
maintain, operate, manage, and govern state institutions for the 103589
care and treatment of mentally ill persons. 103590

(B) The department of mental health may designate all 103591
institutions under its jurisdiction by appropriate respective 103592
names, regardless of present statutory designation. 103593

(C) Subject to section 5139.08 and pursuant to Chapter 5122. 103594
of the Revised Code and on the agreement of the departments of 103595
mental health and youth services, the department of mental health 103596
may receive from the department of youth services for psychiatric 103597
observation, diagnosis, or treatment any person eighteen years of 103598
age or older in the custody of the department of youth services. 103599
The departments shall enter into a written agreement specifying 103600
the procedures necessary to implement this division. 103601

(D) The department of mental health shall ~~provide and~~ 103602
designate hospitals, facilities, and community mental health 103603
agencies for the custody, care, and special treatment of, and 103604
authorize payment for such custody, care, and special treatment 103605
provided to, persons who are charged with a crime and who are 103606
found incompetent to stand trial or not guilty by reason of 103607
insanity. 103608

(E) The department of mental health may do all of the 103609

following: 103610

(1) Require reports from the managing officer of any 103611
institution under the department's jurisdiction, relating to the 103612
admission, examination, comprehensive evaluation, diagnosis, 103613
release, or discharge of any patient; 103614

(2) Visit each institution regularly to review its operations 103615
and to investigate complaints made by any patient or by any person 103616
on behalf of a patient, provided these duties may be performed by 103617
a person designated by the director. 103618

(F) The department of mental health shall divide the state 103619
into districts for the purpose of designating the institution in 103620
which mentally ill persons are hospitalized, and may change the 103621
districts. 103622

(G) In addition to the powers expressly conferred, the 103623
department of mental health shall have all powers and authority 103624
necessary for the full and efficient exercise of the executive, 103625
administrative, and fiscal supervision over the state institutions 103626
described in this section. 103627

(H) The department of mental health may provide for the 103628
custody, supervision, control, treatment, and training of mentally 103629
ill persons hospitalized elsewhere than within the enclosure of a 103630
hospital, if the department so determines with respect to any 103631
individual or group of individuals. In all such cases, the 103632
department shall ensure adequate and proper supervision for the 103633
protection of such persons and of the public. 103634

Sec. 5119.06. ~~(A)~~ The department of mental health shall: 103635

~~(1) Establish and~~ (A) To the extent the department has 103636
available resources and in consultation with boards of alcohol, 103637
drug addiction, and mental health services, support a ~~program at~~ 103638
~~the state level to promote a~~ community support system in 103639

accordance with section 340.03 of the Revised Code ~~to be available~~ 103640
~~for every alcohol, drug addiction, and mental health service~~ 103641
~~district on a district or multi-district basis.~~ The department 103642
shall define the essential elements of a community support system, 103643
shall assist in identifying resources, ~~and coordinating the~~ 103644
~~planning, evaluation, and delivery of services to facilitate the~~ 103645
~~access of mentally ill people to public services at federal,~~ 103646
~~state, and local levels, and shall operate~~ may prioritize support 103647
for one or more of the elements. 103648

(B) Operate inpatient and other mental health services 103649
~~pursuant to the approved community mental health plan.~~ 103650

~~(2)~~i 103651

(C) Provide training, consultation, and technical assistance 103652
regarding mental health programs and services and appropriate 103653
prevention and mental health promotion activities, including those 103654
that are culturally sensitive, to employees of the department, 103655
community mental health agencies and boards, and other agencies 103656
providing mental health services; 103657

~~(3) Promote~~ (D) To the extent the department has available 103658
resources, promote and support a full range of mental health 103659
services that are available and accessible to all residents of 103660
this state, especially for severely mentally disabled children, 103661
adolescents, and adults, and other special target populations, 103662
including racial and ethnic minorities, as determined by the 103663
department. ~~i~~ 103664

~~(4)~~(E) Design and set criteria for the determination of 103665
severe mental disability; 103666

~~(5)~~(F) Establish standards for evaluation of mental health 103667
programs; 103668

~~(6)~~(G) Promote, direct, conduct, and coordinate scientific 103669
research, taking ethnic and racial differences into consideration. 103670

concerning the causes and prevention of mental illness, methods of providing effective services and treatment, and means of enhancing the mental health of all residents of this state;

~~(7)~~(H) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health services, including members of racial and ethnic minorities;

~~(8)~~(I) Establish a program to protect and promote the rights of persons receiving mental health services, including the issuance of guidelines on informed consent and other rights;

~~(9)~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;

~~(10)~~(K) Promote the involvement of persons who are receiving or have received mental health services, including families and other persons having a close relationship to a person receiving mental health services, in the planning, evaluation, delivery, and operation of mental health services-;

~~(11)~~(L) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health. These constituencies shall include consumers of mental health services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department

shall adopt rules under Chapter 119. of the Revised Code that 103702
establish procedures for the notification and consultation 103703
required by this division. 103704

~~(12)~~(M) In cooperation with board of alcohol, drug addiction, 103705
and mental health services representatives, provide training 103706
regarding the provision of community-based mental health services 103707
to those department employees who are utilized in state-operated, 103708
community-based mental health services; 103709

~~(13)~~(N) Provide consultation to the department of 103710
rehabilitation and correction concerning the delivery of mental 103711
health services in state correctional institutions; 103712

~~(B) The department of mental health may negotiate and enter 103713
into agreements with other agencies and institutions, both public 103714
and private, for the joint performance of its duties. 103715~~

Sec. 5119.18. There is hereby created in the state treasury 103716
the department of mental health trust fund. Not later than the 103717
first day of September of each year, the director of mental health 103718
shall certify to the director of budget and management the amount 103719
of all of the unexpended, unencumbered balances of general revenue 103720
fund appropriations made to the department of mental health for 103721
the previous fiscal year, excluding funds appropriated for rental 103722
payments to the Ohio public facilities commission. On receipt of 103723
the certification, the director of budget and management shall 103724
transfer cash to the trust fund in an amount up to, but not 103725
exceeding, the total of the amounts certified by the director of 103726
mental health. 103727

In addition, the trust fund shall receive all amounts, 103728
subject to any provisions in bond documents, received from the 103729
sale or lease of lands and facilities by the department. 103730

All moneys in the trust fund shall be used by the department 103731

of mental health ~~for mental health purposes specified in division~~ 103732
~~(A) of section 5119.06 of the Revised Code to pay for expenditures~~ 103733
~~the department incurs in performing any of its duties under this~~ 103734
chapter. The use of moneys in the trust fund pursuant to this 103735
section does not represent an ongoing commitment to the 103736
continuation of the trust fund or to the use of moneys in the 103737
trust fund. 103738

Sec. 5119.22. (A)(1) As used in this section and section 103739
5119.221 of the Revised Code: 103740

(a) "Community mental health agency" means a community mental 103741
health agency as defined in division (H) of section 5122.01 of the 103742
Revised Code, ~~or, until two years after the effective date of this~~ 103743
~~amendment, a community mental health facility certified by the~~ 103744
~~department of mental health pursuant to division (H) of section~~ 103745
~~5119.01 of the Revised Code.~~ 103746

(b) "Community mental health services" means any of the 103747
services listed in section 340.09 of the Revised Code. 103748

(c) "Personal care services" means services including, but 103749
not limited to, the following: 103750

(i) Assisting residents with activities of daily living; 103751

(ii) Assisting residents with self-administration of 103752
medication in accordance with rules adopted under this section; 103753

(iii) Preparing special diets, other than complex therapeutic 103754
diets, for residents pursuant to the instructions of a physician 103755
or a licensed dietitian, in accordance with rules adopted under 103756
this section. 103757

"Personal care services" does not include "skilled nursing 103758
care" as defined in section 3721.01 of the Revised Code. A 103759
facility need not provide more than one of the services listed in 103760
division (A)(1)(c) of this section to be considered to be 103761

providing personal care services. 103762

(d) "Residential facility" means a publicly or privately 103763
operated home or facility that provides one of the following: 103764

(i) Room and board, personal care services, and community 103765
mental health services to one or more persons with mental illness 103766
or persons with severe mental disabilities who are referred by or 103767
are receiving community mental health services from a community 103768
mental health agency, hospital, or practitioner; 103769

(ii) Room and board and personal care services to one or two 103770
persons with mental illness or persons with severe mental 103771
disabilities who are referred by or are receiving community mental 103772
health services from a community mental health agency, hospital, 103773
or practitioner; 103774

(iii) Room and board to five or more persons with mental 103775
illness or persons with severe mental disabilities who are 103776
referred by or are receiving community mental health services from 103777
a community mental health agency, hospital, or practitioner. 103778

The following are not residential facilities: the residence 103779
of a relative or guardian of a mentally ill individual, a hospital 103780
subject to licensure under section 5119.20 of the Revised Code, a 103781
residential facility as defined in section 5123.19 of the Revised 103782
Code, a facility providing care for a child in the custody of a 103783
public children services agency or a private agency certified 103784
under section 5103.03 of the Revised Code, a foster care facility 103785
subject to section 5103.03 of the Revised Code, an adult care 103786
facility subject to licensure under ~~Chapter 3722.~~ sections 5119.70 103787
to 5119.88 of the Revised Code, and a nursing home, residential 103788
care facility, or home for the aging subject to licensure under 103789
section 3721.02 of the Revised Code. 103790

(2) Nothing in division (A)(1)(d) of this section shall be 103791
construed to permit personal care services to be imposed on a 103792

resident who is capable of performing the activity in question 103793
without assistance. 103794

(3) Except in the case of a residential facility described in 103795
division (A)(1)(d)(i) of this section, members of the staff of a 103796
residential facility shall not administer medication to residents, 103797
all medication taken by residents of a residential facility shall 103798
be self-administered, and no person shall be admitted to or 103799
retained by a residential facility unless the person is capable of 103800
taking the person's own medication and biologicals, as determined 103801
in writing by the person's personal physician. Members of the 103802
staff of a residential facility may do any of the following: 103803

(a) Remind a resident when to take medication and watch to 103804
ensure that the resident follows the directions on the container; 103805

(b) Assist a resident in the self-administration of 103806
medication by taking the medication from the locked area where it 103807
is stored, in accordance with rules adopted pursuant to this 103808
section, and handing it to the resident. If the resident is 103809
physically unable to open the container, a staff member may open 103810
the container for the resident. 103811

(c) Assist a physically impaired but mentally alert resident, 103812
such as a resident with arthritis, cerebral palsy, or Parkinson's 103813
disease, in removing oral or topical medication from containers 103814
and in consuming or applying the medication, upon request by or 103815
with the consent of the resident. If a resident is physically 103816
unable to place a dose of medicine to the resident's mouth without 103817
spilling it, a staff member may place the dose in a container and 103818
place the container to the mouth of the resident. 103819

(B) Every person operating or desiring to operate a 103820
residential facility shall apply for licensure of the facility to 103821
the department of mental health and shall send a copy of the 103822
application to the board of alcohol, drug addiction, and mental 103823

health services whose service district includes the county in 103824
which the person operates or desires to operate a residential 103825
facility. The board shall review such applications and recommend 103826
approval or disapproval to the department. Each recommendation 103827
shall be consistent with the board's community mental health plan. 103828

(C) The department of mental health shall inspect and license 103829
the operation of residential facilities. The department shall 103830
consider the past record of the facility and the applicant or 103831
licensee in arriving at its licensure decision. The department may 103832
issue full, probationary, and interim licenses. A full license 103833
shall expire two years after the date of issuance, a probationary 103834
license shall expire in a shorter period of time as prescribed by 103835
rule adopted by the director of mental health pursuant to Chapter 103836
119. of the Revised Code, and an interim license shall expire 103837
ninety days after the date of issuance. The department may refuse 103838
to issue or renew and may revoke a license if it finds the 103839
facility is not in compliance with rules adopted by the department 103840
pursuant to division (G) of this section or if any facility 103841
operated by the applicant or licensee has had repeated violations 103842
of statutes or rules during the period of previous licenses. 103843
Proceedings initiated to deny applications for full or 103844
probationary licenses or to revoke such licenses are governed by 103845
Chapter 119. of the Revised Code. 103846

(D) The department may issue an interim license to operate a 103847
residential facility if both of the following conditions are met: 103848

(1) The department determines that the closing of or the need 103849
to remove residents from another residential facility has created 103850
an emergency situation requiring immediate removal of residents 103851
and an insufficient number of licensed beds are available. 103852

(2) The residential facility applying for an interim license 103853
meets standards established for interim licenses in rules adopted 103854
by the director under Chapter 119. of the Revised Code. 103855

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(E) The department of mental health may conduct an inspection of a residential facility:

(1) Prior to the issuance of a license to a prospective operator;

(2) Prior to the renewal of any operator's license;

(3) To determine whether a facility has completed a plan of correction required pursuant to this division and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(4) Upon complaint by any individual or agency;

(5) At any time the director considers an inspection to be necessary in order to determine whether a residential facility is in compliance with this section and rules adopted pursuant to this section.

In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, its personnel, activities, and services. The department shall have access to examine all records, accounts, and any other documents relating to the operation of the residential facility, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(F) No person shall do any of the following:	103886
(1) Operate a residential facility unless the facility holds a valid license;	103887 103888
(2) Violate any of the conditions of licensure after having been granted a license;	103889 103890
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	103891 103892
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	103893 103894
(G) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, prescribing minimum standards for the health, safety, adequacy, and cultural specificity and sensitivity of treatment of and services for persons in residential facilities; establishing procedures for the issuance, renewal or revocation of the licenses of such facilities; establishing the maximum number of residents of a facility; establishing the rights of residents and procedures to protect such rights; and requiring an affiliation agreement approved by the board between a residential facility and a mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code.	103895 103896 103897 103898 103899 103900 103901 103902 103903 103904 103905 103906 103907
(H) The department may investigate any facility that has been reported to the department or that the department has reasonable cause to believe is operating as a residential facility without a valid license.	103908 103909 103910 103911
(I) The department may withhold the source of any complaint reported as a violation of this act when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing	103912 103913 103914 103915 103916

to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(J) The director of mental health may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a real and present danger to the health or safety of any residents of the facility.

(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons,

shall do all of the following: 103948

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 103949
that may be necessary to carry out the purposes of Chapter 340. 103950
and sections 5119.61 to 5119.63 of the Revised Code. 103951

(1) The rules shall include all of the following: 103952

(a) Rules governing a community mental health agency's 103953
services under section 340.091 of the Revised Code to an 103954
individual referred to the agency under division (C)(2) of section 103955
~~173.35~~ 5119.69 of the Revised Code; 103956

(b) For the purpose of division (A)(16) of section 340.03 of 103957
the Revised Code, rules governing the duties of mental health 103958
agencies and boards of alcohol, drug addiction, and mental health 103959
services under section ~~3722.18~~ 5119.88 of the Revised Code 103960
regarding referrals of individuals with mental illness or severe 103961
mental disability to adult care facilities and effective 103962
arrangements for ongoing mental health services for the 103963
individuals. The rules shall do at least the following: 103964

(i) Provide for agencies and boards to participate fully in 103965
the procedures owners and managers of adult care facilities must 103966
follow under division (A) of section ~~3722.18~~ 5119.88 of the 103967
Revised Code; 103968

(ii) Specify the manner in which boards are accountable for 103969
ensuring that ongoing mental health services are effectively 103970
arranged for individuals with mental illness or severe mental 103971
disability who are referred by the board or mental health agency 103972
under contract with the board to an adult care facility. 103973

(c) Rules governing a board of alcohol, drug addiction, and 103974
mental health services when making a report to the director of 103975
mental health under section ~~3722.17~~ 5119.87 of the Revised Code 103976
regarding the quality of care and services provided by an adult 103977
care facility to a person with mental illness or a severe mental 103978

disability. 103979

(2) Rules may be adopted to govern the method of paying a 103980
community mental health facility, as defined in section 5111.023 103981
of the Revised Code, for providing services listed in division (B) 103982
of that section. Such rules must be consistent with the contract 103983
entered into between the departments of job and family services 103984
and mental health under section 5111.91 of the Revised Code and 103985
include requirements ensuring appropriate service utilization. 103986

(B) Review and evaluate, and, taking into account the 103987
findings and recommendations of the board of alcohol, drug 103988
addiction, and mental health services of the district served by 103989
the program and the requirements and priorities of the state 103990
mental health plan, including the needs of residents of the 103991
district now residing in state mental institutions, ~~approve and~~ 103992
~~allocate funds to support community programs,~~ and make 103993
recommendations for needed improvements to boards of alcohol, drug 103994
addiction, and mental health services; 103995

(C) ~~Withhold state and federal funds for any program, in~~ 103996
~~whole or in part, from a board of alcohol, drug addiction, and~~ 103997
~~mental health services in the event of failure of that program to~~ 103998
~~comply with Chapter 340. or section 5119.61, 5119.611, 5119.612,~~ 103999
~~or 5119.62 of the Revised Code or rules of the department of~~ 104000
~~mental health. The director shall identify the areas of~~ 104001
~~noncompliance and the action necessary to achieve compliance. The~~ 104002
~~director shall offer technical assistance to the board to achieve~~ 104003
~~compliance. The director shall give the board a reasonable time~~ 104004
~~within which to comply or to present its position that it is in~~ 104005
~~compliance. Before withholding funds, a hearing shall be conducted~~ 104006
~~to determine if there are continuing violations and that either~~ 104007
~~assistance is rejected or the board is unable to achieve~~ 104008
~~compliance. Subsequent to the hearing process, if it is determined~~ 104009
~~that compliance has not been achieved, the director may allocate~~ 104010

~~all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.~~

~~(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;~~

~~(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;~~

~~(F) Provide (D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;~~

~~(G)~~(E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

~~(H)~~ Develop (F) To the extent the director determines 104043
necessary and after consulting with boards of alcohol, drug 104044
addiction, and mental health services, develop and operate, or 104045
contract for the operation of, a community mental health 104046
information system or systems. 104047

Boards of alcohol, drug abuse, and mental health services 104048
shall submit information requested by the department in the form 104049
and manner prescribed by the department. Information collected by 104050
the department shall include, but not be limited to, all of the 104051
following: 104052

(1) Information regarding units of services provided in whole 104053
or in part under contract with a board, including diagnosis and 104054
special needs, demographic information, the number of units of 104055
service provided, past treatment, financial status, and service 104056
dates in accordance with rules adopted by the department in 104057
accordance with Chapter 119. of the Revised Code; 104058

(2) Financial information other than price or price-related 104059
data regarding expenditures of boards and community mental health 104060
agencies, including units of service provided, budgeted and actual 104061
expenses by type, and sources of funds. 104062

Boards shall submit the information specified in division 104063
~~(H)~~(F)(1) of this section no less frequently than annually for 104064
each client, and each time the client's case is opened or closed. 104065
The department shall not collect any personal information from the 104066
boards except as required or permitted by state or federal law for 104067
purposes related to payment, health care operations, program and 104068
service evaluation, reporting activities, research, system 104069
administration, and oversight. 104070

~~(I)~~(G) Review each board's community mental health plan 104071
submitted pursuant to section 340.03 of the Revised Code and 104072
approve or disapprove it in whole or in part. Periodically, in 104073

consultation with representatives of boards and after considering 104074
the recommendations of the medical director, the director shall 104075
issue criteria for determining when a plan is complete, criteria 104076
for plan approval or disapproval, and provisions for conditional 104077
approval. The factors that the director considers may include, but 104078
are not limited to, the following: 104079

(1) The mental health needs of all persons residing within 104080
the board's service district, especially severely mentally 104081
disabled children, adolescents, and adults; 104082

(2) The demonstrated quality, effectiveness, efficiency, and 104083
cultural relevance of the services provided in each service 104084
district, the extent to which any services are duplicative of 104085
other available services, and whether the services meet the needs 104086
identified above; 104087

(3) The adequacy of the board's accounting for the 104088
expenditure of funds. 104089

If the director disapproves all or part of any plan, the 104090
director shall provide the board an opportunity to present its 104091
position. The director shall inform the board of the reasons for 104092
the disapproval and of the criteria that must be met before the 104093
plan may be approved. The director shall give the board a 104094
reasonable time within which to meet the criteria, and shall offer 104095
technical assistance to the board to help it meet the criteria. 104096

If the approval of a plan remains in dispute ~~thirty days~~ 104097
~~prior to the conclusion of the fiscal year in which the board's~~ 104098
~~current plan is scheduled to expire~~, the board or the director may 104099
request that the dispute be submitted to a mutually agreed upon 104100
third-party mediator with the cost to be shared by the board and 104101
the department. The mediator shall issue to the board and the 104102
department recommendations for resolution of the dispute. ~~Prior to~~ 104103
~~the conclusion of the fiscal year in which the current plan is~~ 104104

~~scheduled to expire, the~~ The director, taking into consideration 104105
the recommendations of the mediator, shall make a final 104106
determination and approve or disapprove the plan, in whole or in 104107
part. 104108

Sec. 5119.611. (A) A community mental health agency that 104109
seeks certification of its community mental health services shall 104110
submit an application to the director of mental health. On receipt 104111
of the application, the director may visit and shall evaluate the 104112
agency to determine whether its services satisfy the standards 104113
established by rules adopted under division (C) of this section. 104114
The director shall make the evaluation, and, if the director 104115
visits the agency, shall make the visit, in cooperation with the 104116
board of alcohol, drug addiction, and mental health services with 104117
which the agency seeks to contract under division (A)(8)(a) of 104118
section 340.03 of the Revised Code. 104119

(B) Subject to section 5119.612 of the Revised Code, the 104120
director shall determine whether the services of an applicant's 104121
community mental health agency satisfy the standards for 104122
certification of the services. If the director determines that a 104123
community mental health agency's services satisfy the standards 104124
for certification and the agency has paid the fee required under 104125
division ~~(B)~~(D) of this section, the director shall certify the 104126
services. 104127

(C) If the director determines that a community mental health 104128
agency's services do not satisfy the standards for certification, 104129
the director shall identify the areas of noncompliance, specify 104130
what action is necessary to satisfy the standards, and offer 104131
technical assistance to the board of alcohol, drug addiction, and 104132
mental health services so that the board may assist the agency in 104133
satisfying the standards. The director shall give the agency a 104134
reasonable time within which to demonstrate that its services 104135

satisfy the standards or to bring the services into compliance 104136
with the standards. If the director concludes that the services 104137
continue to fail to satisfy the standards, the director may 104138
request that the board reallocate the funds for the community 104139
mental health services the agency was to provide to another 104140
community mental health agency whose community mental health 104141
services satisfy the standards. If the board does not reallocate 104142
those funds in a reasonable period of time, the director may 104143
withhold state and federal funds for the community mental health 104144
services and allocate those funds directly to a community mental 104145
health agency whose community mental health services satisfy the 104146
standards. 104147

~~(B)~~(D) Each community mental health agency seeking 104148
certification of its community mental health services under this 104149
section shall pay a fee for the certification ~~review~~ required by 104150
this section. Fees shall be paid into the sale of goods and 104151
services fund created pursuant to section 5119.161 of the Revised 104152
Code. 104153

~~(C)~~(E) The director shall adopt rules in accordance with 104154
Chapter 119. of the Revised Code to implement this section. The 104155
rules shall do all of the following: 104156

(1) Establish certification standards for community mental 104157
health services, including assertive community treatment and 104158
intensive home-based mental health services, that are consistent 104159
with nationally recognized applicable standards and facilitate 104160
participation in federal assistance programs. The rules shall 104161
include as certification standards only requirements that improve 104162
the quality of services or the health and safety of clients of 104163
community mental health services. The standards shall address at a 104164
minimum all of the following: 104165

(a) Reporting major unusual incidents to the director; 104166

(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;	104167 104168
(c) Seclusion;	104169
(d) Restraint;	104170
(e) Development of written policies addressing the rights of clients, including all of the following:	104171 104172
(i) The right to a copy of the written policies addressing client rights;	104173 104174
(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;	104175 104176
(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;	104177 104178 104179 104180
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	104181 104182 104183 104184 104185
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	104186 104187 104188
(3) Establish the process for certification of community mental health services;	104189 104190
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	104191 104192
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	104193 104194
<u>Sec. 5119.612.</u> (A) In lieu of a determination by the director	104195

of mental health of whether the services of a community mental 104196
health agency satisfy the standards for certification under 104197
section 5119.611 of the Revised Code, the director shall accept 104198
appropriate accreditation of an applicant's mental health 104199
services, integrated mental health and alcohol and other drug 104200
addiction services, or integrated mental health and physical 104201
health services being provided in this state from any of the 104202
following national accrediting organizations as evidence that the 104203
applicant satisfies the standards for certification: 104204

(1) The joint commission; 104205

(2) The commission on accreditation of rehabilitation 104206
facilities; 104207

(3) The council on accreditation. 104208

(B) If the director determines that an applicant's 104209
accreditation is current, is appropriate for the services for 104210
which the applicant is seeking certification, and the applicant 104211
meets any other requirements established under this section or in 104212
rules adopted under this section, the director shall certify the 104213
applicant's services that are accredited. Except as provided in 104214
division (C)(2) of this section, the director shall issue the 104215
certification without further evaluation of the services. 104216

(C) For purposes of this section, all of the following apply: 104217

(1) The director may review the accrediting organizations 104218
listed in division (A) of this section to evaluate whether the 104219
accreditation standards and processes used by the organizations 104220
are consistent with service delivery models the director considers 104221
appropriate for mental health services, physical health services, 104222
or both. The director may communicate to an accrediting 104223
organization any identified concerns, trends, needs, and 104224
recommendations. 104225

(2) The director may visit or otherwise evaluate a community mental health agency at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director. 104226
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(3) The director shall require a community mental health agency to notify the director not later than ten days after any change in the agency's accreditation status. The agency may notify the director by providing a copy of the relevant document the agency received from the accrediting organization. 104230
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104232
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(4) The director shall require a community mental health agency to submit to the director reports of major unusual incidents. 104235
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104237

(5) The director may require a community mental health agency to submit to the director cost reports pertaining to the agency. 104238
104239

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the director shall do all of the following: 104240
104241
104242

(1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation; 104243
104244

(2) Establish a process by which the director may review the accreditation standards and processes used by the national accrediting organizations listed in division (A) of this section; 104245
104246
104247

(3) Specify the circumstances under which reports of major unusual incidents and agency cost reports must be submitted to the director; 104248
104249
104250

(4) Specify the circumstances under which the director may visit or otherwise evaluate a community mental health agency for cause; 104251
104252
104253

(5) Establish a process by which the director, based on deficiencies identified as a result of visiting or evaluating a 104254
104255

community mental health agency under division (C)(2) of this 104256
section, may take any of a range of corrective actions, with the 104257
most stringent being revocation of the certification of the 104258
agency's services. 104259

Sec. ~~5119.612~~ 5119.613. The director of mental health shall 104260
require that each board of alcohol, drug addiction, and mental 104261
health services ensure that each community mental health agency 104262
with which it contracts under division (A)(8)(a) of section 340.03 104263
of the Revised Code to provide community mental health services 104264
establish grievance procedures consistent with rules adopted under 104265
section 5119.611 of the Revised Code that are available to all 104266
applicants for and clients of the community mental health 104267
services. 104268

Sec. ~~5119.613~~ 5119.614. For purposes of ~~Chapter 3722.~~ 104269
sections 5119.70 to 5119.88 of the Revised Code, the director of 104270
mental health shall approve a standardized form to be used in all 104271
areas of this state by adult care facilities and boards of 104272
alcohol, drug addiction, and mental health services when entering 104273
into mental health resident program participation agreements. As 104274
part of approving the form, the director shall specify the 104275
requirements that adult care facilities must meet in order to be 104276
authorized to admit residents who are receiving or are eligible 104277
for publicly funded mental health services. 104278

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant~~ 104279
~~to section 340.03 of the Revised Code, the director~~ The department 104280
of mental health shall ~~authorize the payment of funds~~ establish a 104281
methodology for allocating to ~~a board~~ boards of alcohol, drug 104282
addiction, and mental health services ~~from the~~ from the funds appropriated 104283
~~for such purpose~~ by the general assembly to the department for the 104284
purpose of local mental health systems of care. The ~~director~~ 104285

~~department shall release all or part of such establish the~~ 104286
~~methodology after notifying and consulting with relevant~~ 104287
~~constituencies as required by division (L) of section 5119.06 of~~ 104288
~~the Revised Code. The methodology may provide for the funds to be~~ 104289
~~allocated to boards on a district or multi-district basis. Subject~~ 104290
~~to sections 5119.622 and 5119.623 of the Revised Code, the~~ 104291
~~department shall allocate the funds as is to the boards in a~~ 104292
~~manner consistent with the methodology, this section, other state~~ 104293
~~and federal laws, rules, and regulations, and the approved plan.~~ 104294

~~(B)(1) The director, in consultation with relevant~~ 104295
~~constituencies as required by division (A)(11) of section 5119.06~~ 104296
~~of the Revised Code, shall establish a formula for allocating to~~ 104297
~~boards of alcohol, drug addiction, and mental health services~~ 104298
~~appropriations from the general revenue fund for the purpose of~~ 104299
~~local management of mental health services as this purpose is~~ 104300
~~identified in appropriations to the department of mental health in~~ 104301
~~appropriation acts. The formula shall include as a factor the~~ 104302
~~number of severely mentally disabled persons residing in each~~ 104303
~~alcohol, drug addiction, and mental health service district and~~ 104304
~~may include other factors, including, but not limited to, the~~ 104305
~~historical utilization of public hospitals by persons in each~~ 104306
~~service district. The appropriations shall be allocated to each~~ 104307
~~board in accordance with the formula but shall be distributed only~~ 104308
~~to those boards that elect the option provided under division~~ 104309
~~(B)(3)(a) of this section.~~ 104310

~~(2) The director shall allocate each fiscal year to boards of~~ 104311
~~alcohol, drug addiction, and mental health services for services~~ 104312
~~to severely mentally disabled persons a percentage of the~~ 104313
~~appropriations to the department from the general revenue fund for~~ 104314
~~the purposes of hospital personal services, hospital maintenance,~~ 104315
~~and hospital equipment as those purposes are identified in~~ 104316
~~appropriations to the department in appropriation acts. After~~ 104317

~~excluding funds for providing services to persons committed to the~~ 104318
~~department pursuant to section 2945.38, 2945.39, 2945.40,~~ 104319
~~2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage~~ 104320
~~of those appropriations so allocated each year shall equal ten per~~ 104321
~~cent in fiscal year 1990, twenty per cent in fiscal year 1991,~~ 104322
~~forty per cent in fiscal year 1992, sixty per cent in fiscal year~~ 104323
~~1993, eighty per cent in fiscal year 1994, and one hundred per~~ 104324
~~cent in fiscal year 1995 and thereafter. The amounts so allocated~~ 104325
~~shall be transferred from the appropriations for the purposes of~~ 104326
~~hospital personal services, hospital maintenance, and hospital~~ 104327
~~equipment and credited to appropriations for the purpose of local~~ 104328
~~management of mental health services. Appropriations for the~~ 104329
~~purpose of local management of mental health services may be used~~ 104330
~~by the department and by the boards The department may allocate to~~ 104331
~~boards a portion of the funds appropriated by the general assembly~~ 104332
~~to the department for the operation of state hospital services. If~~ 104333
~~the department allocates the funds, the department shall do all of~~ 104334
~~the following:~~ 104335

(1) In consultation with the boards: 104336

(a) Annually determine the unit costs of providing state 104337
hospital services; and 104338

(b) Establish the methodology for allocating the funds to the 104339
boards. 104340

(2) Determine the type of unit costs of providing state 104341
hospital services to be included as a factor in the methodology 104342
and include that unit cost as a factor in the methodology; 104343

(3) Subject to sections 5119.622 and 5119.623 of the Revised 104344
Code, allocate the funds to the boards in a manner consistent with 104345
the methodology, this section, other state and federal laws, 104346
rules, and regulations. 104347

~~(3) No~~(c) Not later than the first day of April of each year, 104348

the department ~~of mental health~~ shall notify each board of 104349
~~alcohol, drug addiction, and mental health services~~ of the 104350
department's estimate of the amount of ~~general revenue~~ funds to be 104351
allocated to the board under ~~division (D)~~ of this section during 104352
the fiscal year beginning on the next July first. ~~No~~ If the 104353
department makes an allocation under division (B) of this section, 104354
the department shall also notify each board of the unit costs of 104355
providing state hospital services for the upcoming fiscal year as 104356
determined under that division. Not later than the first day of 104357
May of each year, each board shall notify the ~~director~~ department 104358
as to which of the following options it has elected for ~~that the~~ 104359
upcoming fiscal year: 104360

~~(a)(1)~~ The board elects to accept distribution of the amount 104361
allocated to it under ~~division (B)(1)~~ of this section. ~~Any board~~ 104362
~~that makes such an election shall agree to make payments into the~~ 104363
~~risk fund established in division (E) of this section, to make any~~ 104364
~~payments for utilization of state hospitals that are required~~ 104365
~~under division (E)(3) of this section, to use the funds~~ 104366
~~distributed to it within the limitations set forth in division~~ 104367
~~(B)(2) of this section, and to provide the department with a~~ 104368
~~statement of projected utilization of state hospitals and other~~ 104369
~~state operated services by residents of its service district~~ 104370
~~during the fiscal year.~~ 104371

The department shall retain and expend the funds projected to 104372
be utilized for state hospitals and other state operated services 104373
section. Funds distributed to each board shall be used to 104374
supplement and not to supplant other state, local, or federal 104375
funds that are being used to support community-based programs for 104376
severely mentally disabled children, adolescents, and adults, 104377
unless the funds have been specifically designated for the 104378
initiation of programs in accordance with the community mental 104379
health plan developed and submitted under section 340.03 and 104380

approved under section 5119.61 of the Revised Code. 104381
Notwithstanding section 131.33 of the Revised Code, any board may 104382
expend unexpended funds distributed to the board from 104383
appropriations for the purpose of local management of mental 104384
health services in the fiscal year following the fiscal year ~~in~~ 104385
for which the appropriations are made, in accordance with the 104386
approved community mental health plan. 104387

~~(b) The (2) Subject to division (D) of this section, the~~ 104388
board elects not to accept the amount allocated to it under 104389
~~division (B)(1) of~~ this section, authorizes the department to 104390
determine the use of its allocation, and agrees to provide the 104391
department with a statement of projected utilization of state 104392
hospitals and other state-operated services by residents of its 104393
service district during the fiscal year. 104394

~~(4) Beginning with the notification required to be made by~~ 104395
~~May 1, 1995, under division (B)(3) of this section, no (D) No~~ 104396
board ~~of alcohol, drug addiction, and mental health services~~ shall 104397
elect the option in division ~~(B)(3)(b)(C)(2)~~ of this section 104398
unless ~~one~~ all of the following ~~applies~~ apply: 104399

~~(a) The (1) Either the~~ total general revenue funds estimated 104400
by the department to be allocated to the board under this section 104401
for the next fiscal year ~~is~~ are reduced by a substantial amount, 104402
as defined in guidelines adopted by the director of mental health 104403
under division ~~(B)(4)(E)~~ of this section, in comparison to the 104404
amount allocated for the current fiscal year, for reasons not 104405
related to performance. 104406

~~(b) The amount of estimated general revenue funds to be~~ 104407
~~allocated to the board is not reduced by a substantial amount but~~ 104408
or the board has experienced other circumstances specified in the 104409
guidelines ~~adopted by the director under division (B)(4) of this~~ 104410
section. 104411

~~The director shall consult with boards of alcohol, drug addiction, and mental health services and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of general revenue funds for the purpose of electing the option under division (B)(3)(b) of this section, and what other circumstances qualify a board to elect that option.~~

~~Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no board shall notify the director that it elects the option under division (B)(3)(b) of this section unless it has conducted~~ (2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:

(a) Individuals who receive mental health services and such individuals' families;

(b) Boards of county commissioners;

(c) Judges of juvenile and probate courts;

(d) County sheriffs, jail administrators, and other local law enforcement officials.

(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue no later than seven days before making the notification.

~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies~~ (E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to

elect the option in division (C)(2) of this section. 104443

~~(F) No board shall not use state funds for the purpose of 104444
influencing employees with respect to unionization. As used in 104445
this division, "influencing" means discouraging employees from 104446
seeking collective bargaining representation or encouraging 104447
employees to decertify a recognized collective bargaining agent. 104448~~

~~(D) The director shall develop, and review at least annually, 104449
a methodology, including the formula developed under division 104450
(B)(1) of this section, for distributing and allocating funds to 104451
boards. The methodology shall be consistent with state and federal 104452
law and regulations. A portion of the funds shall be distributed 104453
based on the ratio of the population of the district served by the 104454
board to the total population of the state as determined from the 104455
federal census or the most recent estimates produced by the United 104456
States census bureau's federal state cooperative program for 104457
population program series P-26 or the population estimates and 104458
projections program series P-25, whichever is most recent. 104459~~

~~(E)(1) There is hereby created in the state treasury the 104460
department of mental health risk fund, which shall receive 104461
payments from boards that have elected the option provided in 104462
division (B)(3)(a) of this section. All investment earnings of the 104463
fund shall be credited to the fund. Moneys in the fund shall be 104464
used for the following purposes: 104465~~

~~(a) To assist boards that elect the option provided in 104466
division (B)(3)(a) of this section and that serve service 104467
districts in which the costs of utilization of state hospitals by 104468
residents in a fiscal year exceed the amount allocated to the 104469
district under the formula developed under division (B)(1) of this 104470
section. The department shall define such costs by unit and 104471
establish them annually after consultation with representatives of 104472
such boards. 104473~~

~~(b) To make payments to boards that elect the option provided in division (B)(3)(a) of this section and that experience conditions of financial hardship, as determined by the director.~~

~~The director of mental health, in consultation with representatives of the boards, shall develop guidelines for the use of moneys in the risk fund.~~

~~(2) On or before the first day of April of each year, the department shall specify the percentage of the amount of money allocated under division (B)(1) of this section for distribution to boards subject to division (E) of this section that each such board is to transmit to the director of mental health for deposit in the risk fund for the following fiscal year. On or before the first day of August of each year, each such board shall transmit to the director for deposit to the credit of the risk fund the amount obtained by multiplying that percentage by the amount allocated for distribution to such boards.~~

~~(3) Whenever the costs of utilization of state hospitals by residents in a district served by a board subject to division (E) of this section exceed the amount allocated to the district under the formula, responsibility for payment of the excess costs shall be borne by the board of that district and the risk fund as follows:~~

~~(a) The board and the risk fund each are responsible for payment of one half of any costs that exceed one hundred per cent of the amount allocated under the formula but do not exceed one hundred five per cent of that amount.~~

~~(b) The board is responsible for payment of one fourth, and the risk fund responsible for three fourths, of any costs that exceed one hundred five per cent of the amount allocated under the formula but do not exceed one hundred ten per cent of that amount.~~

~~(c) The risk fund is responsible for payment of any costs~~

~~that exceed one hundred ten per cent of the amount allocated under
the formula but do not exceed one hundred fifteen per cent of that
amount.~~ 104505
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~~(d) The board is responsible for payment of all costs that
exceed one hundred fifteen per cent of the amount allocated under
the formula.~~ 104508
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~~(F)(G) The department shall charge against the allocation
made to a board under division (B)(1) of this section, if any, any
unreimbursed costs for services provided by the department. ~~This
requirement is not affected by any election a board makes under
division (B)(3) of this section.~~~~ 104511
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(H) A board's use of funds allocated under this section is
subject to audit by county, state, and federal authorities. 104516
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Sec. 5119.621. (A) As used in this section, "administrative 104518
function" means a function related to one or more of the 104519
following: 104520

(1) Continuous quality improvement; 104521

(2) Utilization review; 104522

(3) Resource development; 104523

(4) Fiscal administration; 104524

(5) General administration; 104525

(6) Any other function related to administration that is 104526
required by Chapter 340. of the Revised Code. 104527

(B) Each board of alcohol, drug addiction, and mental health 104528
services shall submit an annual report to the department of mental 104529
health specifying how the board used ~~state and federal~~ funds 104530
allocated to the board, ~~according to the formula the director of~~ 104531
~~mental health establishes~~ under section 5119.62 of the Revised 104532
Code, for administrative functions in the year preceding the 104533

report's submission. The director of mental health shall establish 104534
the date by which the report must be submitted each year. 104535

Sec. 5119.622. The director of mental health, in whole or in 104536
part, may withhold funds otherwise to be allocated to a board of 104537
alcohol, drug addiction, and mental health services under section 104538
5119.62 of the Revised Code if the board fails to comply with 104539
Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 104540
of the Revised Code or rules of the department of mental health 104541
regarding a community mental health service. The director shall 104542
identify the areas of noncompliance and the action necessary to 104543
achieve compliance. The director shall offer technical assistance 104544
to the board to achieve compliance. The director shall give the 104545
board a reasonable time within which to comply or to present its 104546
position that it is in compliance. Before withholding funds, a 104547
hearing shall be conducted to determine if there are continuing 104548
violations and that either assistance is rejected or the board is 104549
unable to achieve compliance. Subsequent to the hearing process, 104550
if it is determined that compliance has not been achieved, the 104551
director may allocate all or part of the withheld funds to a 104552
public or private agency to provide the community mental health 104553
service for which the board is not in compliance until the time 104554
that there is compliance. The director shall adopt rules in 104555
accordance with Chapter 119. of the Revised Code to implement this 104556
section. 104557

Sec. 5119.623. The director of mental health may withhold 104558
funds otherwise to be allocated to a board of alcohol, drug 104559
addiction, and mental health services under section 5119.62 of the 104560
Revised Code if the board denies available service on the basis of 104561
religion, race, color, creed, sex, national origin, age, 104562
disability as defined in section 4112.01 of the Revised Code, or 104563
developmental disability. 104564

~~Sec. 173.35 5119.69.~~ (A) ~~As used in this section, "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.~~ 104565
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~~(B)~~ The department of ~~aging~~ mental health shall ~~administer~~ 104570
implement the residential state supplement program under which the 104571
state supplements the supplemental security income payments 104572
received by aged, blind, or disabled adults under Title XVI of the 104573
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as 104574
amended. Residential state supplement payments shall be used for 104575
the provision of accommodations, supervision, and personal care 104576
services to supplemental security income recipients who the 104577
department determines are at risk of needing institutional care. 104578

(B) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity. 104579
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(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case: 104587
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(1) Except as provided by division (G) of this section, the individual must reside in one of the following: 104589
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(a) An adult foster home certified under section ~~173.36~~ 104591
5119.692 of the Revised Code; 104592

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of 104593
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health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and~~ 104595
~~certified in accordance with standards established by the director~~ 104596
~~of aging under division (D)(2) of this section or the department~~ 104597
~~of mental health under sections 5119.70 to 5119.88 of the Revised~~ 104598
~~Code;~~ 104599

(c) A residential facility as defined in division 104600
(A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by 104601
the department of mental health ~~and certified in accordance with~~ 104602
~~standards established by the director of aging under division~~ 104603
~~(D)(2) of this section;~~ 104604

(d) An apartment or room used to provide community mental 104605
health housing services certified by the department of mental 104606
health under section 5119.611 of the Revised Code and approved by 104607
a board of alcohol, drug addiction, and mental health services 104608
under division (A)(14) of section 340.03 of the Revised Code ~~and~~ 104609
~~certified in accordance with standards established by the director~~ 104610
~~of aging under division (D)(2) of this section.~~ 104611

(2) ~~Effective July 1, 2000, a PASSPORT~~ A residential state 104612
supplement administrative agency must have determined that the 104613
environment in which the individual will be living while receiving 104614
the payments is appropriate for the individual's needs. If the 104615
individual is eligible for supplemental security income payments 104616
or social security disability insurance benefits because of a 104617
mental disability, the ~~PASSPORT~~ residential state supplement 104618
administrative agency shall refer the individual to a community 104619
mental health agency for the community mental health agency to 104620
issue in accordance with section 340.091 of the Revised Code a 104621
recommendation on whether the ~~PASSPORT~~ residential state 104622
supplement administrative agency should determine that the 104623
environment in which the individual will be living while receiving 104624
the payments is appropriate for the individual's needs. ~~Division~~ 104625
~~(C)(2) of this section does not apply to an individual receiving~~ 104626

~~residential state supplement payments on June 30, 2000, until the~~ 104627
~~individual's first eligibility redetermination after that date.~~ 104628

(3) The individual satisfies all eligibility requirements 104629
established by rules adopted under division (D) of this section. 104630

(D)~~(1)~~ The directors of ~~aging~~ mental health and job and 104631
family services shall adopt rules in accordance with section 104632
111.15 of the Revised Code as necessary to implement the 104633
residential state supplement program. 104634

To the extent permitted by Title XVI of the "Social Security 104635
Act," and any other provision of federal law, the director of job 104636
and family services ~~shall~~ may adopt rules establishing standards 104637
for adjusting the eligibility requirements concerning the level of 104638
impairment a person must have so that the amount appropriated for 104639
the program by the general assembly is adequate for the number of 104640
eligible individuals. The rules shall not limit the eligibility of 104641
disabled persons solely on a basis classifying disabilities as 104642
physical or mental. The director of job and family services also 104643
~~shall~~ may adopt rules that establish eligibility standards for 104644
aged, blind, or disabled individuals who reside in one of the 104645
homes or facilities specified in division (C)(1) of this section 104646
but who, because of their income, do not receive supplemental 104647
security income payments. The rules may provide that these 104648
individuals may include individuals who receive other types of 104649
benefits, including, social security disability insurance benefits 104650
provided under Title II of the "Social Security Act," 49 Stat. 620 104651
(1935), 42 U.S.C.A. 401, as amended. Notwithstanding division 104652
~~(D)~~(A) of this section, such payments may be made if funds are 104653
available for them. 104654

The director of ~~aging~~ ~~shall~~ mental health may adopt rules 104655
establishing the method to be used to determine the amount an 104656
eligible individual will receive under the program. The amount the 104657
general assembly appropriates for the program ~~shall~~ may be a 104658

factor included in the method that ~~department~~ director 104659
establishes. 104660

~~(2) The director of aging shall adopt rules in accordance 104661
with Chapter 119. of the Revised Code establishing standards for 104662
certification of living facilities described in division (C)(1) of 104663
this section. 104664~~

~~The directors of aging and mental health shall enter into an 104665
agreement to certify facilities that apply for certification and 104666
meet the standards established by the director of aging under this 104667
division. 104668~~

(E) The county department of job and family services of the 104669
county in which an applicant for the residential state supplement 104670
program resides shall determine whether the applicant meets income 104671
and resource requirements for the program. 104672

(F) The department of ~~aging~~ mental health shall maintain a 104673
waiting list of any individuals eligible for payments under this 104674
section but not receiving them because moneys appropriated to the 104675
department for the purposes of this section are insufficient to 104676
make payments to all eligible individuals. An individual may apply 104677
to be placed on the waiting list even though the individual does 104678
not reside in one of the homes or facilities specified in division 104679
(C)(1) of this section at the time of application. The director of 104680
~~aging~~ mental health, by rules adopted in accordance with Chapter 104681
119. of the Revised Code, ~~shall~~ may specify procedures and 104682
requirements for placing an individual on the waiting list and 104683
priorities for the order in which individuals placed on the 104684
waiting list are to begin to receive residential state supplement 104685
payments. The rules specifying priorities may give priority to 104686
individuals placed on the waiting list on or after July 1, 2006, 104687
who receive supplemental security income benefits under Title XVI 104688
of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 104689
1381, as amended. The rules shall not affect the place on the 104690

waiting list of any person who was on the list on July 1, 2006. 104691
The rules specifying priorities may also set additional priorities 104692
based on living arrangement, such as whether an individual resides 104693
in a facility listed in division (C)(1) of this section or has 104694
been admitted to a nursing facility. 104695

(G) An individual in a licensed or certified living 104696
arrangement receiving state supplementation on November 15, 1990, 104697
under former section 5101.531 of the Revised Code shall not become 104698
ineligible for payments under this section solely by reason of the 104699
individual's living arrangement as long as the individual remains 104700
in the living arrangement in which the individual resided on 104701
November 15, 1990. 104702

(H) The department of ~~aging~~ mental health shall notify each 104703
person denied approval for payments under this section of the 104704
person's right to a hearing. On request, the hearing shall be 104705
provided ~~by the department of job and family services~~ in 104706
accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code. 104707

Sec. ~~173.351~~ 5119.691. (A) As used in this section: 104708

~~"Area agency on aging" has the same meaning as in section~~ 104709
~~173.14 of the Revised Code.~~ 104710

"Long-term care consultation program" means the program the 104711
department of aging is required to develop under section 173.42 of 104712
the Revised Code. 104713

"Long-term care consultation program administrator" or 104714
"administrator" means the department of aging or, if the 104715
department contracts with an area agency on aging or other entity 104716
to administer the long-term care consultation program for a 104717
particular area, that agency or entity. 104718

"Nursing facility" has the same meaning as in section 5111.20 104719
of the Revised Code. 104720

"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code. 104721
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"Residential state supplement program" means the program administered pursuant to section ~~173.35~~ 5119.69 of the Revised Code. 104724
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(B) ~~Each month, each area agency on aging~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the ~~area agency on aging~~ area agency on aging serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If ~~an area~~ a residential state supplement administrative agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of ~~aging~~ mental health. On receipt of the notice from the administrator, the department of ~~aging~~ mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (F) of section ~~173.35~~ 5119.69 of the Revised Code. Each quarter, the department of ~~aging~~ mental health shall certify to the director of budget and management the estimated increase in costs of the 104727
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residential state supplement program resulting from enrollment of 104753
individuals in the program pursuant to this section. 104754

~~(C) Not later than the last day of each calendar year, the 104755
director of aging shall submit to the general assembly a report 104756
regarding the number of individuals enrolled in the residential 104757
state supplement program pursuant to this section and the costs 104758
incurred and savings achieved as a result of the enrollments. 104759~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster 104760
home" means a residence, other than a ~~residence certified or~~ 104761
residential facility licensed ~~by the department of mental health~~ 104762
under section 5119.22 of the Revised Code, in which accommodations 104763
and personal care services, as defined in section ~~3722.01~~ 5119.70 104764
of the Revised Code, are provided to one or two adults who are 104765
unrelated to the owners of the residence. 104766

The department of ~~aging~~ mental health shall adopt rules in 104767
accordance with Chapter 119. of the Revised Code establishing 104768
standards for the certification of adult foster homes. The 104769
department or its designee shall certify adult foster homes that 104770
apply for certification and meet the standards established by the 104771
department. 104772

Sec. 5119.693. (A) As used in this section: 104773

(1) "Adult resident" means an individual residing in an adult 104774
foster home certified by the department of mental health. 104775

(2) "Applicant" means a person who is under final 104776
consideration for employment with an adult foster home in a 104777
full-time, part-time, or temporary position that involves 104778
providing direct care to an adult resident. "Applicant" does not 104779
include a person who provides direct care as a volunteer without 104780
receiving or expecting to receive any form of remuneration other 104781
than reimbursement for actual expenses. 104782

(3) "Criminal records check" has the same meaning as in 104783
section 109.572 of the Revised Code. 104784

(B)(1) Except as provided in division (I) of this section, 104785
the owner or administrator of an adult foster home shall request 104786
that the superintendent of the bureau of criminal identification 104787
and investigation conduct a criminal records check with respect to 104788
each applicant. If an applicant for whom a criminal records check 104789
request is required under this division does not present proof of 104790
having been a resident of this state for the five-year period 104791
immediately prior to the date the criminal records check is 104792
requested or provide evidence that within that five-year period 104793
the superintendent has requested information about the applicant 104794
from the federal bureau of investigation in a criminal records 104795
check, the owner or administrator shall request that the 104796
superintendent obtain information from the federal bureau of 104797
investigation as part of the criminal records check of the 104798
applicant. Even if an applicant for whom a criminal records check 104799
request is required under this division presents proof of having 104800
been a resident of this state for the five-year period, the owner 104801
or administrator may request that the superintendent include 104802
information from the federal bureau of investigation in the 104803
criminal records check. 104804

(2) A person required by division (B)(1) of this section to 104805
request a criminal records check shall do both of the following: 104806

(a) Provide to each applicant for whom a criminal records 104807
check request is required under that division a copy of the form 104808
prescribed pursuant to division (C)(1) of section 109.572 of the 104809
Revised Code and a standard fingerprint impression sheet 104810
prescribed pursuant to division (C)(2) of that section, and obtain 104811
the completed form and impression sheet from the applicant; 104812

(b) Forward the completed form and impression sheet to the 104813
superintendent of the bureau of criminal identification and 104814

investigation. 104815

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section. 104816
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(C)(1) Except as provided in rules adopted by the department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult foster home shall employ a person in a position that involves providing direct care to an adult resident if the person has been convicted of or pleaded guilty to any of the following: 104821
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(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 104827
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(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section. 104836
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(2)(a) An adult foster home may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the foster home shall request a criminal records check regarding the individual in accordance with division (B)(1) of 104840
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this section not later than five business days after the 104846
individual begins conditional employment. In the circumstances 104847
described in division (I)(2) of this section, an adult foster home 104848
may employ conditionally an applicant who has been referred to the 104849
adult foster home by an employment service that supplies 104850
full-time, part-time, or temporary staff for positions involving 104851
the direct care of adult residents and for whom, pursuant to that 104852
division, a criminal records check is not required under division 104853
(B) of this section. 104854

(b) An adult foster home that employs an individual 104855
conditionally under authority of division (C)(2)(a) of this 104856
section shall terminate the individual's employment if the results 104857
of the criminal records check requested under division (B) of this 104858
section or described in division (I)(2) of this section, other 104859
than the results of any request for information from the federal 104860
bureau of investigation, are not obtained within the period ending 104861
thirty days after the date the request is made. Regardless of when 104862
the results of the criminal records check are obtained, if the 104863
results indicate that the individual has been convicted of or 104864
pleaded guilty to any of the offenses listed or described in 104865
division (C)(1) of this section, the foster home shall terminate 104866
the individual's employment unless the foster home chooses to 104867
employ the individual pursuant to division (F) of this section. 104868
Termination of employment under this division shall be considered 104869
just cause for discharge for purposes of division (D)(2) of 104870
section 4141.29 of the Revised Code if the individual makes any 104871
attempt to deceive the foster home about the individual's criminal 104872
record. 104873

(D)(1) Each adult foster home shall pay to the bureau of 104874
criminal identification and investigation the fee prescribed 104875
pursuant to division (C)(3) of section 109.572 of the Revised Code 104876
for each criminal records check conducted pursuant to a request 104877

made under division (B) of this section. 104878

(2) An adult foster home may charge an applicant a fee not exceeding the amount the foster home pays under division (D)(1) of this section. An adult foster home may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment. 104879
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(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 104885
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(1) The individual who is the subject of the criminal records check or the individual's representative; 104890
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(2) The owner or administrator of the foster home requesting the criminal records check or the owner's or administrator's representative; 104892
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(3) The administrator of any other facility, agency, or program that provides direct care to adult residents that is owned or operated by the same entity that owns or operates the adult foster home; 104895
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(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant; 104899
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(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section. 104903
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(F) The department of mental health may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which an adult 104905
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foster home may employ a person who has been convicted of or 104908
pleaded guilty to an offense listed or described in division 104909
(C)(1) of this section but meets personal character standards set 104910
by the department. 104911

(G) The owner or administrator of an adult foster home shall 104912
inform each individual, at the time of initial application for a 104913
position that involves providing direct care to an adult resident, 104914
that the individual is required to provide a set of fingerprint 104915
impressions and that a criminal records check is required to be 104916
conducted if the individual comes under final consideration for 104917
employment. 104918

(H) In a tort or other civil action for damages that is 104919
brought as the result of an injury, death, or loss to person or 104920
property caused by an individual who an adult foster home employs 104921
in a position that involves providing direct care to adult 104922
residents, all of the following shall apply: 104923

(1) If the foster home employed the individual in good faith 104924
and reasonable reliance on the report of a criminal records check 104925
requested under this section, the foster home shall not be found 104926
negligent solely because of its reliance on the report, even if 104927
the information in the report is determined later to have been 104928
incomplete or inaccurate; 104929

(2) If the foster home employed the individual in good faith 104930
on a conditional basis pursuant to division (C)(2) of this 104931
section, the foster home shall not be found negligent solely 104932
because it employed the individual prior to receiving the report 104933
of a criminal records check requested under this section; 104934

(3) If the foster home in good faith employed the individual 104935
according to the personal character standards established in rules 104936
adopted under division (F) of this section, the foster home shall 104937
not be found negligent solely because the individual prior to 104938

being employed had been convicted of or pleaded guilty to an 104939
offense listed or described in division (C)(1) of this section. 104940

(I)(1) The owner or administrator of an adult foster home is 104941
not required to request that the superintendent of the bureau of 104942
criminal identification and investigation conduct a criminal 104943
records check of an applicant if the applicant has been referred 104944
to the foster home by an employment service that supplies 104945
full-time, part-time, or temporary staff for positions involving 104946
the direct care of adult residents and both of the following 104947
apply: 104948

(a) The owner or administrator receives from the employment 104949
service or the applicant a report of the results of a criminal 104950
records check regarding the applicant that has been conducted by 104951
the superintendent within the one-year period immediately 104952
preceding the applicant's referral; 104953

(b) The report of the criminal records check demonstrates 104954
that the person has not been convicted of or pleaded guilty to an 104955
offense listed or described in division (C)(1) of this section, or 104956
the report demonstrates that the person has been convicted of or 104957
pleaded guilty to one or more of those offenses, but the adult 104958
foster home chooses to employ the individual pursuant to division 104959
(F) of this section. 104960

(2) The owner or administrator of an adult foster home is not 104961
required to request that the superintendent of the bureau of 104962
criminal identification and investigation conduct a criminal 104963
records check of an applicant and may employ the applicant 104964
conditionally as described in this division, if the applicant has 104965
been referred to the foster home by an employment service that 104966
supplies full-time, part-time, or temporary staff for positions 104967
involving the direct care of adult residents and if the owner or 104968
administrator receives from the employment service or the 104969
applicant a letter from the employment service that is on the 104970

letterhead of the employment service, dated, and signed by a 104971
supervisor or another designated official of the employment 104972
service and that states that the employment service has requested 104973
the superintendent to conduct a criminal records check regarding 104974
the applicant, that the requested criminal records check will 104975
include a determination of whether the applicant has been 104976
convicted of or pleaded guilty to any offense listed or described 104977
in division (C)(1) of this section, that, as of the date set forth 104978
on the letter, the employment service had not received the results 104979
of the criminal records check, and that, when the employment 104980
service receives the results of the criminal records check, it 104981
promptly will send a copy of the results to the adult care foster 104982
home. If an adult foster home employs an applicant conditionally 104983
in accordance with this division, the employment service, upon its 104984
receipt of the results of the criminal records check, promptly 104985
shall send a copy of the results to the adult foster home, and 104986
division (C)(2)(b) of this section applies regarding the 104987
conditional employment. 104988

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 104989
5119.70 to 5119.88: 104990

(1) "Owner" means the person who owns the business of and who 104991
ultimately controls the operation of an adult care facility and to 104992
whom the manager, if different from the owner, is responsible. 104993

(2) "Manager" means the person responsible for the daily 104994
operation of an adult care facility. The manager and the owner of 104995
a facility may be the same person. 104996

(3) "Adult" means an individual eighteen years of age or 104997
older. 104998

(4) "Unrelated" means that an adult resident is not related 104999
to the owner or manager of an adult care facility or to the 105000
owner's or manager's spouse as a parent, grandparent, child, 105001

stepchild, grandchild, brother, sister, niece, nephew, aunt, or 105002
uncle, or as the child of an aunt or uncle. 105003

(5) "Skilled nursing care" means skilled nursing care as 105004
defined in section 3721.01 of the Revised Code. 105005

(6)(a) "Personal care services" means services including, but 105006
not limited to, the following: 105007

(i) Assistance with activities of daily living; 105008

(ii) Assistance with self-administration of medication, in 105009
accordance with rules adopted ~~by the public health council~~ 105010
~~pursuant to this chapter~~ under section 5119.79 of the Revised 105011
Code; 105012

(iii) Preparation of special diets, other than complex 105013
therapeutic diets, for residents pursuant to the instructions of a 105014
physician or a licensed dietitian, in accordance with rules 105015
adopted ~~by the public health council pursuant to this chapter~~ 105016
under section 5119.79 of the Revised Code. 105017

(b) "Personal care services" does not include "skilled 105018
nursing care" as defined in section 3721.01 of the Revised Code. A 105019
facility need not provide more than one of the services listed in 105020
division (A)(6)(a) of this section for the facility to be 105021
considered to be providing personal care services. 105022

(7) "Adult family home" means a residence or facility that 105023
provides accommodations and supervision to three to five unrelated 105024
adults, at least three of whom require personal care services. 105025

(8) "Adult group home" means a residence or facility that 105026
provides accommodations and supervision to six to sixteen 105027
unrelated adults, at least three of whom require personal care 105028
services. 105029

(9) "Adult care facility" means an adult family home or an 105030
adult group home. For the purposes of ~~this chapter~~ sections 105031

5119.70 to 5119.88 of the Revised Code, any residence, facility, 105032
institution, hotel, congregate housing project, or similar 105033
facility that provides accommodations and supervision to three to 105034
sixteen unrelated adults, at least three of whom require personal 105035
care services, is an adult care facility regardless of how the 105036
facility holds itself out to the public. "Adult care facility" 105037
does not include: 105038

(a) A facility operated by a hospice care program licensed 105039
under section 3712.04 of the Revised Code that is used exclusively 105040
for care of hospice patients; 105041

(b) A nursing home, residential care facility, or home for 105042
the aging as defined in section 3721.01 of the Revised Code; 105043

(c) An alcohol and drug addiction program as defined in 105044
section 3793.01 of the Revised Code; 105045

(d) A residential facility for the mentally ill licensed by 105046
the department of mental health under section 5119.22 of the 105047
Revised Code; 105048

(e) A facility licensed to provide methadone treatment under 105049
section 3793.11 of the Revised Code; 105050

(f) A residential facility licensed under section 5123.19 of 105051
the Revised Code or otherwise regulated by the department of 105052
developmental disabilities; 105053

(g) Any residence, institution, hotel, congregate housing 105054
project, or similar facility that provides personal care services 105055
to fewer than three residents or that provides, for any number of 105056
residents, only housing, housekeeping, laundry, meal preparation, 105057
social or recreational activities, maintenance, security, 105058
transportation, and similar services that are not personal care 105059
services or skilled nursing care; 105060

(h) Any facility that receives funding for operating costs 105061

from the department of development under any program established 105062
to provide emergency shelter housing or transitional housing for 105063
the homeless; 105064

(i) A terminal care facility for the homeless that has 105065
entered into an agreement with a hospice care program under 105066
section 3712.07 of the Revised Code; 105067

(j) A facility approved by the veterans administration under 105068
section 104(a) of the "Veterans Health Care Amendments of 1983," 105069
97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively 105070
for the placement and care of veterans. 105071

~~(10) "Residents' rights advocate" means:~~ 105072

~~(a) An employee or representative of any state or local 105073
government entity that has a responsibility for residents of adult 105074
care facilities and has registered with the department of health 105075
under section 3701.07 of the Revised Code; 105076~~

~~(b) An employee or representative, other than a manager or 105077
employee of an adult care facility or nursing home, of any private 105078
nonprofit corporation or association that qualifies for tax exempt 105079
status under section 501(a) of the "Internal Revenue Code of 105080
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 105081
registered with the department of health under section 3701.07 of 105082
the Revised Code, and whose purposes include educating and 105083
counseling residents, assisting residents in resolving problems 105084
and complaints concerning their care and treatment, and assisting 105085
them in securing adequate services. 105086~~

~~(11) "Sponsor" means an adult relative, friend, or guardian 105087
of a resident of an adult care facility who has an interest in or 105088
responsibility for the resident's welfare. 105089~~

~~(12)~~(11) "Ombudsperson" means a "representative of the office 105090
of the state long-term care ombudsperson program" as defined in 105091
section 173.14 of the Revised Code. 105092

~~(13)~~(12) "Mental health agency" means a community mental health agency, as defined in division (H) of section 5119.22 5122.01 of the Revised Code, under contract with an ADAMHS board pursuant to division (A)(8)(a) of section 340.03 of the Revised Code. 105093
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~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services; 105098
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~~(15)~~(14) "Mental health resident program participation agreement" means a written agreement between an adult care facility and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located, under which the facility is authorized to admit residents who are receiving or are eligible for publicly funded mental health services. 105100
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~~(16)~~(15) "~~PASSPORT RSS~~ administrative agency" means an entity ~~under contract with the department of aging to provide that provides~~ administrative services regarding the ~~PASSPORT residential state supplement~~ program ~~created under section 173.40 of the Revised Code~~ on behalf of the department of mental health, either by having entered into a contract with the department to serve in that capacity or by having the department otherwise delegate to it the responsibility to serve in that capacity. 105107
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(B) For purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party. 105115
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(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a 105122
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resident who is capable of performing the activity in question 105124
without assistance. 105125

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents 105126
of an adult care facility shall be self-administered, except that 105127
medication may be administered to a resident as part of the 105128
skilled nursing care provided in accordance with division (B) of 105129
section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be 105130
admitted to or retained by an adult care facility unless the 105131
person is capable of self-administering the person's medication, 105132
as determined in writing by a physician, except that a person may 105133
be admitted to or retained by such a facility if the person's 105134
medication is administered as part of the skilled nursing care 105135
provided in accordance with division (B) of section ~~3722.16~~ 105136
5119.86 of the Revised Code. 105137

(B) Members of the staff of an adult care facility shall not 105138
administer medication to residents but may do any of the 105139
following: 105140

Remind a resident when to take medication and watch to ensure 105141
that the resident follows the directions on the container; 105142

Assist a resident in the self-administration of medication by 105143
taking the medication from the locked area where it is stored, in 105144
accordance with rules adopted ~~by the public health council~~ 105145
~~pursuant to this chapter~~ under section 5119.79 of the Revised 105146
Code, and handing it to the resident. If the resident is 105147
physically unable to open the container, a staff member may open 105148
the container for the resident. 105149

Assist a physically impaired but mentally alert resident, 105150
such as a resident with arthritis, cerebral palsy, or Parkinson's 105151
disease, in removing oral or topical medication from containers 105152
and in consuming or applying the medication, upon request by or 105153
with the consent of the resident. If a resident is physically 105154

unable to place a dose of medicine to the resident's mouth without 105155
spilling it, a staff member may place the dose in a container and 105156
place the container to the mouth of the resident. 105157

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate 105158
an adult care facility shall submit to the director of mental 105159
health an application on a form prescribed by the director and the 105160
following: 105161

(A) In the case of an adult group home seeking licensure as 105162
an adult care facility, evidence that the home has been inspected 105163
and approved by a local certified building department or by the 105164
division of labor in the department of commerce as meeting the 105165
applicable requirements of sections 3781.06 to 3781.18 and 3791.04 105166
of the Revised Code and any rules adopted under those sections and 105167
evidence that the home has been inspected by the state fire 105168
marshal or fire prevention officer of a municipal, township, or 105169
other legally constituted fire department approved by the state 105170
fire marshal and found to be in compliance with rules adopted 105171
under section 3737.83 of the Revised Code regarding fire 105172
prevention and safety in adult group homes; 105173

(B) Valid approvals of the facility's water and sewage 105174
systems issued by the responsible governmental entity, if 105175
applicable; 105176

(C) A statement of ownership containing the following 105177
information: 105178

(1) If the owner is an individual, the owner's name, address, 105179
telephone number, business address, business telephone number, and 105180
occupation. If the owner is an association, corporation, or 105181
partnership, the business activity, address, and telephone number 105182
of the entity and the name of every person who has an ownership 105183
interest of five per cent or more in the entity. 105184

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) A statement containing the following information	105216
regarding admissions to the facility:	105217
(1) The intended bed capacity of the facility;	105218
(2) If the facility will admit persons referred by or	105219
receiving services from an ADAMHS board or a mental health agency,	105220
the total number of beds anticipated to be occupied as a result of	105221
those admissions.	105222
(F) A nonrefundable license application fee in an amount	105223
established in rules adopted by the public health council pursuant	105224
to this chapter <u>under section 5119.79 of the Revised Code.</u>	105225
Sec. 3722.021 <u>5119.711.</u> In determining the number of	105226
residents in a facility for the purpose of licensure under this	105227
chapter <u>as an adult care facility</u> , the director of <u>mental</u> health	105228
shall consider all the individuals for whom the facility provides	105229
accommodations as one group unless either of the following is the	105230
case:	105231
(A) In addition to being an adult care facility, the facility	105232
is a nursing home licensed under Chapter 3721. of the Revised	105233
Code, a residential facility licensed under that chapter, or both.	105234
In that case, all the individuals in the part or unit licensed as	105235
a nursing home, residential care facility, or both, shall be	105236
considered as one group and all the individuals in the part or	105237
unit licensed as an adult care facility shall be considered as	105238
another group.	105239
(B) The facility maintains, in addition to an adult care	105240
facility, a separate and discrete part or unit that provides	105241
accommodations to individuals who do not receive supervision or	105242
personal care services from the adult care facility, in which case	105243
the individuals in the separate and discrete part or unit shall	105244
not be considered in determining the number of residents in the	105245

adult care facility if the separate and discrete part or unit is 105246
in compliance with the Ohio basic building code established by the 105247
board of building standards under Chapters 3781. and 3791. of the 105248
Revised Code and the adult care facility, to the extent of its 105249
authority, permits the director, on request, to inspect the 105250
separate and discrete part or unit and speak with the individuals 105251
residing there, if they consent, to determine whether the separate 105252
and discrete part or unit meets the requirements of this division. 105253

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license 105254
to operate an adult care facility if the person is or has been the 105255
owner or manager of an adult care facility for which a license to 105256
operate was revoked or for which renewal of a license was refused 105257
for any reason other than nonpayment of the license renewal fee, 105258
unless both of the following conditions are met: 105259

(A) A period of not less than two years has elapsed since the 105260
date the director of mental health issued the order revoking or 105261
refusing to renew the facility's license. 105262

(B) The director's revocation or refusal to renew the license 105263
was not based on an act or omission at the facility that violated 105264
a resident's right to be free from abuse, neglect, or 105265
exploitation. 105266

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult 105267
family home licensed as an adult care facility as a permitted use 105268
in any residential district or zone, including any single-family 105269
residential district or zone of any political subdivision. Such 105270
adult family homes may be required to comply with area, height, 105271
yard, and architectural compatibility requirements that are 105272
uniformly imposed upon all single-family residences within the 105273
district or zone. 105274

(B) Any person may operate an adult group home licensed as an 105275

adult care facility as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude adult group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate adult group homes in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) This section does not affect any right of a political subdivision to permit a person to operate an adult group home licensed under this chapter in a single-family residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as otherwise provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of adult family homes and adult group homes required to be licensed as adult care facilities.

(2) Nothing in division (D)(1) of this section authorizes a political subdivision to prevent or limit the continued existence and operation of adult family homes and adult group homes existing

and operating on the effective date of this section and required 105307
to be licensed as adult care facilities. A political subdivision 105308
may consider the existence of such homes for the purpose of 105309
limiting the excessive concentration of adult family homes or 105310
adult group homes required to be licensed as adult care facilities 105311
that are not existing and operating on the effective date of this 105312
section. 105313

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall 105314
inspect, license, and regulate adult care facilities. Except as 105315
otherwise provided in division (D) of this section, the director 105316
shall issue a license to an adult care facility that meets the 105317
requirements of section ~~3722.02~~ 5119.71 of the Revised Code and 105318
that the director determines to be in substantial compliance with 105319
the rules adopted ~~by the public health council~~ pursuant to ~~this~~ 105320
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The 105321
director shall consider the past record of the owner and manager 105322
and any individuals who are principal participants in an entity 105323
that is the owner or manager in operating facilities providing 105324
care to adults. The director may, in accordance with Chapter 119. 105325
of the Revised Code, deny a license if the past record indicates 105326
that the owner or manager is not suitable to own or manage an 105327
adult care facility. 105328

The license shall contain the name and address of the 105329
facility for which it was issued, the date of expiration of the 105330
license, and the maximum number of residents that may be 105331
accommodated by the facility. A license for an adult care facility 105332
shall be valid for a period of two years after the date of 105333
issuance. No single facility may be licensed to operate as more 105334
than one adult care facility. 105335

(B) The director shall renew a license for a two-year period 105336
if the facility continues to be in compliance with the 105337

requirements of this chapter and in substantial compliance with 105338
the rules adopted ~~under this chapter~~ pursuant to sections 5119.70 105339
to 5119.88 of the Revised Code. The owner shall submit a 105340
nonrefundable license renewal application fee in an amount 105341
established in rules adopted ~~by the public health council pursuant~~ 105342
~~to this chapter~~ under section 5119.79 of the Revised Code. Before 105343
the license of an adult group home is renewed, if any alterations 105344
have been made to the buildings, a certificate of occupancy for 105345
the facility shall have been issued by the division of labor in 105346
the department of commerce or a local certified building 105347
department. The facility shall have water and sewage system 105348
approvals, if required by law, and, in the case of an adult group 105349
home, documentation of continued compliance with the rules adopted 105350
by the state fire marshal under division (F) of section 3737.83 of 105351
the Revised Code. 105352

(C)(1) During each licensure period, the director shall make 105353
at least one unannounced inspection of an adult care facility in 105354
addition to inspecting the facility to determine whether a license 105355
should be issued or renewed, and may make additional unannounced 105356
inspections as the director considers necessary. Other inspections 105357
may be made at any time that the director considers appropriate. 105358
Inspections may be conducted as desk audits or on-site 105359
inspections. 105360

The director shall take all reasonable actions to avoid 105361
giving notice of an inspection by the manner in which the 105362
inspection is scheduled or performed. 105363

If an inspection is conducted to investigate an alleged 105364
violation of the requirements of ~~this chapter~~ sections 5119.70 to 105365
5119.88 of the Revised Code in a facility with residents referred 105366
by or receiving services from a mental health agency or ADAMHS 105367
board or a facility with residents receiving assistance under the 105368
residential state supplement program administered by the 105369

department of ~~aging~~ mental health pursuant to section ~~173.35~~ 105370
5119.69 of the Revised Code, the director ~~shall~~ may coordinate the 105371
inspection with the appropriate mental health agency, ADAMHS 105372
board, or ~~PASSPORT~~ residential state supplement administrative 105373
agency designated under section 5119.69 of the Revised Code. ~~As~~ 105374
~~the director considers appropriate, the~~ The director ~~shall~~ may 105375
conduct the inspection jointly with the mental health agency, 105376
ADAMHS board, or ~~PASSPORT~~ residential state supplement 105377
administrative agency. 105378

Not later than sixty days after the date of an inspection of 105379
a facility, the director shall send a report of the inspection to 105380
the regional long-term care ombudsperson in whose region 105381
representing the program in the area in which the facility is 105382
located. 105383

(2) The state fire marshal or fire prevention officer of a 105384
municipal, township, or other legally constituted fire department 105385
approved by the state fire marshal shall inspect an adult group 105386
home seeking a license or renewal ~~under this chapter~~ as an adult 105387
care facility prior to issuance of a license or renewal, at least 105388
once annually thereafter, and at any other time at the request of 105389
the director, to determine compliance with the rules adopted under 105390
division (F) of section 3737.83 of the Revised Code. 105391

(D) The director may waive any of the licensing requirements 105392
established by rule ~~adopted by the public health council~~ pursuant 105393
to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code 105394
upon written request of the facility. The director may grant a 105395
waiver if the director determines that the strict application of 105396
the licensing requirement would cause undue hardship to the 105397
facility and that granting the waiver would not jeopardize the 105398
health or safety of any resident. The director may provide a 105399
facility with an informal hearing concerning the denial of a 105400
waiver request, but the facility shall not be entitled to a 105401

hearing under Chapter 119. of the Revised Code unless the director 105402
takes an action that requires a hearing to be held under section 105403
~~3722.05~~ 5119.74 of the Revised Code. 105404

(E)(1) Not later than thirty days after each of the 105405
following, the owner of an adult care facility shall submit an 105406
inspection fee of twenty dollars for each bed for which the 105407
facility is licensed: 105408

(a) Issuance or renewal of a license; 105409

(b) The unannounced inspection required by division (C)(1) of 105410
this section that is in addition to the inspection conducted to 105411
determine whether a license should be issued or renewed; 105412

(c) If, during an inspection conducted in addition to the two 105413
inspections required by division (C)(1) of this section, the 105414
facility was found to be in violation of ~~this chapter~~ sections
5119.70 to 5119.88 of the Revised Code or the rules adopted under 105415
~~it~~ those sections, receipt by the facility of the report of that 105416
investigation. 105417
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(2) The director may revoke the license of any adult care 105419
facility that fails to submit the fee within the thirty-day 105420
period. 105421

(3) All inspection fees received by the director, all civil 105422
penalties assessed under section ~~3722.08~~ 5119.77 of the Revised 105423
Code, all fines imposed under section ~~3722.99~~ 5119.99 of the 105424
Revised Code, and all license application and renewal application 105425
fees received under division (F) of section ~~3722.02~~ 5119.71 of the 105426
Revised Code or under division (B) of this section ~~shall be~~
~~deposited into the general operations fund created in section~~
~~3701.83 of the Revised Code and~~ shall be used only to pay the 105427
costs of administering and enforcing the requirements of ~~this~~
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules 105428
adopted under ~~it~~ those sections. 105429
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(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section ~~3722.08~~ 5119.77 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities for which licenses have been revoked, facilities for which license renewal has been refused, any facilities under an order suspending admissions pursuant to section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section ~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request. The director shall annually send a copy of the list to the department of job and family services, ~~to the department of mental health,~~ and to the department of aging.

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to an adult family home

for which application is made to the director of mental health for 105464
licensure as an adult care facility ~~under this chapter~~. Adult 105465
family homes shall not be required to submit evidence to the 105466
director ~~of health~~ that the home has been inspected by a local 105467
certified building department or the division of labor in the 105468
department of commerce or by the state fire marshal or a fire 105469
prevention officer under section ~~3722.02~~ 5119.71 of the Revised 105470
Code, but shall be inspected by the director ~~of health~~ to 105471
determine compliance with this section. An inspection made under 105472
this section may be made at the same time as an inspection made 105473
under section ~~3722.04~~ 5119.73 of the Revised Code. 105474

(B) The director shall not license or renew the license of an 105475
adult family home unless it meets the fire protection standards 105476
established by rules adopted ~~by the public health council pursuant~~ 105477
~~to this chapter~~ under section 5119.79 of the Revised Code. 105478

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to 105479
comply with any requirement of ~~this chapter~~ sections 5119.70 to 105480
5119.88 of the Revised Code or with any rule adopted ~~pursuant to~~ 105481
~~this chapter~~ under those sections, the director of mental health 105482
may do any one or all of the following: 105483

(A) In accordance with Chapter 119. of the Revised Code, 105484
deny, revoke, or refuse to renew the license of the facility; 105485

(B) Give the facility an opportunity to correct the 105486
violation, in accordance with section ~~3722.06~~ 5119.75 of the 105487
Revised Code; 105488

(C) Issue an order suspending the admission of residents to 105489
the facility, in accordance with section ~~3722.07~~ 5119.76 of the 105490
Revised Code; 105491

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 105492
5119.77 of the Revised Code; 105493

(E) Petition the court of common pleas for injunctive relief 105494
in accordance with section ~~3722.09~~ 5119.78 of the Revised Code. 105495

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in 105496
sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code 105497
and except in cases of violations that jeopardize the health and 105498
safety of any of the residents, if the director of mental health 105499
determines that a licensed adult care facility is in violation of 105500
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of 105501
rules adopted ~~pursuant to this chapter~~ under those sections, the 105502
director shall give the facility an opportunity to correct the 105503
violation. The director shall notify the facility of the violation 105504
and specify a reasonable time for making the corrections. Notice 105505
of the violation shall be in writing and shall include a citation 105506
to the statute or rule violated. The director shall state the 105507
action that the director will take if the corrections are not made 105508
within the specified period of time. 105509

The facility shall submit to the director a plan of 105510
correction stating the actions that will be taken to correct the 105511
violation. The director shall conduct an inspection to determine 105512
whether the facility has corrected the violation in accordance 105513
with the plan of correction. 105514

If the director determines that the facility has failed to 105515
correct the violation in accordance with the plan of correction, 105516
the director may impose a penalty under section ~~3722.08~~ 5119.77 of 105517
the Revised Code. If the director determines that the license of 105518
the facility should be revoked or should not be renewed because 105519
the facility has failed to correct the violation within the time 105520
specified or because the violation jeopardizes the health or 105521
safety of any of the residents, the director shall revoke or 105522
refuse to renew the license in accordance with Chapter 119. of the 105523
Revised Code. 105524

~~Sec. 3722.07~~ 5119.76. (A) If the director of mental health 105525
determines that an adult care facility is in violation of ~~this~~ 105526
~~chapter sections 5119.70 to 5119.88 of the Revised Code~~ or of 105527
rules adopted ~~pursuant to it~~ under those sections, the director 105528
may immediately issue an order suspending the admission of 105529
residents to the facility. This order shall be effective 105530
immediately without prior hearing, and no resident shall be 105531
admitted to the facility until termination of the order. The 105532
director shall send a copy of the order to each organization known 105533
by the director to have placed residents in the facility and upon 105534
termination of the order shall send written notice of the 105535
termination to each of these organizations. Upon inquiry by any 105536
person about the licensure status of the facility, the director 105537
shall disclose the existence of an order of suspension. If the 105538
director discloses the existence of such an order to any person 105539
pursuant to this division, ~~he~~ the director shall also notify that 105540
person, and any other person upon inquiry, of any subsequent 105541
termination of the order of suspension. The facility shall post 105542
the notice provided for in division (B) of this section 105543
prominently and shall inform any person who inquires about 105544
residence or placement in the facility of the order. 105545

(B) The director shall give written notice of the order of 105546
suspension to the facility by certified mail, return receipt 105547
requested, or shall provide for delivery of the notice in person. 105548
If requested by the facility in a letter mailed or delivered not 105549
later than two working days after it has received the notice, the 105550
director shall hold a conference with representatives of the 105551
facility concerning the suspension. The conference shall be held 105552
not later than seven days after the director receives the request. 105553

The notice sent by the director shall contain all of the 105554
following: 105555

(1) A description of the violation;	105556
(2) A citation to the statute or rule violated;	105557
(3) A description of the corrections required for termination of the order of suspension;	105558 105559
(4) Procedures for the facility to follow to request a conference on the order of suspension.	105560 105561
(C) At the conference the director shall discuss with the representatives of the facility the violation cited in the notice provided for in division (B) of this section and shall advise the representatives in regard to correcting the violations. Not later than five days after the conference, the director shall issue another order either upholding or terminating the suspension. If the director issues an order upholding the suspension, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the notice and hearing under that chapter shall be provided after the order is issued, and the suspension shall remain in effect during the hearing process unless terminated by the director or until ninety days have elapsed after a timely request for an adjudication hearing is received by the director, whichever is sooner.	105562 105563 105564 105565 105566 105567 105568 105569 105570 105571 105572 105573 105574 105575
Sec. 3722.08 <u>5119.77</u>. (A) If the director of <u>mental</u> health determines that an adult care facility is in violation of this chapter <u>sections 5119.70 to 5119.88 of the Revised Code</u> or rules adopted under it <u>those sections</u> , the director may impose a civil penalty on the owner of the facility, pursuant to rules adopted by the public health council under this chapter <u>sections 5119.79 and 5119.80 of the Revised Code</u> . The director shall determine the classification and amount of the penalty by considering the following factors:	105576 105577 105578 105579 105580 105581 105582 105583 105584
(1) The gravity of the violation, the severity of the actual	105585

or potential harm, and the extent to which the provisions of this chapter or rules adopted under it were violated;

(2) Actions taken by the owner or manager to correct the violation;

(3) The number, if any, of previous violations by the adult care facility.

(B) The director shall give written notice of the order imposing a civil penalty to the adult care facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. The notice shall specify the classification of the violation as determined by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.80 of the Revised Code, the amount of the penalty and the rate of interest, the action that is required to be taken to correct the violation, the time within which it is to be corrected as specified in division (C) of this section, and the procedures for the facility to follow to request a conference on the order imposing a civil penalty. If the facility requests a conference in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility concerning the civil penalty. The conference shall be held not later than seven days after the director receives the request. The conference shall be conducted as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the Revised Code. If the director issues an order upholding the civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers

reasonable. The notice for a class II or a class III violation 105618
shall specify a time within which the violation is required to be 105619
corrected. 105620

(D) If the facility does not request a conference or if, 105621
after a conference, it fails to take action to correct a violation 105622
in the time prescribed by the director, the director shall issue 105623
an order upholding the penalty, plus interest at the rate 105624
specified in section 1343.03 of the Revised Code for each day 105625
beyond the date set for payment of the penalty. The director may 105626
waive the interest payment for the period prior to the conference 105627
if the director concludes that the conference was necessitated by 105628
a legitimate dispute. 105629

(E) The director may cancel or reduce the penalty for a class 105630
I violation if the facility corrects the violation within the time 105631
specified in the notice, except that the director shall impose the 105632
penalty even though the facility has corrected the violation if a 105633
resident suffers physical harm because of the violation or the 105634
facility has been cited previously for the same violation. The 105635
director may cancel the penalty for a class II or class III 105636
violation if the facility corrects the violation within the time 105637
specified in the notice and the facility has not been cited 105638
previously for the same violation. Each day of a violation of any 105639
class, after the date the director sets for abatement or 105640
elimination, constitutes a separate and additional violation. 105641

(F) If an adult care facility fails to pay a penalty imposed 105642
under this section, the director may commence a civil action to 105643
collect the penalty. The license of an adult care facility that 105644
has failed to pay a penalty imposed under this section shall not 105645
be renewed until the penalty has been paid. 105646

(G) If a penalty is imposed under this section, a fine shall 105647
not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code 105648
for the same violation. 105649

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health 105650
determines that the operation of an adult care facility 105651
jeopardizes the health or safety of any of the residents of the 105652
facility or if the director determines that an adult care facility 105653
is operating without a license, the director may petition the 105654
court of common pleas in the county in which the facility is 105655
located for appropriate injunctive relief against the facility. If 105656
injunctive relief is granted against a facility for operating 105657
without a license and the facility continues to operate without a 105658
license, the director shall refer the case to the attorney general 105659
for further action. 105660

(B) The court petitioned under division (A) of this section 105661
shall grant injunctive relief upon a showing that the operation of 105662
the facility jeopardizes the health or safety of any of the 105663
residents of the facility or that the facility is operating 105664
without a license. When the court grants injunctive relief in the 105665
case of a facility operating without a license, the court shall 105666
issue, at a minimum, an order enjoining the facility from 105667
admitting new residents to the facility and an order requiring the 105668
facility to assist ~~resident rights advocates~~ with the safe and 105669
orderly relocation of the facility's residents. 105670

Sec. ~~3722.10~~ 5119.79. (A) The ~~public health council shall~~ 105671
~~have the exclusive authority to adopt, and the council department~~ 105672
~~of mental health shall adopt,~~ rules governing the licensing and 105673
operation of adult care facilities. The rules shall be adopted in 105674
accordance with Chapter 119. of the Revised Code ~~and shall.~~ 105675
Subject to any provision of sections 5119.70 to 5119.88 of the 105676
Revised Code for which rules are required to be adopted, the rules 105677
may specify ~~all~~ any of the following: 105678

(1) Procedures for the issuance, renewal, and revocation of 105679
licenses, for the granting and denial of waivers, and for the 105680

issuance and termination of orders of suspension of admission 105681
pursuant to section ~~3722.07~~ 5119.76 of the Revised Code; 105682

(2) The qualifications required for owners, managers, and 105683
employees of adult care facilities, including character, training, 105684
education, experience, and financial resources and the number of 105685
staff members required in a facility; 105686

(3) Adequate space, equipment, safety, and sanitation 105687
standards for the premises of adult care facilities, and fire 105688
protection standards for adult family homes as required by section 105689
~~3722.041~~ 5119.731 of the Revised Code; 105690

(4) The personal, social, dietary, and recreational services 105691
to be provided to each resident of adult care facilities; 105692

(5) Rights of residents of adult care facilities, in addition 105693
to the rights enumerated under section ~~3722.12~~ 5119.81 of the 105694
Revised Code, and procedures to protect and enforce the rights of 105695
these residents; 105696

(6) Provisions for keeping records of residents and for 105697
maintaining the confidentiality of the records as required by 105698
division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The 105699
provisions for maintaining the confidentiality of records shall, 105700
at the minimum, meet the requirements for maintaining the 105701
confidentiality of records under Title XIX of the "Social Security 105702
Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations 105703
promulgated thereunder. 105704

(7) Measures to be taken by adult care facilities relative to 105705
residents' medication, including policies and procedures 105706
concerning medication, storage of medication in a locked area, and 105707
disposal of medication and assistance with self-administration of 105708
medication, if the facility provides assistance; 105709

(8) Requirements for initial and periodic health assessments 105710
of prospective and current adult care facility residents by 105711

physicians or other health professionals to ensure that they do 105712
not require a level of care beyond that which is provided by the 105713
adult care facility, including assessment of their capacity to 105714
self-administer the medications prescribed for them; 105715

(9) Requirements relating to preparation of special diets; 105716

(10) The amount of the fees for new and renewal license 105717
applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 105718
5119.73 of the Revised Code; 105719

(11) Measures to be taken by any employee of the state or any 105720
political subdivision of the state authorized by this chapter to 105721
enter an adult care facility to inspect the facility or for any 105722
other purpose, to ensure that the employee respects the privacy 105723
and dignity of residents of the facility, cooperates with 105724
residents of the facility and behaves in a congenial manner toward 105725
them, and protects the rights of residents; 105726

(12) How an owner or manager of an adult care facility is to 105727
comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a~~ 105728
~~minimum, the~~ The rules ~~shall~~ may establish the procedures an owner 105729
or manager is to follow under division (A) of section ~~3722.18~~ 105730
5119.88 of the Revised Code regarding referrals to the facility of 105731
prospective residents with mental illness or severe mental 105732
disability and effective arrangements for ongoing mental health 105733
services for such prospective residents. The procedures may 105734
provide for any of the following: 105735

(a) That the owner or manager and the ADAMHS board serving 105736
the alcohol, drug addiction, and mental health service district in 105737
which the facility is located sign a mental health resident 105738
program participation agreement, as developed by the director of 105739
mental health under section ~~5119.613~~ 5119.614 of the Revised Code; 105740

(b) That the owner or manager comply with the requirements of 105741
its mental health resident program participation agreement; 105742

(c) That the owner or manager and the mental health agencies and ADAMHS boards that refer such prospective residents to the facility develop and sign a mental health plan for ongoing mental health services for each such prospective resident;

(d) Any other process established by the ~~public health council in consultation with the director of health and~~ director of mental health regarding referrals and effective arrangements for ongoing mental health services for prospective residents with mental illness.

(13) Any other rules necessary for the administration and enforcement of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code.~~

~~(B) After consulting with relevant constituencies, the director of mental health shall prepare and submit to the director of health recommendations for the content of rules to be adopted under division (A)(12) of this section.~~

~~(C)~~ The director of mental health shall advise adult care facilities regarding compliance with the requirements of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code~~ and with the rules adopted pursuant to ~~this chapter those sections.~~

~~(D)~~(C) Any duty or responsibility imposed upon the director of mental health by this chapter may be carried out by ~~an employee of the department of health~~ persons designated by the director.

~~(E)~~(D) Employees of the department of mental health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license.

~~Sec. 3722.11~~ 5119.80. The ~~public health council~~ department of

~~mental health shall, not later than twelve months after the~~ 105773
~~effective date of this section,~~ adopt rules under Chapter 119. of 105774
the Revised Code that set guidelines for classifying violations of 105775
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or 105776
rules adopted under ~~it~~ those sections for the purpose of imposing 105777
civil penalties. The rules shall establish the following 105778
classifications: 105779

(A) Class I violations are conditions or occurrences that 105780
present an immediate and serious threat to the physical or 105781
emotional health, safety, or security of residents of an adult 105782
care facility. Whoever is determined to have committed a class I 105783
violation is subject to a civil penalty of not less than seven 105784
hundred dollars nor more than one thousand dollars for each 105785
violation. 105786

(B) Class II violations are conditions or occurrences, other 105787
than class I violations, that directly threaten the physical or 105788
emotional health, safety, or security of residents of an adult 105789
care facility. Whoever is determined to have committed a class II 105790
violation is subject to a civil penalty of not less than five 105791
hundred dollars nor more than seven hundred dollars for each 105792
violation. 105793

(C) Class III violations are conditions or occurrences, other 105794
than class I or class II violations, that indirectly or 105795
potentially threaten the physical or emotional health, safety, or 105796
security of residents of a facility. Whoever is determined to have 105797
committed a class III violation is subject to a civil penalty of 105798
not less than one hundred dollars nor more than five hundred 105799
dollars for each violation. 105800

Sec. ~~3722.12~~ 5119.81. (A) As used in this section: 105801

(1) "Abuse" means the unreasonable confinement or 105802
intimidation of a resident, or the infliction of injury or cruel 105803

punishment upon a resident, resulting in physical harm, pain, or 105804
mental anguish. 105805

(2) "Exploitation" means the unlawful or improper utilization 105806
of an adult resident or ~~his~~ the resident's resources for personal 105807
or monetary benefit, profit, or gain. 105808

(3) "Mechanical restraint" means any method of restricting a 105809
resident's freedom of movement, physical activity, or normal use 105810
of the resident's body, using an appliance or device manufactured 105811
for this purpose. 105812

(4) "Neglect" means failure to provide a resident with the 105813
goods or services necessary to prevent physical harm, mental 105814
anguish, or mental illness. 105815

~~(4)(5) "Physical restraint," includes, but is not limited to,~~ 105816
~~the locked door of a room or any article, device, or garment that~~ 105817
~~interferes with the free movement of the resident and that he is~~ 105818
~~unable to remove easily~~ also known as "manual restraint," means 105819
any method of physically restricting a resident's freedom of 105820
movement, physical activity, or normal use of the resident's body 105821
without the use of a mechanical restraint. 105822

(6) "Seclusion" means the involuntary confinement of a 105823
resident alone in a room in which the resident is physically 105824
prevented from leaving. 105825

(B) The rights of a resident of an adult care facility 105826
include all of the following: 105827

(1) The right to a safe, healthy, clean, and decent living 105828
environment; 105829

(2) The right to be treated at all times with courtesy and 105830
respect, and with full recognition of personal dignity and 105831
individuality; 105832

(3) The right to practice a religion of ~~his~~ the resident's 105833

choice or to abstain from the practice of religion;	105834
(4) The right to manage personal financial affairs;	105835
(5) The right to retain and use personal clothing;	105836
(6) The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality;	105837 105838
(7) The right to participate in activities within the facility and to use the common areas of the facility;	105839 105840
(8) The right to engage in or refrain from engaging in activities of his <u>the resident's</u> own choosing within reason;	105841 105842
(9) The right to private and unrestricted communications, including:	105843 105844
(a) The right to receive, send, and mail sealed, unopened correspondence;	105845 105846
(b) The right to reasonable access to a telephone for private communications;	105847 105848
(c) The right to private visits at any reasonable hour.	105849
(10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at his <u>the resident's</u> initiative or at the initiative of community groups;	105850 105851 105852 105853
(11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;	105854 105855 105856
(12) Prior to becoming a resident, the right to visit the facility alone or with his <u>the prospective resident's</u> sponsor;	105857 105858
(13) The right to retain the services of any health or social services practitioner at his <u>the resident's</u> own expense;	105859 105860
(14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter	105861 105862

2111. of the Revised Code and has not been restored to legal 105863
capacity, the right to have ~~his~~ the resident's legal guardian make 105864
decisions about medical treatment and services for ~~him~~ the 105865
resident; 105866

(15) The right to be free from abuse, neglect, or 105867
exploitation; 105868

(16) The right to be free from seclusion and mechanical and 105869
physical restraints; 105870

(17) The right not to be deprived of any legal rights solely 105871
by reason of residence in an adult care facility; 105872

(18) The right to examine records maintained by the adult 105873
care facility concerning ~~him~~ the resident, upon request; 105874

(19) The right to confidential treatment of ~~his~~ the 105875
resident's personal records, and the right to approve or refuse 105876
the release of these records to any individual outside the 105877
facility, except upon transfer to another adult care facility or a 105878
nursing home, residential care facility, home for the aging, 105879
hospital, or other health care facility or provider, and except as 105880
required by law or rule or as required by a third-party payment 105881
contract; 105882

(20) The right to be informed in writing of the rates charged 105883
by the facility as well as any additional charges, and to receive 105884
thirty days notice in writing of any change in the rates and 105885
charges; 105886

(21) The right to have any significant change in ~~his~~ the 105887
resident's health reported to ~~his~~ the resident's sponsor; 105888

(22) The right to share a room with a spouse if both are 105889
residents of the facility. 105890

(C) A sponsor, or the director of mental health, ~~the director~~ 105891
~~of aging, or a residents' rights advocate registered under section~~ 105892

~~3701.07~~ of the Revised Code may assert on behalf of a resident any 105893
of the rights enumerated under this section, section ~~3722.14~~ 105894
5119.83 of the Revised Code, or rules adopted ~~by the public health~~ 105895
~~council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of 105896
the Revised Code. Any attempted waiver of these rights is void. No 105897
adult care facility or person associated with an adult care 105898
facility shall deny a resident any of these rights. 105899

(D) Any resident whose rights under this section or section 105900
~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are 105901
violated has a cause of action against any person or facility 105902
committing the violation. ~~The action may be commenced by the~~ 105903
~~resident or by his sponsor on his behalf.~~ The court may award 105904
actual and punitive damages for violation of the rights. The court 105905
may award to the prevailing party reasonable attorney's fees 105906
limited to the work reasonably performed. 105907

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall 105908
establish a written residents' rights policy containing the text 105909
of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised 105910
Code and rules adopted by the ~~public health council~~ pursuant to 105911
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a 105912
discussion of the rights and responsibilities of residents under 105913
~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and 105914
the text of any additional rule for residents promulgated by the 105915
facility. At the time of admission the manager shall give a copy 105916
of the residents' rights policy to the resident and the resident's 105917
sponsor, if any, and explain the contents of the policy to them. 105918
The facility shall establish procedures for facilitating the 105919
residents' exercise of their rights. 105920

(B) Each adult care facility shall post prominently within 105921
the facility a copy of the residents' rights listed in division 105922
(B) of section ~~3722.12~~ 5119.81 of the Revised Code and any 105923

additional residents' rights established by rules adopted by the 105924
~~public health council pursuant to this chapter sections 5119.70 to~~ 105925
5119.88 of the Revised Code, the addresses and telephone numbers 105926
of the state long-term care ombudsperson and the regional 105927
long-term care ombudsperson program for the area in which the 105928
facility is located, and the telephone number maintained by the 105929
department ~~of health~~ for accepting complaints. 105930

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division 105931
(A)(2) of this section, an adult care facility may transfer or 105932
discharge a resident, in the absence of a request from the 105933
resident, only for the following reasons: 105934

(a) Charges for the resident's accommodations and services 105935
have not been paid within thirty days after the date on which they 105936
became due; 105937

(b) The mental, emotional, or physical condition of the 105938
resident requires a level of care that the facility is unable to 105939
provide; 105940

(c) The health, safety, or welfare of the resident or of 105941
another resident requires a transfer or discharge; 105942

(d) The facility's license has been revoked or renewal has 105943
been denied ~~pursuant to this chapter by the director of mental~~ 105944
health; 105945

(e) The owner closes the facility; 105946

(f) The resident is relocated as the result of a court's 105947
order issued under section ~~3722.09~~ 5119.78 of the Revised Code as 105948
part of the injunctive relief granted against a facility that is 105949
operating without a license; 105950

(g) The resident is receiving publicly funded mental health 105951
services and the facility's mental health resident program 105952
participation agreement is terminated by the facility or ADAMHS 105953

board. 105954

(2) An adult family home may transfer or discharge a resident 105955
if transfer or discharge is required for the health, safety, or 105956
welfare of an individual who resides in the home but is not a 105957
resident for whom supervision or personal services are provided. 105958

(B)(1) The facility shall give a resident thirty days' 105959
advance notice, in writing, of a proposed transfer or discharge, 105960
except that if the transfer or discharge is for a reason given in 105961
divisions (A)(1)(b) to (g) or (A)(2) of this section and an 105962
emergency exists, the notice need not be given thirty days in 105963
advance. The facility shall state in the written notice the 105964
reasons for the proposed transfer or discharge. If the resident is 105965
entitled to a hearing as specified in division (B)(2) of this 105966
section, the written notice shall outline the procedure for the 105967
resident to follow in requesting a hearing. 105968

(2) A resident may request a hearing if a proposed transfer 105969
or discharge is based on reason given in ~~division~~ divisions 105970
(A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks 105971
a hearing, the resident shall submit a request to the director of 105972
mental health not later than ten days after receiving the written 105973
notice. The director shall hold the hearing not later than ten 105974
days after receiving the request. A representative of the director 105975
shall preside over the hearing and shall issue a written 105976
recommendation of action to be taken by the director not later 105977
than three days after the hearing. The director shall issue an 105978
order regarding the transfer or discharge not later than two days 105979
after receipt of the recommendation. The order may prohibit or 105980
place conditions on the discharge or transfer. In the case of a 105981
transfer, the order may require that the transfer be to an 105982
institution or facility specified by the director. The hearing is 105983
not subject to section 121.22 of the Revised Code. The ~~public~~ 105984
~~health council~~ department of mental health shall adopt rules 105985

governing any additional procedures necessary for conducting the hearing. 105986
105987

(C)(1) The owner of an adult care facility who is closing the facility shall inform the director ~~of health~~ in writing at least thirty days prior to the proposed date of closing. At the same time, the owner or manager shall inform each resident, the resident's guardian, the resident's sponsor, or any organization or agency acting on behalf of the resident, of the closing of the facility and the date of the closing. 105988
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(2) Immediately upon receiving notice that a facility is to be closed, the director shall monitor the transfer of residents to other facilities and ensure that residents' rights are protected. The director shall notify the ombudsperson in the region in which the facility is located of the closing. 105995
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(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility. 106000
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(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled. 106005
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Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time: 106008
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(1) Employees designated by the director of mental health; 106010

(2) Employees designated by the director of aging; 106011

(3) Employees designated by the attorney general; 106012

(4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code; 106013
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(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ombudsperson program;	106016 106017 106018
(6) Employees of the department of mental health designated by the director of mental health;	106019 106020
(7) Employees of a mental health agency under any of the following circumstances:	106021 106022
(a) When the agency has a client residing in the facility;	106023
(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract;	106024 106025
(c) When there is a mental health resident program participation agreement between the facility and the ADAMHS board with which the agency is under contract.	106026 106027 106028
(8) <u>(7)</u> Employees of an ADAMHS board under any of the following circumstances:	106029 106030
(a) When authorized by section 340.05 of the Revised Code;	106031
(b) When a resident of the facility is receiving mental health services provided by that ADAMHS board or another ADAMHS board pursuant to division (A)(8)(b) of section 340.03 of the Revised Code;	106032 106033 106034 106035
(c) When a resident of the facility is receiving services from a mental health agency under contract with that ADAMHS board or another ADAMHS board;	106036 106037 106038
(d) When there is a mental health resident program participation agreement between the facility and that ADAMHS board.	106039 106040 106041
The employees specified in divisions (A)(1) to (8) <u>(7)</u> of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of <u>mental</u> health	106042 106043 106044 106045

shall release, without consent, any information obtained from the 106046
records of an adult care facility that reasonably would tend to 106047
identify a specific resident of the facility, except as ordered by 106048
a court of competent jurisdiction or when the release is otherwise 106049
authorized by law. 106050

(B) The following persons may enter any adult care facility 106051
during reasonable hours: 106052

(1) ~~A resident's sponsor;~~ 106053

~~(2) Residents' rights advocates;~~ 106054

~~(3) A resident's attorney;~~ 106055

~~(4)~~(2) A minister, priest, rabbi, or other person ministering 106056
to a resident's religious needs; 106057

~~(5)~~(3) A physician or other person providing health care 106058
services to a resident; 106059

~~(6)~~(4) Employees authorized by county departments of job and 106060
family services and local boards of health or health departments 106061
to enter adult care facilities; 106062

~~(7)~~(5) A prospective resident ~~and prospective resident's~~ 106063
~~sponsor.~~ 106064

(C) The manager of an adult care facility may require a 106065
person seeking to enter the facility to present identification 106066
sufficient to identify the person as an authorized person under 106067
this section. 106068

Sec. ~~3722.151~~ 5119.85. (A) As used in this section: 106069

(1) "~~Adult care facility~~" ~~has the same meaning as in section~~ 106070
~~3722.01 of the Revised Code~~ resident" means an individual residing 106071
in an adult care facility licensed by the department of mental 106072
health. 106073

(2) "Applicant" means a person who is under final 106074

consideration for employment with an adult care facility in a 106075
full-time, part-time, or temporary position that involves 106076
providing direct care to an ~~elder~~ adult resident. "Applicant" does 106077
not include a person who provides direct care as a volunteer 106078
without receiving or expecting to receive any form of remuneration 106079
other than reimbursement for actual expenses. 106080

(3) "Criminal records check" ~~and "older adult" have~~ has the 106081
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 106082

(B)(1) Except as provided in division (I) of this section, 106083
the chief administrator of an adult care facility shall request 106084
that the superintendent of the bureau of criminal identification 106085
and investigation conduct a criminal records check with respect to 106086
each applicant. If an applicant for whom a criminal records check 106087
request is required under this division does not present proof of 106088
having been a resident of this state for the five-year period 106089
immediately prior to the date the criminal records check is 106090
requested or provide evidence that within that five-year period 106091
the superintendent has requested information about the applicant 106092
from the federal bureau of investigation in a criminal records 106093
check, the chief administrator shall request that the 106094
superintendent obtain information from the federal bureau of 106095
investigation as part of the criminal records check of the 106096
applicant. Even if an applicant for whom a criminal records check 106097
request is required under this division presents proof of having 106098
been a resident of this state for the five-year period, the chief 106099
administrator may request that the superintendent include 106100
information from the federal bureau of investigation in the 106101
criminal records check. 106102

(2) A person required by division (B)(1) of this section to 106103
request a criminal records check shall do both of the following: 106104

(a) Provide to each applicant for whom a criminal records 106105
check request is required under that division a copy of the form 106106

prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public health council~~ department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an ~~elder~~ resident if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of

this section. 106138

(2)(a) An adult care facility may employ conditionally an 106139
applicant for whom a criminal records check request is required 106140
under division (B) of this section prior to obtaining the results 106141
of a criminal records check regarding the individual, provided 106142
that the facility shall request a criminal records check regarding 106143
the individual in accordance with division (B)(1) of this section 106144
not later than five business days after the individual begins 106145
conditional employment. In the circumstances described in division 106146
(I)(2) of this section, an adult care facility may employ 106147
conditionally an applicant who has been referred to the adult care 106148
facility by an employment service that supplies full-time, 106149
part-time, or temporary staff for positions involving the direct 106150
care of ~~elder adults~~ adult residents and for whom, pursuant to 106151
that division, a criminal records check is not required under 106152
division (B) of this section. 106153

(b) An adult care facility that employs an individual 106154
conditionally under authority of division (C)(2)(a) of this 106155
section shall terminate the individual's employment if the results 106156
of the criminal records check requested under division (B) of this 106157
section or described in division (I)(2) of this section, other 106158
than the results of any request for information from the federal 106159
bureau of investigation, are not obtained within the period ending 106160
thirty days after the date the request is made. Regardless of when 106161
the results of the criminal records check are obtained, if the 106162
results indicate that the individual has been convicted of or 106163
pleaded guilty to any of the offenses listed or described in 106164
division (C)(1) of this section, the facility shall terminate the 106165
individual's employment unless the facility chooses to employ the 106166
individual pursuant to division (F) of this section. Termination 106167
of employment under this division shall be considered just cause 106168
for discharge for purposes of division (D)(2) of section 4141.29 106169

of the Revised Code if the individual makes any attempt to deceive 106170
the facility about the individual's criminal record. 106171

(D)(1) Each adult care facility shall pay to the bureau of 106172
criminal identification and investigation the fee prescribed 106173
pursuant to division (C)(3) of section 109.572 of the Revised Code 106174
for each criminal records check conducted pursuant to a request 106175
made under division (B) of this section. 106176

(2) An adult care facility may charge an applicant a fee not 106177
exceeding the amount the facility pays under division (D)(1) of 106178
this section. A facility may collect a fee only if it notifies the 106179
person at the time of initial application for employment of the 106180
amount of the fee and that, unless the fee is paid, the person 106181
will not be considered for employment. 106182

(E) The report of any criminal records check conducted 106183
pursuant to a request made under this section is not a public 106184
record for the purposes of section 149.43 of the Revised Code and 106185
shall not be made available to any person other than the 106186
following: 106187

(1) The individual who is the subject of the criminal records 106188
check or the individual's representative; 106189

(2) The chief administrator of the facility requesting the 106190
criminal records check or the administrator's representative; 106191

(3) The administrator of any other facility, agency, or 106192
program that provides direct care to ~~elder-adults~~ adult residents 106193
that is owned or operated by the same entity that owns or operates 106194
the adult care facility; 106195

(4) A court, hearing officer, or other necessary individual 106196
involved in a case dealing with a denial of employment of the 106197
applicant or dealing with employment or unemployment benefits of 106198
the applicant; 106199

(5) Any person to whom the report is provided pursuant to, 106200
and in accordance with, division (I)(1) or (2) of this section. 106201

(F) The ~~public health council shall~~ department may adopt 106202
rules in accordance with Chapter 119. of the Revised Code to 106203
implement this section. The rules ~~shall~~ may specify circumstances 106204
under which an adult care facility may employ a person who has 106205
been convicted of or pleaded guilty to an offense listed or 106206
described in division (C)(1) of this section but meets personal 106207
character standards set by the council. 106208

(G) The chief administrator of an adult care facility shall 106209
inform each individual, at the time of initial application for a 106210
position that involves providing direct care to an ~~elder~~ adult 106211
resident, that the individual is required to provide a set of 106212
fingerprint impressions and that a criminal records check is 106213
required to be conducted if the individual comes under final 106214
consideration for employment. 106215

(H) In a tort or other civil action for damages that is 106216
brought as the result of an injury, death, or loss to person or 106217
property caused by an individual who an adult care facility 106218
employs in a position that involves providing direct care to ~~elder~~ 106219
~~adults~~ adult residents, all of the following shall apply: 106220

(1) If the facility employed the individual in good faith and 106221
reasonable reliance on the report of a criminal records check 106222
requested under this section, the facility shall not be found 106223
negligent solely because of its reliance on the report, even if 106224
the information in the report is determined later to have been 106225
incomplete or inaccurate; 106226

(2) If the facility employed the individual in good faith on 106227
a conditional basis pursuant to division (C)(2) of this section, 106228
the facility shall not be found negligent solely because it 106229
employed the individual prior to receiving the report of a 106230

criminal records check requested under this section; 106231

(3) If the facility in good faith employed the individual 106232
according to the personal character standards established in rules 106233
adopted under division (F) of this section, the facility shall not 106234
be found negligent solely because the individual prior to being 106235
employed had been convicted of or pleaded guilty to an offense 106236
listed or described in division (C)(1) of this section. 106237

(I)(1) The chief administrator of an adult care facility is 106238
not required to request that the superintendent of the bureau of 106239
criminal identification and investigation conduct a criminal 106240
records check of an applicant if the applicant has been referred 106241
to the facility by an employment service that supplies full-time, 106242
part-time, or temporary staff for positions involving the direct 106243
care of ~~elder adults~~ adult residents and both of the following 106244
apply: 106245

(a) The chief administrator receives from the employment 106246
service or the applicant a report of the results of a criminal 106247
records check regarding the applicant that has been conducted by 106248
the superintendent within the one-year period immediately 106249
preceding the applicant's referral; 106250

(b) The report of the criminal records check demonstrates 106251
that the person has not been convicted of or pleaded guilty to an 106252
offense listed or described in division (C)(1) of this section, or 106253
the report demonstrates that the person has been convicted of or 106254
pleaded guilty to one or more of those offenses, but the adult 106255
care facility chooses to employ the individual pursuant to 106256
division (F) of this section. 106257

(2) The chief administrator of an adult care facility is not 106258
required to request that the superintendent of the bureau of 106259
criminal identification and investigation conduct a criminal 106260
records check of an applicant and may employ the applicant 106261

conditionally as described in this division, if the applicant has 106262
been referred to the facility by an employment service that 106263
supplies full-time, part-time, or temporary staff for positions 106264
involving the direct care of ~~elder adults~~ adult residents and if 106265
the chief administrator receives from the employment service or 106266
the applicant a letter from the employment service that is on the 106267
letterhead of the employment service, dated, and signed by a 106268
supervisor or another designated official of the employment 106269
service and that states that the employment service has requested 106270
the superintendent to conduct a criminal records check regarding 106271
the applicant, that the requested criminal records check will 106272
include a determination of whether the applicant has been 106273
convicted of or pleaded guilty to any offense listed or described 106274
in division (C)(1) of this section, that, as of the date set forth 106275
on the letter, the employment service had not received the results 106276
of the criminal records check, and that, when the employment 106277
service receives the results of the criminal records check, it 106278
promptly will send a copy of the results to the adult care 106279
facility. If an adult care facility employs an applicant 106280
conditionally in accordance with this division, the employment 106281
service, upon its receipt of the results of the criminal records 106282
check, promptly shall send a copy of the results to the adult care 106283
facility, and division (C)(2)(b) of this section applies regarding 106284
the conditional employment. 106285

Sec. ~~3722.16~~ 5119.86. (A) No person shall: 106286

(1) Operate an adult care facility unless the facility is 106287
validly licensed by the director of mental health under section 106288
~~3722.04~~ 5119.73 of the Revised Code; 106289

(2) Admit to an adult care facility more residents than the 106290
number authorized in the facility's license; 106291

(3) Admit a resident to an adult care facility after the 106292

director has issued an order pursuant to section ~~3722.07~~ 5119.76 106293
of the Revised Code suspending admissions to the facility. 106294
Violation of division (A)(3) of this section is cause for 106295
revocation of the facility's license. 106296

(4) Interfere with any authorized inspection of an adult care 106297
facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 106298
5119.73 of the Revised Code; 106299

(5) Admit to an adult care facility a resident requiring 106300
publicly funded mental health services, unless both of the 106301
following conditions are met: 106302

(a) The ADAMHS board serving the alcohol, drug addiction, and 106303
mental health service district in which the facility is located is 106304
notified; 106305

(b) The facility and ADAMHS board have entered into a mental 106306
health resident program participation agreement by using the 106307
standardized form approved by the director of mental health under 106308
section ~~5119.613~~ 5119.614 of the Revised Code. 106309

(6) Violate any of the provisions of ~~this chapter~~ sections 106310
5119.70 to 5119.88 of the Revised Code or any of the rules adopted 106311
pursuant to ~~it~~ those sections. 106312

(B) No adult care facility shall provide, or admit or retain 106313
any resident in need of, skilled nursing care unless all of the 106314
following conditions are met: 106315

(1) The care will be provided on a part-time, intermittent 106316
basis for not more than a total of one hundred twenty days in any 106317
twelve-month period. 106318

(2) The care will be provided by one or more of the 106319
following: 106320

(a) A home health agency certified under Title XVIII of the 106321
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 106322

amended; 106323

(b) A hospice care program licensed under Chapter 3712. of 106324
the Revised Code; 106325

(c) A nursing home licensed under Chapter 3721. of the 106326
Revised Code and owned and operated by the same person and located 106327
on the same site as the adult care facility; 106328

(d) A mental health agency or, pursuant to division (A)(8)(b) 106329
of section 340.03 of the Revised Code, an ADAMHS board. 106330

(3) Each individual employed by, under contract with, or 106331
otherwise used by any of the entities specified in division (B)(2) 106332
of this section to perform the skilled nursing care is authorized 106333
under the laws of this state to perform the care by being 106334
appropriately licensed, as specified in rules adopted under 106335
division (G) of this section. 106336

(4) The staff of the one or more entities providing the 106337
skilled nursing care does not train the adult care facility staff 106338
to provide the skilled nursing care; 106339

(5) The individual to whom the skilled nursing care is 106340
provided is suffering from a short-term illness; 106341

(6) If the skilled nursing care is to be provided by the 106342
nursing staff of a nursing home, all of the following are the 106343
case: 106344

(a) The adult care facility evaluates the individual 106345
receiving the skilled nursing care at least once every seven days 106346
to determine whether the individual should be transferred to a 106347
nursing home; 106348

(b) The adult care facility meets at all times staffing 106349
requirements established by rules adopted under section ~~3722.10~~ 106350
5119.79 of the Revised Code; 106351

(c) The nursing home does not include the cost of providing 106352

skilled nursing care to the adult care facility residents in a 106353
cost report filed under section 5111.26 of the Revised Code; 106354

(d) The nursing home meets at all times the nursing home 106355
licensure staffing ratios established by rules adopted under 106356
section 3721.04 of the Revised Code; 106357

(e) The nursing home staff providing skilled nursing care to 106358
adult care facility residents are registered nurses or licensed 106359
practical nurses licensed under Chapter 4723. of the Revised Code 106360
and meet the personnel qualifications for nursing home staff 106361
established by rules adopted under section 3721.04 of the Revised 106362
Code; 106363

(f) The skilled nursing care is provided in accordance with 106364
rules established for nursing homes under section 3721.04 of the 106365
Revised Code; 106366

(g) The nursing home meets the skilled nursing care needs of 106367
the adult care facility residents; 106368

(h) Using the nursing home's nursing staff does not prevent 106369
the nursing home or adult care facility from meeting the needs of 106370
the nursing home and adult care facility residents in a quality 106371
and timely manner. 106372

(7) No adult care facility staff shall provide skilled 106373
nursing care. 106374

Notwithstanding section 3721.01 of the Revised Code, an adult 106375
care facility in which residents receive skilled nursing care as 106376
described in division (B) of this section is not a nursing home. 106377

(C) A home health agency or hospice care program that 106378
provides skilled nursing care pursuant to division (B) of this 106379
section may not be associated with the adult care facility unless 106380
the facility is part of a home for the aged as defined in section 106381
5701.13 of the Revised Code or the adult care facility is owned 106382

and operated by the same person and located on the same site as a 106383
nursing home licensed under Chapter 3721. of the Revised Code that 106384
is associated with the home health agency or hospice care program. 106385
In addition, the following requirements shall be met: 106386

(1) The adult care facility shall evaluate the individual 106387
receiving the skilled nursing care not less than once every seven 106388
days to determine whether the individual should be transferred to 106389
a nursing home; 106390

(2) If the costs of providing the skilled nursing care are 106391
included in a cost report filed pursuant to section 5111.26 of the 106392
Revised Code by the nursing home that is part of the same home for 106393
the aged, the home health agency or hospice care program shall not 106394
seek reimbursement for the care under the medical assistance 106395
program established under Chapter 5111. of the Revised Code. 106396

(D) No person knowingly shall place or recommend placement of 106397
any person in an adult care facility that is operating without a 106398
license. 106399

(E) No employee of a unit of local or state government, 106400
ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative 106401
agency shall place or recommend placement of any person in an 106402
adult care facility if the employee knows any of the following: 106403

(1) That the facility cannot meet the needs of the potential 106404
resident; 106405

(2) That placement of the resident would cause the facility 106406
to exceed its licensed capacity; 106407

(3) That an enforcement action initiated by the director of 106408
mental health is pending and may result in the revocation of or 106409
refusal to renew the facility's license; 106410

(4) That the potential resident is receiving or is eligible 106411
for publicly funded mental health services and the facility has 106412

not entered into a mental health resident program participation agreement. 106413
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(F) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of mental health. 106415
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(G) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ department of mental health shall adopt rules for purposes of division (B) of this section that do all of the following: 106418
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(1) Define a short-term illness for purposes of division (B)(5) of this section; 106422
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(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section; 106424
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(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section. 106431
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Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an adult care facility is in violation of ~~this chapter sections~~ 5119.70 to 5119.88 of the Revised Code or of any of the rules ~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the information to the director of mental health. The director shall investigate each report made under this section or section ~~3722.16~~ 5119.86 of the Revised Code and shall inform the facility of the results of the investigation. When investigating a report made pursuant to section 340.05 of the Revised Code, the director shall consult with the ADAMHS board that made the report. The director 106433
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shall keep a record of the investigation and the action taken as a 106443
result of the investigation. 106444

The director shall not reveal, without consent, the identity 106445
of a person who makes a report under this section or division (G) 106446
of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a 106447
specific resident or residents referred to in such a report, or 106448
any other information that could reasonably be expected to reveal 106449
the identity of the person making the report or the resident or 106450
residents referred to in the report, except that the director may 106451
provide this information to a government agency responsible for 106452
enforcing laws applying to adult care facilities. 106453

(B) Any person who believes that a resident's rights under 106454
sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code 106455
have been violated may report the information to the state 106456
long-term care ombudsperson, the regional long-term care 106457
ombudsperson program for the area in which the facility is 106458
located, or the director of mental health. If the person believes 106459
that the resident has mental illness or severe mental disability 106460
and is suffering abuse or neglect, the person may report the 106461
information to the ADAMHS board serving the alcohol, drug 106462
addiction, and mental health service district in which the adult 106463
care facility is located or a mental health agency under contract 106464
with the board in addition to or instead of the ombudsperson, 106465
regional program, or director. 106466

(C) Any person who makes a report pursuant to division (A) or 106467
(B) of this section or division (G) of section ~~3722.16~~ 5119.86 of 106468
the Revised Code or any person who participates in an 106469
administrative or judicial proceeding resulting from such a report 106470
is immune from any civil liability or criminal liability, other 106471
than perjury, that might otherwise be incurred or imposed as a 106472
result of these actions, unless the person has acted in bad faith 106473
or with malicious purpose. 106474

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a prospective resident who the owner or manager of the facility knows has been assessed as having a mental illness or severe mental disability, the owner or manager is subject to both of the following:

(A) If the prospective resident is referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall follow procedures established in rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code regarding referrals and effective arrangements for ongoing mental health services.

(B) If the prospective resident is not referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall offer to assist the prospective resident in obtaining appropriate mental health services and document the offer of assistance in accordance with rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code.

Sec. 5119.99. (A) Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.

(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.

Sec. 5120.092. There is hereby created in the state treasury

the adult and juvenile correctional facilities bond retirement 106504
fund. The fund shall receive proceeds derived from the sale of 106505
state adult or juvenile correctional facilities. Investment income 106506
with respect to moneys on deposit in the fund shall be retained by 106507
the fund. No investment of moneys in, or transfer of moneys from, 106508
the fund shall be made if the effect of the investment or transfer 106509
would be to adversely affect the exclusion from gross income of 106510
the interest payable on state bonds issued for state adult or 106511
juvenile correctional facilities that have been sold under 106512
authority of Section 753.10 or 753.30 of the act in which this 106513
section was enacted. To the extent necessary to maintain the 106514
exclusion from gross income of the interest payable on those 106515
bonds, moneys in the fund shall first be used to redeem or defease 106516
the outstanding portion of such bonds. To accomplish the 106517
redemption or defeasance, the director of budget and management, 106518
at the request of the Ohio building authority, may direct that 106519
moneys in the fund be transferred to the appropriate trustees 106520
under the applicable bond trust agreements. Upon receipt of both 106521
(i) one or more opinions of a nationally recognized bond counsel 106522
firm appointed by the Ohio building authority stating that the 106523
aforementioned bonds have been redeemed or defeased and that the 106524
transfer of such moneys will not adversely affect the exclusion 106525
from gross income of the interest payable on such bonds, and (ii) 106526
a certification by both the director of administrative services 106527
and the director of rehabilitation and correction stating either 106528
that all sales of state adult and juvenile correctional facilities 106529
contemplated by Sections 753.10 and 753.30 of the act in which 106530
this section was enacted have been completed or that no further 106531
sales of any such facilities will be undertaken, the director of 106532
budget and management may direct that any moneys remaining in the 106533
fund after the redemption or defeasance of the aforementioned 106534
bonds shall be transferred to the general revenue fund. Upon 106535

completion of that transfer, the adult and juvenile correctional 106536
facilities bond retirement fund shall be abolished. 106537

Sec. 5120.105. (A) The department of administrative services 106538
shall provide for the construction of a halfway house facility in 106539
conformity with Chapter 153. of the Revised Code, except that 106540
construction services may be provided by the department of 106541
rehabilitation and correction. 106542

(B) The director of rehabilitation and correction may enter 106543
into an agreement with a halfway house organization for the 106544
management of a halfway house facility. The halfway house 106545
organization that occupies, will occupy, or is responsible for the 106546
management of a halfway house facility shall pay the costs of 106547
management of and general building services for the halfway house 106548
facility as provided in an agreement between the department of 106549
rehabilitation and correction and the halfway house organization. 106550

(C) No state funds, including state bond proceeds, shall be 106551
spent on the construction of a halfway house facility under 106552
sections 5120.102 to 5120.105 of the Revised Code, unless the 106553
general assembly has specifically authorized the spending of money 106554
on, or has made an appropriation to the department of 106555
rehabilitation and correction for, the construction of the halfway 106556
house facility or rental payments relating to the financing of the 106557
construction of that facility. An authorization to spend money or 106558
an appropriation for planning a halfway house facility does not 106559
constitute an authorization to spend money on, or an appropriation 106560
for, the construction of that facility. Capital funds for the 106561
construction of halfway house facilities under sections 5120.102 106562
to 5120.105 of the Revised Code shall be paid from the adult 106563
correctional building fund created ~~by the general assembly in the~~ 106564
~~custody of the state treasurer~~ in division (F) of section 154.24 106565
of the Revised Code. 106566

Sec. 5120.135. (A) As used in this section, "laboratory 106567
services" includes the performance of medical laboratory analysis; 106568
professional laboratory and pathologist consultation; the 106569
procurement, storage, and distribution of laboratory supplies; and 106570
the performance of phlebotomy services. 106571

(B) The department of rehabilitation and correction ~~shall~~ may 106572
provide laboratory services to the departments of mental health, 106573
developmental disabilities, youth services, and rehabilitation and 106574
correction. The department of rehabilitation and correction may 106575
also provide laboratory services to other state, county, or 106576
municipal agencies and to private persons that request laboratory 106577
services if the department of rehabilitation and correction 106578
determines that the provision of laboratory services is in the 106579
public interest and considers it advisable to provide such 106580
services. The department of rehabilitation and correction may also 106581
provide laboratory services to agencies operated by the United 106582
States government and to public and private entities funded in 106583
whole or in part by the state if the director of rehabilitation 106584
and correction designates them as eligible to receive such 106585
services. 106586

The department of rehabilitation and correction shall provide 106587
laboratory services from a laboratory that complies with the 106588
standards for certification set by the United States department of 106589
health and human services under the "Clinical Laboratory 106590
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 106591
In addition, the laboratory shall maintain accreditation or 106592
certification with an appropriate accrediting or certifying 106593
organization as considered necessary by the recipients of its 106594
laboratory services and as authorized by the director of 106595
rehabilitation and correction. 106596

(C) The cost of administering this section shall be 106597

determined by the department of rehabilitation and correction and 106598
shall be paid by entities that receive laboratory services to the 106599
department for deposit in the state treasury to the credit of the 106600
laboratory services fund, which is hereby created. The fund shall 106601
be used to pay the costs the department incurs in administering 106602
this section. 106603

~~(D) If the department of rehabilitation and correction does 106604
not provide laboratory services under this section in a 106605
satisfactory manner to the department of developmental 106606
disabilities, youth services, or mental health, the director of 106607
developmental disabilities, youth services, or mental health shall 106608
attempt to resolve the matter of the unsatisfactory provision of 106609
services with the director of rehabilitation and correction. If, 106610
after this attempt, the provision of laboratory services continues 106611
to be unsatisfactory, the director of developmental disabilities, 106612
youth services, or mental health shall notify the director of 106613
rehabilitation and correction regarding the continued 106614
unsatisfactory provision of laboratory services. If, within thirty 106615
days after the director receives this notice, the department of 106616
rehabilitation and correction does not provide the specified 106617
laboratory services in a satisfactory manner, the director of 106618
developmental disabilities, youth services, or mental health shall 106619
notify the director of rehabilitation and correction of the 106620
notifying director's intent to cease obtaining laboratory services 106621
from the department of rehabilitation and correction. Following 106622
the end of a cancellation period of sixty days that begins on the 106623
date of the notice, the department that sent the notice may obtain 106624
laboratory services from a provider other than the department of 106625
rehabilitation and correction, if the department that sent the 106626
notice certifies to the department of administrative services that 106627
the requirements of this division have been met. 106628~~

~~(E) Whenever a state agency fails to make a payment for 106629~~

laboratory services provided to it by the department of 106630
rehabilitation and correction under this section within thirty-one 106631
days after the date the payment was due, the office of budget and 106632
management may transfer moneys from that state agency to the 106633
department of rehabilitation and correction for deposit to the 106634
credit of the laboratory services fund. The amount transferred 106635
shall not exceed the amount of the overdue payments. Prior to 106636
making a transfer under this division, the office shall apply any 106637
credits the state agency has accumulated in payment for laboratory 106638
services provided under this section. 106639

Sec. 5120.17. (A) As used in this section: 106640

(1) "Mental illness" means a substantial disorder of thought, 106641
mood, perception, orientation, or memory that grossly impairs 106642
judgment, behavior, capacity to recognize reality, or ability to 106643
meet the ordinary demands of life. 106644

(2) "Mentally ill person subject to hospitalization" means a 106645
mentally ill person to whom any of the following applies because 106646
of the person's mental illness: 106647

(a) The person represents a substantial risk of physical harm 106648
to the person as manifested by evidence of threats of, or attempts 106649
at, suicide or serious self-inflicted bodily harm. 106650

(b) The person represents a substantial risk of physical harm 106651
to others as manifested by evidence of recent homicidal or other 106652
violent behavior, evidence of recent threats that place another in 106653
reasonable fear of violent behavior and serious physical harm, or 106654
other evidence of present dangerousness. 106655

(c) The person represents a substantial and immediate risk of 106656
serious physical impairment or injury to the person as manifested 106657
by evidence that the person is unable to provide for and is not 106658
providing for the person's basic physical needs because of the 106659

person's mental illness and that appropriate provision for those 106660
needs cannot be made immediately available in the correctional 106661
institution in which the inmate is currently housed. 106662

(d) The person would benefit from treatment in a hospital for 106663
the person's mental illness and is in need of treatment in a 106664
hospital as manifested by evidence of behavior that creates a 106665
grave and imminent risk to substantial rights of others or the 106666
person. 106667

(3) "Psychiatric hospital" means all or part of a facility 106668
that is operated and managed by the department of rehabilitation 106669
and correction, is designated as a psychiatric hospital mental 106670
health to provide psychiatric hospitalization services in 106671
accordance with the requirements of this section pursuant to an 106672
agreement between the directors of rehabilitation and correction 106673
and mental health or, is licensed by the department of mental 106674
health pursuant to section 5119.20 of the Revised Code, as a 106675
psychiatric hospital and is ~~in substantial compliance with the~~ 106676
~~standards set by the joint commission on accreditation of~~ 106677
~~healthcare organizations~~ accredited by a healthcare accrediting 106678
organization approved by the department of mental health and the 106679
psychiatric hospital is any of the following: 106680

(a) Operated and managed by the department of rehabilitation 106681
and correction within a facility that is operated by the 106682
department of rehabilitation and correction; 106683

(b) Operated and managed by a contractor for the department 106684
of rehabilitation and correction within a facility that is 106685
operated by the department of rehabilitation and correction; 106686

(c) Operated and managed in the community by an entity that 106687
has contracted with the department of rehabilitation and 106688
correction to provide psychiatric hospitalization services in 106689
accordance with the requirements of this section. 106690

- (4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital. 106691
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- (5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital. 106693
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- (6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following: 106695
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- (a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals; 106701
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- (b) The services to be provided to the inmate patient during the inmate patient's hospitalization; 106703
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- (c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services. 106705
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- (7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code. 106710
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- (8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care. 106713
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- (9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section. 106717
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(10)(a) "Independent decision-maker" means a person who is employed or retained by the department of rehabilitation and correction and is appointed by the chief or chief clinical officer of mental health services as a hospitalization hearing officer to conduct due process hearings.

(b) An independent decision-maker who presides over any hearing or issues any order pursuant to this section shall be a psychiatrist, psychologist, or attorney, shall not be specifically associated with the institution in which the inmate who is the subject of the hearing or order resides at the time of the hearing or order, and previously shall not have had any treatment relationship with nor have represented in any legal proceeding the inmate who is the subject of the order.

(B)(1) Except as provided in division (C) of this section, if the warden of a state correctional institution or the warden's designee believes that an inmate should be transferred from the institution to a psychiatric hospital, the department shall hold a hearing to determine whether the inmate is a mentally ill person subject to hospitalization. The department shall conduct the hearing at the state correctional institution in which the inmate is confined, and the department shall provide qualified independent assistance to the inmate for the hearing. An independent decision-maker provided by the department shall preside at the hearing and determine whether the inmate is a mentally ill person subject to hospitalization.

(2) Except as provided in division (C) of this section, prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3)

of this section, and that the department will provide qualified 106753
independent assistance to the inmate with respect to the hearing. 106754
The department shall not hold the hearing until the inmate has 106755
received written notice of the proposed transfer and has had 106756
sufficient time to consult with the person appointed by the 106757
department to provide assistance to the inmate and to prepare for 106758
a presentation at the hearing. 106759

(3) At the hearing held pursuant to division (B)(1) of this 106760
section, the department shall disclose to the inmate the evidence 106761
that it relies upon for the transfer and shall give the inmate an 106762
opportunity to be heard. Unless the independent decision-maker 106763
finds good cause for not permitting it, the inmate may present 106764
documentary evidence and the testimony of witnesses at the hearing 106765
and may confront and cross-examine witnesses called by the 106766
department. 106767

(4) If the independent decision-maker does not find clear and 106768
convincing evidence that the inmate is a mentally ill person 106769
subject to hospitalization, the department shall not transfer the 106770
inmate to a psychiatric hospital but shall continue to confine the 106771
inmate in the same state correctional institution or in another 106772
state correctional institution that the department considers 106773
appropriate. If the independent decision-maker finds clear and 106774
convincing evidence that the inmate is a mentally ill person 106775
subject to hospitalization, the decision-maker shall order that 106776
the inmate be transported to a psychiatric hospital for 106777
observation and treatment for a period of not longer than thirty 106778
days. After the hearing, the independent decision-maker shall 106779
submit to the department a written decision that states one of the 106780
findings described in division (B)(4) of this section, the 106781
evidence that the decision-maker relied on in reaching that 106782
conclusion, and, if the decision is that the inmate should be 106783
transferred, the reasons for the transfer. 106784

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the department determines that the inmate is mentally ill, presents an immediate danger to self or others, and requires hospital-level care.

(2) The department may transfer an inmate to a psychiatric hospital under an uncontested transfer order if both of the following apply:

(a) A psychiatrist employed or retained by the department determines all of the following apply:

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization.

(ii) The inmate requires hospital care to address the mental illness.

(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital.

(b) The inmate agrees to a transfer to a hospital.

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section.

(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who

are transported to a psychiatric hospital under division (B)(4) of 106815
this section. 106816

(5) After an uncontested transfer under division (C)(2) of 106817
this section, the inmate may withdraw consent to the transfer in 106818
writing at any time. Upon the inmate's withdrawal of consent, the 106819
hospital shall discharge the inmate, or, within five working days, 106820
the department shall hold a hearing for continued hospitalization. 106821
The department shall hold subsequent hearings pursuant to division 106822
(F) of this section at the same time intervals as required for 106823
inmate patients who are transported to a psychiatric hospital 106824
under division (B)(4) of this section. 106825

(D)(1) If an independent decision-maker, pursuant to division 106826
(B)(4) of this section, orders an inmate transported to a 106827
psychiatric hospital or if an inmate is transferred pursuant to 106828
division (C)(1) or (2) of this section, the staff of the 106829
psychiatric hospital shall examine the inmate patient when 106830
admitted to the psychiatric hospital as soon as practicable after 106831
the inmate patient arrives at the hospital and no later than 106832
twenty-four hours after the time of arrival. The attending 106833
physician responsible for the inmate patient's care shall give the 106834
inmate patient all information necessary to enable the patient to 106835
give a fully informed, intelligent, and knowing consent to the 106836
treatment the inmate patient will receive in the hospital. The 106837
attending physician shall tell the inmate patient the expected 106838
physical and medical consequences of any proposed treatment and 106839
shall give the inmate patient the opportunity to consult with 106840
another psychiatrist at the hospital and with the inmate advisor. 106841

(2) No inmate patient who is transported or transferred 106842
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 106843
psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2)~~ 106844
~~of this section and who is in the physical custody of~~ within a 106845
facility that is operated by the department of rehabilitation and 106846

correction shall be subjected to any of the following procedures:	106847
(a) Convulsive therapy;	106848
(b) Major aversive interventions;	106849
(c) Any unusually hazardous treatment procedures;	106850
(d) Psychosurgery.	106851
(E) The warden of the psychiatric hospital or the warden's	106852
designee <u>department of rehabilitation and correction</u> shall ensure	106853
that an inmate patient hospitalized pursuant to this section	106854
receives or has all of the following:	106855
(1) Receives sufficient professional care within twenty days	106856
of admission to ensure that an evaluation of the inmate patient's	106857
current status, differential diagnosis, probable prognosis, and	106858
description of the current treatment plan have been formulated and	106859
are stated on the inmate patient's official chart;	106860
(2) Has a written treatment plan consistent with the	106861
evaluation, diagnosis, prognosis, and goals of treatment;	106862
(3) Receives treatment consistent with the treatment plan;	106863
(4) Receives periodic reevaluations of the treatment plan by	106864
the professional staff at intervals not to exceed thirty days;	106865
(5) Is provided with adequate medical treatment for physical	106866
disease or injury;	106867
(6) Receives humane care and treatment, including, without	106868
being limited to, the following:	106869
(a) Access to the facilities and personnel required by the	106870
treatment plan;	106871
(b) A humane psychological and physical environment;	106872
(c) The right to obtain current information concerning the	106873
treatment program, the expected outcomes of treatment, and the	106874
expectations for the inmate patient's participation in the	106875

treatment program in terms that the inmate patient reasonably can understand; 106876
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(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital; 106878
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(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation; 106881
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(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department. 106883
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(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C)(2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the 106886
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inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and correction.

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital.

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the ~~warden of the psychiatric hospital~~ director of

rehabilitation and correction or the director's designee, at least 106939
fourteen days before the expiration date, may file an affidavit 106940
under section 5122.11 or 5123.71 of the Revised Code with the 106941
probate court in the county where the psychiatric hospital is 106942
located or the probate court in the county where the inmate will 106943
reside, alleging that the inmate patient is a mentally ill person 106944
subject to hospitalization by court order or a mentally retarded 106945
person subject to institutionalization by court order, whichever 106946
is applicable. The proceedings in the probate court shall be 106947
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 106948
except as modified by this division. 106949

Upon the request of the inmate patient, the probate court 106950
shall grant the inmate patient an initial hearing under section 106951
5122.141 of the Revised Code or a probable cause hearing under 106952
section 5123.75 of the Revised Code before the expiration of the 106953
stated prison term. After holding a full hearing, the probate 106954
court shall make a disposition authorized by section 5122.15 or 106955
5123.76 of the Revised Code before the date of the expiration of 106956
the stated prison term. No inmate patient shall be held in the 106957
custody of the department of rehabilitation and correction past 106958
the date of the expiration of the inmate patient's stated prison 106959
term. 106960

(J) The department of rehabilitation and correction shall set 106961
standards for treatment provided to inmate patients, ~~consistent~~ 106962
~~where applicable with the standards set by the joint commission on~~ 106963
~~accreditation of healthcare organizations.~~ 106964

(K) A certificate, application, record, or report that is 106965
made in compliance with this section and that directly or 106966
indirectly identifies an inmate or former inmate whose 106967
hospitalization has been sought under this section is 106968
confidential. No person shall disclose the contents of any 106969
certificate, application, record, or report of that nature or any 106970

other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies:

(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person.

(2) Disclosure is required by a court order signed by a judge.

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons.

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure.

(6) The department of rehabilitation and correction may

exchange psychiatric hospitalization records, other mental health 107002
treatment records, and other pertinent information with county 107003
sheriffs' offices, hospitals, institutions, and facilities of the 107004
department of mental health and with community mental health 107005
agencies and boards of alcohol, drug addiction, and mental health 107006
services with which the department of mental health has a current 107007
agreement for patient care or services to ensure continuity of 107008
care. Disclosure under this division is limited to records 107009
regarding a mentally ill inmate's medication history, physical 107010
health status and history, summary of course of treatment, summary 107011
of treatment needs, and a discharge summary, if any. No office, 107012
department, agency, or board shall disclose the records and other 107013
information unless one of the following applies: 107014

(a) The mentally ill inmate is notified of the possible 107015
disclosure and consents to the disclosure. 107016

(b) The mentally ill inmate is notified of the possible 107017
disclosure, an attempt to gain the consent of the inmate is made, 107018
and the office, department, agency, or board documents the attempt 107019
to gain consent, the inmate's objections, if any, and the reasons 107020
for disclosure in spite of the inmate's objections. 107021

(7) Information may be disclosed to staff members designated 107022
by the director of rehabilitation and correction for the purpose 107023
of evaluating the quality, effectiveness, and efficiency of 107024
services and determining if the services meet minimum standards. 107025

The name of an inmate patient shall not be retained with the 107026
information obtained during the evaluations. 107027

(L) The director of rehabilitation and correction may adopt 107028
rules setting forth guidelines for the procedures required under 107029
divisions (B), (C)(1), and (C)(2) of this section. 107030

Sec. 5120.22. (A) The division of business administration 107031

shall examine the conditions of all buildings, grounds, and other 107032
property connected with the institutions under the control of the 107033
department of rehabilitation and correction, the methods of 107034
bookkeeping and storekeeping, and all matters relating to the 107035
management of such property. The division shall study and become 107036
familiar with the advantages and disadvantages of each as to 107037
location, freight rates, and efficiency of farm and equipment, for 107038
the purpose of aiding in the determination of the local and 107039
general requirements both for maintenance and improvements. 107040

(B) The division, with respect to the various types of 107041
state-owned housing under jurisdiction of the department, shall 107042
adopt, in accordance with section 111.15 of the Revised Code, 107043
rules governing maintenance of the housing and its usage by 107044
department personnel. The rules shall include a procedure for 107045
determining charges for rent and utilities, which the division 107046
shall assess against and collect from department personnel using 107047
the housing. All money collected for rent and utilities pursuant 107048
to the rules shall be deposited into the property receipts fund, 107049
which is hereby created in the state treasury. Money in the fund 107050
shall be used for any expenses necessary to provide housing of 107051
department employees, including but not limited to expenses for 107052
the acquisition, construction, operation, maintenance, repair, 107053
reconstruction, or demolition of land and buildings. 107054

(C) The division may enter into a lease or agreement with a 107055
state agency, political subdivision of the state, or private 107056
entity to use facilities or other property under the jurisdiction 107057
of the department that is not being utilized by the department. 107058
All money collected for leasing and services performed in 107059
accordance with the lease or agreement shall be deposited into the 107060
property receipts fund created under division (B) of this section. 107061
Money in the fund shall be used for any expenses resulting from 107062
the lease or agreement, including, but not limited to, expenses 107063

for services performed, construction, maintenance, repair, 107064
reconstruction, or demolition of the facilities or other property. 107065

Sec. 5120.28. (A) The department of rehabilitation and 107066
correction, subject to the approval of the office of budget and 107067
management, shall fix the prices at which all labor and services 107068
performed, all agricultural products produced, and all articles 107069
manufactured in correctional and penal institutions shall be 107070
furnished to the state, the political subdivisions of the state, 107071
and the public institutions of the state and the political 107072
subdivisions, and to private persons. The prices shall be uniform 107073
to all and not higher than the usual market price for like labor, 107074
products, services, and articles. 107075

(B) Any money received by the department of rehabilitation 107076
and correction for labor and services performed ~~and agricultural~~ 107077
~~products produced~~ shall be deposited into the institutional 107078
services ~~and agricultural~~ fund created pursuant to division (A) of 107079
section 5120.29 of the Revised Code and shall be used and 107080
accounted for as provided in that section and division (B) of 107081
section 5145.03 of the Revised Code. 107082

(C) Any money received by the department of rehabilitation 107083
and correction for articles manufactured and agricultural products 107084
produced in penal and correctional institutions shall be deposited 107085
into the Ohio penal industries manufacturing fund created pursuant 107086
to division (B) of section 5120.29 of the Revised Code and shall 107087
be used and accounted for as provided in that section and division 107088
(B) of section 5145.03 of the Revised Code. 107089

Sec. 5120.29. (A) There is hereby created, in the state 107090
treasury, the institutional services ~~and agricultural~~ fund, which 107091
shall be used for the: 107092

(1) Purchase of material, supplies, and equipment and the 107093

erection and extension of buildings used in ~~service industries and~~ 107094
agriculture services provided between institutions of the 107095
department of rehabilitation and correction; 107096

(2) ~~Purchase of lands and buildings necessary to carry on or~~ 107097
~~extend the service industries and agriculture, upon the approval~~ 107098
~~of the governor;~~ 107099

~~(3)~~ Payment of compensation to employees necessary to carry 107100
on ~~the service industries and agriculture~~ institutional services; 107101

~~(4)~~(3) Payment of prisoners confined in state correctional 107102
institutions a portion of their earnings in accordance with rules 107103
adopted pursuant to section 5145.03 of the Revised Code. 107104

(B) There is hereby created, in the state treasury, the Ohio 107105
penal industries manufacturing fund, which shall be used for the: 107106

(1) Purchase of material, supplies, and equipment and the 107107
erection and extension of buildings used in manufacturing 107108
industries and agriculture; 107109

(2) Purchase of lands and buildings necessary to carry on or 107110
extend the manufacturing industries and agriculture upon the 107111
approval of the governor; 107112

(3) Payment of compensation to employees necessary to carry 107113
on the manufacturing industries and agriculture; 107114

(4) Payment of prisoners confined in state correctional 107115
institutions a portion of their earnings in accordance with rules 107116
adopted pursuant to section 5145.03 of the Revised Code. 107117

(C) The department of rehabilitation and correction shall, in 107118
accordance with rules adopted pursuant to section 5145.03 of the 107119
Revised Code and subject to any pledge made as provided in 107120
division (D) of this section, place to the credit of each prisoner 107121
~~his~~ the prisoner's earnings and pay the earnings so credited to 107122
the prisoner or ~~his~~ the prisoner's family. 107123

(D) Receipts credited to the funds created in divisions (A) 107124
and (B) of this section constitute available receipts as defined 107125
in section 152.09 of the Revised Code, and may be pledged to the 107126
payment of bond service charges on obligations issued by the Ohio 107127
building authority pursuant to Chapter 152. of the Revised Code to 107128
construct, reconstruct, or otherwise improve capital facilities 107129
useful to the department. The authority may, with the consent of 107130
the department, provide in the bond proceedings for a pledge of 107131
all or such portion of receipts credited to the funds as the 107132
authority determines. The authority may provide in the bond 107133
proceedings for the transfer of receipts credited to the funds to 107134
the appropriate bond service fund or bond service reserve fund as 107135
required to pay the bond service charges when due, and any such 107136
provision for the transfer of receipts shall be controlling 107137
notwithstanding any other provision of law pertaining to such 107138
receipts. 107139

All receipts received by the treasurer of state on account of 107140
the department and required by the applicable bond proceedings to 107141
be deposited, transferred, or credited to the bond service fund or 107142
bond service reserve fund established by such bond proceedings 107143
shall be transferred by the treasurer of state to such fund, 107144
whether or not such fund is in the custody of the treasurer of 107145
state, without necessity for further appropriation, upon receipt 107146
of notice from the Ohio building authority as prescribed in the 107147
bond proceedings. The authority may covenant in the bond 107148
proceedings that so long as any obligations are outstanding to 107149
which receipts credited to the fund are pledged, the state and the 107150
department shall neither reduce the prices charged pursuant to 107151
section 5120.28 of the Revised Code nor the level of manpower 107152
collectively devoted to the production of goods and services for 107153
which prices are set pursuant to section 5120.28 of the Revised 107154
Code, which covenant shall be controlling notwithstanding any 107155
other provision of law; provided, that no covenant shall require 107156

the general assembly to appropriate money derived from the levying 107157
of excises or taxes to purchase such goods and services or to pay 107158
rent or bond service charges. 107159

Sec. 5122.01. As used in this chapter and Chapter 5119. of 107160
the Revised Code: 107161

(A) "Mental illness" means a substantial disorder of thought, 107162
mood, perception, orientation, or memory that grossly impairs 107163
judgment, behavior, capacity to recognize reality, or ability to 107164
meet the ordinary demands of life. 107165

(B) "Mentally ill person subject to hospitalization by court 107166
order" means a mentally ill person who, because of the person's 107167
illness: 107168

(1) Represents a substantial risk of physical harm to self as 107169
manifested by evidence of threats of, or attempts at, suicide or 107170
serious self-inflicted bodily harm; 107171

(2) Represents a substantial risk of physical harm to others 107172
as manifested by evidence of recent homicidal or other violent 107173
behavior, evidence of recent threats that place another in 107174
reasonable fear of violent behavior and serious physical harm, or 107175
other evidence of present dangerousness; 107176

(3) Represents a substantial and immediate risk of serious 107177
physical impairment or injury to self as manifested by evidence 107178
that the person is unable to provide for and is not providing for 107179
the person's basic physical needs because of the person's mental 107180
illness and that appropriate provision for those needs cannot be 107181
made immediately available in the community; or 107182

(4) Would benefit from treatment in a hospital for the 107183
person's mental illness and is in need of such treatment as 107184
manifested by evidence of behavior that creates a grave and 107185
imminent risk to substantial rights of others or the person. 107186

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported 107219
and under the jurisdiction of the department of mental health. 107220

(H) "Community mental health agency" means ~~any~~ an agency, 107221
~~program, or facility with which a board of alcohol, drug~~ 107222
~~addiction, and mental health services contracts to provide the~~ 107223
that provides community mental health services ~~listed in that are~~ 107224
certified by the director of mental health under section ~~340.09~~ 107225
5119.611 of the Revised Code. 107226

(I) "Licensed clinical psychologist" means a person who holds 107227
a current valid psychologist license issued under section 4732.12 107228
or 4732.15 of the Revised Code, and in addition, meets either of 107229
the following criteria: 107230

(1) Meets the educational requirements set forth in division 107231
(B) of section 4732.10 of the Revised Code and has a minimum of 107232
two years' full-time professional experience, or the equivalent as 107233
determined by rule of the state board of psychology, at least one 107234
year of which shall be a predoctoral internship, in clinical 107235
psychological work in a public or private hospital or clinic or in 107236
private practice, diagnosing and treating problems of mental 107237
illness or mental retardation under the supervision of a 107238
psychologist who is licensed or who holds a diploma issued by the 107239
American board of professional psychology, or whose qualifications 107240
are substantially similar to those required for licensure by the 107241
state board of psychology when the supervision has occurred prior 107242
to enactment of laws governing the practice of psychology; 107243

(2) Meets the educational requirements set forth in division 107244
(B) of section 4732.15 of the Revised Code and has a minimum of 107245
four years' full-time professional experience, or the equivalent 107246
as determined by rule of the state board of psychology, in 107247
clinical psychological work in a public or private hospital or 107248
clinic or in private practice, diagnosing and treating problems of 107249
mental illness or mental retardation under supervision, as set 107250

forth in division (I)(1) of this section. 107251

(J) "Health officer" means any public health physician; 107252
public health nurse; or other person authorized by or designated 107253
by a city health district; a general health district; or a board 107254
of alcohol, drug addiction, and mental health services to perform 107255
the duties of a health officer under this chapter. 107256

(K) "Chief clinical officer" means the medical director of a 107257
hospital, or a community mental health agency, or a board of 107258
alcohol, drug addiction, and mental health services, or, if there 107259
is no medical director, the licensed physician responsible for the 107260
treatment a hospital or community mental health agency provides. 107261
The chief clinical officer may delegate to the attending physician 107262
responsible for a patient's care the duties imposed on the chief 107263
clinical officer by this chapter. Within a community mental health 107264
agency, the chief clinical officer shall be designated by the 107265
governing body of the agency and shall be a licensed physician or 107266
licensed clinical psychologist who supervises diagnostic and 107267
treatment services. A licensed physician or licensed clinical 107268
psychologist designated by the chief clinical officer may perform 107269
the duties and accept the responsibilities of the chief clinical 107270
officer in the chief clinical officer's absence. 107271

(L) "Working day" or "court day" means Monday, Tuesday, 107272
Wednesday, Thursday, and Friday, except when such day is a 107273
holiday. 107274

(M) "Indigent" means unable without deprivation of 107275
satisfaction of basic needs to provide for the payment of an 107276
attorney and other necessary expenses of legal representation, 107277
including expert testimony. 107278

(N) "Respondent" means the person whose detention, 107279
commitment, hospitalization, continued hospitalization or 107280
commitment, or discharge is being sought in any proceeding under 107281

this chapter.	107282
(O) "Legal rights service" means the service established under section 5123.60 of the Revised Code.	107283 107284
(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.	107285 107286 107287 107288 107289
(Q) "Court" means the probate division of the court of common pleas.	107290 107291
(R) "Expunge" means:	107292
(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;	107293 107294
(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;	107295 107296 107297
(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;	107298 107299 107300
(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.	107301 107302 107303
(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:	107304 107305
(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;	107306 107307 107308 107309 107310
(2) If a person is committed pursuant to section 2945.38,	107311

2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 107312
residence means the county where the criminal charges were filed. 107313

When the residence of a person is disputed, the matter of 107314
residence shall be referred to the department of mental health for 107315
investigation and determination. Residence shall not be a basis 107316
for a board's denying services to any person present in the 107317
board's service district, and the board shall provide services for 107318
a person whose residence is in dispute while residence is being 107319
determined and for a person in an emergency situation. 107320

(T) "Admission" to a hospital or other place means that a 107321
patient is accepted for and stays at least one night at the 107322
hospital or other place. 107323

(U) "Prosecutor" means the prosecuting attorney, village 107324
solicitor, city director of law, or similar chief legal officer 107325
who prosecuted a criminal case in which a person was found not 107326
guilty by reason of insanity, who would have had the authority to 107327
prosecute a criminal case against a person if the person had not 107328
been found incompetent to stand trial, or who prosecuted a case in 107329
which a person was found guilty. 107330

(V) "Treatment plan" means a written statement of reasonable 107331
objectives and goals for an individual established by the 107332
treatment team, with specific criteria to evaluate progress 107333
towards achieving those objectives. The active participation of 107334
the patient in establishing the objectives and goals shall be 107335
documented. The treatment plan shall be based on patient needs and 107336
include services to be provided to the patient while the patient 107337
is hospitalized and after the patient is discharged. The treatment 107338
plan shall address services to be provided upon discharge, 107339
including but not limited to housing, financial, and vocational 107340
services. 107341

(W) "Community control sanction" has the same meaning as in 107342

section 2929.01 of the Revised Code. 107343

(X) "Post-release control sanction" has the same meaning as 107344
in section 2967.01 of the Revised Code. 107345

Sec. 5122.15. (A) Full hearings shall be conducted in a 107346
manner consistent with this chapter and with due process of law. 107347
The hearings shall be conducted by a judge of the probate court or 107348
a referee designated by a judge of the probate court and may be 107349
conducted in or out of the county in which the respondent is held. 107350
Any referee designated under this division shall be an attorney. 107351

(1) With the consent of the respondent, the following shall 107352
be made available to counsel for the respondent: 107353

(a) All relevant documents, information, and evidence in the 107354
custody or control of the state or prosecutor; 107355

(b) All relevant documents, information, and evidence in the 107356
custody or control of the hospital in which the respondent 107357
currently is held, or in which the respondent has been held 107358
pursuant to this chapter; 107359

(c) All relevant documents, information, and evidence in the 107360
custody or control of any hospital, facility, or person not 107361
included in division (A)(1)(a) or (b) of this section. 107362

(2) The respondent has the right to attend the hearing and to 107363
be represented by counsel of the respondent's choice. The right to 107364
attend the hearing may be waived only by the respondent or counsel 107365
for the respondent after consultation with the respondent. 107366

(3) If the respondent is not represented by counsel, is 107367
absent from the hearing, and has not validly waived the right to 107368
counsel, the court shall appoint counsel immediately to represent 107369
the respondent at the hearing, reserving the right to tax costs of 107370
appointed counsel to the respondent, unless it is shown that the 107371
respondent is indigent. If the court appoints counsel, or if the 107372

court determines that the evidence relevant to the respondent's 107373
absence does not justify the absence, the court shall continue the 107374
case. 107375

(4) The respondent shall be informed that the respondent may 107376
retain counsel and have independent expert evaluation. If the 107377
respondent is unable to obtain an attorney, the respondent shall 107378
be represented by court-appointed counsel. If the respondent is 107379
indigent, court-appointed counsel and independent expert 107380
evaluation shall be provided as an expense under section 5122.43 107381
of the Revised Code. 107382

(5) The hearing shall be closed to the public, unless counsel 107383
for the respondent, with the permission of the respondent, 107384
requests that the hearing be open to the public. 107385

(6) If the hearing is closed to the public, the court, for 107386
good cause shown, may admit persons who have a legitimate interest 107387
in the proceedings. If the respondent, the respondent's counsel, 107388
the designee of the director or of the chief clinical officer 107389
objects to the admission of any person, the court shall hear the 107390
objection and any opposing argument and shall rule upon the 107391
admission of the person to the hearing. 107392

(7) The affiant under section 5122.11 of the Revised Code 107393
shall be subject to subpoena by either party. 107394

(8) The court shall examine the sufficiency of all documents 107395
filed and shall inform the respondent, if present, and the 107396
respondent's counsel of the nature and content of the documents 107397
and the reason for which the respondent is being detained, or for 107398
which the respondent's placement is being sought. 107399

(9) The court shall receive only reliable, competent, and 107400
material evidence. 107401

(10) Unless proceedings are initiated pursuant to section 107402
5120.17 or 5139.08 of the Revised Code or proceedings are 107403

initiated regarding a resident of the service district of a board 107404
of alcohol, drug addiction, and mental health services that elects 107405
under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised 107406
Code not to accept the amount allocated to it under ~~division~~ 107407
~~(B)(1)~~ of that section, an attorney that the board designates 107408
shall present the case demonstrating that the respondent is a 107409
mentally ill person subject to hospitalization by court order. The 107410
attorney shall offer evidence of the diagnosis, prognosis, record 107411
of treatment, if any, and less restrictive treatment plans, if 107412
any. In proceedings pursuant to section 5120.17 or 5139.08 of the 107413
Revised Code and in proceedings in which the respondent is a 107414
resident of a service district of a board that elects under 107415
division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised Code 107416
not to accept the amount allocated to it under ~~division (B)(1)~~ of 107417
that section, the attorney general shall designate an attorney who 107418
shall present the case demonstrating that the respondent is a 107419
mentally ill person subject to hospitalization by court order. The 107420
attorney shall offer evidence of the diagnosis, prognosis, record 107421
of treatment, if any, and less restrictive treatment plans, if 107422
any. 107423

(11) The respondent or the respondent's counsel has the right 107424
to subpoena witnesses and documents and to examine and 107425
cross-examine witnesses. 107426

(12) The respondent has the right, but shall not be 107427
compelled, to testify, and shall be so advised by the court. 107428

(13) On motion of the respondent or the respondent's counsel 107429
for good cause shown, or on the court's own motion, the court may 107430
order a continuance of the hearing. 107431

(14) If the respondent is represented by counsel and the 107432
respondent's counsel requests a transcript and record, or if the 107433
respondent is not represented by counsel, the court shall make and 107434
maintain a full transcript and record of the proceeding. If the 107435

respondent is indigent and the transcript and record is made, a 107436
copy shall be provided to the respondent upon request and be 107437
treated as an expense under section 5122.43 of the Revised Code. 107438

(15) To the extent not inconsistent with this chapter, the 107439
Rules of Civil Procedure are applicable. 107440

(B) Unless, upon completion of the hearing the court finds by 107441
clear and convincing evidence that the respondent is a mentally 107442
ill person subject to hospitalization by court order, it shall 107443
order the respondent's discharge immediately. 107444

(C) If, upon completion of the hearing, the court finds by 107445
clear and convincing evidence that the respondent is a mentally 107446
ill person subject to hospitalization by court order, the court 107447
shall order the respondent for a period not to exceed ninety days 107448
to any of the following: 107449

(1) A hospital operated by the department of mental health if 107450
the respondent is committed pursuant to section 5139.08 of the 107451
Revised Code; 107452

(2) A nonpublic hospital; 107453

(3) The veterans' administration or other agency of the 107454
United States government; 107455

(4) A board of alcohol, drug addiction, and mental health 107456
services or agency the board designates; 107457

(5) Receive private psychiatric or psychological care and 107458
treatment; 107459

(6) Any other suitable facility or person consistent with the 107460
diagnosis, prognosis, and treatment needs of the respondent. 107461

(D) Any order made pursuant to division (C)(2), (3), (5), or 107462
(6) of this section shall be conditioned upon the receipt by the 107463
court of consent by the hospital, facility, agency, or person to 107464
accept the respondent. 107465

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state.

(F) During such ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; agency the board designates; or person shall examine and treat the individual. If, at any time prior to the expiration of the ninety-day period, it is determined by the hospital, facility, board, agency, or person that the respondent's treatment needs could be equally well met in an available and appropriate less restrictive environment, both of the following apply:

(1) The respondent shall be released from the care of the hospital, agency, facility, or person immediately and shall be referred to the court together with a report of the findings and recommendations of the hospital, agency, facility, or person; and

(2) The hospital, agency, facility, or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or an agency designated by the board, it shall place the respondent in the least restrictive environment available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this

section, any person who has been committed under this section, or 107497
for whom proceedings for hospitalization have been commenced 107498
pursuant to section 5122.11 of the Revised Code, may apply at any 107499
time for voluntary admission to the hospital, facility, agency 107500
that the board designates, or person to which the person was 107501
committed. Upon admission as a voluntary patient the chief 107502
clinical officer of the hospital, agency, or other facility, or 107503
the person immediately shall notify the court, the patient's 107504
counsel, and the attorney designated by the board, if the attorney 107505
has entered the proceedings, in writing of that fact, and, upon 107506
receipt of the notice, the court shall dismiss the case. 107507

(2) A person who is found incompetent to stand trial or not 107508
guilty by reason of insanity and who is committed pursuant to 107509
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 107510
Code shall not voluntarily commit the person pursuant to this 107511
section until after the final termination of the commitment, as 107512
described in division (J) of section 2945.401 of the Revised Code. 107513

(H) If, at the end of the first ninety-day period or any 107514
subsequent period of continued commitment, there has been no 107515
disposition of the case, either by discharge or voluntary 107516
admission, the hospital, facility, board, agency, or person shall 107517
discharge the patient immediately, unless at least ten days before 107518
the expiration of the period the attorney the board designates or 107519
the prosecutor files with the court an application for continued 107520
commitment. The application of the attorney or the prosecutor 107521
shall include a written report containing the diagnosis, 107522
prognosis, past treatment, a list of alternative treatment 107523
settings and plans, and identification of the treatment setting 107524
that is the least restrictive consistent with treatment needs. The 107525
attorney the board designates or the prosecutor shall file the 107526
written report at least three days prior to the full hearing. A 107527
copy of the application and written report shall be provided to 107528

the respondent's counsel immediately. 107529

The court shall hold a full hearing on applications for 107530
continued commitment at the expiration of the first ninety-day 107531
period and at least every two years after the expiration of the 107532
first ninety-day period. 107533

Hearings following any application for continued commitment 107534
are mandatory and may not be waived. 107535

Upon request of a person who is involuntarily committed under 107536
this section, or the person's counsel, that is made more than one 107537
hundred eighty days after the person's last full hearing, 107538
mandatory or requested, the court shall hold a full hearing on the 107539
person's continued commitment. Upon the application of a person 107540
involuntarily committed under this section, supported by an 107541
affidavit of a psychiatrist or licensed clinical psychologist, 107542
alleging that the person no longer is a mentally ill person 107543
subject to hospitalization by court order, the court for good 107544
cause shown may hold a full hearing on the person's continued 107545
commitment prior to the expiration of one hundred eighty days 107546
after the person's last full hearing. Section 5122.12 of the 107547
Revised Code applies to all hearings on continued commitment. 107548

If the court, after a hearing for continued commitment finds 107549
by clear and convincing evidence that the respondent is a mentally 107550
ill person subject to hospitalization by court order, the court 107551
may order continued commitment at places specified in division (C) 107552
of this section. 107553

(I) Unless the admission is pursuant to section 5120.17 or 107554
5139.08 of the Revised Code, the chief clinical officer of the 107555
hospital or agency admitting a respondent pursuant to a judicial 107556
proceeding, within ten working days of the admission, shall make a 107557
report of the admission to the board of alcohol, drug addiction, 107558
and mental health services serving the respondent's county of 107559

residence. 107560

(J) A referee appointed by the court may make all orders that 107561
a judge may make under this section and sections 5122.11 and 107562
5122.141 of the Revised Code, except an order of contempt of 107563
court. The orders of a referee take effect immediately. Within 107564
fourteen days of the making of an order by a referee, a party may 107565
file written objections to the order with the court. The filed 107566
objections shall be considered a motion, shall be specific, and 107567
shall state their grounds with particularity. Within ten days of 107568
the filing of the objections, a judge of the court shall hold a 107569
hearing on the objections and may hear and consider any testimony 107570
or other evidence relating to the respondent's mental condition. 107571
At the conclusion of the hearing, the judge may ratify, rescind, 107572
or modify the referee's order. 107573

(K) An order of the court under division (C), (H), or (J) of 107574
this section is a final order. 107575

(L) Before a board, or an agency the board designates, may 107576
place an unconsenting respondent in an inpatient setting from a 107577
less restrictive placement, the board or agency shall do all of 107578
the following: 107579

(1) Determine that the respondent is in immediate need of 107580
treatment in an inpatient setting because the respondent 107581
represents a substantial risk of physical harm to the respondent 107582
or others if allowed to remain in a less restrictive setting; 107583

(2) On the day of placement in the inpatient setting or on 107584
the next court day, file with the court a motion for transfer to 107585
an inpatient setting or communicate to the court by telephone that 107586
the required motion has been mailed; 107587

(3) Ensure that every reasonable and appropriate effort is 107588
made to take the respondent to the inpatient setting in the least 107589
conspicuous manner possible; 107590

(4) Immediately notify the board's designated attorney and 107591
the respondent's attorney. 107592

At the respondent's request, the court shall hold a hearing 107593
on the motion and make a determination pursuant to division (E) of 107594
this section within five days of the placement. 107595

(M) Before a board, or an agency the board designates, may 107596
move a respondent from one residential placement to another, the 107597
board or agency shall consult with the respondent about the 107598
placement. If the respondent objects to the placement, the 107599
proposed placement and the need for it shall be reviewed by a 107600
qualified mental health professional who otherwise is not involved 107601
in the treatment of the respondent. 107602

Sec. 5122.21. (A) The chief clinical officer shall as 107603
frequently as practicable, and at least once every thirty days, 107604
examine or cause to be examined every patient, and, whenever the 107605
chief clinical officer determines that the conditions justifying 107606
involuntary hospitalization or commitment no longer obtain, shall, 107607
~~except as provided in division (C) of this section,~~ discharge the 107608
patient not under indictment or conviction for crime and 107609
immediately make a report of the discharge to the department of 107610
mental health. The chief clinical officer may discharge a patient 107611
who is under an indictment, a sentence of imprisonment, a 107612
community control sanction, or a post-release control sanction or 107613
on parole ten days after written notice of intent to discharge the 107614
patient has been given by personal service or certified mail, 107615
return receipt requested, to the court having criminal 107616
jurisdiction over the patient. Except when the patient was found 107617
not guilty by reason of insanity and the defendant's commitment is 107618
pursuant to section 2945.40 of the Revised Code, the chief 107619
clinical officer has final authority to discharge a patient who is 107620
under an indictment, a sentence of imprisonment, a community 107621

control sanction, or a post-release control sanction or on parole. 107622

(B) After a finding pursuant to section 5122.15 of the 107623
Revised Code that a person is a mentally ill person subject to 107624
hospitalization by court order, the chief clinical officer of the 107625
hospital or agency to which the person is ordered or to which the 107626
person is transferred under section 5122.20 of the Revised Code, 107627
~~may, except as provided in division (C) of this section,~~ grant a 107628
discharge without the consent or authorization of any court. 107629

Upon discharge, the chief clinical officer shall notify the 107630
court that caused the judicial hospitalization of the discharge 107631
from the hospital. 107632

Sec. 5122.31. (A) All certificates, applications, records, 107633
and reports made for the purpose of this chapter and sections 107634
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 107635
Code, other than court journal entries or court docket entries, 107636
and directly or indirectly identifying a patient or former patient 107637
or person whose hospitalization has been sought under this 107638
chapter, shall be kept confidential and shall not be disclosed by 107639
any person except: 107640

(1) If the person identified, or the person's legal guardian, 107641
if any, or if the person is a minor, the person's parent or legal 107642
guardian, consents, and if the disclosure is in the best interests 107643
of the person, as may be determined by the court for judicial 107644
records and by the chief clinical officer for medical records; 107645

(2) When disclosure is provided for in this chapter or 107646
section 5123.60 of the Revised Code; 107647

(3) That hospitals, boards of alcohol, drug addiction, and 107648
mental health services, and community mental health agencies may 107649
release necessary medical information to insurers and other 107650
third-party payers, including government entities responsible for 107651

processing and authorizing payment, to obtain payment for goods 107652
and services furnished to the patient; 107653

(4) Pursuant to a court order signed by a judge; 107654

(5) That a patient shall be granted access to the patient's 107655
own psychiatric and medical records, unless access specifically is 107656
restricted in a patient's treatment plan for clear treatment 107657
reasons; 107658

(6) That hospitals and other institutions and facilities 107659
within the department of mental health may exchange psychiatric 107660
records and other pertinent information with other hospitals, 107661
institutions, and facilities of the department, and with community 107662
mental health agencies and boards of alcohol, drug addiction, and 107663
mental health services with which the department has a current 107664
agreement for patient care or services. Records and information 107665
that may be released pursuant to this division shall be limited to 107666
medication history, physical health status and history, financial 107667
status, summary of course of treatment in the hospital, summary of 107668
treatment needs, and a discharge summary, if any. 107669

(7) That hospitals within the department, other institutions 107670
and facilities within the department, hospitals licensed by the 107671
department under section 5119.20 of the Revised Code, and 107672
community mental health agencies may exchange psychiatric records 107673
and other pertinent information with payers and other providers of 107674
treatment and health services if the purpose of the exchange is to 107675
facilitate continuity of care for a patient; 107676

(8) That a patient's family member who is involved in the 107677
provision, planning, and monitoring of services to the patient may 107678
receive medication information, a summary of the patient's 107679
diagnosis and prognosis, and a list of the services and personnel 107680
available to assist the patient and the patient's family, if the 107681
patient's treating physician determines that the disclosure would 107682

be in the best interests of the patient. No such disclosure shall 107683
be made unless the patient is notified first and receives the 107684
information and does not object to the disclosure. 107685

(9) That community mental health agencies may exchange 107686
psychiatric records and certain other information with the board 107687
of alcohol, drug addiction, and mental health services and other 107688
agencies in order to provide services to a person involuntarily 107689
committed to a board. Release of records under this division shall 107690
be limited to medication history, physical health status and 107691
history, financial status, summary of course of treatment, summary 107692
of treatment needs, and discharge summary, if any. 107693

(10) That information may be disclosed to the executor or the 107694
administrator of an estate of a deceased patient when the 107695
information is necessary to administer the estate; 107696

(11) That records in the possession of the Ohio historical 107697
society may be released to the closest living relative of a 107698
deceased patient upon request of that relative; 107699

(12) That information may be disclosed to staff members of 107700
the appropriate board or to staff members designated by the 107701
director of mental health for the purpose of evaluating the 107702
quality, effectiveness, and efficiency of services and determining 107703
if the services meet minimum standards. Information obtained 107704
during such evaluations shall not be retained with the name of any 107705
patient. 107706

(13) That records pertaining to the patient's diagnosis, 107707
course of treatment, treatment needs, and prognosis shall be 107708
disclosed and released to the appropriate prosecuting attorney if 107709
the patient was committed pursuant to section 2945.38, 2945.39, 107710
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 107711
attorney designated by the board for proceedings pursuant to 107712
involuntary commitment under this chapter. 107713

(14) That the department of mental health may exchange 107714
psychiatric hospitalization records, other mental health treatment 107715
records, and other pertinent information with the department of 107716
rehabilitation and correction to ensure continuity of care for 107717
inmates who are receiving mental health services in an institution 107718
of the department of rehabilitation and correction. The department 107719
shall not disclose those records unless the inmate is notified, 107720
receives the information, and does not object to the disclosure. 107721
The release of records under this division is limited to records 107722
regarding an inmate's medication history, physical health status 107723
and history, summary of course of treatment, summary of treatment 107724
needs, and a discharge summary, if any. 107725

(15) That a community mental health agency that ceases to 107726
operate may transfer to either a community mental health agency 107727
that assumes its caseload or to the board of alcohol, drug 107728
addiction, and mental health services of the service district in 107729
which the patient resided at the time services were most recently 107730
provided any treatment records that have not been transferred 107731
elsewhere at the patient's request. 107732

(B) Before records are disclosed pursuant to divisions 107733
(A)(3), (6), (7), and (9) of this section, the custodian of the 107734
records shall attempt to obtain the patient's consent for the 107735
disclosure. No person shall reveal the contents of a medical 107736
record of a patient except as authorized by law. 107737

(C) The managing officer of a hospital who releases necessary 107738
medical information under division (A)(3) of this section to allow 107739
an insurance carrier or other third party payor to comply with 107740
section 5121.43 of the Revised Code shall neither be subject to 107741
criminal nor civil liability. 107742

Sec. 5122.341. (A) As used in this section: 107743

(1) "Facility or agency" means, in the context of a person 107744

committed to the department of mental health under sections 107745
2945.37 to 2945.402 of the Revised Code, any entity in which the 107746
department of mental health places such a person. 107747

(2) "Person committed to the department" means a person 107748
committed to the department of mental health under sections 107749
2945.37 to 2945.402 of the Revised Code. 107750

(B) No member of a board of directors, or employee, of a 107751
facility or agency in which the department of mental health places 107752
a person committed to the department is liable for injury or 107753
damages caused by any action or inaction taken within the scope of 107754
the board member's official duties or employee's employment 107755
relating to the commitment of, and services provided to, the 107756
person committed to the department, unless the action or inaction 107757
constitutes willful or wanton misconduct. A board member's or 107758
employee's action or inaction does not constitute willful or 107759
wanton misconduct if the board member or employee acted in good 107760
faith and reasonably under the circumstances and with the 107761
knowledge reasonably attributable to the board member or employee. 107762

The immunity from liability conferred by this section is in 107763
addition to and not in limitation of any immunity conferred by any 107764
other section of the Revised Code or by judicial precedent. 107765

Sec. 5123.01. As used in this chapter: 107766

(A) "Chief medical officer" means the licensed physician 107767
appointed by the managing officer of an institution for the 107768
mentally retarded with the approval of the director of 107769
developmental disabilities to provide medical treatment for 107770
residents of the institution. 107771

(B) "Chief program director" means a person with special 107772
training and experience in the diagnosis and management of the 107773
mentally retarded, certified according to division (C) of this 107774

section in at least one of the designated fields, and appointed by 107775
the managing officer of an institution for the mentally retarded 107776
with the approval of the director to provide habilitation and care 107777
for residents of the institution. 107778

(C) "Comprehensive evaluation" means a study, including a 107779
sequence of observations and examinations, of a person leading to 107780
conclusions and recommendations formulated jointly, with 107781
dissenting opinions if any, by a group of persons with special 107782
training and experience in the diagnosis and management of persons 107783
with mental retardation or a developmental disability, which group 107784
shall include individuals who are professionally qualified in the 107785
fields of medicine, psychology, and social work, together with 107786
such other specialists as the individual case may require. 107787

(D) "Education" means the process of formal training and 107788
instruction to facilitate the intellectual and emotional 107789
development of residents. 107790

(E) "Habilitation" means the process by which the staff of 107791
the institution assists the resident in acquiring and maintaining 107792
those life skills that enable the resident to cope more 107793
effectively with the demands of the resident's own person and of 107794
the resident's environment and in raising the level of the 107795
resident's physical, mental, social, and vocational efficiency. 107796
Habilitation includes but is not limited to programs of formal, 107797
structured education and training. 107798

(F) "Health officer" means any public health physician, 107799
public health nurse, or other person authorized or designated by a 107800
city or general health district. 107801

(G) "Home and community-based services" means medicaid-funded 107802
home and community-based services specified in division (B)(1) of 107803
section 5111.87 of the Revised Code provided under the medicaid 107804
waiver components the department of developmental disabilities 107805

administers pursuant to section 5111.871 of the Revised Code. 107806
However, home and community-based services provided under the 107807
medicaid waiver component known as the transitions developmental 107808
disabilities waiver are to be considered to be home and 107809
community-based services for the purposes of this chapter only to 107810
the extent, if any, provided by the contract required by section 107811
5111.871 of the Revised Code regarding the waiver. 107812

(H) "Indigent person" means a person who is unable, without 107813
substantial financial hardship, to provide for the payment of an 107814
attorney and for other necessary expenses of legal representation, 107815
including expert testimony. 107816

(I) "Institution" means a public or private facility, or a 107817
part of a public or private facility, that is licensed by the 107818
appropriate state department and is equipped to provide 107819
residential habilitation, care, and treatment for the mentally 107820
retarded. 107821

(J) "Licensed physician" means a person who holds a valid 107822
certificate issued under Chapter 4731. of the Revised Code 107823
authorizing the person to practice medicine and surgery or 107824
osteopathic medicine and surgery, or a medical officer of the 107825
government of the United States while in the performance of the 107826
officer's official duties. 107827

(K) "Managing officer" means a person who is appointed by the 107828
director of developmental disabilities to be in executive control 107829
of an institution for the mentally retarded under the jurisdiction 107830
of the department. 107831

(L) "Medicaid" has the same meaning as in section 5111.01 of 107832
the Revised Code. 107833

(M) "Medicaid case management services" means case management 107834
services provided to an individual with mental retardation or 107835
other developmental disability that the state medicaid plan 107836

requires. 107837

(N) "Mentally retarded person" means a person having 107838
significantly subaverage general intellectual functioning existing 107839
concurrently with deficiencies in adaptive behavior, manifested 107840
during the developmental period. 107841

(O) "Mentally retarded person subject to institutionalization 107842
by court order" means a person eighteen years of age or older who 107843
is at least moderately mentally retarded and in relation to whom, 107844
because of the person's retardation, either of the following 107845
conditions exist: 107846

(1) The person represents a very substantial risk of physical 107847
impairment or injury to self as manifested by evidence that the 107848
person is unable to provide for and is not providing for the 107849
person's most basic physical needs and that provision for those 107850
needs is not available in the community; 107851

(2) The person needs and is susceptible to significant 107852
habilitation in an institution. 107853

(P) "A person who is at least moderately mentally retarded" 107854
means a person who is found, following a comprehensive evaluation, 107855
to be impaired in adaptive behavior to a moderate degree and to be 107856
functioning at the moderate level of intellectual functioning in 107857
accordance with standard measurements as recorded in the most 107858
current revision of the manual of terminology and classification 107859
in mental retardation published by the American association on 107860
mental retardation. 107861

(Q) As used in this division, "substantial functional 107862
limitation," "developmental delay," and "established risk" have 107863
the meanings established pursuant to section 5123.011 of the 107864
Revised Code. 107865

"Developmental disability" means a severe, chronic disability 107866
that is characterized by all of the following: 107867

(1) It is attributable to a mental or physical impairment or 107868
a combination of mental and physical impairments, other than a 107869
mental or physical impairment solely caused by mental illness as 107870
defined in division (A) of section 5122.01 of the Revised Code. 107871

(2) It is manifested before age twenty-two. 107872

(3) It is likely to continue indefinitely. 107873

(4) It results in one of the following: 107874

(a) In the case of a person under three years of age, at 107875
least one developmental delay or an established risk; 107876

(b) In the case of a person at least three years of age but 107877
under six years of age, at least two developmental delays or an 107878
established risk; 107879

(c) In the case of a person six years of age or older, a 107880
substantial functional limitation in at least three of the 107881
following areas of major life activity, as appropriate for the 107882
person's age: self-care, receptive and expressive language, 107883
learning, mobility, self-direction, capacity for independent 107884
living, and, if the person is at least sixteen years of age, 107885
capacity for economic self-sufficiency. 107886

(5) It causes the person to need a combination and sequence 107887
of special, interdisciplinary, or other type of care, treatment, 107888
or provision of services for an extended period of time that is 107889
individually planned and coordinated for the person. 107890

(R) "Developmentally disabled person" means a person with a 107891
developmental disability. 107892

(S) "State institution" means an institution that is 107893
tax-supported and under the jurisdiction of the department. 107894

(T) "Residence" and "legal residence" have the same meaning 107895
as "legal settlement," which is acquired by residing in Ohio for a 107896
period of one year without receiving general assistance prior to 107897

July 17, 1995, under former Chapter 5113. of the Revised Code, 107898
financial assistance under Chapter 5115. of the Revised Code, or 107899
assistance from a private agency that maintains records of 107900
assistance given. A person having a legal settlement in the state 107901
shall be considered as having legal settlement in the assistance 107902
area in which the person resides. No adult person coming into this 107903
state and having a spouse or minor children residing in another 107904
state shall obtain a legal settlement in this state as long as the 107905
spouse or minor children are receiving public assistance, care, or 107906
support at the expense of the other state or its subdivisions. For 107907
the purpose of determining the legal settlement of a person who is 107908
living in a public or private institution or in a home subject to 107909
licensing by the department of job and family services, the 107910
department of mental health, or the department of developmental 107911
disabilities, the residence of the person shall be considered as 107912
though the person were residing in the county in which the person 107913
was living prior to the person's entrance into the institution or 107914
home. Settlement once acquired shall continue until a person has 107915
been continuously absent from Ohio for a period of one year or has 107916
acquired a legal residence in another state. A woman who marries a 107917
man with legal settlement in any county immediately acquires the 107918
settlement of her husband. The legal settlement of a minor is that 107919
of the parents, surviving parent, sole parent, parent who is 107920
designated the residential parent and legal custodian by a court, 107921
other adult having permanent custody awarded by a court, or 107922
guardian of the person of the minor, provided that: 107923

(1) A minor female who marries shall be considered to have 107924
the legal settlement of her husband and, in the case of death of 107925
her husband or divorce, she shall not thereby lose her legal 107926
settlement obtained by the marriage. 107927

(2) A minor male who marries, establishes a home, and who has 107928
resided in this state for one year without receiving general 107929

assistance prior to July 17, 1995, under former Chapter 5113. of 107930
the Revised Code, financial assistance under Chapter 5115. of the 107931
Revised Code, or assistance from a private agency that maintains 107932
records of assistance given shall be considered to have obtained a 107933
legal settlement in this state. 107934

(3) The legal settlement of a child under eighteen years of 107935
age who is in the care or custody of a public or private child 107936
caring agency shall not change if the legal settlement of the 107937
parent changes until after the child has been in the home of the 107938
parent for a period of one year. 107939

No person, adult or minor, may establish a legal settlement 107940
in this state for the purpose of gaining admission to any state 107941
institution. 107942

(U)(1) "Resident" means, subject to division (R)(2) of this 107943
section, a person who is admitted either voluntarily or 107944
involuntarily to an institution or other facility pursuant to 107945
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 107946
Code subsequent to a finding of not guilty by reason of insanity 107947
or incompetence to stand trial or under this chapter who is under 107948
observation or receiving habilitation and care in an institution. 107949

(2) "Resident" does not include a person admitted to an 107950
institution or other facility under section 2945.39, 2945.40, 107951
2945.401, or 2945.402 of the Revised Code to the extent that the 107952
reference in this chapter to resident, or the context in which the 107953
reference occurs, is in conflict with any provision of sections 107954
2945.37 to 2945.402 of the Revised Code. 107955

(V) "Respondent" means the person whose detention, 107956
commitment, or continued commitment is being sought in any 107957
proceeding under this chapter. 107958

(W) "Working day" and "court day" mean Monday, Tuesday, 107959
Wednesday, Thursday, and Friday, except when such day is a legal 107960

holiday. 107961

(X) "Prosecutor" means the prosecuting attorney, village 107962
solicitor, city director of law, or similar chief legal officer 107963
who prosecuted a criminal case in which a person was found not 107964
guilty by reason of insanity, who would have had the authority to 107965
prosecute a criminal case against a person if the person had not 107966
been found incompetent to stand trial, or who prosecuted a case in 107967
which a person was found guilty. 107968

(Y) "Court" means the probate division of the court of common 107969
pleas. 107970

(Z) "Supported living" ~~has~~ and "residential services" have 107971
the same ~~meaning~~ meanings as in section 5126.01 of the Revised 107972
Code. 107973

Sec. 5123.0412. (A) The department of developmental 107974
disabilities shall charge each county board of developmental 107975
disabilities an annual fee equal to one and ~~one-half~~ one-quarter 107976
per cent of the total value of all medicaid paid claims for home 107977
and community-based services provided during the year to an 107978
individual eligible for services from the county board. No county 107979
board shall pass the cost of a fee charged to the county board 107980
under this section on to another provider of these services. 107981

(B) The fees collected under this section shall be deposited 107982
into the ODDD administration and oversight fund and the ODJFS 107983
administration and oversight fund, both of which are hereby 107984
created in the state treasury. The portion of the fees to be 107985
deposited into the ODDD administration and oversight fund and the 107986
portion of the fees to be deposited into the ODJFS administration 107987
and oversight fund shall be the portion specified in an 107988
interagency agreement entered into under division (C) of this 107989
section. The department of developmental disabilities shall use 107990
the money in the ODDD administration and oversight fund and the 107991

department of job and family services shall use the money in the 107992
ODJFS administration and oversight fund for both of the following 107993
purposes: 107994

(1) Medicaid administrative costs, including administrative 107995
and oversight costs of medicaid case management services and home 107996
and community-based services. The administrative and oversight 107997
costs of medicaid case management services and home and 107998
community-based services shall include costs for staff, systems, 107999
and other resources the departments need and dedicate solely to 108000
the following duties associated with the services: 108001

(a) Eligibility determinations; 108002

(b) Training; 108003

(c) Fiscal management; 108004

(d) Claims processing; 108005

(e) Quality assurance oversight; 108006

(f) Other duties the departments identify. 108007

(2) Providing technical support to county boards' local 108008
administrative authority under section 5126.055 of the Revised 108009
Code for the services. 108010

(C) The departments of developmental disabilities and job and 108011
family services shall enter into an interagency agreement to do 108012
both of the following: 108013

(1) Specify which portion of the fees collected under this 108014
section is to be deposited into the ODDD administration and 108015
oversight fund and which portion is to be deposited into the ODJFS 108016
administration and oversight fund; 108017

(2) Provide for the departments to coordinate the staff whose 108018
costs are paid for with money in the ODDD administration and 108019
oversight fund and the ODJFS administration and oversight fund. 108020

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. The department of developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code to establish both of the following in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails:

(A) A method of paying for home and community-based services;

(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in ~~a medicaid waiver component under which~~ home and community-based services are provided.

Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under ~~twenty-one~~ twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and

individual service plans that provide consistent intervention 108051
programs and evidence-based practices for the care and treatment 108052
of children with intensive behavioral needs; 108053

(3) Disseminate best practice guidelines for use by families 108054
of children with intensive behavioral needs and professionals 108055
working with such families; 108056

(4) Develop a transition planning model for effectively 108057
mainstreaming school-age children with intensive behavioral needs 108058
to their public school district; 108059

(5) Contribute to the field of early and effective 108060
identification and intervention programs for children with 108061
intensive behavioral needs by providing financial support for 108062
scholarly research and publication of clinical findings. 108063

(B) The director of developmental disabilities shall 108064
collaborate with the director of job and family services and 108065
consult with the executive director of the Ohio center for autism 108066
and low incidence and university-based programs that specialize in 108067
services for individuals with developmental disabilities when 108068
establishing programs under this section. 108069

Sec. 5123.0418. (A) In addition to other authority granted 108070
the director of developmental disabilities for use of funds 108071
appropriated to the department of developmental disabilities, the 108072
director may use such funds for the following purposes: 108073

(1) All of the following to assist persons with mental 108074
retardation or a developmental disability remain in the community 108075
and avoid institutionalization: 108076

(a) Behavioral and short-term interventions; 108077

(b) Residential services; 108078

(c) Supported living. 108079

<u>(2) Respite care services;</u>	108080
<u>(3) Staff training to help the following personnel serve persons with mental retardation or a developmental disability in the community:</u>	108081
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<u>(a) Employees of, and personnel under contract with, county boards of developmental disabilities;</u>	108084
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<u>(b) Employees of providers of supported living;</u>	108086
<u>(c) Employees of providers of residential services;</u>	108087
<u>(d) Other personnel the director identifies.</u>	108088
<u>(B) The director may establish priorities for using funds for the purposes specified in division (A) of this section. The director shall use the funds in a manner consistent with the appropriations that authorize the director to use the funds and all other state and federal laws governing the use of the funds.</u>	108089
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<u>Sec. 5123.0419.</u> <u>(A) The director of developmental disabilities may establish an interagency workgroup on autism. The purpose of the workgroup shall be to improve the coordination of the state's efforts to address the service needs of individuals with autism spectrum disorders and the families of those individuals. In fulfilling this purpose, the director may enter into interagency agreements with the government entities represented by the members of the workgroup. The agreements may specify any or all of the following:</u>	108094
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<u>(1) The roles and responsibilities of government entities that enter into the agreements;</u>	108103
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<u>(2) Procedures regarding the receipt, transfer, and expenditure of funds necessary to achieve the goals of the workgroup;</u>	108105
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	108107
<u>(3) The projects to be undertaken and activities to be</u>	108108

performed by the government entities that enter into the 108109
agreements. 108110

(B) Money received from government entities represented by 108111
the members of the workgroup shall be deposited into the state 108112
treasury to the credit of the interagency workgroup on autism 108113
fund, which is hereby created in the state treasury. Money 108114
credited to the fund shall be used by the department of 108115
developmental disabilities solely to support the activities of the 108116
workgroup. 108117

Sec. 5123.051. (A) If the department of developmental 108118
disabilities determines pursuant to an audit conducted under 108119
section 5123.05 of the Revised Code ~~or a reconciliation conducted~~ 108120
~~under section 5123.18 of the Revised Code~~ that money is owed the 108121
state by a provider of a service or program, the department may 108122
enter into a payment agreement with the provider. The agreement 108123
shall include the following: 108124

(1) A schedule of installment payments whereby the money owed 108125
the state is to be paid in full within a period not to exceed one 108126
year; 108127

(2) A provision that the provider may pay the entire balance 108128
owed at any time during the term of the agreement; 108129

(3) A provision that if any installment is not paid in full 108130
within forty-five days after it is due, the entire balance owed is 108131
immediately due and payable; 108132

(4) Any other terms and conditions that are agreed to by the 108133
department and the provider. 108134

(B) The department may include a provision in a payment 108135
agreement that requires the provider to pay interest on the money 108136
owed the state. The department, in its discretion, shall determine 108137
whether to require the payment of interest and, if it so requires, 108138

the rate of interest. Neither the obligation to pay interest nor 108139
the rate of interest is subject to negotiation between the 108140
department and the provider. 108141

(C) If the provider fails to pay any installment in full 108142
within forty-five days after its due date, the department shall 108143
certify the entire balance owed to the attorney general for 108144
collection under section 131.02 of the Revised Code. The 108145
department may withhold funds from payments made to a provider 108146
under section 5123.18 of the Revised Code to satisfy a judgment 108147
secured by the attorney general. 108148

~~(D) The purchase of service fund is hereby created. Money 108149
credited to the fund shall be used solely for purposes of section 108150
5123.05 of the Revised Code. 108151~~

Sec. 5123.171. As used in this section, "respite care" means 108152
appropriate, short-term, temporary care provided to a mentally 108153
retarded or developmentally disabled person to sustain the family 108154
structure or to meet planned or emergency needs of the family. 108155

The department of developmental disabilities shall provide 108156
respite care services to persons with mental retardation or a 108157
developmental disability for the purpose of promoting 108158
self-sufficiency and normalization, preventing or reducing 108159
inappropriate institutional care, and furthering the unity of the 108160
family by enabling the family to meet the special needs of a 108161
mentally retarded or developmentally disabled person. 108162

In order to be eligible for respite care services under this 108163
section, the mentally retarded or developmentally disabled person 108164
must be in need of habilitation services as defined in section 108165
5126.01 of the Revised Code. 108166

Respite care may be provided in a facility licensed under 108167
section 5123.19 of the Revised Code or certified as an 108168

intermediate care facility for the mentally retarded under Title 108169
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 108170
301, as amended, or certified as a respite care home under section 108171
5126.05 of the Revised Code. 108172

The department shall develop a system for locating vacant 108173
beds that are available for respite care and for making 108174
information on vacant beds available to users of respite care 108175
services. Facilities certified as intermediate care facilities for 108176
the mentally retarded ~~and facilities holding contracts with the~~ 108177
~~department for the provision of residential services under section~~ 108178
~~5123.18 of the Revised Code~~ shall report vacant beds to the 108179
department but shall not be required to accept respite care 108180
clients. 108181

The director of developmental disabilities shall adopt, and 108182
may amend or rescind, rules in accordance with Chapter 119. of the 108183
Revised Code for both of the following: 108184

(A) Certification by county boards of developmental 108185
disabilities of respite care homes; 108186

(B) Provision of respite care services authorized by this 108187
section. Rules adopted under this division shall establish all of 108188
the following: 108189

(1) A formula for distributing funds appropriated for respite 108190
care services; 108191

(2) Standards for supervision, training and quality control 108192
in the provision of respite care services; 108193

(3) Eligibility criteria for emergency respite care services. 108194

Sec. 5123.18. (A) ~~As used in this section:~~ 108195

~~(1) "Contractor" means a person or government agency that~~ 108196
~~enters into a contract with the department of developmental~~ 108197
~~disabilities under this section.~~ 108198

~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~

~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~

~~(B)(1) The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:~~

~~(a) Companion home contracts — contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.~~

~~(b) Agency operated companion home contracts — contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.~~

~~(c) Community home contracts — contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.~~

~~(d) Combined agency operated companion home and community home contracts.~~

~~(2) A companion home contract shall cover not more than one home. An agency operated companion home contract or a community~~

~~home contract may cover more than one home.~~ 108230

~~(C) Contracts shall be in writing and shall provide for 108231
payment to be made to the contractor at the times agreed to by the 108232
department and the contractor. Each contract shall specify the 108233
period during which it is valid, the amount to be paid for 108234
residential services, and the number of individuals for whom 108235
payment will be made. Contracts may be renewed.~~ 108236

~~(D) services. To be eligible to enter into a contract with 108237
the department under this section, ~~the~~ a person or government 108238
agency entity and the home in which the residential services are 108239
provided must meet all applicable standards for licensing or 108240
certification by the appropriate government agency entity. In 108241
addition, ~~if the residential facility is operated as a nonprofit~~ 108242
~~entity, the members of the board of trustees or board of directors~~ 108243
~~of the facility must not have a financial interest in or receive~~ 108244
~~financial benefit from the facility, other than reimbursement for~~ 108245
~~actual expenses incurred in attending board meetings.~~ 108246~~

~~(E)(1) The department shall determine the payment amount 108247
assigned to an initial contract. To the extent that the department 108248
determines sufficient funds are available, the payment amount 108249
assigned to an initial contract shall be equal to the average 108250
amount assigned to contracts for other homes that are of the same 108251
type and size and serve individuals with similar needs, except 108252
that if an initial contract is the result of a change of 108253
contractor or ownership, the payment amount assigned to the 108254
contract shall be the lesser of the amount assigned to the 108255
previous contract or the contract's total adjusted predicted 108256
funding need calculated under division (I) of this section.~~ 108257

~~(2) A renewed contract shall be assigned a payment amount in 108258
accordance with division (K) of this section.~~ 108259

~~(3) When a contractor relocates a home to another site at 108260~~

~~which residential services are provided to the same individuals, 108261
the payment amount assigned to the contract for the new home shall 108262
be the payment amount assigned to the contract at the previous 108263
location. 108264~~

~~(F)(1) Annually, a contractor shall complete an assessment of 108265
each individual to whom the contractor provides residential 108266
services to predict the individual's need for routine direct 108267
services staff. The department shall establish by rule adopted in 108268
accordance with Chapter 119. of the Revised Code the assessment 108269
instrument to be used by contractors to make assessments. 108270
Assessments shall be submitted to the department not later than 108271
the thirty first day of January of each year. 108272~~

~~A contractor shall submit a revised assessment for an 108273
individual if there is a substantial, long term change in the 108274
nature of the individual's needs. A contractor shall submit 108275
revised assessments for all individuals receiving residential 108276
services if there is a change in the composition of the home's 108277
residents. 108278~~

~~(2) Annually, a contractor shall submit a cost report to the 108279
department specifying the costs incurred in providing residential 108280
services during the immediately preceding calendar year. Only 108281
costs actually incurred by a contractor shall be reported on a 108282
cost report. Cost reports shall be prepared according to a uniform 108283
chart of accounts approved by the department and shall be 108284
submitted on forms prescribed by the department. 108285~~

~~(3) The department shall not renew the contract held by a 108286
contractor who fails to submit the assessments or cost reports 108287
required under this division. 108288~~

~~(4) The department shall adopt rules as necessary regarding 108289
the submission of assessments and cost reports under this 108290
division. The rules shall be adopted in accordance with Chapter 108291~~

~~119. of the Revised Code. 108292~~

~~(G) Prior to renewing a contract entered into under this 108293~~
~~section, the department shall compute the contract's total 108294~~
~~predicted funding need and total adjusted predicted funding need. 108295~~
~~The department shall also compute the contract's unmet funding 108296~~
~~need if the payment amount assigned to the contract is less than 108297~~
~~the total adjusted predicted funding need. The results of these 108298~~
~~calculations shall be used to determine the payment amount 108299~~
~~assigned to the renewed contract. 108300~~

~~(H)(1) A contract's total predicted funding need is an amount 108301~~
~~equal to the sum of the predicted funding needs for the following 108302~~
~~cost categories: 108303~~

~~(a) Routine direct services staff; 108304~~

~~(b) Dietary, program supplies, and specialized staff; 108305~~

~~(c) Facility and general services; 108306~~

~~(d) Administration. 108307~~

~~(2) Based on the assessments submitted by the contractor, the 108308~~
~~department shall compute the contract's predicted funding need for 108309~~
~~the routine direct services staff cost category by multiplying the 108310~~
~~number of direct services staff predicted to be necessary for the 108311~~
~~home by the sum of the following: 108312~~

~~(a) Entry level wages paid during the immediately preceding 108313~~
~~cost reporting period to comparable staff employed by the county 108314~~
~~board of developmental disabilities of the county in which the 108315~~
~~home is located; 108316~~

~~(b) Fringe benefits and payroll taxes as determined by the 108317~~
~~department using state civil service statistics from the same 108318~~
~~period as the cost reporting period. 108319~~

~~(3) The department shall establish by rule adopted in 108320~~
~~accordance with Chapter 119. of the Revised Code the method to be 108321~~

~~used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.~~

~~(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:~~

~~(a) Inflation, as provided under division (I)(2) of this section;~~

~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~

~~(c) Changes in needs based on revised assessments submitted by the contractor.~~

~~(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~

~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of~~

~~inflation calculated for the three month period ending the 108353
thirty first day of March of that calendar year. If another index 108354
or measurement is being used, the department shall base its 108355
estimate on the most recent calculations of the rate of inflation 108356
available under the index or measurement. Each year thereafter, 108357
the inflation adjustment shall be estimated in the same manner, 108358
except that if the estimated rate of inflation for a year is 108359
different from the actual rate of inflation for that year, the 108360
difference shall be added to or subtracted from the rate of 108361
inflation estimated for the next succeeding year. 108362~~

~~If a contract begins at any time other than July first, the 108363
inflation adjustment applied to the contract's total predicted 108364
funding need shall be determined by a method comparable to that 108365
used for contracts beginning July first. The department shall 108366
adopt rules in accordance with Chapter 119. of the Revised Code 108367
establishing the method to be used. 108368~~

~~(J) A contract's unmet funding need is the difference between 108369
the payment amount assigned to the contract and the total adjusted 108370
predicted funding need, if the payment amount assigned is less 108371
than the total adjusted predicted funding need. 108372~~

~~(K) The payment amount to be assigned to a contract being 108373
renewed shall be determined by comparing the total adjusted 108374
predicted funding need with the payment amount assigned to the 108375
current contract. 108376~~

~~(1) If the payment amount assigned to the current contract 108377
equals or exceeds the total adjusted predicted funding need, the 108378
payment amount assigned to the renewed contract shall be the same 108379
as that assigned to the current contract, unless a reduction is 108380
made pursuant to division (L) of this section. 108381~~

~~(2) If the payment amount assigned to the current contract is 108382
less than the total adjusted predicted funding need, the payment 108383~~

~~amount assigned to the renewed contract shall be increased if the
department determines that funds are available for such increases.
The amount of a contract's increase shall be the same percentage
of the available funds that the contract's unmet funding need is
of the total of the unmet funding need for all contracts.~~

~~(L) When renewing a contract provided for in division (B) of
this section other than a companion home contract, the department
may reduce the payment amount assigned to a renewed contract if
the sum of the contractor's allowable reported costs and the
maximum efficiency incentive is less than ninety one and one half
per cent of the amount received pursuant to this section during
the immediately preceding contract year.~~

~~The department shall adopt rules in accordance with Chapter
119. of the Revised Code establishing a formula to be used in
computing the maximum efficiency incentive, which shall be at
least four per cent of the weighted average payment amount to be
made to all contractors during the contract year. The maximum
efficiency incentive shall be computed annually.~~

~~(M) The department may increase the payment amount assigned
to a contract based on the contract's unmet funding need at times
other than when the contract is renewed. The department may
develop policies for determining priorities in making such
increases.~~

~~(N)(1) In addition to the contracts provided for in division
(B) of this section, the department may enter into the following
contracts:~~

~~(a) A contract to pay the cost of beginning operation of a
new home that is to be funded under a companion home contract,
agency operated companion home contract, community home contract,
or combined agency operated companion home and community home
contract.~~

~~(b) A contract to pay the cost associated with increasing the number of individuals served by a home funded under a companion home contract, agency operated companion home contract, community home contract, or combined agency operated companion home and community home contract.~~

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~~(2) The department shall adopt rules as necessary regarding contracts entered into under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

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~~(O) Except for companion home contracts, the department shall conduct a reconciliation of the amount earned under a contract and the actual costs incurred by the contractor. An amount is considered to have been earned for delivering a service at the time the service is delivered. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.~~

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~~A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.051 of the Revised Code.~~

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~~When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.~~

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~~(P) The department may audit the contracts it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the~~

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~~audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.~~

~~An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.~~

~~If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.~~

~~In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.051 of the Revised Code to the attorney general for collection for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.~~

~~Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the~~

~~audit. The report shall state the findings of the audit, including 108478
the amount of any money the contractor is determined to owe the 108479
state. 108480~~

~~(Q) The department shall adopt rules specifying the amount 108481
that will be allowed under a reconciliation or audit for the cost 108482
incurred by a contractor for compensation of owners, 108483
administrators, and other personnel. The rules shall be adopted in 108484
accordance with Chapter 119. of the Revised Code. 108485~~

~~(R) Each contractor shall, for at least seven years, maintain 108486
fiscal records related to payments received pursuant to this 108487
section. 108488~~

~~(S) The department may enter into shared funding agreements 108489
with other government agencies to fund contracts entered into 108490
under this section. The amount of each agency's share of the cost 108491
shall be determined through negotiations with the department. The 108492
department's share shall not exceed the amount it would have paid 108493
without entering into the shared funding agreement, nor shall it 108494
be reduced by any amounts contributed by the other parties to the 108495
agreement. 108496~~

~~(T) Except as provided in section 5123.194 of the Revised 108497
Code, an individual who receives residential services pursuant to 108498
divisions (A) through (U) of this section and the individual's 108499
liable relatives or guardians shall pay support charges in 108500
accordance with Chapter 5121. of the Revised Code. 108501~~

~~(U) The department may make reimbursements or payments for 108502
any of the following pursuant to rules adopted under this 108503
division: 108504~~

~~(1) Unanticipated, nonrecurring costs associated with the 108505
health or habilitation of a person who resides in a home funded 108506
under a contract provided for in division (B) of this section; 108507~~

~~(2) The cost of staff development training for contractors if 108508~~

~~the director of developmental disabilities has given prior approval for the training;~~ 108509
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~~(3) Fixed costs that the department, pursuant to the rules, determines relate to the continued operation of a home funded under a contract provided for in division (B) of this section when a short term vacancy occurs and the contractor has diligently attempted to fill the vacancy.~~ 108511
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~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for use in determining which costs it may make payment or reimbursements for under this division.~~ 108516
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~~(V) In addition to the rules required or authorized to be adopted under this section, the department may adopt any other rules necessary to implement divisions (A) through (U) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 108520
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~~(W) The department may delegate to county boards of developmental disabilities its authority under this section to negotiate and enter into contracts or subcontracts for residential services. In the event that it elects to delegate its authority, the department shall adopt rules in accordance with Chapter 119. of the Revised Code for the boards' administration of the contracts or subcontracts. In administering the contracts or subcontracts, the boards shall be subject to all applicable provisions of Chapter 5126. of the Revised Code and shall not be subject to the provisions of divisions (A) to (V) of this section.~~ 108525
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~~Subject to the department's rules, a board may require the following to contribute to the cost of the residential services an individual receives pursuant to this division: the individual or the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or~~ 108535
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~~both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual who receives residential services.~~

Sec. 5123.19. (A) As used in this section and in sections 5123.191, ~~5123.193,~~ 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or

developmentally disabled persons, and for which no financial 108571
support is received for rendering such service from any 108572
governmental agency by a provider of residential services. 108573

(4) "Licensee" means the person or government agency that has 108574
applied for a license to operate a residential facility and to 108575
which the license was issued under this section. 108576

(5) "Related party" has the same meaning as in section 108577
5123.16 of the Revised Code except that "provider" as used in the 108578
definition of "related party" means a person or government entity 108579
that held or applied for a license to operate a residential 108580
facility, rather than a person or government entity certified to 108581
provide supported living. 108582

(B) Every person or government agency desiring to operate a 108583
residential facility shall apply for licensure of the facility to 108584
the director of developmental disabilities unless the residential 108585
facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, 108586
or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of 108587
the Revised Code, a nursing home that is certified as an 108588
intermediate care facility for the mentally retarded under Title 108589
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 108590
1396, as amended, shall apply for licensure of the portion of the 108591
home that is certified as an intermediate care facility for the 108592
mentally retarded. 108593

(C) Subject to section 5123.196 of the Revised Code, the 108594
director of developmental disabilities shall license the operation 108595
of residential facilities. An initial license shall be issued for 108596
a period that does not exceed one year, unless the director denies 108597
the license under division (D) of this section. A license shall be 108598
renewed for a period that does not exceed three years, unless the 108599
director refuses to renew the license under division (D) of this 108600
section. The director, when issuing or renewing a license, shall 108601
specify the period for which the license is being issued or 108602

renewed. A license remains valid for the length of the licensing 108603
period specified by the director, unless the license is 108604
terminated, revoked, or voluntarily surrendered. 108605

(D) If it is determined that an applicant or licensee is not 108606
in compliance with a provision of this chapter that applies to 108607
residential facilities or the rules adopted under such a 108608
provision, the director may deny issuance of a license, refuse to 108609
renew a license, terminate a license, revoke a license, issue an 108610
order for the suspension of admissions to a facility, issue an 108611
order for the placement of a monitor at a facility, issue an order 108612
for the immediate removal of residents, or take any other action 108613
the director considers necessary consistent with the director's 108614
authority under this chapter regarding residential facilities. In 108615
the director's selection and administration of the sanction to be 108616
imposed, all of the following apply: 108617

(1) The director may deny, refuse to renew, or revoke a 108618
license, if the director determines that the applicant or licensee 108619
has demonstrated a pattern of serious noncompliance or that a 108620
violation creates a substantial risk to the health and safety of 108621
residents of a residential facility. 108622

(2) The director may terminate a license if more than twelve 108623
consecutive months have elapsed since the residential facility was 108624
last occupied by a resident or a notice required by division (K) 108625
of this section is not given. 108626

(3) The director may issue an order for the suspension of 108627
admissions to a facility for any violation that may result in 108628
sanctions under division (D)(1) of this section and for any other 108629
violation specified in rules adopted under division (H)(2) of this 108630
section. If the suspension of admissions is imposed for a 108631
violation that may result in sanctions under division (D)(1) of 108632
this section, the director may impose the suspension before 108633
providing an opportunity for an adjudication under Chapter 119. of 108634

the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian; 108667
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(c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor. 108669
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(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents. 108671
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(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies. 108676
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(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing. 108684
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(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made 108689
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if the director has taken action against the facility in the 108698
eighteen-month period immediately preceding the director's latest 108699
action against the facility and the latest action is being taken 108700
for the same or a substantially similar violation of a provision 108701
of this chapter that applies to residential facilities or the 108702
rules adopted under such a provision. The rules shall specify a 108703
method for removing or amending the public notification if the 108704
director's action is found to have been unjustified or the 108705
violation at the residential facility has been corrected. 108706

(F)(1) Except as provided in division (F)(2) of this section, 108707
appeals from proceedings initiated to impose a sanction under 108708
division (D) of this section shall be conducted in accordance with 108709
Chapter 119. of the Revised Code. 108710

(2) Appeals from proceedings initiated to order the 108711
suspension of admissions to a facility shall be conducted in 108712
accordance with Chapter 119. of the Revised Code, unless the order 108713
was issued before providing an opportunity for an adjudication, in 108714
which case all of the following apply: 108715

(a) The licensee may request a hearing not later than ten 108716
days after receiving the notice specified in section 119.07 of the 108717
Revised Code. 108718

(b) If a timely request for a hearing that includes the 108719
licensee's current address is made, the hearing shall commence not 108720
later than thirty days after the department receives the request. 108721

(c) After commencing, the hearing shall continue 108722
uninterrupted, except for Saturdays, Sundays, and legal holidays, 108723
unless other interruptions are agreed to by the licensee and the 108724
director. 108725

(d) If the hearing is conducted by a hearing examiner, the 108726
hearing examiner shall file a report and recommendations not later 108727
than ten days after the last of the following: 108728

(i) The close of the hearing; 108729

(ii) If a transcript of the proceedings is ordered, the 108730
hearing examiner receives the transcript; 108731

(iii) If post-hearing briefs are timely filed, the hearing 108732
examiner receives the briefs. 108733

(e) A copy of the written report and recommendation of the 108734
hearing examiner shall be sent, by certified mail, to the licensee 108735
and the licensee's attorney, if applicable, not later than five 108736
days after the report is filed. 108737

(f) Not later than five days after the hearing examiner files 108738
the report and recommendations, the licensee may file objections 108739
to the report and recommendations. 108740

(g) Not later than fifteen days after the hearing examiner 108741
files the report and recommendations, the director shall issue an 108742
order approving, modifying, or disapproving the report and 108743
recommendations. 108744

(h) Notwithstanding the pendency of the hearing, the director 108745
shall lift the order for the suspension of admissions when the 108746
director determines that the violation that formed the basis for 108747
the order has been corrected. 108748

(G) Neither a person or government agency whose application 108749
for a license to operate a residential facility is denied nor a 108750
related party of the person or government agency may apply for a 108751
license to operate a residential facility before the date that is 108752
one year after the date of the denial. Neither a licensee whose 108753
residential facility license is revoked nor a related party of the 108754
licensee may apply for a residential facility license before the 108755
date that is five years after the date of the revocation. 108756

(H) In accordance with Chapter 119. of the Revised Code, the 108757
director shall adopt and may amend and rescind rules for licensing 108758

and regulating the operation of residential facilities, including 108759
intermediate care facilities for the mentally retarded. The rules 108760
for intermediate care facilities for the mentally retarded may 108761
differ from those for other residential facilities. The rules 108762
shall establish and specify the following: 108763

(1) Procedures and criteria for issuing and renewing 108764
licenses, including procedures and criteria for determining the 108765
length of the licensing period that the director must specify for 108766
each license when it is issued or renewed; 108767

(2) Procedures and criteria for denying, refusing to renew, 108768
terminating, and revoking licenses and for ordering the suspension 108769
of admissions to a facility, placement of a monitor at a facility, 108770
and the immediate removal of residents from a facility; 108771

(3) Fees for issuing and renewing licenses, which shall be 108772
deposited into the program fee fund created under section 5123.033 108773
of the Revised Code; 108774

(4) Procedures for surveying residential facilities; 108775

(5) Requirements for the training of residential facility 108776
personnel; 108777

(6) Classifications for the various types of residential 108778
facilities; 108779

(7) Certification procedures for licensees and management 108780
contractors that the director determines are necessary to ensure 108781
that they have the skills and qualifications to properly operate 108782
or manage residential facilities; 108783

(8) The maximum number of persons who may be served in a 108784
particular type of residential facility; 108785

(9) Uniform procedures for admission of persons to and 108786
transfers and discharges of persons from residential facilities; 108787

(10) Other standards for the operation of residential 108788

facilities and the services provided at residential facilities; 108789

(11) Procedures for waiving any provision of any rule adopted 108790
under this section. 108791

(I) Before issuing a license, the director of the department 108792
or the director's designee shall conduct a survey of the 108793
residential facility for which application is made. The director 108794
or the director's designee shall conduct a survey of each licensed 108795
residential facility at least once during the period the license 108796
is valid and may conduct additional inspections as needed. A 108797
survey includes but is not limited to an on-site examination and 108798
evaluation of the residential facility, its personnel, and the 108799
services provided there. 108800

In conducting surveys, the director or the director's 108801
designee shall be given access to the residential facility; all 108802
records, accounts, and any other documents related to the 108803
operation of the facility; the licensee; the residents of the 108804
facility; and all persons acting on behalf of, under the control 108805
of, or in connection with the licensee. The licensee and all 108806
persons on behalf of, under the control of, or in connection with 108807
the licensee shall cooperate with the director or the director's 108808
designee in conducting the survey. 108809

Following each survey, unless the director initiates a 108810
license revocation proceeding, the director or the director's 108811
designee shall provide the licensee with a report listing any 108812
deficiencies, specifying a timetable within which the licensee 108813
shall submit a plan of correction describing how the deficiencies 108814
will be corrected, and, when appropriate, specifying a timetable 108815
within which the licensee must correct the deficiencies. After a 108816
plan of correction is submitted, the director or the director's 108817
designee shall approve or disapprove the plan. A copy of the 108818
report and any approved plan of correction shall be provided to 108819
any person who requests it. 108820

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter

119. of the Revised Code. 108853

(L) A county board of developmental disabilities, the legal 108854
rights service, and any interested person may file complaints 108855
alleging violations of statute or department rule relating to 108856
residential facilities with the department. All complaints shall 108857
be in writing and shall state the facts constituting the basis of 108858
the allegation. The department shall not reveal the source of any 108859
complaint unless the complainant agrees in writing to waive the 108860
right to confidentiality or until so ordered by a court of 108861
competent jurisdiction. 108862

The department shall adopt rules in accordance with Chapter 108863
119. of the Revised Code establishing procedures for the receipt, 108864
referral, investigation, and disposition of complaints filed with 108865
the department under this division. 108866

(M) The department shall establish procedures for the 108867
notification of interested parties of the transfer or interim care 108868
of residents from residential facilities that are closing or are 108869
losing their license. 108870

(N) Before issuing a license under this section to a 108871
residential facility that will accommodate at any time more than 108872
one mentally retarded or developmentally disabled individual, the 108873
director shall, by first class mail, notify the following: 108874

(1) If the facility will be located in a municipal 108875
corporation, the clerk of the legislative authority of the 108876
municipal corporation; 108877

(2) If the facility will be located in unincorporated 108878
territory, the clerk of the appropriate board of county 108879
commissioners and the fiscal officer of the appropriate board of 108880
township trustees. 108881

The director shall not issue the license for ten days after 108882
mailing the notice, excluding Saturdays, Sundays, and legal 108883

holidays, in order to give the notified local officials time in 108884
which to comment on the proposed issuance. 108885

Any legislative authority of a municipal corporation, board 108886
of county commissioners, or board of township trustees that 108887
receives notice under this division of the proposed issuance of a 108888
license for a residential facility may comment on it in writing to 108889
the director within ten days after the director mailed the notice, 108890
excluding Saturdays, Sundays, and legal holidays. If the director 108891
receives written comments from any notified officials within the 108892
specified time, the director shall make written findings 108893
concerning the comments and the director's decision on the 108894
issuance of the license. If the director does not receive written 108895
comments from any notified local officials within the specified 108896
time, the director shall continue the process for issuance of the 108897
license. 108898

(O) Any person may operate a licensed residential facility 108899
that provides room and board, personal care, habilitation 108900
services, and supervision in a family setting for at least six but 108901
not more than eight persons with mental retardation or a 108902
developmental disability as a permitted use in any residential 108903
district or zone, including any single-family residential district 108904
or zone, of any political subdivision. These residential 108905
facilities may be required to comply with area, height, yard, and 108906
architectural compatibility requirements that are uniformly 108907
imposed upon all single-family residences within the district or 108908
zone. 108909

(P) Any person may operate a licensed residential facility 108910
that provides room and board, personal care, habilitation 108911
services, and supervision in a family setting for at least nine 108912
but not more than sixteen persons with mental retardation or a 108913
developmental disability as a permitted use in any multiple-family 108914
residential district or zone of any political subdivision, except 108915

that a political subdivision that has enacted a zoning ordinance 108916
or resolution establishing planned unit development districts may 108917
exclude these residential facilities from those districts, and a 108918
political subdivision that has enacted a zoning ordinance or 108919
resolution may regulate these residential facilities in 108920
multiple-family residential districts or zones as a conditionally 108921
permitted use or special exception, in either case, under 108922
reasonable and specific standards and conditions set out in the 108923
zoning ordinance or resolution to: 108924

(1) Require the architectural design and site layout of the 108925
residential facility and the location, nature, and height of any 108926
walls, screens, and fences to be compatible with adjoining land 108927
uses and the residential character of the neighborhood; 108928

(2) Require compliance with yard, parking, and sign 108929
regulation; 108930

(3) Limit excessive concentration of these residential 108931
facilities. 108932

(Q) This section does not prohibit a political subdivision 108933
from applying to residential facilities nondiscriminatory 108934
regulations requiring compliance with health, fire, and safety 108935
regulations and building standards and regulations. 108936

(R) Divisions (O) and (P) of this section are not applicable 108937
to municipal corporations that had in effect on June 15, 1977, an 108938
ordinance specifically permitting in residential zones licensed 108939
residential facilities by means of permitted uses, conditional 108940
uses, or special exception, so long as such ordinance remains in 108941
effect without any substantive modification. 108942

(S)(1) The director may issue an interim license to operate a 108943
residential facility to an applicant for a license under this 108944
section if either of the following is the case: 108945

(a) The director determines that an emergency exists 108946

requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the

director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable

efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a

resident's guardian or relative, a county board of developmental 109071
disabilities, or the legal rights service, petition the court to 109072
appoint a receiver to take possession of and operate a residential 109073
facility. When the department has been requested to file a 109074
petition by any of the parties listed above, it shall, within 109075
forty-eight hours of such request, either file such a petition or 109076
notify the requesting party of its decision not to file. If the 109077
department refuses to file, the requesting party may file a 109078
petition with the court requesting the appointment of a receiver 109079
to take possession of and operate a residential facility. 109080

Petitions filed pursuant to this division shall include the 109081
following: 109082

(1) A description of the specific conditions existing at the 109083
facility which present a substantial risk of physical or mental 109084
harm to residents; 109085

(2) A statement of the absence of other adequate remedies at 109086
law; 109087

(3) The number of individuals residing at the facility; 109088

(4) A statement that the facts have been brought to the 109089
attention of the owner or licensee and that conditions have not 109090
been remedied within a reasonable period of time or that the 109091
conditions, though remedied periodically, habitually exist at the 109092
facility as a pattern or practice; 109093

(5) The name and address of the person holding the license 109094
for the facility and the address of the department of 109095
developmental disabilities. 109096

The court may award to an operator appropriate costs and 109097
expenses, including reasonable attorney's fees, if it determines 109098
that a petitioner has initiated a proceeding in bad faith or 109099
merely for the purpose of harassing or embarrassing the operator. 109100

(H) Except for the department of developmental disabilities 109101
or a county board of developmental disabilities, no party or 109102
person interested in an action shall be appointed a receiver 109103
pursuant to this section. 109104

To assist the court in identifying persons qualified to be 109105
named as receivers, the director of developmental disabilities or 109106
the director's designee shall maintain a list of the names of such 109107
persons. The director shall, in accordance with Chapter 119. of 109108
the Revised Code, establish standards for evaluating persons 109109
desiring to be included on such a list. 109110

(I) Before a receiver enters upon the duties of that person, 109111
the receiver must be sworn to perform the duties of receiver 109112
faithfully, and, with surety approved by the court, judge, or 109113
clerk, execute a bond to such person, and in such sum as the court 109114
or judge directs, to the effect that such receiver will faithfully 109115
discharge the duties of receiver in the action, and obey the 109116
orders of the court therein. 109117

(J) Under the control of the appointing court, a receiver may 109118
bring and defend actions in the receiver's own name as receiver 109119
and take and keep possession of property. 109120

The court shall authorize the receiver to do the following: 109121

(1) Collect payment for all goods and services provided to 109122
the residents or others during the period of the receivership at 109123
the same rate as was charged by the licensee at the time the 109124
petition for receivership was filed, unless a different rate is 109125
set by the court; 109126

(2) Honor all leases, mortgages, and secured transactions 109127
governing all buildings, goods, and fixtures of which the receiver 109128
has taken possession and continues to use, subject to the 109129
following conditions: 109130

(a) In the case of a rental agreement, only to the extent of 109131

payments that are for the use of the property during the period of 109132
the receivership; 109133

(b) In the case of a purchase agreement only to the extent of 109134
payments that come due during the period of the receivership; 109135

~~(c) If the court determines that the cost of the lease, 109136
mortgage, or secured transaction was increased by a transaction 109137
required to be reported under division (B)(3) of section 5123.172 109138
of the Revised Code, only to the extent determined by the court to 109139
be the fair market value for use of the property during the period 109140
of the receivership. 109141~~

(3) If transfer of residents is necessary, provide for the 109142
orderly transfer of residents by doing the following: 109143

(a) Cooperating with all appropriate state and local agencies 109144
in carrying out the transfer of residents to alternative community 109145
placements; 109146

(b) Providing for the transportation of residents' belongings 109147
and records; 109148

(c) Helping to locate alternative placements and develop 109149
discharge plans; 109150

(d) Preparing residents for the trauma of discharge; 109151

(e) Permitting residents or guardians to participate in 109152
transfer or discharge planning except when an emergency exists and 109153
immediate transfer is necessary. 109154

(4) Make periodic reports on the status of the residential 109155
program to the appropriate state agency, county board of 109156
developmental disabilities, parents, guardians, and residents; 109157

(5) Compromise demands or claims; 109158

(6) Generally do such acts respecting the residential 109159
facility as the court authorizes. 109160

(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. ~~A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section.~~ Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent living arrangement and the individual's liable relative, the department of developmental disabilities may waive the support collection requirements of sections 5121.04, ~~and~~ 5123.122, ~~and~~ ~~5123.18~~ of the Revised Code for the purpose of allowing income or resources to be used to acquire items necessary for independent living. The department shall adopt rules in accordance with section 111.15 of the Revised Code to implement this section, including rules that establish the method the department shall use to determine when an individual is preparing to move into an independent living arrangement.

Sec. 5123.352. There is hereby created in the state treasury the community developmental disabilities trust fund. The director

of developmental disabilities, not later than sixty days after the 109191
end of each fiscal year, shall certify to the director of budget 109192
and management the amount of all the unexpended, unencumbered 109193
balances of general revenue fund appropriations made to the 109194
department of developmental disabilities for the fiscal year, 109195
excluding appropriations for rental payments to the Ohio public 109196
facilities commission, and the amount of any other funds held by 109197
the department in excess of amounts necessary to meet the 109198
department's operating costs and obligations pursuant to this 109199
chapter and Chapter 5126. of the Revised Code. On receipt of the 109200
certification, the director of budget and management shall 109201
transfer cash to the trust fund in an amount up to, but not 109202
exceeding, the total of the amounts certified by the director of 109203
developmental disabilities, except in cases in which the transfer 109204
will involve more than twenty million dollars. In such cases, the 109205
director of budget and management shall notify the controlling 109206
board and must receive the board's approval of the transfer prior 109207
to making the transfer. 109208

All moneys in the trust fund shall be ~~distributed~~ used for 109209
purposes specified in ~~accordance with~~ section ~~5126.19~~ 5123.0418 of 109210
the Revised Code. 109211

Sec. 5123.42. (A) Beginning nine months after March 31, 2003, 109212
MR/DD personnel who are not specifically authorized by other 109213
provisions of the Revised Code to administer prescribed 109214
medications, perform health-related activities, or perform tube 109215
feedings may do so pursuant to this section as part of the 109216
specialized services the MR/DD personnel provide to individuals 109217
with mental retardation and developmental disabilities in the 109218
following categories: 109219

(1) Recipients of early intervention, preschool, and 109220
school-age services offered or provided pursuant to this chapter 109221

or Chapter 5126. of the Revised Code;	109222
(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	109223 109224
(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	109225 109226
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	109227 109228 109229
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	109230 109231 109232 109233 109234 109235
(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	109236 109237 109238
(7) Residents of a residential facility with five or fewer resident beds;	109239 109240
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	109241 109242
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:	109243 109244 109245
(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.	109246 109247 109248 109249 109250 109251

(b) Not more than ~~five~~ ten field trip participants are 109252
residents who have health needs requiring the administration of 109253
prescribed medications, excluding participants who self-administer 109254
prescribed medications or receive assistance with 109255
self-administration of prescribed medications. 109256

(c) The facility staffs the field trip with MR/DD personnel 109257
in such a manner that one person will administer prescribed 109258
medications, perform health-related activities, or perform tube 109259
feedings for not more than ~~two~~ four participants if one or ~~both~~ 109260
more of those participants have health needs requiring the person 109261
to administer prescribed medications through a gastrostomy or 109262
jejunostomy tube. 109263

(d) According to the instructions of a health care 109264
professional acting within the scope of the professional's 109265
practice, the health needs of the participants who require 109266
administration of prescribed medications by MR/DD personnel are 109267
such that the participants must receive the medications during the 109268
field trip to avoid jeopardizing their health and safety. 109269

(B)(1) In the case of recipients of early intervention, 109270
preschool, and school-age services, as specified in division 109271
(A)(1) of this section, all of the following apply: 109272

(a) With nursing delegation, MR/DD personnel may perform 109273
health-related activities. 109274

(b) With nursing delegation, MR/DD personnel may administer 109275
oral and topical prescribed medications. 109276

(c) With nursing delegation, MR/DD personnel may administer 109277
prescribed medications through gastrostomy and jejunostomy tubes, 109278
if the tubes being used are stable and labeled. 109279

(d) With nursing delegation, MR/DD personnel may perform 109280
routine tube feedings, if the gastrostomy and jejunostomy tubes 109281
being used are stable and labeled. 109282

(2) In the case of recipients of adult services, as specified	109283
in division (A)(2) of this section, all of the following apply:	109284
(a) With nursing delegation, MR/DD personnel may perform	109285
health-related activities.	109286
(b) With nursing delegation, MR/DD personnel may administer	109287
oral and topical prescribed medications.	109288
(c) With nursing delegation, MR/DD personnel may administer	109289
prescribed medications through gastrostomy and jejunostomy tubes,	109290
if the tubes being used are stable and labeled.	109291
(d) With nursing delegation, MR/DD personnel may perform	109292
routine tube feedings, if the gastrostomy and jejunostomy tubes	109293
being used are stable and labeled.	109294
(3) In the case of recipients of family support services, as	109295
specified in division (A)(3) of this section, all of the following	109296
apply:	109297
(a) Without nursing delegation, MR/DD personnel may perform	109298
health-related activities.	109299
(b) Without nursing delegation, MR/DD personnel may	109300
administer oral and topical prescribed medications.	109301
(c) With nursing delegation, MR/DD personnel may administer	109302
prescribed medications through gastrostomy and jejunostomy tubes,	109303
if the tubes being used are stable and labeled.	109304
(d) With nursing delegation, MR/DD personnel may perform	109305
routine tube feedings, if the gastrostomy and jejunostomy tubes	109306
being used are stable and labeled.	109307
(e) With nursing delegation, MR/DD personnel may administer	109308
routine doses of insulin through subcutaneous injections and	109309
insulin pumps.	109310
(4) In the case of recipients of services from certified	109311
supported living providers, as specified in division (A)(4) of	109312

this section, all of the following apply: 109313

(a) Without nursing delegation, MR/DD personnel may perform health-related activities. 109314
109315

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications. 109316
109317

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 109318
109319
109320

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 109321
109322
109323

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 109324
109325
109326

(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply: 109327
109328
109329
109330

(a) Without nursing delegation, MR/DD personnel may perform health-related activities. 109331
109332

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications. 109333
109334

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 109335
109336
109337

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 109338
109339
109340

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and 109341
109342

insulin pumps. 109343

(6) In the case of recipients of services not included in 109344
divisions (A)(1) to (5) of this section, as specified in division 109345
(A)(6) of this section, all of the following apply: 109346

(a) With nursing delegation, MR/DD personnel may perform 109347
health-related activities. 109348

(b) With nursing delegation, MR/DD personnel may administer 109349
oral and topical prescribed medications. 109350

(c) With nursing delegation, MR/DD personnel may administer 109351
prescribed medications through gastrostomy and jejunostomy tubes, 109352
if the tubes being used are stable and labeled. 109353

(d) With nursing delegation, MR/DD personnel may perform 109354
routine tube feedings, if the gastrostomy and jejunostomy tubes 109355
being used are stable and labeled. 109356

(7) In the case of residents of a residential facility with 109357
five or fewer beds, as specified in division (A)(7) of this 109358
section, all of the following apply: 109359

(a) Without nursing delegation, MR/DD personnel may perform 109360
health-related activities. 109361

(b) Without nursing delegation, MR/DD personnel may 109362
administer oral and topical prescribed medications. 109363

(c) With nursing delegation, MR/DD personnel may administer 109364
prescribed medications through gastrostomy and jejunostomy tubes, 109365
if the tubes being used are stable and labeled. 109366

(d) With nursing delegation, MR/DD personnel may perform 109367
routine tube feedings, if the gastrostomy and jejunostomy tubes 109368
being used are stable and labeled. 109369

(e) With nursing delegation, MR/DD personnel may administer 109370
routine doses of insulin through subcutaneous injections and 109371
insulin pumps. 109372

(8) In the case of residents of a residential facility with 109373
at least six but not more than sixteen resident beds, as specified 109374
in division (A)(8) of this section, all of the following apply: 109375

(a) With nursing delegation, MR/DD personnel may perform 109376
health-related activities. 109377

(b) With nursing delegation, MR/DD personnel may administer 109378
oral and topical prescribed medications. 109379

(c) With nursing delegation, MR/DD personnel may administer 109380
prescribed medications through gastrostomy and jejunostomy tubes, 109381
if the tubes being used are stable and labeled. 109382

(d) With nursing delegation, MR/DD personnel may perform 109383
routine tube feedings, if the gastrostomy and jejunostomy tubes 109384
being used are stable and labeled. 109385

(9) In the case of residents of a residential facility with 109386
seventeen or more resident beds who are on a field trip from the 109387
facility, all of the following apply during the field trip, 109388
subject to the limitations specified in division (A)(9) of this 109389
section: 109390

(a) With nursing delegation, MR/DD personnel may perform 109391
health-related activities. 109392

(b) With nursing delegation, MR/DD personnel may administer 109393
oral and topical prescribed medications. 109394

(c) With nursing delegation, MR/DD personnel may administer 109395
prescribed medications through gastrostomy and jejunostomy tubes, 109396
if the tubes being used are stable and labeled. 109397

(d) With nursing delegation, MR/DD personnel may perform 109398
routine tube feedings, if the gastrostomy and jejunostomy tubes 109399
being used are stable and labeled. 109400

(C) The authority of MR/DD personnel to administer prescribed 109401
medications, perform health-related activities, and perform tube 109402

feedings pursuant to this section is subject to all of the 109403
following: 109404

(1) To administer prescribed medications, perform 109405
health-related activities, or perform tube feedings for 109406
individuals in the categories specified under divisions (A)(1) to 109407
(8) of this section, MR/DD personnel shall obtain the certificate 109408
or certificates required by the department of developmental 109409
disabilities and issued under section 5123.45 of the Revised Code. 109410
MR/DD personnel shall administer prescribed medication, perform 109411
health-related activities, and perform tube feedings only as 109412
authorized by the certificate or certificates held. 109413

(2) To administer prescribed medications, perform 109414
health-related activities, or perform tube feedings for 109415
individuals in the category specified under division (A)(9) of 109416
this section, MR/DD personnel shall successfully complete the 109417
training course or courses developed under section 5123.43 of the 109418
Revised Code for the MR/DD personnel. MR/DD personnel shall 109419
administer prescribed medication, perform health-related 109420
activities, and perform tube feedings only as authorized by the 109421
training completed. 109422

(3) If nursing delegation is required under division (B) of 109423
this section, MR/DD personnel shall not act without nursing 109424
delegation or in a manner that is inconsistent with the 109425
delegation. 109426

(4) The employer of MR/DD personnel shall ensure that MR/DD 109427
personnel have been trained specifically with respect to each 109428
individual for whom they administer prescribed medications, 109429
perform health-related activities, or perform tube feedings. MR/DD 109430
personnel shall not administer prescribed medications, perform 109431
health-related activities, or perform tube feedings for any 109432
individual for whom they have not been specifically trained. 109433

(5) If the employer of MR/DD personnel believes that MR/DD personnel have not or will not safely administer prescribed medications, perform health-related activities, or perform tube feedings, the employer shall prohibit the action from continuing or commencing. MR/DD personnel shall not engage in the action or actions subject to an employer's prohibition.

(D) In accordance with section 5123.46 of the Revised Code, the department of developmental disabilities shall adopt rules governing its implementation of this section. The rules shall include the following:

(1) Requirements for documentation of the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(3) Other standards and procedures the department considers necessary for implementation of this section.

Sec. 5123.45. (A) The department of developmental disabilities shall establish a program under which the department issues certificates to the following:

(1) MR/DD personnel, for purposes of meeting the requirement of division (C)(1) of section 5123.42 of the Revised Code to obtain a certificate or certificates to administer prescribed medications, perform health-related activities, and perform tube feedings;

(2) Registered nurses, for purposes of meeting the

requirement of division (B)(1) of section 5123.441 of the Revised Code to obtain a certificate or certificates to provide the MR/DD personnel training courses developed under section 5123.43 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, to receive a certificate issued under this section, MR/DD personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to MR/DD personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) The department shall include provisions in the program for issuing certificates to ~~the following:~~

~~(a) MR/DD personnel and registered nurses who, on March 31, 2003, are authorized to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code were required to be included in the certificate program pursuant to division (B)(2) of this section as that division existed immediately before the effective date of this amendment. A person MR/DD personnel who receives receive a certificate under division (B)(2)(a) of this section shall not administer insulin until the person has they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to MR/DD personnel in the administration of insulin-~~

~~(b) Registered nurses who, on March 31, 2003, are authorized to train MR/DD personnel to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised~~

Code. A registered nurse who receives a certificate under division 109496
(B)(2)(~~b~~) of this section shall not provide training courses to 109497
MR/DD personnel in the administration of insulin unless the 109498
registered nurse completes a course developed under section 109499
5123.44 of the Revised Code that enables the registered nurse to 109500
receive a certificate to provide training courses to MR/DD 109501
personnel in the administration of insulin. 109502

(C) Certificates issued to MR/DD personnel are valid for one 109503
year and may be renewed. Certificates issued to registered nurses 109504
are valid for two years and may be renewed. 109505

To be eligible for renewal, MR/DD personnel and registered 109506
nurses shall meet the applicable continued competency requirements 109507
and continuing education requirements specified in rules adopted 109508
under division (D) of this section. In the case of registered 109509
nurses, continuing nursing education completed in compliance with 109510
the license renewal requirements established under Chapter 4723. 109511
of the Revised Code may be counted toward meeting the continuing 109512
education requirements established in the rules adopted under 109513
division (D) of this section. 109514

(D) In accordance with section 5123.46 of the Revised Code, 109515
the department shall adopt rules that establish all of the 109516
following: 109517

(1) Requirements that MR/DD personnel and registered nurses 109518
must meet to be eligible to take a training course; 109519

(2) Standards that must be met to receive a certificate, 109520
including requirements pertaining to an applicant's criminal 109521
background; 109522

(3) Procedures to be followed in applying for a certificate 109523
and issuing a certificate; 109524

(4) Standards and procedures for renewing a certificate, 109525
including requirements for continuing education and, in the case 109526

of MR/DD personnel who administer prescribed medications, 109527
standards that require successful demonstration of proficiency in 109528
administering prescribed medications; 109529

(5) Standards and procedures for suspending or revoking a 109530
certificate; 109531

(6) Standards and procedures for suspending a certificate 109532
without a hearing pending the outcome of an investigation; 109533

(7) Any other standards or procedures the department 109534
considers necessary to administer the certification program. 109535

Sec. 5123.60. (A) A legal rights service is hereby created 109536
and established to protect and advocate the rights of mentally ill 109537
persons, mentally retarded persons, developmentally disabled 109538
persons, and other disabled persons who may be represented by the 109539
service pursuant to division (L) of this section; to receive and 109540
act upon complaints concerning institutional and hospital 109541
practices and conditions of institutions for mentally retarded or 109542
developmentally disabled persons and hospitals for the mentally 109543
ill; and to assure that all persons detained, hospitalized, 109544
discharged, or institutionalized, and all persons whose detention, 109545
hospitalization, discharge, or institutionalization is sought or 109546
has been sought under this chapter or Chapter 5122. of the Revised 109547
Code are fully informed of their rights and adequately represented 109548
by counsel in proceedings under this chapter or Chapter 5122. of 109549
the Revised Code and in any proceedings to secure the rights of 109550
those persons. Notwithstanding the definitions of "mentally 109551
retarded person" and "developmentally disabled person" in section 109552
5123.01 of the Revised Code, the legal rights service shall 109553
determine who is a mentally retarded or developmentally disabled 109554
person for purposes of this section and sections 5123.601 to 109555
5123.604 of the Revised Code. 109556

(B)(1) In regard to those persons detained, hospitalized, or 109557

institutionalized under Chapter 5122. of the Revised Code, the 109558
legal rights service shall undertake formal representation only of 109559
those persons who are involuntarily detained, hospitalized, or 109560
institutionalized pursuant to sections 5122.10 to 5122.15 of the 109561
Revised Code, and those voluntarily detained, hospitalized, or 109562
institutionalized who are minors, who have been adjudicated 109563
incompetent, who have been detained, hospitalized, or 109564
institutionalized in a public hospital, or who have requested 109565
representation by the legal rights service. 109566

(2) If a person referred to in division (A) of this section 109567
voluntarily requests in writing that the legal rights service 109568
terminate participation in the person's case, such involvement 109569
shall cease. 109570

(3) Persons described in divisions (A) and (B)(1) of this 109571
section who are represented by the legal rights service are 109572
clients of the legal rights service. 109573

(C) Any person voluntarily hospitalized or institutionalized 109574
in a public hospital under division (A) of section 5122.02 of the 109575
Revised Code, after being fully informed of the person's rights 109576
under division (A) of this section, may, by written request, waive 109577
assistance by the legal rights service if the waiver is knowingly 109578
and intelligently made, without duress or coercion. 109579

The waiver may be rescinded at any time by the voluntary 109580
patient or resident, or by the voluntary patient's or resident's 109581
legal guardian. 109582

(D)(1) The legal rights service commission is hereby created 109583
for the purposes of appointing an administrator of the legal 109584
rights service, advising the administrator, assisting the 109585
administrator in developing a budget, advising the administrator 109586
in establishing and annually reviewing a strategic plan, creating 109587
a procedure for filing and determination of grievances against the 109588

legal rights service, and establishing general policy guidelines, 109589
including guidelines for the commencement of litigation, for the 109590
legal rights service. The commission may adopt rules to carry 109591
these purposes into effect and may receive and act upon appeals of 109592
personnel decisions by the administrator. 109593

(2) The commission shall consist of seven members. One 109594
member, who shall serve as chairperson, shall be appointed by the 109595
chief justice of the supreme court, three members shall be 109596
appointed by the speaker of the house of representatives, and 109597
three members shall be appointed by the president of the senate. 109598
At least two members shall have experience in the field of 109599
developmental disabilities, and at least two members shall have 109600
experience in the field of mental health. No member shall be a 109601
provider or related to a provider of services to mentally 109602
retarded, developmentally disabled, or mentally ill persons. 109603

(3) Terms of office of the members of the commission shall be 109604
for three years, each term ending on the same day of the month of 109605
the year as did the term which it succeeds. Each member shall 109606
serve subsequent to the expiration of the member's term until a 109607
successor is appointed and qualifies, or until sixty days has 109608
elapsed, whichever occurs first. No member shall serve more than 109609
two consecutive terms. 109610

All vacancies in the membership of the commission shall be 109611
filled in the manner prescribed for regular appointments to the 109612
commission and shall be limited to the unexpired terms. 109613

(4) The commission shall meet at least four times each year. 109614
Members shall be reimbursed for their necessary and actual 109615
expenses incurred in the performance of their official duties. 109616

(5) The administrator of the legal rights service shall serve 109617
at the pleasure of the commission. 109618

The administrator shall be an attorney admitted to practice 109619

law in this state. The salary of the administrator shall be 109620
established in accordance with section 124.14 of the Revised Code. 109621

(E) The legal rights service shall be completely independent 109622
of the department of mental health and the department of 109623
developmental disabilities and, notwithstanding section 109.02 of 109624
the Revised Code, shall also be independent of the office of the 109625
attorney general. The administrator of the legal rights service, 109626
staff, and attorneys designated by the administrator to represent 109627
persons detained, hospitalized, or institutionalized under this 109628
chapter or Chapter 5122. of the Revised Code shall have ready 109629
access to the following: 109630

(1) During normal business hours and at other reasonable 109631
times, all records, except records of community residential 109632
facilities and records of contract agencies of county boards of 109633
developmental disabilities and boards of alcohol, drug addiction, 109634
and mental health services, relating to expenditures of state and 109635
federal funds or to the commitment, care, treatment, and 109636
habilitation of all persons represented by the legal rights 109637
service, including those who may be represented pursuant to 109638
division (L) of this section, or persons detained, hospitalized, 109639
institutionalized, or receiving services under this chapter or 109640
Chapter 340., 5119., 5122., or 5126. of the Revised Code that are 109641
records maintained by the following entities providing services 109642
for those persons: departments; institutions; hospitals; boards of 109643
alcohol, drug addiction, and mental health services; county boards 109644
of developmental disabilities; and any other entity providing 109645
services to persons who may be represented by the service pursuant 109646
to division (L) of this section; 109647

(2) Any records maintained in computerized data banks of the 109648
departments or boards or, in the case of persons who may be 109649
represented by the service pursuant to division (L) of this 109650
section, any other entity that provides services to those persons; 109651

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the legal rights service;

(ii) The legal rights service has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

(F) The administrator of the legal rights service shall do the following:

(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;

(2) Adopt and promulgate rules that are not in conflict with 109682
rules adopted by the commission and prescribe duties for the 109683
efficient conduct of the business and general administration of 109684
the legal rights service; 109685

(3) Appoint and discharge employees, and hire experts, 109686
consultants, advisors, or other professionally qualified persons 109687
as the administrator considers necessary to carry out the duties 109688
of the legal rights service; 109689

(4) Apply for and accept grants of funds, and accept 109690
charitable gifts and bequests; 109691

(5) Prepare and submit a budget to the general assembly for 109692
the operation of the legal rights service. At least thirty days 109693
prior to submitting the budget to the general assembly, the 109694
administrator shall provide a copy of the budget to the commission 109695
for review and comment. When submitting the budget to the general 109696
assembly, the administrator shall include a copy of any written 109697
comments returned by the commission to the administrator. 109698

(6) Enter into contracts and make expenditures necessary for 109699
the efficient operation of the legal rights service; 109700

(7) Annually prepare a report of activities and submit copies 109701
of the report to the governor, the chief justice of the supreme 109702
court, the president of the senate, the speaker of the house of 109703
representatives, the director of mental health, and the director 109704
of developmental disabilities, and make the report available to 109705
the public; 109706

(8) Upon request of the commission or of the chairperson of 109707
the commission, report to the commission on specific litigation 109708
issues or activities. 109709

(G)(1) The legal rights service may act directly or contract 109710
with other organizations or individuals for the provision of the 109711
services envisioned under this section. 109712

(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.

(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;

(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.

(4) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.

(5) All records received or maintained by the legal rights service in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)~~(5)~~(7) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be

privileged as if between attorney and client. 109744

~~(5)~~(6) Any person who has been represented by the legal 109745
rights service or who has applied for and been denied 109746
representation and who files a grievance with the service 109747
concerning the representation or application may appeal the 109748
decision of the service on the grievance to the commission. The 109749
person may appeal notwithstanding any objections of the person's 109750
legal guardian. The commission may examine any records relevant to 109751
the appeal and shall maintain the confidentiality of any records 109752
that are required to be kept confidential. 109753

(H) The legal rights service, on the order of the 109754
administrator, with the approval by an affirmative vote of at 109755
least four members of the commission, may compel by subpoena the 109756
appearance and sworn testimony of any person the administrator 109757
reasonably believes may be able to provide information or to 109758
produce any documents, books, records, papers, or other 109759
information necessary to carry out its duties. On the refusal of 109760
any person to produce or authenticate any requested documents, the 109761
legal rights service may apply to the Franklin county court of 109762
common pleas to compel the production or authentication of 109763
requested documents. If the court finds that failure to produce or 109764
authenticate any requested documents was improper, the court may 109765
hold the person in contempt as in the case of disobedience of the 109766
requirements of a subpoena issued from the court, or a refusal to 109767
testify in the court. 109768

(I) The legal rights service may conduct public hearings. 109769

(J) The legal rights service may request from any 109770
governmental agency any cooperation, assistance, services, or data 109771
that will enable it to perform its duties. 109772

(K) In any malpractice action filed against the administrator 109773
of the legal rights service, a member of the staff of the legal 109774

rights service, or an attorney designated by the administrator to 109775
perform legal services under division (E) of this section, the 109776
state shall, when the administrator, member, or attorney has acted 109777
in good faith and in the scope of employment, indemnify the 109778
administrator, member, or attorney for any judgment awarded or 109779
amount negotiated in settlement, and for any court costs or legal 109780
fees incurred in defense of the claim. 109781

This division does not limit or waive, and shall not be 109782
construed to limit or waive, any defense that is available to the 109783
legal rights service, its administrator or employees, persons 109784
under a personal services contract with it, or persons designated 109785
under division (E) of this section, including, but not limited to, 109786
any defense available under section 9.86 of the Revised Code. 109787

(L) In addition to providing services to mentally ill, 109788
mentally retarded, or developmentally disabled persons, when a 109789
grant authorizing the provision of services to other individuals 109790
is accepted pursuant to division (F)(4) of this section, the legal 109791
rights service and its ombudsperson section may provide advocacy 109792
or ombudsperson services to those other individuals and exercise 109793
any other authority granted by this section or sections 5123.601 109794
to 5123.604 of the Revised Code on behalf of those individuals. 109795
Determinations of whether an individual is eligible for services 109796
under this division shall be made by the legal rights service. 109797

Sec. 5126.01. As used in this chapter: 109798

(A) As used in this division, "adult" means an individual who 109799
is eighteen years of age or over and not enrolled in a program or 109800
service under Chapter 3323. of the Revised Code and an individual 109801
sixteen or seventeen years of age who is eligible for adult 109802
services under rules adopted by the director of developmental 109803
disabilities pursuant to Chapter 119. of the Revised Code. 109804

(1) "Adult services" means services provided to an adult 109805

outside the home, except when they are provided within the home 109806
according to an individual's assessed needs and identified in an 109807
individual service plan, that support learning and assistance in 109808
the area of self-care, sensory and motor development, 109809
socialization, daily living skills, communication, community 109810
living, social skills, or vocational skills. 109811

(2) "Adult services" includes all of the following: 109812

(a) Adult day habilitation services; 109813

(b) Adult day care; 109814

(c) Prevocational services; 109815

(d) Sheltered employment; 109816

(e) Educational experiences and training obtained through 109817
entities and activities that are not expressly intended for 109818
individuals with mental retardation and developmental 109819
disabilities, including trade schools, vocational or technical 109820
schools, adult education, job exploration and sampling, unpaid 109821
work experience in the community, volunteer activities, and 109822
spectator sports; 109823

(f) Community employment services and supported employment 109824
services. 109825

(B)(1) "Adult day habilitation services" means adult services 109826
that do the following: 109827

(a) Provide access to and participation in typical activities 109828
and functions of community life that are desired and chosen by the 109829
general population, including such activities and functions as 109830
opportunities to experience and participate in community 109831
exploration, companionship with friends and peers, leisure 109832
activities, hobbies, maintaining family contacts, community 109833
events, and activities where individuals without disabilities are 109834
involved; 109835

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community. 109836
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(2) "Adult day habilitation services" includes all of the following: 109840
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(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services; 109842
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(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; 109846
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(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; 109850
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(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; 109857
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(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected; 109860
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(f) Transportation necessary to access adult day habilitation services; 109865
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(g) Habilitation management, as described in section 5126.14 of the Revised Code. 109867
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(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. 109869
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(C) "Appointing authority" means the following: 109872

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners; 109873
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(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge. 109876
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(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following: 109879
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(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment; 109884
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(2) Supervised work experience through an employer paid to provide the supervised work experience; 109887
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(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities; 109889
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(4) Ongoing supervision by an employer paid to provide the supervision. 109891
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(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 109893
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"Developmental disability" means a severe, chronic disability 109897
that is characterized by all of the following: 109898

(1) It is attributable to a mental or physical impairment or 109899
a combination of mental and physical impairments, other than a 109900
mental or physical impairment solely caused by mental illness as 109901
defined in division (A) of section 5122.01 of the Revised Code; 109902

(2) It is manifested before age twenty-two; 109903

(3) It is likely to continue indefinitely; 109904

(4) It results in one of the following: 109905

(a) In the case of a person under age three, at least one 109906
developmental delay or an established risk; 109907

(b) In the case of a person at least age three but under age 109908
six, at least two developmental delays or an established risk; 109909

(c) In the case of a person age six or older, a substantial 109910
functional limitation in at least three of the following areas of 109911
major life activity, as appropriate for the person's age: 109912
self-care, receptive and expressive language, learning, mobility, 109913
self-direction, capacity for independent living, and, if the 109914
person is at least age sixteen, capacity for economic 109915
self-sufficiency. 109916

(5) It causes the person to need a combination and sequence 109917
of special, interdisciplinary, or other type of care, treatment, 109918
or provision of services for an extended period of time that is 109919
individually planned and coordinated for the person. 109920

(F) "Early childhood services" means a planned program of 109921
habilitation designed to meet the needs of individuals with mental 109922
retardation or other developmental disabilities who have not 109923
attained compulsory school age. 109924

(G)(1) "Environmental modifications" means the physical 109925
adaptations to an individual's home, specified in the individual's 109926

service plan, that are necessary to ensure the individual's 109927
health, safety, and welfare or that enable the individual to 109928
function with greater independence in the home, and without which 109929
the individual would require institutionalization. 109930

(2) "Environmental modifications" includes such adaptations 109931
as installation of ramps and grab-bars, widening of doorways, 109932
modification of bathroom facilities, and installation of 109933
specialized electric and plumbing systems necessary to accommodate 109934
the individual's medical equipment and supplies. 109935

(3) "Environmental modifications" does not include physical 109936
adaptations or improvements to the home that are of general 109937
utility or not of direct medical or remedial benefit to the 109938
individual, including such adaptations or improvements as 109939
carpeting, roof repair, and central air conditioning. 109940

(H) "Family support services" means the services provided 109941
under a family support services program operated under section 109942
5126.11 of the Revised Code. 109943

(I) "Habilitation" means the process by which the staff of 109944
the facility or agency assists an individual with mental 109945
retardation or other developmental disability in acquiring and 109946
maintaining those life skills that enable the individual to cope 109947
more effectively with the demands of the individual's own person 109948
and environment, and in raising the level of the individual's 109949
personal, physical, mental, social, and vocational efficiency. 109950
Habilitation includes, but is not limited to, programs of formal, 109951
structured education and training. 109952

(J) "Home and community-based services" means medicaid-funded 109953
home and community-based services specified in division (B)(1) of 109954
section 5111.87 of the Revised Code and provided under the 109955
medicaid waiver components the department of developmental 109956
disabilities administers pursuant to section 5111.871 of the 109957

Revised Code. However, home and community-based services provided 109958
under the medicaid waiver component known as the transitions 109959
developmental disabilities waiver are to be considered to be home 109960
and community-based services for the purposes of this chapter only 109961
to the extent, if any, provided by the contract required by 109962
section 5111.871 of the Revised Code regarding the waiver. 109963

(K) "Immediate family" means parents, grandparents, brothers, 109964
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 109965
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 109966
daughters-in-law. 109967

(L) "Medicaid" has the same meaning as in section 5111.01 of 109968
the Revised Code. 109969

(M) "Medicaid case management services" means case management 109970
services provided to an individual with mental retardation or 109971
other developmental disability that the state medicaid plan 109972
requires. 109973

(N) "Mental retardation" means a mental impairment manifested 109974
during the developmental period characterized by significantly 109975
subaverage general intellectual functioning existing concurrently 109976
with deficiencies in the effectiveness or degree with which an 109977
individual meets the standards of personal independence and social 109978
responsibility expected of the individual's age and cultural 109979
group. 109980

(O) "Residential services" means services to individuals with 109981
mental retardation or other developmental disabilities to provide 109982
housing, food, clothing, habilitation, staff support, and related 109983
support services necessary for the health, safety, and welfare of 109984
the individuals and the advancement of their quality of life. 109985
"Residential services" includes program management, as described 109986
in section 5126.14 of the Revised Code. 109987

(P) "Resources" means available capital and other assets, 109988

including moneys received from the federal, state, and local 109989
governments, private grants, and donations; appropriately 109990
qualified personnel; and appropriate capital facilities and 109991
equipment. 109992

(Q) "Senior probate judge" means the current probate judge of 109993
a county who has served as probate judge of that county longer 109994
than any of the other current probate judges of that county. If a 109995
county has only one probate judge, "senior probate judge" means 109996
that probate judge. 109997

(R) "Service and support administration" means the duties 109998
performed by a service and support administrator pursuant to 109999
section 5126.15 of the Revised Code. 110000

(S)(1) "Specialized medical, adaptive, and assistive 110001
equipment, supplies, and supports" means equipment, supplies, and 110002
supports that enable an individual to increase the ability to 110003
perform activities of daily living or to perceive, control, or 110004
communicate within the environment. 110005

(2) "Specialized medical, adaptive, and assistive equipment, 110006
supplies, and supports" includes the following: 110007

(a) Eating utensils, adaptive feeding dishes, plate guards, 110008
mylatex straps, hand splints, reaches, feeder seats, adjustable 110009
pointer sticks, interpreter services, telecommunication devices 110010
for the deaf, computerized communications boards, other 110011
communication devices, support animals, veterinary care for 110012
support animals, adaptive beds, supine boards, prone boards, 110013
wedges, sand bags, sidelayers, bolsters, adaptive electrical 110014
switches, hand-held shower heads, air conditioners, humidifiers, 110015
emergency response systems, folding shopping carts, vehicle lifts, 110016
vehicle hand controls, other adaptations of vehicles for 110017
accessibility, and repair of the equipment received. 110018

(b) Nondisposable items not covered by medicaid that are 110019

intended to assist an individual in activities of daily living or 110020
instrumental activities of daily living. 110021

(T) "Supportive home services" means a range of services to 110022
families of individuals with mental retardation or other 110023
developmental disabilities to develop and maintain increased 110024
acceptance and understanding of such persons, increased ability of 110025
family members to teach the person, better coordination between 110026
school and home, skills in performing specific therapeutic and 110027
management techniques, and ability to cope with specific 110028
situations. 110029

(U)(1) "Supported living" means services provided for as long 110030
as twenty-four hours a day to an individual with mental 110031
retardation or other developmental disability through any public 110032
or private resources, including moneys from the individual, that 110033
enhance the individual's reputation in community life and advance 110034
the individual's quality of life by doing the following: 110035

(a) Providing the support necessary to enable an individual 110036
to live in a residence of the individual's choice, with any number 110037
of individuals who are not disabled, or with not more than three 110038
individuals with mental retardation and developmental disabilities 110039
unless the individuals are related by blood or marriage; 110040

(b) Encouraging the individual's participation in the 110041
community; 110042

(c) Promoting the individual's rights and autonomy; 110043

(d) Assisting the individual in acquiring, retaining, and 110044
improving the skills and competence necessary to live successfully 110045
in the individual's residence. 110046

(2) "Supported living" includes the provision of all of the 110047
following: 110048

(a) Housing, food, clothing, habilitation, staff support, 110049

professional services, and any related support services necessary 110050
to ensure the health, safety, and welfare of the individual 110051
receiving the services; 110052

(b) A combination of lifelong or extended-duration 110053
supervision, training, and other services essential to daily 110054
living, including assessment and evaluation and assistance with 110055
the cost of training materials, transportation, fees, and 110056
supplies; 110057

(c) Personal care services and homemaker services; 110058

(d) Household maintenance that does not include modifications 110059
to the physical structure of the residence; 110060

(e) Respite care services; 110061

(f) Program management, as described in section 5126.14 of 110062
the Revised Code. 110063

Sec. 5126.029. (A) Each county board of developmental 110064
disabilities shall hold an organizational meeting no later than 110065
the thirty-first day of January of each year and shall elect its 110066
officers, which shall include a president, vice-president, and 110067
recording secretary. After its annual organizational meeting, the 110068
board shall meet in such manner and at such times as prescribed by 110069
rules adopted by the board, but the board shall meet at least ~~ten~~ 110070
the following number of times annually in regularly scheduled 110071
sessions in accordance with section 121.22 of the Revised Code, 110072
not including in-service training sessions; 110073

(1) Unless division (A)(2) of this section applies to the 110074
board, ten; 110075

(2) If the board shares a superintendent or other 110076
administrative staff with one or more other boards of 110077
developmental disabilities, eight. A 110078

(B) A majority of the board constitutes a quorum. The board 110079

shall adopt rules for the conduct of its business and a record 110080
shall be kept of board proceedings, which shall be open for public 110081
inspection. 110082

Sec. 5126.04. (A) Each county board of developmental 110083
disabilities shall plan and set priorities based on available 110084
resources for the provision of facilities, programs, and other 110085
services to meet the needs of county residents who are individuals 110086
with mental retardation and other developmental disabilities, 110087
former residents of the county residing in state institutions or, 110088
before the effective date of this amendment, placed under purchase 110089
of service agreements under section 5123.18 of the Revised Code, 110090
and children subject to a determination made pursuant to section 110091
121.38 of the Revised Code. 110092

Each county board shall assess the facility and service needs 110093
of the individuals with mental retardation and other developmental 110094
disabilities who are residents of the county or former residents 110095
of the county residing in state institutions or, before the 110096
effective date of this amendment, placed under purchase of service 110097
agreements under section 5123.18 of the Revised Code. 110098

Each county board shall require individual habilitation or 110099
service plans for individuals with mental retardation and other 110100
developmental disabilities who are being served or who have been 110101
determined eligible for services and are awaiting the provision of 110102
services. Each board shall ensure that methods of having their 110103
service needs evaluated are available. 110104

(B)(1) If a foster child is in need of assessment for 110105
eligible services or is receiving services from a county board of 110106
developmental disabilities and that child is placed in a different 110107
county, the agency that placed the child, immediately upon 110108
placement, shall inform the county board in the new county all of 110109
the following: 110110

(a) That a foster child has been placed in that county; 110111

(b) The name and other identifying information of the foster child; 110112
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(c) The name of the foster child's previous county of residence; 110114
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(d) That the foster child was in need of assessment for eligible services or was receiving services from the county board of developmental disabilities in the previous county. 110116
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(2) Upon receiving the notice described in division (B)(1) of this section or otherwise learning that the child was in need of assessment for eligible services or was receiving services from a county board of developmental disabilities in the previous county, the county board in the new county shall communicate with the county board of the previous county to determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section. 110119
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If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section. 110127
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(C) The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the 110137
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Revised Code, the rules shall be consistent with the standards and 110142
procedures established under sections 3323.03 to 3323.05 of the 110143
Revised Code. 110144

(D) The responsibility or authority of a county board to 110145
provide services under this chapter does not affect the 110146
responsibility of any other entity of state or local government to 110147
provide services to individuals with mental retardation and 110148
developmental disabilities. 110149

(E) On or before the first day of February prior to a school 110150
year, a county board of developmental disabilities may elect not 110151
to participate during that school year in the provision of or 110152
contracting for educational services for children ages six through 110153
twenty-one years of age, provided that on or before that date the 110154
board gives notice of this election to the superintendent of 110155
public instruction, each school district in the county, and the 110156
educational service center serving the county. If a board makes 110157
this election, it shall not have any responsibility for or 110158
authority to provide educational services that school year for 110159
children ages six through twenty-one years of age. If a board does 110160
not make an election for a school year in accordance with this 110161
division, the board shall be deemed to have elected to participate 110162
during that school year in the provision of or contracting for 110163
educational services for children ages six through twenty-one 110164
years of age. 110165

(F) If a county board of developmental disabilities elects to 110166
provide educational services during a school year to individuals 110167
six through twenty-one years of age who have multiple 110168
disabilities, the board may provide these services to individuals 110169
who are appropriately identified and determined eligible pursuant 110170
to Chapter 3323. of the Revised Code, and in accordance with 110171
applicable rules of the state board of education. The county board 110172
may also provide related services to individuals six through 110173

twenty-one years of age who have one or more disabling conditions, 110174
in accordance with section 3317.20 and Chapter 3323. of the 110175
Revised Code and applicable rules of the state board of education. 110176

Sec. 5126.042. (A) As used in this section: 110177

~~(1) "Emergency, emergency status" means any situation a~~ 110178
~~status that creates for~~ an individual with mental retardation or 110179
~~a~~ has when the individual is at risk of 110180
substantial self-harm or substantial harm to others if action is 110181
not taken within thirty days. An "emergency status" may include a 110182
status resulting from one or more of the following situations: 110183

~~(a)(1)~~ Loss of present residence for any reason, including 110184
legal action; 110185

~~(b)(2)~~ Loss of present caretaker for any reason, including 110186
serious illness of the caretaker, change in the caretaker's 110187
status, or inability of the caretaker to perform effectively for 110188
the individual; 110189

~~(c)(3)~~ Abuse, neglect, or exploitation of the individual; 110190

~~(d)(4)~~ Health and safety conditions that pose a serious risk 110191
to the individual or others of immediate harm or death; 110192

~~(e)(5)~~ Change in the emotional or physical condition of the 110193
individual that necessitates substantial accommodation that cannot 110194
be reasonably provided by the individual's existing caretaker. 110195

~~(2) "Service substitution list" means a service substitution~~ 110196
~~list established by a county board of developmental disabilities~~ 110197
~~before September 1, 2008, pursuant to division (B) of this section~~ 110198
~~as this section existed on the day immediately before September 1,~~ 110199
~~2008.~~ 110200

(B) If a county board of developmental disabilities 110201
determines that available resources are not sufficient to meet the 110202
needs of all individuals who request non-medicaid programs ~~and~~ or 110203

~~services and may be offered the programs and services, it shall~~ 110204
~~establish one or more waiting lists for the non-medicaid programs~~ 110205
~~or services in accordance with its plan developed under section~~ 110206
~~5126.04 of the Revised Code. The board may establish priorities~~ 110207
~~for making placements on its waiting lists according to an~~ 110208
~~individual's emergency status and shall establish priorities in~~ 110209
~~accordance with divisions (D) and (E) of established under this~~ 110210
~~section division. Any such priorities shall be consistent with the~~ 110211
~~board's plan and applicable law.~~ 110212

~~The individuals who may be placed on a waiting list include~~ 110213
~~individuals with a need for services on an emergency basis and~~ 110214
~~individuals who have requested services for which resources are~~ 110215
~~not available.~~ 110216

~~An individual placed on a county board's service substitution~~ 110217
~~list before September 1, 2008, for the purpose of obtaining home~~ 110218
~~and community based services shall be deemed to have been placed~~ 110219
~~on the county board's waiting list for home and community based~~ 110220
~~services on the date the individual made a request to the county~~ 110221
~~board that the individual receive home and community based~~ 110222
~~services instead of the services the individual received at the~~ 110223
~~time the request for home and community based services was made to~~ 110224
~~the county board.~~ 110225

~~(C) A If a county board shall establish a separate waiting~~ 110226
~~list for each of the following categories of services, and may~~ 110227
~~establish separate waiting lists within the waiting lists:~~ 110228

~~(1) Early childhood services;~~ 110229

~~(2) Educational programs for preschool and school age~~ 110230
~~children;~~ 110231

~~(3) Adult services;~~ 110232

~~(4) Service and support administration;~~ 110233

(5) Residential services and supported living;	110234
(6) Transportation services;	110235
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	110236 110237 110238
(8) Family support services provided under section 5126.11 of the Revised Code determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:	110239 110240 110241 110242 110243 110244 110245 110246 110247 110248 110249 110250
(1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;	110251 110252 110253
(2) The individual's primary caregiver is at least sixty years of age;	110254 110255
(3) The individual has intensive needs as determined in accordance with rules adopted under division (E) of this section.	110256 110257
(D) Except as provided in division (C) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	110258 110259 110260 110261 110262
(1) For the purpose of obtaining additional federal medicaid	110263

funds for home and community based services and medicaid case	110264
management services, do both of the following:	110265
(a) Give an individual who is eligible for home and	110266
community based services and meets both of the following	110267
requirements priority over any other individual on a waiting list	110268
established under division (C) of this section for home and	110269
community based services that include supported living,	110270
residential services, or family support services:	110271
(i) Is twenty two years of age or older;	110272
(ii) Receives supported living or family support services.	110273
(b) Give an individual who is eligible for home and	110274
community based services and meets both of the following	110275
requirements priority over any other individual on a waiting list	110276
established under division (C) of this section for home and	110277
community based services that include adult services:	110278
(i) Resides in the individual's own home or the home of the	110279
individual's family and will continue to reside in that home after	110280
enrollment in home and community based services;	110281
(ii) Receives adult services from the county board.	110282
(2) As federal medicaid funds become available pursuant to	110283
division (D)(1) of this section, give an individual who is	110284
eligible for home and community based services and meets any of	110285
the following requirements priority for such services over any	110286
other individual on a waiting list established under division (C)	110287
of this section:	110288
(a) Does not receive residential services or supported	110289
living, either needs services in the individual's current living	110290
arrangement or will need services in a new living arrangement, and	110291
has a primary caregiver who is sixty years of age or older;	110292
(b) Is less than twenty two years of age and has at least one	110293

of the following service needs that are unusual in scope or	110294
intensity:	110295
(i) Severe behavior problems for which a behavior support	110296
plan is needed;	110297
(ii) An emotional disorder for which anti-psychotic	110298
medication is needed;	110299
(iii) A medical condition that leaves the individual	110300
dependent on life support medical technology;	110301
(iv) A condition affecting multiple body systems for which a	110302
combination of specialized medical, psychological, educational, or	110303
habilitation services are needed;	110304
(v) A condition the county board determines to be comparable	110305
in severity to any condition described in divisions (D)(2)(b)(i)	110306
to (iv) of this section and places the individual at significant	110307
risk of institutionalization.	110308
(c) Is twenty two years of age or older, does not receive	110309
residential services or supported living, and is determined by the	110310
county board to have intensive needs for home and community based	110311
services on an in home or out of home basis.	110312
(E) Except as provided in division (G) of this section and	110313
for a number of years and beginning on a date specified in rules	110314
adopted under division (K) of this section, a county board shall	110315
give an individual who is eligible for home and community based	110316
services, resides in a nursing facility, and chooses to move to	110317
another setting with the help of home and community based	110318
services, priority over any other individual on a waiting list	110319
established under division (C) of this section for home and	110320
community based services who does not meet these criteria.	110321
(F) If two or more individuals on a waiting list established	110322
under division (C) of this section for home and community-based	110323

services have priority for the services pursuant to division 110324
~~(D)(C)(1) or (2) or (E)(3)~~ of this section, a county board ~~may~~ 110325
shall use criteria specified in rules adopted under division 110326
~~(K)(2)(E)~~ of this section in determining the order in which the 110327
individuals with priority will be offered the ~~services. Otherwise,~~ 110328
~~the county board shall offer the home and community based services~~ 110329
~~to such individuals in the order they are placed on the waiting~~ 110330
~~list.~~ 110331

~~(G) No individual may receive priority for services pursuant~~ 110332
~~to division (D) or (E) of this section over an individual placed~~ 110333
~~on a waiting list established under division (C) of this section~~ 110334
~~on an emergency status services. An individual who has priority~~ 110335
for home and community-based services because the individual has 110336
an emergency status has priority for the services over all other 110337
individuals on the waiting list who do not have emergency status. 110338

~~(H) Prior to establishing any waiting list under this~~ 110339
~~section, a county board shall develop and implement a policy for~~ 110340
~~waiting lists that complies with this section and rules adopted~~ 110341
~~under division (K) of this section.~~ 110342

~~Prior to placing an individual on a waiting list, the county~~ 110343
~~board shall assess the service needs of the individual in~~ 110344
~~accordance with all applicable state and federal laws. The county~~ 110345
~~board shall place the individual on the appropriate waiting list~~ 110346
~~and may place the individual on more than one waiting list. The~~ 110347
~~county board shall notify the individual of the individual's~~ 110348
~~placement and position on each waiting list on which the~~ 110349
~~individual is placed.~~ 110350

~~At least annually, the county board shall reassess the~~ 110351
~~service needs of each individual on a waiting list. If it~~ 110352
~~determines that an individual no longer needs a program or~~ 110353
~~service, the county board shall remove the individual from the~~ 110354
~~waiting list. If it determines that an individual needs a program~~ 110355

~~or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists.~~

~~When a program or service for which there is a waiting list
becomes available, the county board shall reassess the service
needs of the individual next scheduled on the waiting list to
receive that program or service. If the reassessment demonstrates
that the individual continues to need the program or service, the
board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists. The county board shall notify the
individual of the individual's placement and position on the
waiting list on which the individual is placed.~~

~~(I) A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home and
community based services provided through a medicaid component
that the department of developmental disabilities administers
under section 5111.871 of the Revised Code shall receive services
through that medicaid component. For all other services, a child
subject to a determination made pursuant to section 121.38 of the
Revised Code shall be treated as an emergency by the county boards
and shall not be subject to a waiting list.~~

~~(J) Not later than the fifteenth day of March of each
even numbered year, each county board shall prepare and submit to~~

~~the director of developmental disabilities its recommendations for 110388
the funding of services for individuals with mental retardation 110389
and developmental disabilities and its proposals for reducing the 110390
waiting lists for services. 110391~~

~~(K)(1)(E) The department of developmental disabilities shall 110392
adopt rules in accordance with Chapter 119. of the Revised Code 110393
governing waiting lists established under division (C) of this 110394
section. The rules shall include procedures to be followed to 110395
ensure that the due process rights of individuals placed on 110396
waiting lists are not violated. As 110397~~

~~(2) As part of the rules adopted under this division, the 110398
department shall adopt rules establishing criteria a county board 110399
may shall use under division ~~(F)(D)~~ of this section in determining 110400
the order in which individuals with priority for home and 110401
community-based services pursuant to division (C)(1), (2), or (3) 110402
of this section will be offered the services. ~~The rules shall also 110403
specify conditions under which a county board, when there is no 110404
individual with priority for home and community based services 110405
pursuant to division (D)(1) or (2) or (E) of this section 110406
available and appropriate for the services, may offer the services 110407
to an individual on a waiting list for the services but not given 110408
such priority for the services. 110409~~~~

~~(3) As part of the rules adopted under this division, the 110410
department shall adopt rules specifying both of the following for 110411
the priority category established under division (E) of this 110412
section: 110413~~

~~(a) The number of years, which shall not exceed five, that 110414
the priority category will be in effect; 110415~~

~~(b) The date that the priority category is to go into effect. 110416~~

~~(L)(F) The following shall take precedence over the 110417
applicable provisions of this section: 110418~~

(1) Medicaid rules and regulations;	110419
(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.	110420 110421 110422 110423
Sec. 5126.05. (A) Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:	110424 110425 110426 110427 110428 110429 110430 110431
(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;	110432 110433 110434
(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;	110435 110436 110437
(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;	110438 110439 110440
(4) Provide or contract for special education services pursuant to Chapters 3306.7 , 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;	110441 110442 110443 110444 110445
(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members	110446 110447 110448

and employees at professional meetings and approve expenditures 110449
for attendance, and exercise such powers and duties as are 110450
prescribed by the director; 110451

(6) Submit annual reports of its work and expenditures, 110452
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 110453
the director, the superintendent of public instruction, and the 110454
board of county commissioners at the close of the fiscal year and 110455
at such other times as may reasonably be requested; 110456

(7) Authorize all positions of employment, establish 110457
compensation, including but not limited to salary schedules and 110458
fringe benefits for all board employees, approve contracts of 110459
employment for management employees that are for a term of more 110460
than one year, employ legal counsel under section 309.10 of the 110461
Revised Code, and contract for employee benefits; 110462

(8) Provide service and support administration in accordance 110463
with section 5126.15 of the Revised Code; 110464

(9) Certify respite care homes pursuant to rules adopted 110465
under section 5123.171 of the Revised Code by the director of 110466
developmental disabilities. 110467

(B) To the extent that rules adopted under this section apply 110468
to the identification and placement of children with disabilities 110469
under Chapter 3323. of the Revised Code, they shall be consistent 110470
with the standards and procedures established under sections 110471
3323.03 to 3323.05 of the Revised Code. 110472

(C) Any county board may enter into contracts with other such 110473
boards and with public or private, nonprofit, or profit-making 110474
agencies or organizations of the same or another county, to 110475
provide the facilities, programs, and services authorized or 110476
required, upon such terms as may be agreeable, and in accordance 110477
with this chapter and Chapter 3323. of the Revised Code and rules 110478
adopted thereunder and in accordance with sections 307.86 and 110479

5126.071 of the Revised Code. 110480

(D) A county board may combine transportation for children 110481
and adults enrolled in programs and services offered under ~~section~~ 110482
~~5126.12~~ Chapter 5126. of the Revised Code with transportation for 110483
children enrolled in classes funded under section 3317.20 or units 110484
approved under section 3317.05 of the Revised Code. 110485

(E) A county board may purchase all necessary insurance 110486
policies, may purchase equipment and supplies through the 110487
department of administrative services or from other sources, and 110488
may enter into agreements with public agencies or nonprofit 110489
organizations for cooperative purchasing arrangements. 110490

(F) A county board may receive by gift, grant, devise, or 110491
bequest any moneys, lands, or property for the benefit of the 110492
purposes for which the board is established and hold, apply, and 110493
dispose of the moneys, lands, and property according to the terms 110494
of the gift, grant, devise, or bequest. All money received by 110495
gift, grant, bequest, or disposition of lands or property received 110496
by gift, grant, devise, or bequest shall be deposited in the 110497
county treasury to the credit of such board and shall be available 110498
for use by the board for purposes determined or stated by the 110499
donor or grantor, but may not be used for personal expenses of the 110500
board members. Any interest or earnings accruing from such gift, 110501
grant, devise, or bequest shall be treated in the same manner and 110502
subject to the same provisions as such gift, grant, devise, or 110503
bequest. 110504

(G) The board of county commissioners shall levy taxes and 110505
make appropriations sufficient to enable the county board of 110506
developmental disabilities to perform its functions and duties, 110507
and may utilize any available local, state, and federal funds for 110508
such purpose. 110509

Sec. 5126.054. (A) Each county board of developmental 110510

disabilities shall, by resolution, develop a three-calendar year 110511
plan that includes the following three components: 110512

(1) An assessment component that includes all of the 110513
following: 110514

(a) The number of individuals with mental retardation or 110515
other developmental disability residing in the county who need the 110516
level of care provided by an intermediate care facility for the 110517
mentally retarded, may seek home and community-based services, and 110518
are given priority on a waiting list established for the services 110519
pursuant to ~~division (D)~~ of section 5126.042 of the Revised Code; 110520
the service needs of those individuals; and the projected 110521
annualized cost for services; 110522

(b) The source of funds available to the county board to pay 110523
the nonfederal share of medicaid expenditures that the county 110524
board is required by sections 5126.059 and 5126.0510 of the 110525
Revised Code to pay; 110526

(c) Any other applicable information or conditions that the 110527
department of developmental disabilities requires as a condition 110528
of approving the component under section 5123.046 of the Revised 110529
Code. 110530

(2) A preliminary implementation component that specifies the 110531
number of individuals to be provided, during the first year that 110532
the plan is in effect, home and community-based services pursuant 110533
to the waiting list priority given to them under ~~divisions (D)(1)~~ 110534
~~and (2)~~ of section 5126.042 of the Revised Code and the types of 110535
home and community-based services the individuals are to receive; 110536

(3) A component that provides for the implementation of 110537
medicaid case management services and home and community-based 110538
services for individuals who begin to receive the services on or 110539
after the date the plan is approved under section 5123.046 of the 110540
Revised Code. A county board shall include all of the following in 110541

the component: 110542

(a) If the department of developmental disabilities or 110543
department of job and family services requires, an agreement to 110544
pay the nonfederal share of medicaid expenditures that the county 110545
board is required by sections 5126.059 and 5126.0510 of the 110546
Revised Code to pay; 110547

(b) How the services are to be phased in over the period the 110548
plan covers, including how the county board will serve individuals 110549
who have priority on a waiting list established under ~~division (C)~~ 110550
~~of section 5126.042 who are given priority status under division~~ 110551
~~(D)(1) of that section~~ of the Revised Code; 110552

(c) Any agreement or commitment regarding the county board's 110553
funding of home and community-based services that the county board 110554
has with the department at the time the county board develops the 110555
component; 110556

(d) Assurances adequate to the department that the county 110557
board will comply with all of the following requirements: 110558

(i) To provide the types of home and community-based services 110559
specified in the preliminary implementation component required by 110560
division (A)(2) of this section to at least the number of 110561
individuals specified in that component; 110562

(ii) To use any additional funds the county board receives 110563
for the services to improve the county board's resource 110564
capabilities for supporting such services available in the county 110565
at the time the component is developed and to expand the services 110566
to accommodate the unmet need for those services in the county; 110567

(iii) To employ or contract with a business manager or enter 110568
into an agreement with another county board of developmental 110569
disabilities that employs or contracts with a business manager to 110570
have the business manager serve both county boards. No 110571
superintendent of a county board may serve as the county board's 110572

business manager. 110573

(iv) To employ or contract with a medicaid services manager 110574
or enter into an agreement with another county board of 110575
developmental disabilities that employs or contracts with a 110576
medicaid services manager to have the medicaid services manager 110577
serve both county boards. No superintendent of a county board may 110578
serve as the county board's medicaid services manager. 110579

(e) Programmatic and financial accountability measures and 110580
projected outcomes expected from the implementation of the plan; 110581

(f) Any other applicable information or conditions that the 110582
department requires as a condition of approving the component 110583
under section 5123.046 of the Revised Code. 110584

(B) A county board whose plan developed under division (A) of 110585
this section is approved by the department under section 5123.046 110586
of the Revised Code shall update and renew the plan in accordance 110587
with a schedule the department shall develop. 110588

Sec. 5126.0510. (A) Except as otherwise provided in an 110589
agreement entered into under section 5123.048 of the Revised Code 110590
and subject to divisions (B), (C), and (D) of this section, a 110591
county board of developmental disabilities shall pay the 110592
nonfederal share of medicaid expenditures for the following home 110593
and community-based services provided to an individual with mental 110594
retardation or other developmental disability who the county board 110595
determines under section 5126.041 of the Revised Code is eligible 110596
for county board services: 110597

(1) Home and community-based services provided by the county 110598
board to such an individual; 110599

(2) Home and community-based services provided by a provider 110600
other than the county board to such an individual who is enrolled 110601
as of June 30, 2007, in the medicaid waiver component under which 110602

the services are provided; 110603

(3) Home and community-based services provided by a provider 110604
other than the county board to such an individual who, pursuant to 110605
a request the county board makes, enrolls in the medicaid waiver 110606
component under which the services are provided after June 30, 110607
2007; 110608

(4) Home and community-based services provided by a provider 110609
other than the county board to such an individual for whom there 110610
is in effect an agreement entered into under division (E) of this 110611
section between the county board and director of developmental 110612
disabilities. 110613

(B) In the case of medicaid expenditures for home and 110614
community-based services for which division (A)(2) of this section 110615
requires a county board to pay the nonfederal share, the following 110616
shall apply to such services provided during fiscal year 2008 110617
under the individual options medicaid waiver component: 110618

(1) The county board shall pay no less than the total amount 110619
the county board paid as the nonfederal share for home and 110620
community-based services provided in fiscal year 2007 under the 110621
individual options medicaid waiver component; 110622

(2) The county board shall pay no more than the sum of the 110623
following: 110624

(a) The total amount the county board paid as the nonfederal 110625
share for home and community-based services provided in fiscal 110626
year 2007 under the individual options medicaid waiver component; 110627

(b) An amount equal to one per cent of the total amount the 110628
department of developmental disabilities and county board paid as 110629
the nonfederal share for home and community-based services 110630
provided in fiscal year 2007 under the individual options medicaid 110631
waiver component to individuals the county board determined under 110632
section 5126.041 of the Revised Code are eligible for county board 110633

services. 110634

(C) A county board is not required to pay the nonfederal 110635
share of home and community-based services provided after June 30, 110636
2008, that the county board is otherwise required by division 110637
(A)(2) of this section to pay if the department of developmental 110638
disabilities fails to comply with division (A) of section 110639
5123.0416 of the Revised Code. 110640

(D) A county board is not required to pay the nonfederal 110641
share of home and community-based services that the county board 110642
is otherwise required by division (A)(3) of this section to pay if 110643
both of the following apply: 110644

(1) The services are provided to an individual who enrolls in 110645
the medicaid waiver component under which the services are 110646
provided as the result of an order issued following a state 110647
hearing, administrative appeal, or appeal to a court of common 110648
pleas made under section 5101.35 of the Revised Code; 110649

(2) There are more individuals who are eligible for services 110650
from the county board enrolled in ~~the medicaid waiver component~~ 110651
home and community-based services than is required by section 110652
5126.0512 of the Revised Code. 110653

(E) A county board may enter into an agreement with the 110654
director of developmental disabilities under which the county 110655
board agrees to pay the nonfederal share of medicaid expenditures 110656
for one or more home and community-based services that the county 110657
board is not otherwise required by division (A)(1), (2), or (3) of 110658
this section to pay and that are provided to an individual the 110659
county board determines under section 5126.041 of the Revised Code 110660
is eligible for county board services. The agreement shall specify 110661
which home and community-based services the agreement covers. The 110662
county board shall pay the nonfederal share of medicaid 110663
expenditures for the home and community-based services that the 110664

agreement covers as long as the agreement is in effect. 110665

Sec. 5126.0511. (A) A county board of developmental 110666
disabilities may use the following funds to pay the nonfederal 110667
share of the medicaid expenditures that the county board is 110668
required by sections 5126.059 and 5126.0510 of the Revised Code to 110669
pay: 110670

(1) To the extent consistent with the levy that generated the 110671
taxes, the following taxes: 110672

(a) Taxes levied pursuant to division (L) of section 5705.19 110673
of the Revised Code and section 5705.222 of the Revised Code; 110674

(b) Taxes levied under section 5705.191 of the Revised Code 110675
that the board of county commissioners allocates to the county 110676
board. 110677

(2) Funds that the department of developmental disabilities 110678
distributes to the county board under ~~sections 5126.11 and section~~ 110679
5126.18 of the Revised Code and for purposes of the family support 110680
services program established under section 5126.11 of the Revised 110681
Code; 110682

(3) Earned federal revenue funds the county board receives 110683
for medicaid services the county board provides pursuant to the 110684
county board's valid medicaid provider agreement; 110685

(4) Funds that the department of developmental disabilities 110686
distributes to the county board as subsidy payments; 110687

(5) In the case of medicaid expenditures for home and 110688
community-based services, funds allocated to or otherwise made 110689
available for the county board under section 5123.0416 of the 110690
Revised Code to pay the nonfederal share of such medicaid 110691
expenditures. 110692

(B) Each year, each county board shall adopt a resolution 110693
specifying the amount of funds it will use in the next year to pay 110694

the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The amount specified shall be adequate to assure that the services for which the medicaid expenditures are made will be available in the county in a manner that conforms to all applicable state and federal laws. A county board shall state in its resolution that the payment of the nonfederal share represents an ongoing financial commitment of the county board. A county board shall adopt the resolution in time for the county auditor to make the determination required by division (C) of this section.

(C) Each year, a county auditor shall determine whether the amount of funds a county board specifies in the resolution it adopts under division (B) of this section will be available in the following year for the county board to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The county auditor shall make the determination not later than the last day of the year before the year in which the funds are to be used.

Sec. 5126.0512. (A) ~~As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community based services are provided.~~

~~(B) Effective July 1, 2007, and except~~ Except as provided in rules adopted under section 5123.0413 of the Revised Code, each county board of developmental disabilities shall ensure, ~~for each medicaid waiver component,~~ that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in ~~a medicaid waiver component~~ home and community-based services is no less than the sum of the

following: 110726

(1) The number of individuals eligible for services from the 110727
county board who are enrolled in ~~the medicaid waiver component~~ 110728
home and community-based services on June 30, 2007; 110729

(2) The number of ~~medicaid waiver component~~ home and 110730
community-based services slots the county board requested before 110731
July 1, 2007, that were assigned to the county board before that 110732
date but in which no individual was enrolled before that date. 110733

~~(C)~~(B) An individual enrolled in a ~~medicaid waiver component~~ 110734
home and community-based services after March 1, 2007, due to an 110735
emergency reserve capacity waiver assignment shall not be counted 110736
in determining the number of individuals a county board must 110737
ensure under division ~~(B)~~(A) of this section are enrolled in a 110738
~~medicaid waiver component~~ home and community-based services. 110739

~~(D)~~(C) An individual who is enrolled in a ~~medicaid waiver~~ 110740
~~component~~ home and community-based services to comply with the 110741
terms of the consent order filed March 5, 2007, in *Martin v.* 110742
Strickland, Case No. 89-CV-00362, in the United States district 110743
court for the southern district of Ohio, eastern division, shall 110744
be excluded in determining whether a county board has complied 110745
with division ~~(B)~~(A) of this section. 110746

~~(E)~~(D) A county board shall make as many requests for 110747
individuals to be enrolled in a ~~medicaid waiver component~~ home and 110748
community-based services as necessary for the county board to 110749
comply with division ~~(B)~~(A) of this section. 110750

Sec. 5126.08. (A) The director of developmental disabilities 110751
shall adopt rules in accordance with Chapter 119. of the Revised 110752
Code for all programs and services offered by a county board of 110753
developmental disabilities. Such rules shall include, but are not 110754
limited to, the following: 110755

(1) Determination of what constitutes a program or service;	110756
(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;	110757 110758
(3) Standards for determining the nature and degree of mental retardation, including mild mental retardation, or developmental disability;	110759 110760 110761
(4) Standards for determining eligibility for programs and services under sections 5126.042 and <u>section</u> 5126.15 of the Revised Code;	110762 110763 110764
(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individual service plans under that section;	110765 110766 110767 110768
(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration;	110769 110770 110771
(7) Standards for the provision of environmental modifications, including standards that require adherence to all applicable state and local building codes;	110772 110773 110774
(8) Standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports.	110775 110776
(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.	110777 110778 110779
Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.	110780 110781 110782 110783 110784

(B) Subject to rules adopted by the director of developmental disabilities, and subject to the availability of money from state and federal sources, the county board of developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and

living environment of the individual; 110816

(4) Providing support necessary for the individual's 110817
continued skill development, including such services as 110818
development of interventions to cope with unique problems that may 110819
occur within the complexity of the family, enrollment of the 110820
individual in special summer programs, provision of appropriate 110821
leisure activities, and other social skills development 110822
activities; 110823

(5) Any other services that are consistent with the purposes 110824
specified in division (B) of this section and specified in the 110825
individual's service plan. 110826

(E) In order to be eligible for payments under a family 110827
support services program, the individual or the individual's 110828
family must reside in the county served by the county board, and 110829
the individual must be in need of habilitation. Payments shall be 110830
adjusted for income in accordance with the payment schedule 110831
established in rules adopted under this section. Payments shall be 110832
made only after the county board has taken into account all other 110833
available assistance for which the individual or family is 110834
eligible. 110835

(F) Before incurring expenses for a service for which payment 110836
will be sought under a family support services program, the 110837
individual or family shall apply to the county board for a 110838
determination of eligibility and approval of the service. The 110839
service need not be provided in the county served by the county 110840
board. After being determined eligible and receiving approval for 110841
the service, the individual or family may incur expenses for the 110842
service or use the vouchers received from the county board for the 110843
purchase of the service. 110844

If the county board refuses to approve a service, an appeal 110845
may be made in accordance with rules adopted by the department 110846

under this section. 110847

(G) To be reimbursed for expenses incurred for approved 110848
services, the individual or family shall submit to the county 110849
board a statement of the expenses incurred accompanied by any 110850
evidence required by the board. To redeem vouchers used to 110851
purchase approved services, the entity that provided the service 110852
shall submit to the county board evidence that the service was 110853
provided and a statement of the charges. The county board shall 110854
make reimbursements and redeem vouchers no later than forty-five 110855
days after it receives the statements and evidence required by 110856
this division. 110857

(H) A county board shall consider the following objectives in 110858
carrying out a family support services program: 110859

(1) Enabling individuals to return to their families from an 110860
institution under the jurisdiction of the department of 110861
developmental disabilities; 110862

(2) Enabling individuals found to be subject to 110863
institutionalization by court order under section 5123.76 of the 110864
Revised Code to remain with their families with the aid of 110865
payments provided under this section; 110866

(3) Providing services to eligible children and adults 110867
currently residing in the community; 110868

(4) Providing services to individuals with developmental 110869
disabilities who are not receiving other services from the board. 110870

(I) The director shall adopt, and may amend and rescind, 110871
rules for the implementation of family support services programs 110872
by county boards. Such rules shall include the following: 110873

(1) A payment schedule adjusted for income; 110874

(2) ~~A formula for distributing to county boards the money~~ 110875
~~appropriated for family support services;~~ 110876

~~(3)~~ Standards for supervision, training, and quality control 110877
in the provision of respite care services; 110878

~~(4)~~(3) Eligibility standards and procedures for providing 110879
temporary emergency respite care; 110880

~~(5)~~(4) Procedures for hearing and deciding appeals made under 110881
division (F) of this section; 110882

~~(6) Requirements to be followed by county boards regarding~~ 110883
~~reports submitted under division (K) of this section.~~ 110884

Rules adopted under ~~divisions~~ division (I)(1) and ~~(2)~~ of this 110885
section shall be adopted in accordance with section 111.15 of the 110886
Revised Code. Rules adopted under divisions (I)~~(3)~~(2) to ~~(6)~~(4) of 110887
this section shall be adopted in accordance with Chapter 119. of 110888
the Revised Code. 110889

(J) All individuals certified by the superintendent of the 110890
county board as eligible for temporary emergency respite care in 110891
accordance with rules adopted under this section shall be 110892
considered eligible for temporary emergency respite care for not 110893
more than five days to permit the determination of eligibility for 110894
family support services. The requirements of divisions (E) and (F) 110895
of this section do not apply to temporary emergency respite care. 110896

~~(K) The department of developmental disabilities shall~~ 110897
~~distribute to county boards money appropriated for family support~~ 110898
~~services in quarterly installments of equal amounts. The~~ 110899
~~installments shall be made not later than the thirtieth day of~~ 110900
~~September, the thirty first day of December, the thirty first day~~ 110901
~~of March, and the thirtieth day of June. A county board shall use~~ 110902
~~no more than seven per cent of the funds for administrative costs.~~ 110903
~~Each county board shall submit reports to the department on~~ 110904
~~payments made under this section. The reports shall be submitted~~ 110905
~~at those times and in the manner specified in rules adopted under~~ 110906
~~this section.~~ 110907

~~(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.~~

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

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

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

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

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

~~(5) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.~~

~~(B) Each On or before the last day of each April, each county~~

board of developmental disabilities shall certify to the director 110938
of developmental disabilities all of the following: 110939

~~(1) On or before the fifteenth day of October, the average 110940
daily membership for the first full week of programs and services 110941
during October receiving: 110942~~

~~(a) Early childhood services provided pursuant to section 110943
5126.05 of the Revised Code for children who are less than three 110944
years of age on the thirtieth day of September of the academic 110945
year: 110946~~

~~(b) Special education for children with disabilities in 110947
approved school age classes: 110948~~

~~(c) Adult services for persons sixteen years of age and older 110949
operated pursuant to section 5126.05 and division (B) of section 110950
5126.051 of the Revised Code. Separate counts shall be made for 110951
the following: 110952~~

~~(i) Persons enrolled in traditional adult services who are 110953
eligible for but not enrolled in active treatment: 110954~~

~~(ii) Persons enrolled in traditional adult services who are 110955
eligible for and enrolled in active treatment: 110956~~

~~(iii) Persons enrolled in traditional adult services but who 110957
are not eligible for active treatment: 110958~~

~~(iv) Persons participating in community employment services. 110959
To be counted as participating in community employment services, a 110960
person must have spent an average of no less than ten hours per 110961
week in that employment during the preceding six months. 110962~~

~~(d) Other programs in the county for individuals with mental 110963
retardation and developmental disabilities that have been approved 110964
for payment of subsidy by the department of developmental 110965
disabilities. 110966~~

~~The membership in each such program and service in the county 110967~~

~~shall be reported on forms prescribed by the department of
developmental disabilities.~~ 110968
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~~The department of developmental disabilities shall adopt
rules defining full-time equivalent enrollees and for determining
the average daily membership therefrom, except that certification
of average daily membership in approved school-age classes shall
be in accordance with rules adopted by the state board of
education. The average daily membership figure shall be determined
by dividing the amount representing the sum of the number of
enrollees in each program or service in the week for which the
certification is made by the number of days the program or service
was offered in that week. No enrollee may be counted in average
daily membership for more than one program or service.~~ 110970
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~~(2) By the fifteenth day of December, the number of children
enrolled in approved preschool units on the first day of December;~~ 110981
110982

~~(3) On or before the thirtieth day of April, an itemized
report of all of the county board's income and operating
expenditures for the immediately preceding calendar year⁷. The
certification shall be provided in an itemized report prepared and
submitted in the a format specified by the department of
developmental disabilities;~~ 110983
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~~(4) That each required certification and report is in
accordance with rules established by the department of
developmental disabilities and the state board of education for
the operation and subsidization of the programs and services.~~ 110989
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Sec. 5126.18. (A) As used in this section: 110993

(1) "Taxable value" means the taxable value of a county
certified under division (B) of this section. 110994
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(2) "Per-mill yield" means the quotient obtained by dividing
the taxable value of a county by one thousand. 110996
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(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of development. 110998
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(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years. 111001
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(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county. 111003
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(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose. 111006
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(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made. 111010
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(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to receive tax equity payments. 111014
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(B) At the request of the director of developmental disabilities, the tax commissioner shall certify to the director the taxable value of property on each county's most recent tax list of real and public utility property. The director may request any other tax information necessary for the purposes of this section. 111017
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(C) Beginning in 2011, on or before the thirty-first day of May of that year and of every second year thereafter, the director of developmental disabilities shall determine whether a county is eligible to receive tax equity payments for the ensuing two fiscal years as follows: 111023
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(1) The director shall determine the six-year moving average, population, and yield per person of each county in the state, based on the most recent information available. 111028
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(2) The director shall calculate a tax equity funding threshold by adding the population of the county with the lowest yield per person and the populations of individual counties in order from lowest yield per person to highest yield per person until the addition of the population of another county would increase the aggregate sum to over thirty per cent of the total state population. A county is eligible to receive tax equity payments for the two-year period if its population is included in the calculation of the threshold and the addition of its population does not increase such sum to over thirty per cent of the total state population. 111031
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(D)(1) Except as provided in divisions (D)(2) and (3) of this section, beginning in fiscal year 2012 and for each fiscal year thereafter, the director shall make tax equity payments to each eligible county equal to the population of the county multiplied by the difference between the yield per person of the threshold county and the yield per person of the eligible county. For purposes of this division, the population and yield per person of a county equal the population and yield per person most recently determined for that county under division (C)(1) of this section. The payments shall be made in quarterly installments of equal amounts not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June of each fiscal year. 111042
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(2) In fiscal year 2012, if the amount determined under division (D)(1) of this section for an eligible county is at least twenty thousand dollars greater than or twenty thousand dollars less than the amount of tax equity payments the county received in fiscal year 2011, the county's tax equity payments for fiscal 111055
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years 2012 through 2014 shall equal the following: 111060

(a) For fiscal year 2012, one-fourth of the amount calculated 111061
for the eligible county under division (D)(1) of this section plus 111062
three-fourths of the amount of tax equity payments the county 111063
received in fiscal year 2011; 111064

(b) For fiscal year 2013, one-half of the amount calculated 111065
for the eligible county under division (D)(1) of this section plus 111066
one-half of the amount of tax equity payments the county received 111067
in fiscal year 2011; 111068

(c) For fiscal year 2014, three-fourths of the amount 111069
calculated for the eligible county under division (D)(1) of this 111070
section plus one-fourth of the amount of tax equity payments the 111071
county received in fiscal year 2011. 111072

(3) In any fiscal year, if the total amount of tax equity 111073
payments for all eligible counties as determined under divisions 111074
(D)(1) and (2) of this section is greater than the amount 111075
appropriated to the department of developmental disabilities for 111076
the purpose of making such payments in that fiscal year, the 111077
director shall reduce the payments to each eligible county board 111078
in equal proportion. If the total amount of tax equity payments as 111079
determined under that division is less than the amount 111080
appropriated to the department for that purpose, the director 111081
shall determine how to allocate the excess money after 111082
consultation with the Ohio association of county boards serving 111083
people with developmental disabilities. 111084

(4) Tax equity payments shall be paid only to an eligible 111085
county board of developmental disabilities and not to a regional 111086
council established under section 5126.13 of the Revised Code or 111087
any other entity. 111088

(E)(1) Except as provided in division (E)(2) of this section, 111089
a county board of developmental disabilities shall use tax equity 111090

payments solely to pay the nonfederal share of medicaid 111091
expenditures it is required to pay under sections 5126.059 and 111092
5126.0510 of the Revised Code. Tax equity payments shall not be 111093
used to pay any salary or other compensation to county board 111094
personnel. 111095

(2) Upon the written request of a county board, the director 111096
of developmental disabilities may authorize a county board to use 111097
tax equity payments for infrastructure improvements necessary to 111098
support medicaid waiver administration. 111099

(3) The director may audit any county board receiving tax 111100
equity payments to ensure appropriate use of the payments in 111101
accordance with this section. If the director determines that a 111102
county board is using payments inappropriately, the director shall 111103
notify the county board in writing of the determination. Within 111104
thirty days after receiving the director's notification, the 111105
county board shall submit a written plan of correction to the 111106
director. The director may accept or reject the plan. If the 111107
director rejects the plan, the director may require the county 111108
board to repay all or a portion of the amount of tax equity 111109
payments used inappropriately. The director shall distribute any 111110
tax equity payments returned under this division to other eligible 111111
county boards in accordance with a plan developed by the director 111112
after consultation with the Ohio association of county boards 111113
serving people with developmental disabilities. 111114

Sec. 5126.24. (A) As used in this section: 111115

(1) "License" means an educator license issued by the state 111116
board of education under section 3319.22 of the Revised Code or a 111117
certificate issued by the department of developmental 111118
disabilities. 111119

(2) "Teacher" means a person employed by a county board of 111120
developmental disabilities in a position that requires a license. 111121

(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall annually adopt separate salary schedules for teachers and nonteaching employees.

(C) The teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.

Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the

fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October of each year the nonteaching employees' salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board with the superintendent of public instruction. If such salary schedule and classification plan is not filed, the superintendent of public instruction shall order the board to file such schedule and list forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent, no money shall be distributed to the ~~district board~~ board under Chapter ~~3306.~~ 3317.

of the Revised Code until the superintendent has satisfactory 111185
evidence of the board's full compliance with such order. 111186

Sec. 5126.41. The county board of developmental disabilities 111187
shall identify residents of the county for whom supported living 111188
is to be provided. Identification of the residents shall be made 111189
in accordance with the priorities set under section 5126.04 of the 111190
Revised Code and the waiting ~~list~~ ~~policies~~ ~~developed~~ lists 111191
established under section 5126.042 of the Revised Code. The board 111192
shall assist the residents in identifying their individual service 111193
needs. 111194

To arrange supported living for an individual, the board 111195
shall assist the individual in developing an individual service 111196
plan. In developing the plan, the individual shall choose a 111197
residence that is appropriate according to local standards; the 111198
individuals, if any, with whom the individual will live in the 111199
residence; the services the individual needs to live in the 111200
individual's residence of choice; and the providers from which the 111201
services will be received. The choices available to an individual 111202
shall be based on available resources. 111203

The board shall obtain the consent of the individual or the 111204
individual's guardian and the signature of the individual or 111205
guardian on the individual service plan. The county board shall 111206
ensure that the individual receives from the provider the services 111207
contracted for under section 5126.45 of the Revised Code. 111208

An individual service plan for supported living shall be 111209
effective for a period of time agreed to by the county board and 111210
the individual. In determinating that period, the county board and 111211
the individual shall consider the nature of the services to be 111212
provided and the manner in which they are customarily provided. 111213

Sec. 5126.42. (A) A county board of developmental 111214

disabilities shall establish an advisory council composed of board 111215
members or employees of the board, providers, individuals 111216
receiving supported living, and advocates for individuals 111217
receiving supported living to provide on-going communication among 111218
all persons concerned with supported living. 111219

(B) The board shall develop procedures for the resolution of 111220
grievances between the board and providers or between the board 111221
and an entity with which it has a shared funding agreement. 111222

(C) The board shall develop and implement a provider 111223
selection system. Each system shall enable an individual to choose 111224
to continue receiving supported living from the same providers, to 111225
select additional providers, or to choose alternative providers. 111226
Annually, the board shall review its provider selection system to 111227
determine whether it has been implemented in a manner that allows 111228
individuals fair and equitable access to providers. 111229

In developing a provider selection system, the county board 111230
shall create a pool of providers for individuals to use in 111231
choosing their providers of supported living. The pool shall be 111232
created by placing in the pool all providers on record with the 111233
board or by placing in the pool all providers approved by the 111234
board through soliciting requests for proposals for supported 111235
living contracts. In either case, only providers that are 111236
certified by the director of developmental disabilities may be 111237
placed in the pool. 111238

If the board places all providers on record in the pool, the 111239
board shall review the pool at least annually to determine whether 111240
each provider has continued interest in being a provider and has 111241
maintained its certification by the department. At any time, an 111242
interested and certified provider may make a request to the board 111243
that it be added to the pool, and the board shall add the provider 111244
to the pool not later than seven days after receiving the request. 111245

If the board solicits requests for proposals for inclusion of providers in the pool, the board shall develop standards for selecting the providers to be included. Requests for proposals shall be solicited at least annually. When requests are solicited, the board shall cause legal notices to be published ~~at least~~ once each week for two consecutive weeks in a newspaper ~~with~~ of general circulation within the county or as provided in section 7.16 of the Revised Code. The board's formal request for proposals shall include a description of any applicable contract terms, the standards that are used to select providers for inclusion in the pool, and the process the board uses to resolve disputes arising from the selection process. The board shall accept requests from any entity interested in being a provider of supported living for individuals served by the board. Requests shall be approved or denied according to the standards developed by the board. Providers that previously have been placed in the pool are not required to resubmit a request for proposal to be included in the pool, unless the board's standards have been changed.

In assisting an individual in choosing a provider, the county board shall provide the individual with uniform and consistent information pertaining to each provider in the pool. An individual may choose to receive supported living from a provider that is not included in the pool, if the provider is certified by the director of developmental disabilities.

Sec. 5139.11. The department of youth services shall do all of the following:

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:

(1) Combatting local conditions known to contribute to juvenile delinquency;	111277
	111278
(2) Developing recreational and other programs for youth work;	111279
	111280
(3) Providing adult sponsors for delinquent children cases;	111281
(4) Dealing with other related problems of the locality.	111282
(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;	111283
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(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;	111287
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	111289
(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care;	111290
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(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation;	111294
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(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;	111298
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	111301
(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;	111302
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	111304
(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and	111305
	111306

private resources, and recommend methods of establishing a 111307
community program for combatting juvenile delinquency and crime, 111308
but no survey of that type shall be conducted unless local 111309
individuals and groups request it through their local authorities, 111310
and no request of that type shall be interpreted as binding the 111311
community to following the recommendations made as a result of the 111312
request; 111313

(I) Evaluate the rehabilitation of children committed to the 111314
department and prepare and submit periodic reports to the 111315
committing court for the following purposes: 111316

(1) Evaluating the effectiveness of institutional treatment; 111317

(2) Making recommendations for judicial release under section 111318
2152.22 of the Revised Code if appropriate and recommending 111319
conditions for judicial release; 111320

(3) Reviewing the placement of children and recommending 111321
alternative placements where appropriate. 111322

(J) Coordinate dates for hearings to be conducted under 111323
section 2152.22 of the Revised Code and assist in the transfer and 111324
release of children from institutionalization to the custody of 111325
the committing court; 111326

(K)(1) Coordinate and assist juvenile justice systems by 111327
doing the following: 111328

(a) Performing juvenile justice system planning in the state, 111329
including any planning that is required by any federal law; 111330

(b) Collecting, analyzing, and correlating information and 111331
data concerning the juvenile justice system in the state; 111332

(c) Cooperating with and providing technical assistance to 111333
state departments, administrative planning districts, metropolitan 111334
county criminal justice services agencies, criminal justice 111335
coordinating councils, and agencies, offices, and departments of 111336

the juvenile justice system in the state, and other appropriate organizations and persons; 111337
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(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department; 111339
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(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer; 111343
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(f) Implementing the state comprehensive plans; 111346

(g) Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended; 111347
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(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department; 111353
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~~(h)~~(i) Monitoring or evaluating the performance of juvenile justice system projects and programs in the state that are financed in whole or in part by funds granted through the department; 111356
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~~(i)~~(j) Applying for, allocating, disbursing, and accounting for grants that are made available pursuant to federal juvenile justice acts, or made available from other federal, state, or private sources, to improve the criminal and juvenile justice systems in the state. All money from federal juvenile justice act grants shall, if the terms under which the money is received require that the money be deposited into an interest bearing fund or account, be deposited in the state treasury to the credit of 111360
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the federal juvenile justice program purposes fund, which is 111368
hereby created. All investment earnings shall be credited to the 111369
fund. 111370

~~(j)~~(k) Contracting with federal, state, and local agencies, 111371
foundations, corporations, businesses, and persons when necessary 111372
to carry out the duties of the department; 111373

~~(k)~~(l) Overseeing the activities of metropolitan county 111374
criminal justice services agencies, administrative planning 111375
districts, and juvenile justice coordinating councils in the 111376
state; 111377

~~(l)~~(m) Advising the general assembly and governor on 111378
legislation and other significant matters that pertain to the 111379
improvement and reform of the juvenile justice system in the 111380
state; 111381

~~(m)~~(n) Preparing and recommending legislation to the general 111382
assembly and governor for the improvement of the juvenile justice 111383
system in the state; 111384

~~(n)~~(o) Assisting, advising, and making any reports that are 111385
required by the governor, attorney general, or general assembly; 111386

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised 111387
Code. 111388

(2) Division (K)(1) of this section does not limit the 111389
discretion or authority of the attorney general with respect to 111390
crime victim assistance and criminal and juvenile justice 111391
programs. 111392

(3) Nothing in division (K)(1) of this section is intended to 111393
diminish or alter the status of the office of the attorney general 111394
as a criminal justice services agency. 111395

(4) The governor may appoint any advisory committees to 111396
assist the department that the governor considers appropriate or 111397

that are required under any state or federal law. 111398

Sec. 5139.43. (A) The department of youth services shall 111399
operate a felony delinquent care and custody program that shall be 111400
operated in accordance with the formula developed pursuant to 111401
section 5139.41 of the Revised Code, subject to the conditions 111402
specified in this section. 111403

(B)(1) Each juvenile court shall use the moneys disbursed to 111404
it by the department of youth services pursuant to division (B) of 111405
section 5139.41 of the Revised Code in accordance with the 111406
applicable provisions of division (B)(2) of this section and shall 111407
transmit the moneys to the county treasurer for deposit in 111408
accordance with this division. The county treasurer shall create 111409
in the county treasury a fund that shall be known as the felony 111410
delinquent care and custody fund and shall deposit in that fund 111411
the moneys disbursed to the juvenile court pursuant to division 111412
(B) of section 5139.41 of the Revised Code. The county treasurer 111413
also shall deposit into that fund the state subsidy funds granted 111414
to the county pursuant to section 5139.34 of the Revised Code. The 111415
moneys disbursed to the juvenile court pursuant to division (B) of 111416
section 5139.41 of the Revised Code and deposited pursuant to this 111417
division in the felony delinquent care and custody fund shall not 111418
be commingled with any other county funds except state subsidy 111419
funds granted to the county pursuant to section 5139.34 of the 111420
Revised Code; shall not be used for any capital construction 111421
projects; upon an order of the juvenile court and subject to 111422
appropriation by the board of county commissioners, shall be 111423
disbursed to the juvenile court for use in accordance with the 111424
applicable provisions of division (B)(2) of this section; shall 111425
not revert to the county general fund at the end of any fiscal 111426
year; and shall carry over in the felony delinquent care and 111427
custody fund from the end of any fiscal year to the next fiscal 111428
year. The maximum balance carry-over at the end of each respective 111429

fiscal year in the felony delinquent care and custody fund in any 111430
county from funds allocated to the county pursuant to sections 111431
5139.34 and 5139.41 of the Revised Code in the previous fiscal 111432
year shall not exceed an amount to be calculated as provided in 111433
the formula set forth in this division, unless that county has 111434
applied for and been granted an exemption by the director of youth 111435
services. Beginning June 30, 2008, the maximum balance carry-over 111436
at the end of each respective fiscal year shall be determined by 111437
the following formula: for fiscal year 2008, the maximum balance 111438
carry-over shall be one hundred per cent of the allocation for 111439
fiscal year 2007, to be applied in determining the fiscal year 111440
2009 allocation; for fiscal year 2009, it shall be fifty per cent 111441
of the allocation for fiscal year 2008, to be applied in 111442
determining the fiscal year 2010 allocation; for fiscal year 2010, 111443
it shall be twenty-five per cent of the allocation for fiscal year 111444
2009, to be applied in determining the fiscal year 2011 111445
allocation; and for each fiscal year subsequent to fiscal year 111446
2010, it shall be twenty-five per cent of the allocation for the 111447
immediately preceding fiscal year, to be applied in determining 111448
the allocation for the next immediate fiscal year. The department 111449
shall withhold from future payments to a county an amount equal to 111450
any moneys in the felony delinquent care and custody fund of the 111451
county that exceed the total maximum balance carry-over that 111452
applies for that county for the fiscal year in which the payments 111453
are being made and shall reallocate the withheld amount. The 111454
department shall adopt rules for the withholding and reallocation 111455
of moneys disbursed under sections 5139.34 and 5139.41 of the 111456
Revised Code and for the criteria and process for a county to 111457
obtain an exemption from the withholding requirement. The moneys 111458
disbursed to the juvenile court pursuant to division (B) of 111459
section 5139.41 of the Revised Code and deposited pursuant to this 111460
division in the felony delinquent care and custody fund shall be 111461
in addition to, and shall not be used to reduce, any usual annual 111462

increase in county funding that the juvenile court is eligible to 111463
receive or the current level of county funding of the juvenile 111464
court and of any programs or services for delinquent children, 111465
unruly children, or juvenile traffic offenders. 111466

(2)(a) A county and the juvenile court that serves the county 111467
shall use the moneys in its felony delinquent care and custody 111468
fund in accordance with rules that the department of youth 111469
services adopts pursuant to division (D) of section 5139.04 of the 111470
Revised Code and as follows: 111471

(i) The moneys in the fund that represent state subsidy funds 111472
granted to the county pursuant to section 5139.34 of the Revised 111473
Code shall be used to aid in the support of prevention, early 111474
intervention, diversion, treatment, and rehabilitation programs 111475
that are provided for alleged or adjudicated unruly children or 111476
delinquent children or for children who are at risk of becoming 111477
unruly children or delinquent children. The county shall not use 111478
for capital improvements more than fifteen per cent of the moneys 111479
in the fund that represent the applicable annual grant of those 111480
state subsidy funds. 111481

(ii) The moneys in the fund that were disbursed to the 111482
juvenile court pursuant to division (B) of section 5139.41 of the 111483
Revised Code and deposited pursuant to division (B)(1) of this 111484
section in the fund shall be used to provide programs and services 111485
for the training, treatment, or rehabilitation of felony 111486
delinquents that are alternatives to their commitment to the 111487
department, including, but not limited to, community residential 111488
programs, day treatment centers, services within the home, and 111489
electronic monitoring, and shall be used in connection with 111490
training, treatment, rehabilitation, early intervention, or other 111491
programs or services for any delinquent child, unruly child, or 111492
juvenile traffic offender who is under the jurisdiction of the 111493
juvenile court. 111494

The fund also may be used for prevention, early intervention, 111495
diversion, treatment, and rehabilitation programs that are 111496
provided for alleged or adjudicated unruly children, delinquent 111497
children, or juvenile traffic offenders or for children who are at 111498
risk of becoming unruly children, delinquent children, or juvenile 111499
traffic offenders. Consistent with division (B)(1) of this 111500
section, a county and the juvenile court of a county shall not use 111501
any of those moneys for capital construction projects. 111502

(iii) Moneys in the fund shall not be used to support 111503
programs or services that do not comply with federal juvenile 111504
justice and delinquency prevention core requirements or to support 111505
programs or services that research has shown to be ineffective. 111506
Moneys in the fund shall be prioritized to research-supported, 111507
outcome-based programs and services. 111508

(iv) The county and the juvenile court that serves the county 111509
may use moneys in the fund to provide out-of-home placement of 111510
children only in detention centers, community rehabilitation 111511
centers, or community corrections facilities approved by the 111512
department pursuant to standards adopted by the department, 111513
licensed by an authorized state agency, or accredited by the 111514
American correctional association or another national organization 111515
recognized by the department. 111516

(b) Each juvenile court shall comply with division (B)(3)(d) 111517
of this section as implemented by the department. If a juvenile 111518
court fails to comply with division (B)(3)(d) of this section, the 111519
department shall not be required to make any disbursements in 111520
accordance with division (C) or (D) of section 5139.41 or division 111521
(C)(2) of section 5139.34 of the Revised Code. 111522

(3) In accordance with rules adopted by the department 111523
pursuant to division (D) of section 5139.04 of the Revised Code, 111524
each juvenile court and the county served by that juvenile court 111525
shall do all of the following that apply: 111526

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each

month of the prior state fiscal year. If the juvenile court fails 111559
to file the report required by division (B)(3)(b) of this section 111560
by the thirty-first day of August of any year, the department 111561
shall not disburse any payment of state subsidy funds to which the 111562
county otherwise is entitled pursuant to section 5139.34 of the 111563
Revised Code and shall not disburse pursuant to division (B) of 111564
section 5139.41 of the Revised Code the applicable allocation 111565
until the juvenile court fully complies with division (B)(3)(b) of 111566
this section. 111567

(c) If the department requires the juvenile court to prepare 111568
monthly statistical reports and to submit the reports on forms 111569
provided by the department, the juvenile court shall file those 111570
reports with the department on the forms so provided. If the 111571
juvenile court fails to prepare and submit those monthly 111572
statistical reports within the department's timelines, the 111573
department shall not disburse any payment of state subsidy funds 111574
to which the county otherwise is entitled pursuant to section 111575
5139.34 of the Revised Code and shall not disburse pursuant to 111576
division (B) of section 5139.41 of the Revised Code the applicable 111577
allocation until the juvenile court fully complies with division 111578
(B)(3)(c) of this section. If the juvenile court fails to prepare 111579
and submit those monthly statistical reports within one hundred 111580
eighty days of the date the department establishes for their 111581
submission, the department shall not disburse any payment of state 111582
subsidy funds to which the county otherwise is entitled pursuant 111583
to section 5139.34 of the Revised Code and shall not disburse 111584
pursuant to division (B) of section 5139.41 of the Revised Code 111585
the applicable allocation, and the state subsidy funds and the 111586
remainder of the applicable allocation shall revert to the 111587
department. If a juvenile court states in a monthly statistical 111588
report that the juvenile court adjudicated within a state fiscal 111589
year five hundred or more children to be delinquent children for 111590
committing acts that would be felonies if committed by adults and 111591

if the department determines that the data in the report may be 111592
inaccurate, the juvenile court shall have an independent auditor 111593
or other qualified entity certify the accuracy of the data on a 111594
date determined by the department. 111595

(d) If the department requires the juvenile court and the 111596
county to participate in a fiscal monitoring program or another 111597
monitoring program that is conducted by the department to ensure 111598
compliance by the juvenile court and the county with division (B) 111599
of this section, the juvenile court and the county shall 111600
participate in the program and fully comply with any guidelines 111601
for the performance of audits adopted by the department pursuant 111602
to that program and all requests made by the department pursuant 111603
to that program for information necessary to reconcile fiscal 111604
accounting. If an audit that is performed pursuant to a fiscal 111605
monitoring program or another monitoring program described in this 111606
division determines that the juvenile court or the county used 111607
moneys in the county's felony delinquent care and custody fund for 111608
expenses that are not authorized under division (B) of this 111609
section, within forty-five days after the department notifies the 111610
county of the unauthorized expenditures, the county either shall 111611
repay the amount of the unauthorized expenditures from the county 111612
general revenue fund to the state's general revenue fund or shall 111613
file a written appeal with the department. If an appeal is timely 111614
filed, the director of the department shall render a decision on 111615
the appeal and shall notify the appellant county or its juvenile 111616
court of that decision within forty-five days after the date that 111617
the appeal is filed. If the director denies an appeal, the 111618
county's fiscal agent shall repay the amount of the unauthorized 111619
expenditures from the county general revenue fund to the state's 111620
general revenue fund within thirty days after receiving the 111621
director's notification of the appeal decision. 111622

(C) The determination of which county a reduction of the care 111623

and custody allocation will be charged against for a particular 111624
youth shall be made as outlined below for all youths who do not 111625
qualify as public safety beds. The determination of which county a 111626
reduction of the care and custody allocation will be charged 111627
against shall be made as follows until each youth is released: 111628

(1) In the event of a commitment, the reduction shall be 111629
charged against the committing county. 111630

(2) In the event of a recommitment, the reduction shall be 111631
charged against the original committing county until the 111632
expiration of the minimum period of institutionalization under the 111633
original order of commitment or until the date on which the youth 111634
is admitted to the department of youth services pursuant to the 111635
order of recommitment, whichever is later. Reductions of the 111636
allocation shall be charged against the county that recommitted 111637
the youth after the minimum expiration date of the original 111638
commitment. 111639

(3) In the event of a revocation of a release on parole, the 111640
reduction shall be charged against the county that revokes the 111641
youth's parole. 111642

(D) A juvenile court is not precluded by its allocation 111643
amount for the care and custody of felony delinquents from 111644
committing a felony delinquent to the department of youth services 111645
for care and custody in an institution or a community corrections 111646
facility when the juvenile court determines that the commitment is 111647
appropriate. 111648

Sec. 5310.35. The board of county commissioners shall conduct 111649
the public hearing required by section 5310.33 of the Revised Code 111650
in accordance with this section. 111651

(A)(1) The board shall prepare a notice of the hearing that 111652
includes each of the following: 111653

(a) A statement that the board is considering abolishing land registration in the county, that abolition would require the deregistration of all registered land in the county, and that after abolition all land in the county would have to be dealt with as nonregistered land;

(b) A statement that the board seeks evidence with regard to the matters listed in section 5310.34 of the Revised Code;

(c) The date, time, and place of the hearing, which shall be not earlier than two nor later than three months after the resolution to consider the merits of abolishing land registration was adopted by the board;

(d) A statement that any person affected by the proposed abolition of land registration may appear at the hearing and present evidence as provided in division (B) of this section.

(2) The board shall serve the notice by both of the following means:

(a) Ordinary mail, evidenced by a certificate of mailing, addressed to each person from whom a receipt or signature card, giving residence and post-office address, has been taken by the county recorder under section 5309.30 or 5309.50 of the Revised Code, and to each person who has filed an affidavit with the county recorder under section 5309.72 of the Revised Code. The county recorder, within one month after the adoption of a resolution to consider the merits of abolishing land registration in the county, shall provide the board with the names and respective addresses of the persons who are entitled to notice under this division.

If a notice is returned with an endorsement showing failure of delivery, the board is under no further obligation to directly serve the notice upon the addressee. The board shall preserve the returned notice in the records pertaining to its consideration of

the merits of abolishing land registration in the county. 111685

(b) Publication twice a week for two consecutive weeks in a 111686
newspaper of general circulation in the county or as provided in 111687
section 7.16 of the Revised Code. Publication of the notice shall 111688
be completed at least one month prior to the date set for the 111689
hearing. 111690

(B) At the date, time, and place specified in the notice, the 111691
board shall conduct a hearing, which may be adjourned from day to 111692
day until complete, at which any person affected by the proposed 111693
abolition of land registration may appear in person, by ~~his~~ 111694
attorney, or both, and present evidence, orally or in writing, 111695
with regard to the costs and benefits of maintaining land 111696
registration in the county. Any person who presents evidence may 111697
also present evidence refuting any evidence offered in opposition 111698
to ~~his~~ the person's evidence. 111699

The board shall cause a stenographic record to be made of the 111700
hearing. The president of the board, or a member ~~he~~ the president 111701
designates, shall preside at the hearing. 111702

Sec. 5501.44. (A) ~~The~~ Notwithstanding section 5735.27 of the 111703
Revised Code, the director of transportation, when ~~he deems the~~ 111704
director determines it in the interest of the welfare and safety 111705
of the citizens of Ohio, may enter into agreements with other 111706
states or subdivisions thereof or the United States relative to 111707
the cooperation in the repair, maintenance, or construction of a 111708
~~toll-free~~ bridge crossing a stream that forms a boundary line of 111709
this state, and may expend state highway funds for said purpose. 111710

(1) No such agreement shall be made that obligates this state 111711
to expend more than the cost of the construction of such portion 111712
of said bridge as is located within the state, and not more than 111713
fifty per cent of the cost of maintenance of any such bridge, and 111714
no such agreement shall be made that obligates the state in excess 111715

of three hundred thousand dollars in any one year for maintenance. 111716

(2) Notwithstanding division (A)(1) of this section, the 111717
director may expend funds for the design, construction, 111718
inspection, maintenance, repair, and replacement of bridge and 111719
bridge approaches for the bridge that were transferred from the 111720
Ohio bridge commission to the control of the state of Ohio, 111721
department of transportation, as provided in Section 4 of Amended 111722
Substitute House Bill No. 98 of the 114th general assembly. 111723
Following the replacement of that bridge, the director may expend 111724
funds for the design, construction, inspection, maintenance, 111725
repair, and replacement of bridge and bridge approaches. 111726

(3) Any such agreements shall be approved by the governor and 111727
attorney general of the state before they become effective. 111728

(4) Each agreement entered into shall designate 111729
responsibility for inspection, provide for annual inspection, and 111730
require that a report of each inspection be filed with the 111731
department of transportation. The director, with regard to all 111732
existing bridges or other bridges on a stream that forms a 111733
boundary line of this state, shall take all reasonable measures to 111734
obtain and to secure the filing of a copy of each inspection 111735
report for each bridge with the department of transportation. 111736

(5) The department, upon hearing that a toll-free bridge 111737
across the Ohio river is scheduled to be closed by a contiguous 111738
state, shall make all reasonable efforts to notify the Ohio 111739
residents likely to be adversely affected by that closing. The 111740
department also shall cooperate and communicate with contiguous 111741
states in trying to resolve bridge closing problems. 111742

(B)(1) The director, when ~~he~~ the director considers it in the 111743
interest of the welfare and safety of the citizens of Ohio, may 111744
enter into agreements with other states, subdivisions thereof, 111745
metropolitan planning organizations, or the United States, 111746

relative to the design, construction, operation, maintenance, and 111747
repair of a regional traffic management system, and may expend 111748
state and federal highway funds for such purposes, notwithstanding 111749
any other provision of the Revised Code. 111750

(2) No such agreement shall be made that obligates this state 111751
to expend more than the cost of construction of such portion of a 111752
regional traffic management system as is located within the state, 111753
and not more than a proportional amount, based upon the system 111754
presence in this state, for costs of design, operation, 111755
maintenance, and repair. 111756

(3) Any such agreements shall be approved by the governor and 111757
attorney general of the state before they become effective. 111758

(4) As used in division (B) of this section, "regional 111759
traffic management system" means an integrated, high-technology 111760
system to provide remote control center surveillance and 111761
monitoring of the regional freeways and main arterial routes in 111762
order to reduce and eliminate major backups and delays to 111763
motorists in the area. 111764

Sec. 5501.73. (A) After selecting a solicited or unsolicited 111765
proposal for a public-private initiative, the department of 111766
transportation shall enter into a public-private agreement for a 111767
transportation facility with the selected private entity or any 111768
configuration of private entities. An affected jurisdiction may be 111769
a party to a public-private agreement entered into by the 111770
department and a selected private entity or combination of private 111771
entities. 111772

(B) A public-private agreement under this section shall 111773
provide for all of the following: 111774

(1) Planning, acquisition, financing, development, design, 111775
construction, reconstruction, replacement, improvement, 111776

maintenance, management, repair, leasing, or operation of a transportation facility;	111777
	111778
(2) Term of the public-private agreement, subject to division	111779
(D) of this section;	111780
(3) Type of property interest, if any, the private entity will have in the transportation facility;	111781
	111782
(4) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;	111783
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	111785
	111786
(5) Whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;	111787
	111788
	111789
(6) Compliance with applicable federal, state, and local laws;	111790
	111791
(7) Grounds for termination of the public-private agreement by the department or operator;	111792
	111793
(8) Disposition of the facility upon completion of the agreement;	111794
	111795
(9) Procedures for amendment of the agreement.	111796
(C) A public-private agreement under this section may provide for any of the following:	111797
	111798
(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;	111799
	111800
	111801
(2) Inspection by the department of construction of or improvements to the transportation facility;	111802
	111803
(3) Maintenance by the operator of a policy of liability insurance or self-insurance;	111804
	111805

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;	111806 111807 111808
(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;	111809 111810
(6) Financing obligations of the operator and the department;	111811
(7) Apportionment of expenses between the operator and the department;	111812 111813
(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;	111814 111815 111816
(9) Rights and remedies available in the event of default or delay;	111817 111818
(10) Terms and conditions of indemnification of the operator by the department;	111819 111820
(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;	111821 111822 111823 111824
(12) Sale or lease to the operator of private property related to the transportation facility;	111825 111826
(13) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.	111827 111828
(D) Any public private agreement entered into under this section may be for a period not to exceed the then current two year period for which appropriations have been made by the general assembly to the department; provided, that any agreement may be renewed for succeeding two year periods when the general assembly enacts sufficient appropriations to the department for each successive biennium. Any such agreement may include, without	111829 111830 111831 111832 111833 111834 111835

~~limitation, any agreement by the department with respect to any 111836
costs of transportation facilities to be included prior to 111837
acquisition and construction of such transportation facilities. 111838
Any such agreement shall not constitute a debt or pledge of the 111839
faith and credit of the state, or of any political subdivision of 111840
the state, and the operator shall have no right to have taxes or 111841
exercises levied by the general assembly, or the taxing authority of 111842
any political subdivision of the state, for payments under the 111843
agreement. Any such agreement shall contain a statement to that 111844
effect. 111845~~

~~(E) No public-private agreement entered into under this 111846
section shall be construed to transfer to a private entity the 111847
director's authority to appropriate property under Chapters 163., 111848
5501., and 5519. of the Revised Code. 111849~~

Sec. 5502.52. (A) There is hereby created the statewide 111850
emergency alert program to aid in the identification and location 111851
of children who are under eighteen years of age, who are abducted, 111852
and whose abduction, as determined by a law enforcement agency, 111853
poses a credible threat of immediate danger of serious bodily harm 111854
or death to a child. The program shall be a coordinated effort 111855
among the governor's office, the department of public safety, the 111856
attorney general, law enforcement agencies, the state's public and 111857
commercial television and radio broadcasters, and others as deemed 111858
necessary by the governor. 111859

(B) The statewide emergency alert program shall not be 111860
implemented unless all of the following activation criteria are 111861
met: 111862

(1) The local investigating law enforcement agency confirms 111863
that an abduction has occurred. 111864

(2) An abducted child is under eighteen years of age. 111865

(3) The abduction poses a credible threat of immediate danger 111866
of serious bodily harm or death to a child. 111867

(4) A law enforcement agency determines that the child is not 111868
a runaway and has not been abducted as a result of a child custody 111869
dispute, unless the dispute poses a credible threat of immediate 111870
danger of serious bodily harm or death to the child. 111871

(5) There is sufficient descriptive information about the 111872
child, the abductor, and the circumstances surrounding the 111873
abduction to indicate that activation of the alert will help 111874
locate the child. 111875

(C) Nothing in division (B) of this section prevents the 111876
activation of a local or regional emergency alert program that may 111877
impose different criteria for the activation of a local or 111878
regional plan. 111879

(D) Any radio broadcast station, television broadcast 111880
station, or cable television system participating in the statewide 111881
emergency alert program or in any local or regional emergency 111882
alert program, and any director, officer, employee, or agent of 111883
any such station or system, shall not be liable to any person for 111884
damages for any loss allegedly caused by or resulting from the 111885
station's or system's broadcast or cablecast of, or failure to 111886
broadcast or cablecast, any information pursuant to the statewide 111887
emergency alert program or the local or regional emergency alert 111888
program. 111889

(E) No person shall knowingly make a false report that a 111890
child has been abducted and that leads to the implementation of 111891
the statewide emergency alert program created under this section 111892
or that leads to the implementation of a local or regional 111893
emergency alert program. Whoever violates this division is guilty 111894
of a felony of the fourth degree. 111895

(F) As used in this section: 111896

(1) "Abducted child" means a child for whom there is credible evidence to believe that the child has been abducted in violation of section 2905.01, 2905.02, 2905.03, or 2905.05 of the Revised Code.

(2) "Cable television system" means a cable system, as defined in section 2913.04 of the Revised Code.

(3) "Law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint ~~township~~ police district.

Sec. 5502.522. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of any individual who has a mental impairment or is sixty-five years of age or older, who is or is believed to be a temporary or permanent resident of this state, is at a location that cannot be determined by an individual familiar with the missing individual, and is incapable of returning to the missing individual's residence without assistance, and whose disappearance, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to the missing individual. The program shall be a coordinated effort among the governor's office, the department of public safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as determined necessary by the governor. No name shall be given to the program created under this division that conflicts with any alert code standards that are required by federal law and that

govern the naming of emergency alert programs. 111928

(B) The statewide emergency alert program shall not be 111929
implemented unless all of the following activation criteria are 111930
met: 111931

(1) The local investigating law enforcement agency confirms 111932
that the individual is missing. 111933

(2) The individual is sixty-five years of age or older or has 111934
a mental impairment. 111935

(3) The disappearance of the individual poses a credible 111936
threat of immediate danger of serious bodily harm or death to the 111937
individual. 111938

(4) There is sufficient descriptive information about the 111939
individual and the circumstances surrounding the individual's 111940
disappearance to indicate that activation of the alert will help 111941
locate the individual. 111942

(C) Nothing in division (B) of this section prevents the 111943
activation of a local or regional emergency alert program that may 111944
impose different criteria for the activation of a local or 111945
regional plan. 111946

(D) Any radio broadcast station, television broadcast 111947
station, or cable system participating in the statewide emergency 111948
alert program or in any local or regional emergency alert program, 111949
and any director, officer, employee, or agent of any station or 111950
system participating in either type of alert program, shall not be 111951
liable to any person for damages for any loss allegedly caused by 111952
or resulting from the station's or system's broadcast or cablecast 111953
of, or failure to broadcast or cablecast, any information pursuant 111954
to the statewide emergency alert program or the local or regional 111955
emergency alert program. 111956

(E) A local investigating law enforcement agency shall not be 111957

required to notify the statewide emergency alert program that the 111958
law enforcement agency has received information that meets the 111959
activation criteria set forth in division (B) of this section 111960
during the first twenty-four hours after the law enforcement 111961
agency receives the information. 111962

(F) Nothing in this section shall be construed to authorize 111963
the use of the federal emergency alert system unless otherwise 111964
authorized by federal law. 111965

(G) As used in this section: 111966

(1) "Cable system" has the same meaning as in section 2913.04 111967
of the Revised Code. 111968

(2) "Law enforcement agency" includes, but is not limited to, 111969
a county sheriff's office, the office of a village marshal, a 111970
police department of a municipal corporation, a police force of a 111971
regional transit authority, a police force of a metropolitan 111972
housing authority, the state highway patrol, a state university 111973
law enforcement agency, the office of a township police constable, 111974
and the police department of a township or joint ~~township~~ police 111975
district. 111976

(3) "Mental impairment" means a substantial disorder of 111977
thought, mood, perception, orientation, or memory that grossly 111978
impairs judgment, behavior, or ability to live independently or 111979
provide self-care as certified by a licensed physician, 111980
psychiatrist, or psychologist. 111981

Sec. 5502.61. As used in sections 5502.61 to 5502.66 of the 111982
Revised Code: 111983

(A) "Federal criminal justice acts" means any federal law 111984
that authorizes financial assistance and other forms of assistance 111985
to be given by the federal government to the states to be used for 111986
the improvement of the criminal and juvenile justice systems of 111987

the states. 111988

(B)(1) "Criminal justice system" includes all of the 111989
functions of the following: 111990

(a) The state highway patrol, county sheriff offices, 111991
municipal and township police departments, and all other law 111992
enforcement agencies; 111993

(b) The courts of appeals, courts of common pleas, municipal 111994
courts, county courts, and mayor's courts, when dealing with 111995
criminal cases; 111996

(c) The prosecuting attorneys, city directors of law, village 111997
solicitors, and other prosecuting authorities when prosecuting or 111998
otherwise handling criminal cases, and the county and joint county 111999
public defenders and other public defender agencies or offices; 112000

(d) The department of rehabilitation and correction, 112001
probation departments, county and municipal jails and workhouses, 112002
and any other department, agency, or facility that is concerned 112003
with the rehabilitation or correction of criminal offenders; 112004

(e) Any public or private agency whose purposes include the 112005
prevention of crime or the diversion, adjudication, detention, or 112006
rehabilitation of criminal offenders; 112007

(f) Any public or private agency, the purposes of which 112008
include assistance to crime victims or witnesses. 112009

(2) The inclusion of any public or private agency, the 112010
purposes of which include assistance to crime victims or 112011
witnesses, as part of the criminal justice system pursuant to 112012
division (B)(1) of this section does not limit, and shall not be 112013
construed as limiting, the discretion or authority of the attorney 112014
general with respect to crime victim assistance and criminal 112015
justice programs. 112016

(C) "Juvenile justice system" includes all of the functions 112017

of the juvenile courts, the department of youth services, any 112018
public or private agency whose purposes include the prevention of 112019
delinquency or the diversion, adjudication, detention, or 112020
rehabilitation of delinquent children, and any of the functions of 112021
the criminal justice system that are applicable to children. 112022

(D) "Comprehensive plan" means a document that coordinates, 112023
evaluates, and otherwise assists, on an annual or multi-year 112024
basis, any of the functions of the criminal and juvenile justice 112025
systems of the state or a specified area of the state, that 112026
conforms to the priorities of the state with respect to criminal 112027
and juvenile justice systems, and that conforms with the 112028
requirements of all federal criminal justice acts. These functions 112029
may include, but are not limited to, any of the following: 112030

(1) Crime and delinquency prevention; 112031

(2) Identification, detection, apprehension, and detention of 112032
persons charged with criminal offenses or delinquent acts; 112033

(3) Assistance to crime victims or witnesses, except that the 112034
comprehensive plan does not include the functions of the attorney 112035
general pursuant to sections 109.91 and 109.92 of the Revised 112036
Code; 112037

(4) Adjudication or diversion of persons charged with 112038
criminal offenses or delinquent acts; 112039

(5) Custodial treatment of criminal offenders, delinquent 112040
children, or both; 112041

(6) Institutional and noninstitutional rehabilitation of 112042
criminal offenders, delinquent children, or both. 112043

(E) "Metropolitan county criminal justice services agency" 112044
means an agency that is established pursuant to division (A) of 112045
section 5502.64 of the Revised Code. 112046

(F) "Administrative planning district" means a district that 112047

is established pursuant to division (A) or (B) of section 5502.66 112048
of the Revised Code. 112049

(G) "Criminal justice coordinating council" means a criminal 112050
justice services agency that is established pursuant to division 112051
(D) of section 5502.66 of the Revised Code. 112052

(H) "Local elected official" means any person who is a member 112053
of a board of county commissioners or township trustees or of a 112054
city or village council, judge of the court of common pleas, a 112055
municipal court, or a county court, sheriff, county coroner, 112056
prosecuting attorney, city director of law, village solicitor, or 112057
mayor. 112058

(I) "Juvenile justice coordinating council" means a juvenile 112059
justice services agency that is established pursuant to division 112060
(D) of section 5502.66 of the Revised Code. 112061

(J) "Mcgruff house program" means a program in which 112062
individuals or families volunteer to have their homes or other 112063
buildings serve as places of temporary refuge for children and to 112064
display the mcgruff house symbol identifying the home or building 112065
as that type of place. 112066

(K) "Mcgruff house symbol" means the symbol that is 112067
characterized by the image of "mcgruff," the crime dog, and the 112068
slogan "take a bite out of crime," and that has been adopted by 112069
the national crime prevention council as the symbol of its 112070
national citizens' crime prevention campaign. 112071

(L) "Sponsoring agency" means any of the following: 112072

(1) The board of education of any city, local, or exempted 112073
village school district; 112074

(2) The governing board of any educational service center; 112075

(3) The governing authority of any chartered nonpublic 112076
school; 112077

(4) The police department of any municipal corporation, 112078
township, township police district, or joint ~~township~~ police 112079
district; 112080

(5) The office of any township constable or county sheriff. 112081

Sec. 5502.68. (A) There is hereby created in the state 112082
treasury the drug law enforcement fund. Ninety-seven per cent of 112083
three dollars and fifty cents out of each ten-dollar court cost 112084
imposed pursuant to section 2949.094 of the Revised Code shall be 112085
credited to the fund. Money in the fund shall be used only in 112086
accordance with this section to award grants to counties, 112087
municipal corporations, townships, township police districts, and 112088
joint ~~township~~ police districts to defray the expenses that a drug 112089
task force organized in the county, or in the county in which the 112090
municipal corporation, township, or district is located, incurs in 112091
performing its functions related to the enforcement of the state's 112092
drug laws and other state laws related to illegal drug activity. 112093
112094

The division of criminal justice services shall administer 112095
all money deposited into the drug law enforcement fund and, by 112096
rule adopted under Chapter 119. of the Revised Code, shall 112097
establish procedures for a county, municipal corporation, 112098
township, township police district, or joint ~~township~~ police 112099
district to apply for money from the fund to defray the expenses 112100
that a drug task force organized in the county, or in the county 112101
in which the municipal corporation, township, or district is 112102
located, incurs in performing its functions related to the 112103
enforcement of the state's drug laws and other state laws related 112104
to illegal drug activity, procedures and criteria for determining 112105
eligibility of applicants to be provided money from the fund, and 112106
procedures and criteria for determining the amount of money to be 112107
provided out of the fund to eligible applicants. 112108

(B) The procedures and criteria established under division 112109
(A) of this section for applying for money from the fund shall 112110
include, but shall not be limited to, a provision requiring a 112111
county, municipal corporation, township, township police district, 112112
or joint ~~township~~ police district that applies for money from the 112113
fund to specify in its application the amount of money desired 112114
from the fund, provided that the cumulative amount requested in 112115
all applications submitted for any single drug task force may not 112116
exceed more than two hundred fifty thousand dollars in any 112117
calendar year for that task force. 112118

(C) The procedures and criteria established under division 112119
(A) of this section for determining eligibility of applicants to 112120
be provided money from the fund and for determining the amount of 112121
money to be provided out of the fund to eligible applicants shall 112122
include, but not be limited to, all of the following: 112123

(1) Provisions requiring that, in order to be eligible to be 112124
provided money from the fund, a drug task force that applies for 112125
money from the fund must provide evidence that the drug task force 112126
will receive a local funding match of at least twenty-five per 112127
cent of the task force's projected operating costs in the period 112128
of time covered by the grant; 112129

(2) Provisions requiring that money from the fund be 112130
allocated and provided to drug task forces that apply for money 112131
from the fund in accordance with the following priorities: 112132

(a) Drug task forces that apply, that are in existence on the 112133
date of the application, and that are determined to be eligible 112134
applicants, and to which either of the following applies shall be 112135
given first priority to be provided money from the fund: 112136

(i) Drug task forces that received funding through the 112137
division of criminal justice services in calendar year 2007; 112138

(ii) Drug task forces in a county that has a population that 112139

exceeds seven hundred fifty thousand. 112140

(b) If any moneys remain in the fund after all drug task 112141
forces that apply, that are in existence on the date of the 112142
application, that are determined to be eligible applicants, and 112143
that satisfy the criteria set forth in division (C)(2)(a)(i) or 112144
(ii) of this section are provided money from the fund as described 112145
in division (C)(2)(a) of this section, the following categories of 112146
drug task forces that apply and that are determined to be eligible 112147
applicants shall be given priority to be provided money from the 112148
fund in the order in which they apply for money from the fund: 112149

(i) Drug task forces that are not in existence on the date of 112150
the application; 112151

(ii) Drug task forces that are in existence on the date of 112152
the application but that do not satisfy the criteria set forth in 112153
division (C)(2)(a)(i) or (ii) of this section. 112154

(D) The procedures and criteria established under division 112155
(A) of this section for determining the amount of money to be 112156
provided out of the fund to eligible applicants shall include, but 112157
shall not be limited to, a provision specifying that the 112158
cumulative amount provided to any single drug task force may not 112159
exceed more than two hundred fifty thousand dollars in any 112160
calendar year. 112161

(E) As used in this section, "drug task force" means a drug 112162
task force organized in any county by the sheriff of the county, 112163
the prosecuting attorney of the county, the chief of police of the 112164
organized police department of any municipal corporation or 112165
township in the county, and the chief of police of the police 112166
force of any township police district or joint ~~township~~ police 112167
district in the county to perform functions related to the 112168
enforcement of state drug laws and other state laws related to 112169
illegal drug activity. 112170

Sec. 5505.04. (A)(1) The general administration and 112171
management of the state highway patrol retirement system and the 112172
making effective of this chapter are hereby vested in the state 112173
highway patrol retirement board. The board may sue and be sued, 112174
plead and be impleaded, contract and be contracted with, and do 112175
all things necessary to carry out this chapter. 112176

The board shall consist of the following members: 112177

(a) The superintendent of the state highway patrol; 112178

(b) Two retirant members who reside in this state; 112179

(c) Five employee-members; 112180

(d) One member, known as the treasurer of state's investment 112181
designee, who shall be appointed by the treasurer of state for a 112182
term of four years and who shall have the following 112183
qualifications: 112184

(i) The member is a resident of this state. 112185

(ii) Within the three years immediately preceding the 112186
appointment, the member has not been employed by the public 112187
employees retirement system, police and fire pension fund, state 112188
teachers retirement system, school employees retirement system, or 112189
state highway patrol retirement system or by any person, 112190
partnership, or corporation that has provided to one of those 112191
retirement systems services of a financial or investment nature, 112192
including the management, analysis, supervision, or investment of 112193
assets. 112194

(iii) The member has direct experience in the management, 112195
analysis, supervision, or investment of assets. 112196

(iv) The member is not currently employed by the state or a 112197
political subdivision of the state. 112198

(e) Two investment expert members, who shall be appointed to 112199

four-year terms. One investment expert member shall be appointed 112200
by the governor, and one investment expert member shall be jointly 112201
appointed by the speaker of the house of representatives and the 112202
president of the senate. Each investment expert member shall have 112203
the following qualifications: 112204

(i) Each investment expert member shall be a resident of this 112205
state. 112206

(ii) Within the three years immediately preceding the 112207
appointment, each investment expert member shall not have been 112208
employed by the public employees retirement system, police and 112209
fire pension fund, state teachers retirement system, school 112210
employees retirement system, or state highway patrol retirement 112211
system or by any person, partnership, or corporation that has 112212
provided to one of those retirement systems services of a 112213
financial or investment nature, including the management, 112214
analysis, supervision, or investment of assets. 112215

(iii) Each investment expert member shall have direct 112216
experience in the management, analysis, supervision, or investment 112217
of assets. 112218

(2) The board shall annually elect a chairperson and 112219
vice-chairperson from among its members. The vice-chairperson 112220
shall act as chairperson in the absence of the chairperson. A 112221
majority of the members of the board shall constitute a quorum and 112222
any action taken shall be approved by a majority of the members of 112223
the board. The board shall meet not less than once each year, upon 112224
sufficient notice to the members. All meetings of the board shall 112225
be open to the public except executive sessions as set forth in 112226
division (G) of section 121.22 of the Revised Code, and any 112227
portions of any sessions discussing medical records or the degree 112228
of disability of a member excluded from public inspection by this 112229
section. 112230

(3) Any investment expert member appointed to fill a vacancy 112231
occurring prior to the expiration of the term for which the 112232
member's predecessor was appointed holds office until the end of 112233
such term. The member continues in office subsequent to the 112234
expiration date of the member's term until the member's successor 112235
takes office, or until a period of sixty days has elapsed, 112236
whichever occurs first. 112237

(B) The attorney general shall prescribe procedures for the 112238
adoption of rules authorized under this chapter, consistent with 112239
the provision of section 111.15 of the Revised Code under which 112240
all rules shall be filed in order to be effective. Such procedures 112241
shall establish methods by which notice of proposed rules are 112242
given to interested parties and rules adopted by the board 112243
published and otherwise made available. When it files a rule with 112244
the joint committee on agency rule review pursuant to section 112245
111.15 of the Revised Code, the board shall submit to the Ohio 112246
retirement study council a copy of the full text of the rule, and 112247
if applicable, a copy of the rule summary and fiscal analysis 112248
required by division (B) of section 127.18 of the Revised Code. 112249

(C)(1) As used in this division, "personal history record" 112250
means information maintained by the board on an individual who is 112251
a member, former member, retirant, or beneficiary that includes 112252
the address, telephone number, social security number, record of 112253
contributions, correspondence with the system, and other 112254
information the board determines to be confidential. 112255

(2) The records of the board shall be open to public 112256
inspection, except for the following which shall be excluded: the 112257
member's, former member's, retirant's, or beneficiary's personal 112258
history record and the amount of a monthly allowance or benefit 112259
paid to a retirant, beneficiary, or survivor, except with the 112260
written authorization of the individual concerned. 112261

(D) All medical reports and recommendations are privileged 112262

except as follows: 112263

(1) Copies of such medical reports or recommendations shall 112264
be made available to the individual's personal physician, 112265
attorney, or authorized agent upon written release received from 112266
such individual or such individual's agent, or when necessary for 112267
the proper administration of the fund to the board-assigned 112268
physician. 112269

(2) Documentation required by section 2929.193 of the Revised 112270
Code shall be provided to a court holding a hearing under that 112271
section. 112272

(E) Notwithstanding the exceptions to public inspection in 112273
division (C)(2) of this section, the board may furnish the 112274
following information: 112275

(1) If a member, former member, or retirant is subject to an 112276
order issued under section 2907.15 of the Revised Code or an order 112277
issued under division (A) or (B) of section 2929.192 of the 112278
Revised Code or is convicted of or pleads guilty to a violation of 112279
section 2921.41 of the Revised Code, on written request of a 112280
prosecutor as defined in section 2935.01 of the Revised Code, the 112281
board shall furnish to the prosecutor the information requested 112282
from the individual's personal history record. 112283

(2) Pursuant to a court order issued under Chapters 3119., 112284
3121., and 3123. of the Revised Code, the board shall furnish to a 112285
court or child support enforcement agency the information required 112286
under those chapters. 112287

(3) At the written request of any nonprofit organization or 112288
association providing services to retirement system members, 112289
retirants, or beneficiaries, the board shall provide to the 112290
organization or association a list of the names and addresses of 112291
members, former members, retirants, or beneficiaries if the 112292
organization or association agrees to use such information solely 112293

in accordance with its stated purpose of providing services to 112294
such individuals and not for the benefit of other persons, 112295
organizations, or associations. The costs of compiling, copying, 112296
and mailing the list shall be paid by such entity. 112297

(4) Within fourteen days after receiving from the director of 112298
job and family services a list of the names and social security 112299
numbers of recipients of public assistance pursuant to section 112300
5101.181 of the Revised Code, the board shall inform the auditor 112301
of state of the name, current or most recent employer address, and 112302
social security number of each member whose name and social 112303
security number are the same as those of a person whose name or 112304
social security number was submitted by the director. The board 112305
and its employees, except for purposes of furnishing the auditor 112306
of state with information required by this section, shall preserve 112307
the confidentiality of recipients of public assistance in 112308
compliance with ~~division (A)~~ of section 5101.181 of the Revised 112309
Code. 112310

(5) The system shall comply with orders issued under section 112311
3105.87 of the Revised Code. 112312

On the written request of an alternate payee, as defined in 112313
section 3105.80 of the Revised Code, the system shall furnish to 112314
the alternate payee information on the amount and status of any 112315
amounts payable to the alternate payee under an order issued under 112316
section 3105.171 or 3105.65 of the Revised Code. 112317

(6) At the request of any person, the board shall make 112318
available to the person copies of all documents, including 112319
resumes, in the board's possession regarding filling a vacancy of 112320
an employee member or retirant member of the board. The person who 112321
made the request shall pay the cost of compiling, copying, and 112322
mailing the documents. The information described in this division 112323
is a public record. 112324

(7) The system shall provide the notice required by section 112325
5505.263 of the Revised Code to the prosecutor assigned to the 112326
case. 112327

(F) A statement that contains information obtained from the 112328
system's records that is certified and signed by an officer of the 112329
retirement system and to which the system's official seal is 112330
affixed, or copies of the system's records to which the signature 112331
and seal are attached, shall be received as true copies of the 112332
system's records in any court or before any officer of this state. 112333

Sec. 5505.22. The right of any individual to a pension, or to 112334
the return of accumulated contributions, payable as provided under 112335
this chapter, and all moneys and investments of the state highway 112336
patrol retirement system and income from moneys or investments are 112337
exempt from any state tax, except the tax imposed by section 112338
5747.02 of the Revised Code, and are exempt from any county, 112339
municipal, or other local tax, except income taxes imposed 112340
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 112341
Code, and, except as provided in sections 3105.171, 3105.65, 112342
3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 112343
5505.262, and 5505.263 of the Revised Code, shall not be subject 112344
to execution, garnishment, attachment, the operation of bankruptcy 112345
or insolvency laws, or any other process of law whatsoever, and 112346
shall be unassignable except as specifically provided in this 112347
chapter. 112348

Sec. 5525.04. No bidder shall be given a certificate of 112349
qualification unless the bidder's financial statement and the 112350
investigation made by the director of transportation show that the 112351
bidder possesses net current assets or working capital sufficient, 112352
in the judgment of the director, to render it probable that the 112353
bidder can satisfactorily execute the bidder's contracts and meet 112354
all contractual obligations. Any applicant desiring a certificate 112355

of qualification in an amount of ~~two~~ five million dollars or more 112356
shall submit on forms prescribed by the director a financial audit 112357
prepared and attested as correct by an independent certified 112358
public accountant. Any applicant desiring a certificate of 112359
qualification in an amount that is less than ~~two~~ five million 112360
dollars shall submit a financial review on forms prescribed by the 112361
director. The aggregate amount of work set forth in either type of 112362
certificate of qualification shall not exceed ten times the 112363
applicant's net current assets or working capital. At the time of 112364
bidding, a bidder's qualification is determined by the bidder's 112365
qualification amount minus all of the bidder's pending work. 112366

Applicants for qualification shall expressly authorize the 112367
director to obtain any information that the director considers 112368
pertinent, with respect to the financial worth, assets, and 112369
liabilities of the applicant, from banks or other financial 112370
institutions, surety companies, dealers in material, equipment, or 112371
supplies, or other persons having business transactions with the 112372
applicant. Applicants shall expressly authorize all such financial 112373
institutions or other persons to furnish any such information 112374
requested from them by the director. All information filed with or 112375
furnished to the director by applicants or other persons, in 112376
connection with the administration of sections 5525.02 to 5525.09 112377
of the Revised Code, shall be kept in confidence by the director 112378
and not revealed to any person, except upon proper order of a 112379
court. Failure to submit the required information or to expressly 112380
grant the director authority to obtain the required information 112381
shall result in the denial of a certificate of qualification. The 112382
director or the director's subordinates shall have access to the 112383
books of account and financial records of all applicants, unless 112384
the financial statement furnished by any applicant is prepared and 112385
attested as correct by a certified public accountant. 112386

If an applicant for either type of certificate of 112387

qualification is or has been an employer in this state the 112388
application shall be accompanied by satisfactory evidence that the 112389
applicant has complied with Chapter 4123. of the Revised Code. 112390

The director may require all qualified bidders to file 112391
financial statements at such intervals as the director prescribes. 112392
Sections 5525.02 to 5525.09 of the Revised Code shall be 112393
administered without reference to the residence of applicants, and 112394
the rules of the director shall apply equally to residents and 112395
nonresidents of this state. Sections 5525.02 to 5525.09 of the 112396
Revised Code, do not apply to the purchase of material, equipment, 112397
or supplies. 112398

Sec. 5540.01. As used in this chapter: 112399

(A) "Transportation improvement district" or "district" means 112400
a transportation improvement district designated pursuant to 112401
section 5540.02 of the Revised Code. 112402

(B) "Governmental agency" means a department, division, or 112403
other unit of state government; a county, township, or municipal 112404
corporation or other political subdivision; a regional transit 112405
authority or regional transit commission created pursuant to 112406
Chapter 306. of the Revised Code; a port authority created 112407
pursuant to Chapter 4582. of the Revised Code; and the United 112408
States or any agency thereof. 112409

(C) "Project" means a street, highway, parking facility, 112410
freight rail tracks and necessarily related freight rail 112411
facilities, or other transportation project constructed or 112412
improved under this chapter and includes all bridges, tunnels, 112413
overpasses, underpasses, interchanges, approaches, those portions 112414
of connecting streets or highways that serve interchanges and are 112415
determined by the district to be necessary for the safe merging of 112416
traffic between the project and those streets or highways, service 112417
facilities, and administration, storage, and other buildings, 112418

property, and facilities, that the district considers necessary 112419
for the operation of the project, together with all property and 112420
rights that must be acquired by the district for the construction, 112421
maintenance, or operation of the project. 112422

(D) "Cost," as applied to the construction of a project, 112423
includes the cost of construction, including bridges over or under 112424
existing highways and railroads, acquisition of all property 112425
acquired by the district for such construction, demolishing or 112426
removing any buildings or structures on land so acquired, 112427
including the cost of acquiring any lands to which such buildings 112428
or structures may be moved, site clearance, improvement, and 112429
preparation, diverting streets or highways, interchanges with 112430
streets or highways, access roads to private property, including 112431
the cost of land or easements therefor, all machinery, 112432
furnishings, and equipment, communications facilities, financing 112433
expenses, interest prior to and during construction and for one 112434
year after completion of construction, traffic estimates, 112435
indemnity and surety bonds and premiums on insurance, and 112436
guarantees, engineering, feasibility studies, and legal expenses, 112437
plans, specifications, surveys, estimates of cost and revenues, 112438
other expenses necessary or incidental to determining the 112439
feasibility or practicability of constructing a project, and such 112440
other expense as may be necessary or incident to the construction 112441
of the project and the financing of such construction. Any 112442
obligation or expense incurred by any governmental agency or 112443
person for surveys, borings, preparation of plans and 112444
specifications, and other engineering services, or any other cost 112445
described above, in connection with the construction of a project 112446
may be regarded as part of the cost of the project and reimbursed 112447
from revenues, taxes, or the proceeds of bonds as authorized by 112448
this chapter. 112449

(E) "Owner" includes any person having any title or interest 112450

in any property authorized to be acquired by a district under this 112451
chapter. 112452

(F) "Revenues" means all moneys received by a district with 112453
respect to the lease, sublease, or sale, including installment 112454
sale, conditional sale, or sale under a lease-purchase agreement, 112455
of a project, all moneys received by a district under an agreement 112456
pursuant to Section 515.03 of H.B. 66 of the 126th General 112457
Assembly, Section 555.10 of H.B. 67 of the 127th general assembly, 112458
or Section 755.20 of H.B. 153 of the 129th general assembly, any 112459
gift or grant received with respect to a project, tolls, special 112460
assessments levied by the district, proceeds of bonds to the 112461
extent the use thereof for payment of principal or of premium, if 112462
any, or interest on the bonds is authorized by the district, 112463
proceeds from any insurance, condemnation, or guaranty pertaining 112464
to a project or property mortgaged to secure bonds or pertaining 112465
to the financing of a project, and income and profit from the 112466
investment of the proceeds of bonds or of any revenues. 112467

(G) "Street or highway" has the same meaning as in section 112468
4511.01 of the Revised Code. 112469

(H) "Financing expenses" means all costs and expenses 112470
relating to the authorization, issuance, sale, delivery, 112471
authentication, deposit, custody, clearing, registration, 112472
transfer, exchange, fractionalization, replacement, payment, and 112473
servicing of bonds including, without limitation, costs and 112474
expenses for or relating to publication and printing, postage, 112475
delivery, preliminary and final official statements, offering 112476
circulars, and informational statements, travel and 112477
transportation, underwriters, placement agents, investment 112478
bankers, paying agents, registrars, authenticating agents, 112479
remarketing agents, custodians, clearing agencies or corporations, 112480
securities depositories, financial advisory services, 112481
certifications, audits, federal or state regulatory agencies, 112482

accounting and computation services, legal services and obtaining 112483
approving legal opinions and other legal opinions, credit ratings, 112484
redemption premiums, and credit enhancement facilities. 112485

(I) "Bond proceedings" means the resolutions, trust 112486
agreements, certifications, notices, sale proceedings, leases, 112487
lease-purchase agreements, assignments, credit enhancement 112488
facility agreements, and other agreements, instruments, and 112489
documents, as amended and supplemented, or any one or more of 112490
combination thereof, authorizing, or authorizing or providing for 112491
the terms and conditions applicable to, or providing for the 112492
security or sale or award or liquidity of, bonds, and includes the 112493
provisions set forth or incorporated in those bonds and bond 112494
proceedings. 112495

(J) "Bond service charges" means principal, including any 112496
mandatory sinking fund or mandatory redemption requirements for 112497
retirement of bonds, and interest and any redemption premium 112498
payable on bonds, as those payments come due and are payable to 112499
the bondholder or to a person making payment under a credit 112500
enhancement facility of those bond service charges to a 112501
bondholder. 112502

(K) "Bond service fund" means the applicable fund created by 112503
the bond proceedings for and pledged to the payment of bond 112504
service charges on bonds provided for by those proceedings, 112505
including all moneys and investments, and earnings from 112506
investments, credited and to be credited to that fund as provided 112507
in the bond proceedings. 112508

(L) "Bonds" means bonds, notes, including notes anticipating 112509
bonds or other notes, commercial paper, certificates of 112510
participation, or other evidences of obligation, including any 112511
interest coupons pertaining thereto, issued pursuant to this 112512
chapter. 112513

(M) "Net revenues" means revenues lawfully available to pay 112514
both current operating expenses of a district and bond service 112515
charges in any fiscal year or other specified period, less current 112516
operating expenses of the district and any amount necessary to 112517
maintain a working capital reserve for that period. 112518

(N) "Pledged revenues" means net revenues, moneys and 112519
investments, and earnings on those investments, in the applicable 112520
bond service fund and any other special funds, and the proceeds of 112521
any bonds issued for the purpose of refunding prior bonds, all as 112522
lawfully available and by resolution of the district committed for 112523
application as pledged revenues to the payment of bond service 112524
charges on particular issues of bonds. 112525

(O) "Special funds" means the applicable bond service fund 112526
and any accounts and subaccounts in that fund, any other funds or 112527
accounts permitted by and established under, and identified as a 112528
special fund or special account in, the bond proceedings, 112529
including any special fund or account established for purposes of 112530
rebate or other requirements under federal income tax laws. 112531

(P) "Credit enhancement facilities" means letters of credit, 112532
lines of credit, standby, contingent, or firm securities purchase 112533
agreements, insurance, or surety arrangements, guarantees, and 112534
other arrangements that provide for direct or contingent payment 112535
of bond service charges, for security or additional security in 112536
the event of nonpayment or default in respect of bonds, or for 112537
making payment of bond service charges and at the option and on 112538
demand of bondholders or at the option of the district or upon 112539
certain conditions occurring under put or similar arrangements, or 112540
for otherwise supporting the credit or liquidity of the bonds, and 112541
includes credit, reimbursement, marketing, remarketing, indexing, 112542
carrying, interest rate hedge, and subrogation agreements, and 112543
other agreements and arrangements for payment and reimbursement of 112544
the person providing the credit enhancement facility and the 112545

security for that payment and reimbursement. 112546

(Q) "Refund" means to fund and retire outstanding bonds, 112547
including advance refunding with or without payment or redemption 112548
prior to stated maturity. 112549

(R) "Property" includes interests in property. 112550

(S) "Administrative agent," "agent," "commercial paper," 112551
"floating rate interest structure," "indexing agent," "interest 112552
rate hedge," "interest rate period," "put arrangement," and 112553
"remarketing agent" have the same meanings as in section 9.98 of 112554
the Revised Code. 112555

(T) "Outstanding" as applied to bonds means outstanding in 112556
accordance with the terms of the bonds and the applicable bond 112557
proceedings. 112558

(U) "Interstate system" has the same meaning as in section 112559
5516.01 of the Revised Code. 112560

Sec. 5540.03. (A) A transportation improvement district may: 112561

(1) Adopt bylaws for the regulation of its affairs and the 112562
conduct of its business; 112563

(2) Adopt an official seal; 112564

(3) Sue and be sued in its own name, plead and be impleaded, 112565
provided any actions against the district shall be brought in the 112566
court of common pleas of the county in which the principal office 112567
of the district is located, or in the court of common pleas of the 112568
county in which the cause of action arose, and all summonses, 112569
exceptions, and notices of every kind shall be served on the 112570
district by leaving a copy thereof at its principal office with 112571
the secretary-treasurer; 112572

(4) Purchase, construct, maintain, repair, sell, exchange, 112573
police, operate, or lease projects; 112574

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:	112575 112576
(a) Transportation improvement district revenue bonds;	112577
(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;	112578 112579
(6) Maintain such funds as it considers necessary;	112580
(7) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;	112581 112582 112583 112584 112585 112586
(8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;	112587 112588 112589
(9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;	112590 112591 112592 112593 112594 112595 112596 112597
(10) Receive and accept from the federal or any state or local government, including, but not limited to, any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, and contributions are made. Nothing in	112598 112599 112600 112601 112602 112603 112604 112605

division (A)(10) of this section shall be construed as imposing 112606
any liability on this state for any loan received by a 112607
transportation improvement district from a third party unless this 112608
state has entered into an agreement to accept such liability. 112609

(11) Acquire, hold, and dispose of property in the exercise 112610
of its powers and the performance of its duties under this 112611
chapter; 112612

(12) Establish and collect tolls or user charges for its 112613
projects; 112614

(13) Do all acts necessary and proper to carry out the powers 112615
expressly granted in this chapter. 112616

(B) Chapters 123., 124., 125., 153., and 4115., and sections 112617
9.331, ~~9.332~~, ~~9.333~~, to 9.335 and 307.86 of the Revised Code do 112618
not apply to contracts or projects of a transportation improvement 112619
district. 112620

Sec. 5540.031. (A) The board of trustees of a transportation 112621
improvement district may provide for the construction, 112622
reconstruction, improvement, alteration, or repair of any road, 112623
highway, public place, building, or other infrastructure and levy 112624
special assessments, if the board determines that the public 112625
improvement will benefit the area where it will be constructed, 112626
reconstructed, improved, altered, or repaired. However, if the 112627
improvement is proposed for territory in a political subdivision 112628
located outside the district's territory, the legislative 112629
authority of that political subdivision shall approve the 112630
undertaking of the improvement within the political subdivision. 112631

(B) If any improvements are made under this section, 112632
contracts for the improvement may provide that the improvement may 112633
be owned by the district or by the person or corporation supplying 112634
it to the district under a lease. 112635

(C) If the board of trustees of a district proposes an improvement described in division (A) of this section, the board shall conduct a hearing on the proposed improvement. The board shall indicate by metes and bounds the area in which the public improvement will be made and the area that will benefit from the improvement.

(D) The board of trustees shall fix a day for a hearing on the proposed improvement. The secretary-treasurer of the board shall deliver, to each owner of a parcel of land or a lot that the board identifies as benefiting from the proposed improvement, a notice that sets forth the substance of the proposed improvement and the time and place of the hearing on it. At least fifteen days before the date set for the hearing, a copy of the notice shall be served upon the owner or left at ~~his~~ the owner's usual place of residence, or, if the owner is a corporation, upon an officer or agent of the corporation. On or before the day of the hearing, the person serving notice of the hearing shall make return thereon, under oath, of the time and manner of service, and shall file the notice with the secretary-treasurer of the board.

At least fifteen days before the day set for the hearing on the proposed improvement, the secretary-treasurer shall give notice to each nonresident owner of a lot or parcel of land in the area to be benefited by the improvement, by publication once in a newspaper ~~published and~~ of general circulation in the one or more counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.

(E) At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any

of the parties affected by the proposed improvement and by any 112668
other persons competent to testify. The board or its 112669
representatives shall inspect, by an actual viewing, the area to 112670
be benefited by the proposed improvement. The board shall 112671
determine the necessity of the proposed improvement and may find 112672
that the proposed improvement will result in general as well as 112673
special benefits. The board may adjourn from time to time and to 112674
such places as it considers necessary. 112675

(F)(1) The board may award contracts or enter into a lease 112676
agreement for the construction, reconstruction, improvement, 112677
alteration, or repair of any improvement described in division (A) 112678
of this section and may issue notes, bonds, revenue anticipatory 112679
instruments, or other obligations, as authorized by this chapter, 112680
to finance the improvements. 112681

(2) All or a part of the costs and expenses of providing for 112682
the construction, reconstruction, improvement, alteration, or 112683
repair of any improvement described in division (F)(1) of this 112684
section may be paid from a fund into which may be paid special 112685
assessments levied under this section against the lots and parcels 112686
of land in the area to be benefited by the improvement, if the 112687
board finds that the improvement will result in general or special 112688
benefits to the benefited area. These special assessments shall be 112689
levied not more than one time on the same lot or parcel of land. 112690
Such costs and expenses may also be paid from the treasury of the 112691
district or from other available sources in amounts the board 112692
finds appropriate. 112693

(3) The board shall levy special assessments at an amount not 112694
to exceed ten per cent of the assessable value of the lot or 112695
parcel of land being assessed. The board shall determine the 112696
assessable value of a lot or parcel of land in the following 112697
manner: the board shall first determine the fair market value of 112698
the lot or parcel being assessed in the calendar year in which the 112699

area to be benefited by the public improvement is first designated 112700
and then multiply this amount by the average rate of appreciation 112701
in value of the lot or parcel since that calendar year. The 112702
assessable value of the lot or parcel is the current fair market 112703
value of the lot or parcel minus the amount calculated in the 112704
manner described in the immediately preceding sentence. The board 112705
may adjust the assessable value of a lot or parcel of land to 112706
reflect a sale of the lot or parcel that indicates an appreciation 112707
in its value that exceeds its average rate of appreciation in 112708
value. 112709

(4) Special assessments levied by the board may be paid in 112710
full in a lump sum or may be paid and collected in equal 112711
semiannual installments, equal in number to twice the number of 112712
years for which the lease of the improvement is made or twice the 112713
number of years that the note, bond, instrument, or obligation 112714
that the assessments are pledged to pay requires. The assessments 112715
shall be paid and collected in the same manner and at the same 112716
time as real property taxes are paid and collected, and 112717
assessments in the amount of fifty dollars or less shall be paid 112718
in full, and not in installments, at the time the first or next 112719
installment would otherwise become due and payable. Complaints 112720
regarding assessments may be made to the county board of revision 112721
in the same manner as complaints relating to the valuation and 112722
assessment of real property. 112723

Credits against assessments shall be granted equal to the 112724
value of any construction, reconstruction, improvement, 112725
alteration, or repair that an owner of a parcel of land or lot 112726
makes to an improvement pursuant to an agreement between the owner 112727
and the district. 112728

(5) After the levy of a special assessment, the board, at any 112729
time during any year in which an installment of the assessment 112730
becomes due, may pay out of other available funds of the district, 112731

including any state or federal funds available to the district, 112732
the full amount of the price of the contract that the special 112733
assessments are pledged to pay for that year or any other portion 112734
of the remaining obligation. The board shall be the sole 112735
determiner of the definition, extent, and allocation of the 112736
benefit resulting from an improvement that the board authorizes 112737
under this section. 112738

(G)(1) The board shall certify to the appropriate county 112739
auditor the boundaries of the area that is benefited by any public 112740
improvement the board authorizes under this section and, when the 112741
board so requests, the auditor shall apportion the valuation of 112742
any lot or parcel of land lying partly within and partly outside 112743
the area so benefited. 112744

(2) The board by resolution shall assess against the lots and 112745
parcels of land located in the area that is benefited by a public 112746
improvement such portion of the costs of completing the public 112747
improvement as the board determines, for the period that may be 112748
necessary to pay the note, bond, instrument, or obligation issued 112749
to pay for the improvement and the proceedings in relation to it, 112750
and shall certify these costs to the appropriate county auditor. 112751

(3) Except for assessments that have been paid in full in a 112752
lump sum, the county auditor shall annually place upon the tax 112753
duplicate, for collection in semiannual installments, the two 112754
installments of the assessment for that year, which shall be paid 112755
and collected at the same time and in the same manner as real 112756
property taxes. The collected assessments shall be paid to the 112757
treasury of the district and the board of the district shall use 112758
the assessments for any purpose authorized by this chapter. 112759

Sec. 5540.05. The board of trustees of a district may acquire 112760
real property in fee simple in the name of the district in 112761
connection with, but in excess of that needed for, a project by 112762

any method other than appropriation and hold the property for such 112763
period of time as the board determines. All right, title, and 112764
interest of the district in the property may be sold at public 112765
auction or otherwise, as the board considers in the best interests 112766
of the district; but in no event shall the property be sold for 112767
less than two-thirds of its appraised value. Sale at public 112768
auction shall be undertaken only after the board advertises the 112769
sale in a newspaper of general circulation in the district for ~~at~~ 112770
~~least~~ two weeks or as provided in section 7.16 of the Revised 112771
Code, prior to the date set for the sale. 112772

Sec. 5543.10. (A) The county engineer, upon the order of the 112773
board of county commissioners or board of township trustees, shall 112774
construct sidewalks, curbs, or gutters of suitable materials, 112775
along or connecting the public highways, outside any municipal 112776
corporation, upon the petition of a majority of the abutting 112777
property owners. The expense of the construction of these 112778
improvements may be paid by the county or township, or by the 112779
county or township and abutting property owners in such proportion 112780
as determined by the board of county commissioners or board of 112781
township trustees. The board of county commissioners or board of 112782
township trustees may assess part or all of the cost of these 112783
improvements against the abutting property owners, in proportion 112784
to benefits accruing to their property. 112785

The board of county commissioners or board of township 112786
trustees, by unanimous vote, may order the construction, repair, 112787
or maintenance of sidewalks, curbs, and gutters along or 112788
connecting the public highways, outside a municipal corporation, 112789
without a petition for that construction, repair, or maintenance, 112790
and may assess none, all, or any part of the cost against abutting 112791
property owners, provided that notice is given by publication for 112792
three successive weeks in a newspaper of general circulation 112793
within the county or as provided in section 7.16 of the Revised 112794

Code, stating the intention of the board of county commissioners 112795
or board of township trustees to construct, repair, or maintain 112796
the specified improvements and fixing a date for a hearing on 112797
them. As part of a sidewalk improvement, the board may include the 112798
repair or reconstruction of a driveway within the sidewalk 112799
easement. As part of a curb improvement, the board may include 112800
construction or repair of a driveway apron. 112801

Notice to all abutting property owners shall be given by two 112802
publications in a newspaper of general circulation in the county 112803
or as provided in section 7.16 of the Revised Code, at least ten 112804
days prior to the date fixed in the notice for the making of 112805
assessments. The notice shall state the time and place when 112806
abutting property owners will be given an opportunity to be heard 112807
with reference to assessments. The board of county commissioners 112808
or board of township trustees shall determine whether assessments 112809
shall be paid in one or more installments. 112810

(B) The county engineer may trim or remove any and all trees, 112811
shrubs, and other vegetation growing in or encroaching onto the 112812
right-of-way of the easement of a public sidewalk along or 112813
connecting the public highways and maintained by the county, and 112814
the board of township trustees may trim or remove any and all 112815
trees, shrubs, and other vegetation growing in or encroaching onto 112816
the right-of-way of the easement of a public sidewalk along or 112817
connecting the public highways and maintained by the township, as 112818
is necessary in the engineer's or board's judgment to facilitate 112819
the right of the public to improvement and maintenance of, and 112820
uninterrupted travel on, public sidewalks in the county or 112821
township. 112822

Sec. 5549.21. The board of township trustees may purchase or 112823
lease such machinery and tools as are necessary for use in 112824
constructing, reconstructing, maintaining, and repairing roads and 112825

culverts within the township, and shall provide suitable places 112826
for housing and storing machinery and tools owned by the township. 112827
It may purchase such material and employ such labor as is 112828
necessary for carrying into effect this section, or it may 112829
authorize the purchase or employment of such material and labor by 112830
one of its number, or by the township highway superintendent, at a 112831
price to be fixed by the board. All payments on account of 112832
machinery, tools, material, and labor shall be made from the 112833
township road fund. Except as otherwise provided in sections 112834
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 112835
materials, machinery, and tools shall, if the amount involved 112836
exceeds ~~twenty-five~~ fifty thousand dollars, be made from the 112837
lowest responsible bidder after advertisement, as provided in 112838
section 5575.01 of the Revised Code. 112839

If, in compliance with section 505.10 of the Revised Code, 112840
the board wishes to sell machinery, equipment, or tools owned by 112841
the township to the person from whom it is to purchase other 112842
machinery, equipment, or tools, the board may offer, if the amount 112843
of the purchase alone involved does not exceed ~~twenty-five~~ fifty 112844
thousand dollars, to sell such machinery, equipment, or tools and 112845
have the amount credited by the vendor against the purchase of the 112846
other machinery, equipment, or tools. If the purchase price of the 112847
other machinery, equipment, or tools alone exceeds ~~twenty-five~~ 112848
fifty thousand dollars, the board may give notice to the 112849
competitive bidders of its willingness to accept offers for the 112850
purchase of the old machinery, equipment, or tools, and those 112851
offers shall be subtracted from the selling price of the other 112852
machinery, equipment, or tools as bid, in determining the lowest 112853
responsible bidder. Notice of the willingness of the board to 112854
accept offers for the purchase of the old machinery, equipment, or 112855
tools shall be made as a part of the advertisement for bids. 112856

Sec. 5552.06. (A) A board of county commissioners or a board 112857

of township trustees may adopt access management regulations or 112858
any amendments to those regulations after holding at least two 112859
public hearings at regular or special sessions of the board. The 112860
board shall consider the county engineer's proposed regulations 112861
prepared under division (B) of section 5552.04 or 5552.05 of the 112862
Revised Code and all comments on those regulations. The board, in 112863
its discretion, may, but need not, adopt any or all of those 112864
proposed regulations. After the public hearings, the board may 112865
decide not to adopt any access management regulations. 112866

The board shall publish notice of the public hearings in a 112867
newspaper of general circulation in the county or township, as 112868
applicable, once a week for ~~at least~~ two weeks or as provided in 112869
section 7.16 of the Revised Code, immediately preceding the 112870
hearings. The notice shall include the time, date, and place of 112871
each hearing. Copies of any proposed regulations or amendments 112872
shall be made available to the public at the board's office and, 112873
if the county engineer administers or is proposed to administer a 112874
point of access permit, in the engineer's office. 112875

(B) In addition to the notice required by division (A) of 112876
this section, not less than thirty days before holding a public 112877
hearing, a board of county commissioners shall send a copy of the 112878
county engineer's proposed regulations, a copy of the advisory 112879
committee's recommendations, and a request for written comments to 112880
the board of township trustees of each township in the county, the 112881
department of transportation district deputy director for the 112882
district in which the county is located, a representative of the 112883
metropolitan planning organization, where applicable, and at least 112884
the local professional associations representing the following 112885
professions: 112886

(1) Homebuilders; 112887

(2) Realtors; 112888

- (3) Professional surveyors; 112889
- (4) Attorneys; 112890
- (5) Professional engineers. 112891

(C) In addition to the notice required by division (A) of 112892
this section, a board of township trustees shall send a copy of 112893
the county engineer's proposed regulations, a copy of the advisory 112894
committee's recommendations, and a request for written comments, 112895
not less than thirty days before holding a public hearing, to the 112896
department of transportation district deputy director for the 112897
district in which the township is located, a representative of the 112898
metropolitan planning organization, where applicable, and at least 112899
the local professional associations representing the professions 112900
listed in division (B) of this section. 112901

Sec. 5553.05. (A) In the resolution required by section 112902
5553.04 of the Revised Code, the board of county commissioners 112903
shall fix a date when it will view the proposed improvement, and 112904
also a date for a final hearing thereon. 112905

The board shall give notice of the time and place for both 112906
such view and hearing by publication once a week for two 112907
consecutive weeks in a newspaper ~~published and having~~ of general 112908
circulation in the county where such improvement is located, ~~but~~ 112909
~~if there is no such newspaper published in said county, then in a~~ 112910
~~newspaper having general circulation in said county~~ or as provided 112911
in section 7.16 of the Revised Code. Such notice, in addition to 112912
the date and place of such view and place and time of the final 112913
hearing, shall state briefly the character of such improvement. 112914

(B) If the board adopts a resolution to vacate a public road 112915
as provided in section 5553.04 of the Revised Code, or if a 112916
petition to vacate a public road is filed, the board shall, in 112917
addition to the notice of the time and place for hearing 112918

prescribed in division (A) of this section, send written notice of 112919
the hearing by first class mail at least twenty days before the 112920
date of the public hearing to owners of property abutting upon 112921
that portion of the road to be vacated, and to the director of 112922
natural resources. Such notice shall be mailed to the addresses of 112923
such owners appearing on the county auditor's current tax list or 112924
the treasurer's mailing list, and such other list or lists that 112925
may be specified by the board. The failure of the delivery of such 112926
notice does not invalidate any such vacating of the road 112927
authorized in the resolution. 112928

Sec. 5553.19. The county engineer shall view and survey the 112929
road as provided in section 5553.18 of the Revised Code, and shall 112930
make a return of the survey and plat of the road to the board of 112931
county commissioners. Upon the filing of the report of the 112932
engineer, the board shall give notice of the filing of such report 112933
by publication as provided in section 7.16 of the Revised Code or 112934
once each week for three consecutive weeks in a newspaper 112935
~~published and having~~ of general circulation in the county in which 112936
such road is situated, ~~but if there is no such newspaper published~~ 112937
~~in said county, then in a newspaper having general circulation in~~ 112938
~~said county.~~ Such notice shall state the date and time of the 112939
hearing upon the report of the engineer. If exceptions or 112940
objections are made, the board shall hear them, and it may approve 112941
or reject said report. If the report of the engineer is approved, 112942
the board shall cause such report to be recorded together with the 112943
survey and plat of such road. 112944

Sec. 5553.23. If a person through whose land a public road 112945
has been established, which is under the jurisdiction of the board 112946
of county commissioners, desires to turn or change or relocate 112947
such road or any part thereof through any part of ~~his~~ the person's 112948
land, ~~he~~ the person may file a petition with the board of county 112949

commissioners setting forth briefly the particular change ~~he~~ 112950
~~desires~~ desired. Upon the receipt of such petition, the board 112951
shall give notice by publication once not later than two weeks 112952
prior to the date for the hearing on such petition in ~~some a~~ 112953
newspaper ~~published and~~ of general circulation in said county, ~~but~~ 112954
~~if there is no such newspaper published in said county, then in a~~ 112955
~~newspaper having general circulation in said county,~~ stating that 112956
such petition has been filed and setting forth the change desired 112957
in such road and the date and place for the hearing on said 112958
petition. If a public road was once established for public 112959
convenience through private lands, but has not been improved by 112960
public funds and for more than twenty-one years has not been used, 112961
the owner of such land may petition the board to vacate the road 112962
in accordance with proceedings under sections 5553.04 to 5553.11 112963
of the Revised Code. 112964

A person through whose land a trail right of way has been 112965
preserved under section 5553.044 of the Revised Code may file a 112966
petition to turn or change the route of the trail right of way in 112967
the manner provided in this section, and such petition shall be 112968
acted upon in the manner set forth in sections 5553.23 to 5553.31 112969
of the Revised Code. Notice of the hearing in such case shall also 112970
be made by first class mail to the director of natural resources. 112971
If the board turns or changes the route of the trail right of way, 112972
it shall furnish the director with a full and accurate description 112973
or map of the change. 112974

Sec. 5553.42. The board of county commissioners shall give 112975
notice to the owners of lands through which the proposed road will 112976
pass of the filing of the petition provided for in section 5553.41 112977
of the Revised Code and the date and place of the hearing thereon. 112978
Such notice shall be served on such owners personally, or by 112979
leaving a copy of such notice at the usual place of residence of 112980
such owners at least five days before the date of the hearing on 112981

said petition. Proof of service of such notice shall be made by 112982
affidavit of the person serving such notice. If any of such owners 112983
are nonresidents of the county, the board shall give notice to 112984
such nonresidents by publication once each week for two 112985
consecutive weeks in a newspaper ~~published and having~~ of general 112986
circulation ~~within in~~ the county, ~~but if there is no such~~ 112987
~~newspaper published in said county, then in a newspaper having~~ 112988
~~general circulation in said county~~ or as provided in section 7.16 112989
of the Revised Code. A copy of the newspaper containing such 112990
notice shall be mailed by the county auditor to each nonresident 112991
whose post-office address is known to such auditor. Such notice 112992
shall state the time and place of the hearing on claims for 112993
compensation and damages. 112994

Sec. 5555.07. The county engineer shall prepare and file with 112995
the board of county commissioners, by the time fixed therefor by 112996
the board, copies of the surveys, plans, profiles, cross sections, 112997
estimates of costs, and specifications for the improvement and 112998
estimated assessments upon lands benefited thereby. Thereupon such 112999
board shall file such copies in its office for the inspection and 113000
examination of all persons interested. Except in a case involving 113001
the improvement of a public road in which no land or property is 113002
taken or assessed, the board shall publish in a newspaper 113003
~~published and~~ of general circulation in the county, ~~or if no~~ 113004
~~newspaper is published in the county then in a newspaper having~~ 113005
~~general circulation in the county,~~ for the period of two weeks or 113006
as provided in section 7.16 of the Revised Code, notice that a 113007
resolution has been adopted providing for said improvement, and 113008
that copies of the surveys, plans, profiles, cross sections, 113009
estimates, and specifications, together with estimated assessments 113010
upon the lands benefited by such improvement for the proportion of 113011
the cost thereof to be assessed therefor, are on file in the 113012
office of the board for the inspection of persons interested 113013

therein. Such notice shall state the time and place for hearing 113014
objections to said improvement and to such estimated assessments. 113015
In a case involving the improvement of a public road in which no 113016
land or property is taken or assessed, the board shall publish the 113017
notice required by this section once a week for two consecutive 113018
weeks or as provided in section 7.16 of the Revised Code. 113019

113020

At such hearing the board may order said surveys, plans, 113021
profiles, cross sections, estimates, and specifications to be 113022
changed or modified and shall make such adjustments of the 113023
estimated assessments as seem just to it. Thereupon the board may 113024
approve such surveys, plans, profiles, cross sections, 113025
specifications, and estimates and approve and confirm estimated 113026
assessments as made by the engineer or as modified and changed by 113027
the board. Such assessments when so approved and confirmed shall 113028
be certified to the county auditor of the county and shall 113029
thereupon become a lien upon the land charged therewith. The board 113030
may declare against said improvement. 113031

Sec. 5555.27. As soon as the county engineer has transmitted 113032
to the several boards of county commissioners copies of ~~his~~ the 113033
engineer's surveys, plans, profiles, cross sections, estimates, 113034
and specifications for the improvement, the joint board of county 113035
commissioners shall, except in cases of reconstruction or repair 113036
of roads where no lands or property are taken, fix a time and 113037
place for hearing objections to said improvement. The joint board 113038
shall thereupon, except in cases of reconstruction or repair of 113039
roads where no lands or property are taken, publish in a newspaper 113040
~~published and~~ of general circulation within each interested 113041
county, ~~or if there is no such newspaper published in such county~~ 113042
~~then in a newspaper having general circulation in such county,~~ 113043
once a week for two consecutive weeks or as provided in section 113044
7.16 of the Revised Code, a notice that such improvement is to be 113045

made and that copies of the surveys, plans, profiles, cross 113046
sections, estimates, and specifications therefor are on file in 113047
the office of the board of each interested county for the 113048
inspection and examination of all persons interested therein. Such 113049
notice shall also state the time and place for hearing objections 113050
to said improvement. Proceedings for the appropriation of land 113051
needed for such improvement shall be maintained in accordance with 113052
sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code. 113053

Sec. 5555.42. A board of county commissioners desiring to 113054
construct a county road improvement, and finding that no equitable 113055
method of apportioning the compensation, damages, and expenses 113056
thereof is provided by section 5555.41 of the Revised Code, or 113057
finding that an equitable assessment cannot be made by the use of 113058
any of the several assessment areas authorized by said section, 113059
may order the county engineer to make a tentative plan for such 113060
improvement and an approximate estimate of the cost. Such board 113061
may thereupon file an application in the court of common pleas 113062
describing the improvement in question, and a copy of the 113063
tentative plan and approximate estimate of cost shall be attached 113064
to such application. The board shall set forth in such application 113065
that the compensation, damages, and expenses of the improvement 113066
cannot be equitably apportioned under any of the several plans 113067
provided by said section or that such compensation, damages, and 113068
expenses cannot be equitably assessed by the use of any one of the 113069
several assessment areas authorized by said section, or that both 113070
such conditions exist, and it shall set forth a method of 113071
apportioning the compensation, damages, and expenses and a 113072
definite description of the area against which it desires to 113073
assess any part of such compensation, damages, and expenses. The 113074
application shall contain a prayer requesting authority from such 113075
court to construct the improvement and apportion the compensation, 113076
damages, and expenses according to the plan suggested by such 113077

board and to assess the designated portion of the cost against the 113078
real estate within the area described in the petition. 113079

Notice of the filing and pendency of such application shall 113080
be given once a week for four consecutive weeks by publication in 113081
~~two newspapers published and of general circulation in the county,~~ 113082
~~or if there are no such newspapers then in two newspapers a~~ 113083
newspaper of general circulation in such county or as provided in 113084
section 7.16 of the Revised Code. Such notice shall describe the 113085
route and termini of the improvement and set forth the estimated 113086
cost and the proposed method of apportionment and assessment area. 113087
After such notice has been given, the court or a judge thereof 113088
shall fix a time for a hearing on such application, and, at the 113089
time fixed, the court or a judge thereof shall hear such 113090
application and all evidence offered by the board or any taxpayer 113091
of the county for or against the proposed plan of apportionment 113092
and for or against the use of the suggested assessment area. If 113093
the court finds that the suggested plan of apportionment and the 113094
area against which special assessments are to be made are fair and 113095
just, that the cost of the improvement will not be excessive in 113096
view of the benefits conferred, and that all the real estate 113097
within the suggested assessment area will be benefited by the 113098
construction of the improvement upon the plan suggested and by the 113099
use of the method of apportionment set forth in said application, 113100
such court may authorize the board to proceed upon the suggested 113101
plan and to apportion the compensation, damages, and expenses in 113102
the manner set forth in the application and to assess against the 113103
real estate within the assessment area designated in the 113104
application, according to the benefits, that portion of the cost 113105
to be specially assessed; otherwise the court shall dismiss the 113106
application and the board may not proceed with the improvement. 113107
The court may modify the suggested plan of apportionment or the 113108
suggested assessment area and grant the prayer of the application 113109
subject to such modifications as it determines are just and 113110

proper. The board in its application may set up any division of 113111
cost which it thinks proper among the county, the owners of lands 113112
to be specially assessed, and any municipal corporation within 113113
which such projected improvement is situated in whole or in part, 113114
but no portion of the cost may be apportioned to a municipal 113115
corporation without the consent of such municipal corporation 113116
evidenced by an ordinance or resolution of its legislative 113117
authority. 113118

When the prayer of any such application is granted by the 113119
court or a judge thereof and the plan of apportionment and area of 113120
assessment is approved by such court, either as set forth in the 113121
application or as modified by the court, the board may proceed 113122
with the construction of the improvement and use the method of 113123
apportionment and the assessment area authorized by the court. In 113124
such event, the board may levy taxes and issue bonds in the manner 113125
provided by law with respect to improvements, the compensation, 113126
damages, and expenses of which are apportioned and paid as 113127
provided in section 5555.41 of the Revised Code, and all 113128
proceedings in connection with such improvement shall be conducted 113129
in accordance with sections 5555.01 to 5555.83 of the Revised 113130
Code, except as provided in this section. The special assessments 113131
shall be made by the board against the real estate within the 113132
assessment area authorized by the court, but no assessment against 113133
any lot or parcel of real estate shall exceed the actual benefits 113134
conferred thereon by the construction of the improvement. This 113135
section also applies to improvements of sections of a state 113136
highway within counties having a tax duplicate of real and 113137
personal property in excess of three hundred million dollars, and 113138
with respect to which the board desires to co-operate with the 113139
department of transportation. 113140

Sec. 5559.06. Upon the completion of the surveys, plans, 113141
profiles, cross sections, estimates, and specifications for an 113142

improvement under section 5559.02 of the Revised Code by the 113143
county engineer, ~~he~~ the engineer shall transmit to the board of 113144
county commissioners copies of such surveys, plans, profiles, 113145
cross sections, estimates, and specifications. The board shall 113146
then publish, in a newspaper ~~published and~~ of general circulation 113147
within the county, ~~and if there is no such newspaper published in~~ 113148
~~the county then in one having general circulation in such county,~~ 113149
once a week for two consecutive weeks or as provided in section 113150
7.16 of the Revised Code, a notice that such improvement is to be 113151
made and that copies of the surveys, plans, profiles, cross 113152
sections, estimates, and specifications for it are on file in the 113153
office of the board for the inspection and examination of all 113154
persons interested. Such notice shall also state the time and 113155
place for hearing objections to the improvement. 113156

In the event that land or property is to be taken for such 113157
improvement, such taking shall be in accordance with sections 113158
163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 113159

Sec. 5559.10. As soon as all questions of compensation and 113160
damages have been determined in a road improvement case, the 113161
county engineer shall make, upon actual view, an estimated 113162
assessment upon the real estate to be charged therewith, of the 113163
compensation, damages, and costs of an improvement as provided by 113164
section 5559.02 of the Revised Code. Such estimated assessment 113165
shall be according to the benefit which will result to the real 113166
estate. In making such assessment the engineer may take into 113167
consideration any previous special assessments made upon the real 113168
estate for road improvements. The schedule of such assessments 113169
shall be filed in the office of the board of county commissioners 113170
for the inspection of the persons interested. Before adopting the 113171
assessment, the board shall publish, once each week for two 113172
consecutive weeks, in ~~some a~~ a newspaper ~~published and~~ of general 113173
circulation in the county or as provided in section 7.16 of the 113174

~~Revised Code, but if there is no such newspaper then in one having~~ 113175
~~general circulation in the county,~~ notice that such assessment has 113176
been made, is on file in the office of the board, and the date 113177
when objections will be heard to such assessment. If any owner of 113178
property affected thereby desires, ~~he~~ the owner may file ~~his~~ 113179
objections to said assessments, in writing, with the board before 113180
the time for hearing. If any objections are filed the board shall 113181
hear them and act as an equalizing board. It may change such 113182
assessments if, in its opinion, any change is necessary to make 113183
them just and equitable, and the board shall approve and confirm 113184
such assessments as reported by the engineer or modified by it. 113185
Such assessments, when so approved and confirmed, shall be a lien 113186
on the land chargeable therewith. 113187

Sec. 5559.12. After the board of county commissioners has 113188
decided to proceed with an improvement as provided by section 113189
5559.02 of the Revised Code, it shall advertise for bids once, not 113190
later than two weeks prior to the date fixed for the letting of 113191
the contract, in a newspaper ~~published and~~ of general circulation 113192
in the county, ~~but if there is no such newspaper then in one~~ 113193
~~having general circulation in such county.~~ Such notice shall state 113194
that copies of the surveys, plans, profiles, cross sections, 113195
estimates, and specifications for such improvement are on file in 113196
the office of the board, and the time within which bids will be 113197
received. The board shall award the contract to the lowest 113198
responsible bidder. 113199

The contract shall be let upon the basis of lump sum bids, 113200
unless the board orders that it be let upon the basis of unit 113201
price bids, in which event it shall be let upon such basis. The 113202
bids received shall be opened at the time stated in the notice. 113203
The board may reject all bids. 113204

Sec. 5561.04. The board of county commissioners, desiring to 113205

proceed under sections 4957.06 and 5561.01 to 5561.15 of the Revised Code, shall, after receipt of the certificate of necessity and expediency from the director of transportation, as provided in section 5561.03 of the Revised Code, hold a public hearing as to the expediency of constructing such improvement, notice of which shall be given by publication in ~~two newspapers published and a~~ newspaper of general circulation in the county, ~~if such there be, otherwise in two newspapers of general circulation in such county,~~ for two weeks prior to the date set for such hearing or as provided in section 7.16 of the Revised Code, and shall be served upon the railroad or interurban railway companies in the manner for the service of summons in civil actions, not less than twenty days prior to the date of such hearing.

The board, after such hearing and for the purpose of making or causing such an improvement to be made, may, by resolution adopted by unanimous vote, require the railroad company, in co-operation with the county engineer or any engineer designated by the board, to prepare and submit to the board within six months, unless longer time is mutually agreed upon in writing, plans and specifications for such improvements, specifying the number, character, and location of all piers and supports which are to be permanently placed in any road or highway, specifying the grades to be established for the roads and the height, character, and estimated cost of any viaduct or way above or below any railroad track, and the change of grade required to be made of such tracks including side tracks and switches. But in changing the grade of any railroad, no grade shall be required in excess of that adopted by the railroad company for its construction work on that division or part of the railroad on which the improvement is to be made, without the consent of the railroad company, nor shall the railroad company's tracks be required to be placed below high-water mark.

Such resolution shall be published in the same manner as 113238
resolutions of the legislative authority of a municipal 113239
corporation declaring the necessity of a contemplated public 113240
improvement, and shall be served by the sheriff upon the railroad 113241
or interurban railway companies in the manner provided for the 113242
service of summons in civil actions. If the proposed public 113243
improvement is to be made within a municipal corporation, notice 113244
of the passage of the same shall be served upon the municipal 113245
corporation by delivering to the clerk of the village or 113246
legislative authority of a city a true copy thereof. 113247

If, at the expiration of six months from the passage of such 113248
resolution, the railroad company has refused or failed to 113249
co-operate in the preparation of such plans and specifications, or 113250
if the county engineer or engineer designated by the board and the 113251
railroad company fail to agree upon the plans and specification of 113252
such improvement, then either the railroad company or the county 113253
may submit the matter of determining the method by which the 113254
improvement shall be made to the court of common pleas of such 113255
county. Either the county or company, after the expiration of six 113256
months from the passage of the resolution, may apply to such court 113257
by petition, accompanied by the necessary plans prepared by the 113258
county or railroad company, covering the grade crossing proposed 113259
to be abolished. Such plans must show the grades to be established 113260
for such roads or highways, the changes to be made in the location 113261
of roads or highways, the height, character, and estimated cost of 113262
any viaduct or way above or below the railroad tracks, the number, 113263
character, and location of piers, abutments, or supports to be 113264
permanently located in the roads or highways, and the change of 113265
grade to be made in any railroad tracks, including sidetracks and 113266
switches. 113267

Sec. 5561.08. Notice of the passage of a resolution for a 113268
grade crossing improvement shall be served by the sheriff of the 113269

county, upon the owner of each piece of property which will be 113270
affected by any change of grade, in the manner provided for the 113271
service of summons in civil actions. If any of such owners are 113272
nonresidents of the county, or if it appears from the return that 113273
they cannot be found, the notice shall be published for at least 113274
two weeks in ~~an English language~~ a newspaper published of general 113275
circulation in such the county or as provided in section 7.16 of 113276
the Revised Code. Notice shall be completed at least twenty days 113277
before any work is done on such improvement, and the sheriff's 113278
return shall be prima-facie evidence of the facts recited therein. 113279

Section 727.18 of the Revised Code shall apply to the notice 113280
provided for in this section, and to all claims for damages by 113281
reason of such improvement. Such claims shall be filed with the 113282
county auditor within the time, and rights thereunder shall pass 113283
to vendees, as provided in such section. After the expiration of 113284
the time provided for the filing of claims, the board of county 113285
commissioners, when claims have been filed within the time 113286
limited, shall determine, by resolution, whether such claims are 113287
to be judicially inquired into before commencing or after the 113288
completion of the proposed improvement. Thereupon, the county 113289
prosecutor shall make application for a jury, to the court of 113290
common pleas, or probate court of the county, before commencing or 113291
after the completion of the improvement, as the board determines, 113292
and all proceedings upon such application shall be governed by the 113293
laws relating to similar applications provided for in cases of 113294
city improvements. 113295

Sec. 5571.011. If a person through whose land a public road 113296
has been established which is under the jurisdiction of a board of 113297
township trustees, desires to turn or change or relocate such road 113298
or any part thereof through any part of ~~his~~ the person's land, ~~he~~ 113299
the person may file a petition with such board of township 113300
trustees setting forth briefly the particular change ~~he desires~~ 113301

desired. Upon receipt of such petition, the board of township trustees shall give notice by publication once, not later than two weeks prior to the date which such board shall fix for a hearing on such petition, in a newspaper ~~published or~~ of general circulation in said township, stating that such petition has been filed and setting forth the change desired in such road and the date and place of such hearing.

Upon receipt of such a petition the board of township trustees shall cause a competent engineer to make a survey of the ground over which the road is proposed to be changed, and to make a report in writing, together with a plat and survey of the proposed change and ~~his~~ the engineer's opinion as to its advantage or disadvantage. The report of such engineer shall be filed with the board prior to the hearing of such petition.

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost

of relocation of any conduits, cables, wires, towers, poles or 113334
other equipment or appliances of any public utility, located on, 113335
over or under such road. The petitioner shall, on the filing of 113336
the petition for such change, give bond to the satisfaction of the 113337
board in such amount as it determines to secure payment of the 113338
costs of the proceeding and to cover the expense of making the 113339
change asked for by the petition. 113340

Sec. 5573.02. Upon the completion of the surveys, plans, 113341
profiles, cross sections, estimates, and specifications for a road 113342
improvement by the county engineer, ~~he~~ the engineer shall transmit 113343
to the board of township trustees copies of the same. Except in 113344
cases of reconstruction or repair of roads, where no land or 113345
property is taken, the board shall then cause to be published in a 113346
newspaper, ~~published in the county and~~ of general circulation 113347
within the township, ~~but if no such paper is published in the~~ 113348
~~county then in one having general circulation in such township,~~ 113349
once a week for two consecutive weeks or as provided in section 113350
7.16 of the Revised Code, a notice that such improvement is to be 113351
made and that copies of the surveys, plans, profiles, cross 113352
sections, estimates, and specifications for it are on file with 113353
the board for the inspection and examination of all persons 113354
interested. 113355

In the event that land or property is to be taken for such 113356
improvement, proceedings shall be had in accordance with sections 113357
163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 113358

Sec. 5573.10. As soon as all questions of compensation and 113359
damages have been determined for any road improvement, the county 113360
engineer shall make, upon actual view, an estimated assessment, 113361
upon the real estate to be charged, of such part of the 113362
compensation, damages, and costs of such improvement as is to be 113363
specially assessed. Such assessment shall be according to the 113364

benefits which will result to the real estate. In making such 113365
assessment the engineer may take into consideration any previous 113366
special assessment made upon such real estate for road 113367
improvements. 113368

The schedule for such assessments shall be filed with the 113369
board of township trustees for the inspection of the persons 113370
interested. Before adopting the estimated assessment, the board 113371
shall publish once each week for two consecutive weeks, in ~~some a~~ 113372
~~newspaper published in the county and~~ of general circulation 113373
~~within such township, but if there is no such paper published in~~ 113374
~~said county then in one having general circulation in such~~ 113375
~~township~~ or as provided in section 7.16 of the Revised Code, 113376
notice that such assessment has been made and is on file with the 113377
board, and the date when objections will be heard to such 113378
assessment. 113379

If any owner of property affected desires to make objections, 113380
~~he~~ the owner may file ~~his~~ objections to such assessments, in 113381
writing, with the board, before the time of such hearing. If any 113382
objections are filed the board shall hear them and act as an 113383
equalizing board, and may change assessments if, in its opinion, 113384
any changes are necessary to make them just and equitable. The 113385
board shall approve and confirm assessments as reported by the 113386
engineer or modified by the board. Such assessments, when approved 113387
and confirmed, shall be a lien on the land chargeable therewith. 113388

Sec. 5575.01. (A) In the maintenance and repair of roads, the 113389
board of township trustees may proceed either by contract or force 113390
account, but, unless the exemption specified in division (C) of 113391
this section applies, if the board wishes to proceed by force 113392
account, it first shall cause the county engineer to complete the 113393
force account assessment form developed by the auditor of state 113394
under section 117.16 of the Revised Code. Except as otherwise 113395

provided in sections 505.08 and 505.101 of the Revised Code, when 113396
the board proceeds by contract, the contract shall, if the amount 113397
involved exceeds forty-five thousand dollars, be let by the board 113398
to the lowest responsible bidder after advertisement for bids 113399
once, not later than two weeks, prior to the date fixed for the 113400
letting of the contract, in a newspaper ~~published in the county~~ 113401
~~and~~ of general circulation within the township ~~or, if no newspaper~~ 113402
~~is published in the county, in a newspaper having general~~ 113403
~~circulation in the township.~~ If the amount involved is forty-five 113404
thousand dollars or less, a contract may be let without 113405
competitive bidding, or the work may be done by force account. 113406
Such a contract shall be performed under the supervision of a 113407
member of the board or the township road superintendent. 113408

(B) Before undertaking the construction or reconstruction of 113409
a township road, the board shall cause to be made by the county 113410
engineer an estimate of the cost of the work, which estimate shall 113411
include labor, material, freight, fuel, hauling, use of machinery 113412
and equipment, and all other items of cost. If the board finds it 113413
in the best interest of the public, it may, in lieu of 113414
constructing the road by contract, proceed to construct the road 113415
by force account. Except as otherwise provided under sections 113416
505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ 113417
estimated cost of the work exceeds fifteen thousand dollars per 113418
mile, the board shall invite and receive competitive bids for 113419
furnishing all the labor, materials, and equipment and doing the 113420
work, as provided in section 5575.02 of the Revised Code, and 113421
shall consider and reject them before ordering the work done by 113422
force account. When such bids are received, considered, and 113423
rejected, and the work is done by force account, the work shall be 113424
performed in compliance with the plans and specifications upon 113425
which the bids were based. 113426

(C) Force account assessment forms are not required under 113427

division (A) of this section for road maintenance or repair 113428
projects of less than fifteen thousand dollars, or under division 113429
(B) of this section for road construction or reconstruction 113430
projects of less than five thousand dollars per mile. 113431

(D) All force account work under this section shall be done 113432
under the direction of a member of the board or the township road 113433
superintendent. 113434

Sec. 5575.02. After the board of township trustees has 113435
decided to proceed with a road improvement, it shall advertise for 113436
bids once, not later than two weeks prior to the date fixed for 113437
the letting of contracts, in a newspaper ~~published in the county~~ 113438
~~and~~ of general circulation within ~~such the~~ township, ~~but if there~~ 113439
~~is no such paper published in the county then in one having~~ 113440
~~general circulation in the township.~~ Such notice shall state that 113441
copies of the surveys, plans, profiles, cross sections, estimates, 113442
and specifications for such improvement are on file with the 113443
board, and the time within which bids will be received. The board 113444
may let the work as a whole or in convenient sections, as it 113445
determines. The contract shall be awarded to the lowest and best 113446
bidder who meets the requirements of section 153.54 of the Revised 113447
Code, and shall be let upon the basis of lump sum bids, unless the 113448
board orders that it be let upon the basis of unit price bids, in 113449
which event it shall be let upon such basis. 113450

Sec. 5591.15. All resolutions and notices provided for in 113451
sections 5591.03 to 5591.17 of the Revised Code, shall be 113452
published in a newspaper ~~published in and~~ of general circulation 113453
in the county where the improvement provided in such sections is 113454
to be made, and such publication shall be complete when published 113455
once a week, on the same day of the week, for two consecutive 113456
weeks or as provided in section 7.16 of the Revised Code. 113457

Sec. 5593.08. The bridge commission of any county or city	113458
may:	113459
(A) Adopt bylaws for the regulation of its affairs and the	113460
conduct of its business;	113461
(B) Adopt an official seal, which shall not be the seal of	113462
Ohio;	113463
(C) Maintain a principal office and suboffices at such places	113464
within the county or city as it designates;	113465
(D) Sue and be sued in its own name, and plead and be	113466
impleaded. Any actions against a bridge commission shall be	113467
brought in the court of common pleas of the county in which the	113468
principal office of the commission is located, or in the court of	113469
common pleas of the county in which the cause of action arose,	113470
when such county is located within this state. All summonses,	113471
exceptions, and notices of every kind shall be served on the	113472
commission by leaving a copy thereof at the principal office with	113473
the secretary-treasurer or the person in charge.	113474
(E) Construct, acquire by purchase or condemnation, improve,	113475
maintain, repair, police, and operate any bridge, and establish	113476
rules for the use of any such bridge;	113477
(F) Issue bridge revenue bonds of the county or city, payable	113478
solely from revenues, as provided in sections 5593.10 and 5593.16	113479
of the Revised Code, for the purpose of paying any part of the	113480
cost of any bridge or bridges;	113481
(G) Fix and revise from time to time and charge and collect	113482
tolls for transit over each bridge constructed or acquired by it;	113483
(H) Acquire, hold, and dispose of real and personal property	113484
in the exercise of its powers and the performance of its duties	113485
under this chapter;	113486
(I) Acquire, in the name of the county or city, as the case	113487

may be, by purchase or otherwise, on such terms and in such manner 113488
as it determines proper, or by the exercise of the right of 113489
condemnation in the manner provided by sections 163.01 to 163.22 113490
of the Revised Code, any bridge, land, rights, easements, 113491
franchises, and other property necessary or convenient for the 113492
construction of a bridge or the improvement or efficient operation 113493
of any property acquired or constructed under this chapter, or for 113494
securing right-of-way leading to any such bridge or its approach 113495
facilities; 113496

(J) Make and enter into all contracts and agreements 113497
necessary or incidental to the performance of its duties and the 113498
execution of its powers under this chapter: 113499

(1) When the cost under any such contract or agreement, other 113500
than compensation for personal services, involves an expenditure 113501
of more than ten thousand dollars, the commission shall make a 113502
written contract with the lowest and best bidder after 113503
advertisement for not less than two consecutive weeks, or as 113504
provided in section 7.16 of the Revised Code, in a newspaper of 113505
general circulation in Franklin county, and in such other 113506
publications as the commission determines, which notice shall 113507
state the general character of the work and the general character 113508
of the materials to be furnished, the place where plans and 113509
specifications therefor may be examined, and the time and place of 113510
receiving bids. 113511

(2) Each bid for a contract for the construction, demolition, 113512
alteration, repair, or reconstruction of an improvement shall 113513
contain the full name of every person interested in it and meets 113514
the requirements of section 153.54 of the Revised Code. 113515

(3) Each bid for a contract except as provided in division 113516
(J)(2) of this section shall contain the full name of every person 113517
or company interested in it and shall be accompanied by a bond or 113518
certified check on a solvent bank, in such amount as the 113519

commission determines sufficient, that if the bid is accepted a 113520
contract will be entered into and the performance of its proposal 113521
secured. 113522

(4) The commission may reject any and all bids. 113523

(5) A bond with good and sufficient surety, approved by the 113524
commission, shall be required of every contractor awarded a 113525
contract except as provided in division (J)(2) of this section, in 113526
an amount equal to at least fifty per cent of the contract price, 113527
conditioned upon the faithful performance of the contract. 113528

(K) Employ consulting engineers, superintendents, managers, 113529
engineers, construction and accounting experts, attorneys, and 113530
other employees and agents as are necessary in its judgment, and 113531
fix their compensation. All such expenses are payable solely from 113532
the proceeds of bridge revenue bonds issued under this chapter, or 113533
from revenues. 113534

(L) Receive and accept from any federal agency, subject to 113535
the approval of the board of county commissioners or the 113536
legislative authority of the city, as the case may be, grants for 113537
or in aid of the construction, acquisition, improvement, or 113538
operation of any bridge, and receive and accept aid or 113539
contributions from any source of money, property, labor, or other 113540
things of value, to be held, used, and applied only for the 113541
purposes for which such grants and contributions are made; 113542

(M) Provide coverage for its employees under sections 4123.01 113543
to 4123.94 and 4141.01 to 4141.46 of the Revised Code; 113544

(N) Do all acts necessary or proper to carry out the powers 113545
expressly granted in this chapter. 113546

Sec. 5701.13. (A) As used in this section: 113547

(1) "Nursing home" means a nursing home or a home for the 113548
aging, as those terms are defined in section 3721.01 of the 113549

Revised Code, that is issued a license pursuant to section 3721.02 113550
of the Revised Code. 113551

(2) "Residential care facility" means a residential care 113552
facility, as defined in section 3721.01 of the Revised Code, that 113553
is issued a license pursuant to section 3721.02 of the Revised 113554
Code. 113555

(3) "Adult care facility" means an adult care facility as 113556
defined in section ~~3722.04~~ 5119.70 of the Revised Code that is 113557
issued a license pursuant to section ~~3722.04~~ 5119.73 of the 113558
Revised Code. 113559

(B) As used in Title LVII of the Revised Code, and for the 113560
purpose of other sections of the Revised Code that refer 113561
specifically to Chapter 5701. or section 5701.13 of the Revised 113562
Code, a "home for the aged" means either of the following: 113563

(1) A place of residence for aged and infirm persons that 113564
satisfies divisions (B)(1)(a) to (e) of this section: 113565

(a) It is a nursing home, residential care facility, or adult 113566
care facility. 113567

(b) It is owned by a corporation, unincorporated association, 113568
or trust of a charitable, religious, or fraternal nature, which is 113569
organized and operated not for profit, which is not formed for the 113570
pecuniary gain or profit of, and whose net earnings or any part of 113571
whose net earnings is not distributable to, its members, trustees, 113572
officers, or other private persons, and which is exempt from 113573
federal income taxation under section 501 of the "Internal Revenue 113574
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 113575

(c) It is open to the public without regard to race, color, 113576
or national origin. 113577

(d) It does not pay, directly or indirectly, compensation for 113578
services rendered, interest on debts incurred, or purchase price 113579

for land, building, equipment, supplies, or other goods or 113580
chattels, which compensation, interest, or purchase price is 113581
unreasonably high. 113582

(e) It provides services for the life of each resident 113583
without regard to the resident's ability to continue payment for 113584
the full cost of the services. 113585

(2) A place of residence that satisfies divisions (B)(1)(b), 113586
(d), and (e) of this section; that satisfies the definition of 113587
"nursing home," or "residential care facility," ~~or "adult care~~ 113588
~~facility"~~ under section 3721.01 of the Revised Code or ~~3722.01~~ the 113589
definition of "adult care facility" under section 5119.70 of the 113590
Revised Code regardless of whether it is licensed as such a home 113591
or facility; and that is provided at no charge to individuals on 113592
account of their service without compensation to a charitable, 113593
religious, fraternal, or educational institution, which 113594
individuals are aged or infirm and are members of the corporation, 113595
association, or trust that owns the place of residence. For the 113596
purposes of division (B)(2) of this section, "compensation" does 113597
not include furnishing room and board, clothing, health care, or 113598
other necessities, or stipends or other de minimis payments to 113599
defray the cost thereof. 113600

Exemption from taxation shall be accorded, on proper 113601
application, only to those homes or parts of homes which meet the 113602
standards and provide the services specified in this section. 113603

Nothing in this section shall be construed as preventing a 113604
home from requiring a resident with financial need to apply for 113605
any applicable financial assistance or requiring a home to retain 113606
a resident who willfully refuses to pay for services for which the 113607
resident has contracted even though the resident has sufficient 113608
resources to do so. 113609

(C)(1) If a corporation, unincorporated association, or trust 113610

described in division (B)(1)(b) of this section is granted a 113611
certificate of need pursuant to section 3702.52 of the Revised 113612
Code to construct, add to, or otherwise modify a nursing home, or 113613
is given approval pursuant to section 3791.04 of the Revised Code 113614
to construct, add to, or otherwise modify a residential care 113615
facility or adult care facility and if the corporation, 113616
association, or trust submits an affidavit to the tax commissioner 113617
stating that, commencing on the date of licensure and continuing 113618
thereafter, the home or facility will be operated in accordance 113619
with the requirements of divisions (B)(1)(a) to (e) of this 113620
section, the corporation, association, or trust shall be 113621
considered to be operating a "home for the aged" within the 113622
meaning of division (B)(1) of this section, beginning on the first 113623
day of January of the year in which such certificate is granted or 113624
approval is given. 113625

(2) If a corporation, association, or trust is considered to 113626
be operating a "home for the aged" pursuant to division (C)(1) of 113627
this section, the corporation, association, or trust shall notify 113628
the tax commissioner in writing upon the occurrence of any of the 113629
following events: 113630

(a) The corporation, association, or trust no longer intends 113631
to complete the construction of, addition to, or modification of 113632
the home or facility, to obtain the appropriate license for the 113633
home or facility, or to commence operation of the home or facility 113634
in accordance with the requirements of divisions (B)(1)(a) to (e) 113635
of this section; 113636

(b) The certificate of approval referred to in division 113637
(C)(1) of this section expires, is revoked, or is otherwise 113638
terminated prior to the completion of the construction of, 113639
addition to, or modification of the home or facility; 113640

(c) The license to operate the home or facility is not 113641
granted by the director of health within one year following 113642

completion of the construction of, addition to, or modification of 113643
the home or facility; 113644

(d) The license to operate the home or facility is not 113645
granted by the director of health within four years following the 113646
date upon which the certificate or approval referred to in 113647
division (C)(1) of this section was granted or given; 113648

(e) The home or facility is granted a license to operate as a 113649
nursing home, residential care facility, or adult care facility. 113650

(3) Upon the occurrence of any of the events referred to in 113651
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 113652
corporation, association, or trust shall no longer be considered 113653
to be operating a "home for the aged" pursuant to division (C)(1) 113654
of this section, except that the tax commissioner, for good cause 113655
shown and to the extent the commissioner considers appropriate, 113656
may extend the time period specified in division (C)(2)(c) or (d) 113657
of this section, or both. Nothing in division (C)(3) of this 113658
section shall be construed to prevent a nursing home, residential 113659
care facility, or adult care facility from qualifying as a "home 113660
for the aged" if, upon proper application made pursuant to 113661
division (B) of this section, it is found to meet the requirements 113662
of divisions (A) and (B) of this section. 113663

Sec. 5703.05. All powers, duties, and functions of the 113664
department of taxation are vested in and shall be performed by the 113665
tax commissioner, which powers, duties, and functions shall 113666
include, but shall not be limited to, the following: 113667

(A) Prescribing all blank forms which the department is 113668
authorized to prescribe, and to provide such forms and distribute 113669
the same as required by law and the rules of the department. ~~The~~ 113670
~~tax commissioner shall include a mail in registration form~~ 113671
~~prescribed in section 3503.14 of the Revised Code within the~~ 113672
~~return and instructions for the tax levied in odd numbered years~~ 113673

~~under section 5747.02 of the Revised Code, beginning with the tax 113674
levied for 1995. The secretary of state shall bear all costs for 113675
the inclusion of the mail-in registration form. That form shall be 113676
addressed for return to the office of the secretary of state. 113677~~

(B) Exercising the authority provided by law, including 113678
orders from bankruptcy courts, relative to remitting or refunding 113679
taxes or assessments, including penalties and interest thereon, 113680
illegally or erroneously assessed or collected, or for any other 113681
reason overpaid, and in addition, the commissioner may on written 113682
application of any person, firm, or corporation claiming to have 113683
overpaid to the treasurer of state at any time within five years 113684
prior to the making of such application any tax payable under any 113685
law which the department of taxation is required to administer 113686
which does not contain any provision for refund, or on the 113687
commissioner's own motion investigate the facts and make in 113688
triplicate a written statement of the commissioner's findings, 113689
and, if the commissioner finds that there has been an overpayment, 113690
issue in triplicate a certificate of abatement payable to the 113691
taxpayer, the taxpayer's assigns, or legal representative which 113692
shows the amount of the overpayment and the kind of tax overpaid. 113693
One copy of such statement shall be entered on the journal of the 113694
commissioner, one shall be certified to the attorney general, and 113695
one certified copy shall be delivered to the taxpayer. All copies 113696
of the certificate of abatement shall be transmitted to the 113697
attorney general, and if the attorney general finds it to be 113698
correct the attorney general shall so certify on each copy, and 113699
deliver one copy to the taxpayer, one copy to the commissioner, 113700
and the third copy to the treasurer of state. Except as provided 113701
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 113702
copy of any certificates of abatement may be tendered by the payee 113703
or transferee thereof to the treasurer of state as payment, to the 113704
extent of the amount thereof, of any tax payable to the treasurer 113705
of state. 113706

(C) Exercising the authority provided by law relative to	113707
consenting to the compromise and settlement of tax claims;	113708
(D) Exercising the authority provided by law relative to the	113709
use of alternative tax bases by taxpayers in the making of	113710
personal property tax returns;	113711
(E) Exercising the authority provided by law relative to	113712
authorizing the prepayment of taxes on retail sales of tangible	113713
personal property or on the storage, use, or consumption of	113714
personal property, and waiving the collection of such taxes from	113715
the consumers;	113716
(F) Exercising the authority provided by law to revoke	113717
licenses;	113718
(G) Maintaining a continuous study of the practical operation	113719
of all taxation and revenue laws of the state, the manner in which	113720
and extent to which such laws provide revenues for the support of	113721
the state and its political subdivisions, the probable effect upon	113722
such revenue of possible changes in existing laws, and the	113723
possible enactment of measures providing for other forms of	113724
taxation. For this purpose the commissioner may establish and	113725
maintain a division of research and statistics, and may appoint	113726
necessary employees who shall be in the unclassified civil	113727
service; the results of such study shall be available to the	113728
members of the general assembly and the public.	113729
(H) Making all tax assessments, valuations, findings,	113730
determinations, computations, and orders the department of	113731
taxation is by law authorized and required to make and, pursuant	113732
to time limitations provided by law, on the commissioner's own	113733
motion, reviewing, redetermining, or correcting any tax	113734
assessments, valuations, findings, determinations, computations,	113735
or orders the commissioner has made, but the commissioner shall	113736
not review, redetermine, or correct any tax assessment, valuation,	113737

finding, determination, computation, or order which the 113738
commissioner has made as to which an appeal or application for 113739
rehearing, review, redetermination, or correction has been filed 113740
with the board of tax appeals, unless such appeal or application 113741
is withdrawn by the appellant or applicant or dismissed; 113742

(I) Appointing not more than five deputy tax commissioners, 113743
who, under such regulations as the rules of the department of 113744
taxation prescribe, may act for the commissioner in the 113745
performance of such duties as the commissioner prescribes in the 113746
administration of the laws which the commissioner is authorized 113747
and required to administer, and who shall serve in the 113748
unclassified civil service at the pleasure of the commissioner, 113749
but if a person who holds a position in the classified service is 113750
appointed, it shall not affect the civil service status of such 113751
person. The commissioner may designate not more than two of the 113752
deputy commissioners to act as commissioner in case of the 113753
absence, disability, or recusal of the commissioner or vacancy in 113754
the office of commissioner. The commissioner may adopt rules 113755
relating to the order of precedence of such designated deputy 113756
commissioners and to their assumption and administration of the 113757
office of commissioner. 113758

(J) Appointing and prescribing the duties of all other 113759
employees of the department of taxation necessary in the 113760
performance of the work of the department which the tax 113761
commissioner is by law authorized and required to perform, and 113762
creating such divisions or sections of employees as, in the 113763
commissioner's judgment, is proper; 113764

(K) Organizing the work of the department, which the 113765
commissioner is by law authorized and required to perform, so 113766
that, in the commissioner's judgment, an efficient and economical 113767
administration of the laws will result; 113768

(L) Maintaining a journal, which is open to public 113769

inspection, in which the tax commissioner shall keep a record of 113770
all final determinations of the commissioner; 113771

(M) Adopting and promulgating, in the manner provided by 113772
section 5703.14 of the Revised Code, all rules of the department, 113773
including rules for the administration of sections 3517.16, 113774
3517.17, and 5747.081 of the Revised Code; 113775

(N) Destroying any or all returns or assessment certificates 113776
in the manner authorized by law; 113777

(O) Adopting rules, in accordance with division (B) of 113778
section 325.31 of the Revised Code, governing the expenditure of 113779
moneys from the real estate assessment fund under that division. 113780

Sec. 5703.056. (A) As used in any section of the Revised Code 113781
that requires the tax commissioner to use certified mail or 113782
personal service or that requires or permits a payment to be made 113783
or a document to be submitted to the tax commissioner or the board 113784
of tax appeals by mail and as used in any section of Chapter 113785
3734., 3769., 4303., or 4305. or Title LVII of the Revised Code 113786
that requires or permits a payment to be made or a document to be 113787
submitted to the treasurer of state by mail: 113788

(1) "Certified mail," "express mail," "United States mail," 113789
"United States postal service," and similar terms include any 113790
delivery service authorized pursuant to division (B) of this 113791
section. 113792

(2) "Postmark date," "date of postmark," and similar terms 113793
include the date recorded and marked in the manner described in 113794
division (B)(3) of this section. 113795

~~(b)~~(B) The tax commissioner may authorize the use of a 113796
delivery service for the delivery of any payment or document 113797
described in division (A) of this section if the commissioner 113798
finds that the delivery service: 113799

(1) Is available to the general public;	113800
(2) Is at least as timely and reliable on a regular basis as the United States postal service;	113801 113802
(3) Records electronically to a database kept in the regular course of its business, and marks on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery;	113803 113804 113805 113806
(4) Records electronically to a database kept in the regular course of its business the date on which the payment or document was given by the delivery service to the person who signed the receipt of delivery and the name of the person who signed the receipt; and	113807 113808 113809 113810 113811
(5) Meets any other criteria that the tax commissioner may by rule prescribe.	113812 113813
<u>Sec. 5703.059. (A) The tax commissioner may adopt rules requiring returns, including any accompanying schedule or statement, for any of the following taxes to be filed electronically using the Ohio business gateway as defined in section 718.051 of the Revised Code, filed telephonically using the system known as the Ohio telefile system, or filed by any other electronic means prescribed by the commissioner:</u>	113814 113815 113816 113817 113818 113819 113820
<u>(1) Employer income tax withholding under Chapter 5747. of the Revised Code;</u>	113821 113822
<u>(2) Motor fuel tax under Chapter 5735. of the Revised Code;</u>	113823
<u>(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;</u>	113824 113825
<u>(4) Severance tax under Chapter 5749. of the Revised Code;</u>	113826
<u>(5) Use tax under Chapter 5741. of the Revised Code.</u>	113827
<u>(B) The tax commissioner may adopt rules requiring any</u>	113828

payment of tax shown on such a return to be due to be made 113829
electronically in a manner approved by the commissioner. 113830

(C) A rule adopted under this section does not apply to 113831
returns or reports filed or payments made before six months after 113832
the effective date of the rule. The commissioner shall publicize 113833
any new electronic filing requirement on the department's web 113834
site. The commissioner shall educate the public of the requirement 113835
through seminars, workshops, conferences, or other outreach 113836
activities. 113837

(D) Any person required to file returns and make payments 113838
electronically under rules adopted under this section may apply to 113839
the commissioner, on a form prescribed by the commissioner, to be 113840
excused from that requirement. For good cause shown, the 113841
commissioner may excuse the applicant from the requirement and 113842
permit the applicant to file the returns or reports or make the 113843
payments required under this section by nonelectronic means. 113844

Sec. 5703.37. (A)(1) Except as provided in division (B) of 113845
this section, whenever service of a notice or order is required in 113846
the manner provided in this section, a copy of the notice or order 113847
shall be served upon the person affected thereby either by 113848
personal service ~~or~~, by certified mail, or by a delivery service 113849
authorized under section 5703.056 of the Revised Code that 113850
notifies the tax commissioner of the date of delivery. 113851

(2) With the permission of the person affected by the notice 113852
or order, the commissioner may enter into a written agreement to 113853
deliver a notice or order by alternative means as provided in this 113854
section, including, but not limited to, delivery by secure 113855
electronic mail. Delivery by such means satisfies the requirements 113856
for delivery under this section. 113857

(B)(1)(a) If certified mail is returned because of an 113858
undeliverable address, the commissioner shall first utilize 113859

reasonable means to ascertain a new last known address, including 113860
the use of a change of address service offered by the United 113861
States postal service or an authorized delivery service under 113862
section 5703.056 of the Revised Code. If, after using reasonable 113863
means, the commissioner is unable to ascertain a new last known 113864
address, the assessment is final for purposes of section 131.02 of 113865
the Revised Code sixty days after the notice or order sent by 113866
certified mail is first returned to the commissioner, and the 113867
commissioner shall certify the notice or order, if applicable, to 113868
the attorney general for collection under section 131.02 of the 113869
Revised Code. 113870

(b) Notwithstanding certification to the attorney general 113871
under division (B)(1)(a) of this section, once the commissioner or 113872
attorney general, or the designee of either, makes an initial 113873
contact with the person to whom the notice or order is directed, 113874
the person may protest an assessment by filing a petition for 113875
reassessment within sixty days after the initial contact. The 113876
certification of an assessment under division (B)(1)(a) of this 113877
section is prima-facie evidence that delivery is complete and that 113878
the notice or order is served. 113879

(2) If mailing of a notice or order by certified mail is 113880
returned for some cause other than an undeliverable address, the 113881
tax commissioner shall resend the notice or order by ordinary 113882
mail. The notice or order shall show the date the commissioner 113883
sends the notice or order and include the following statement: 113884

"This notice or order is deemed to be served on the addressee 113885
under applicable law ten days from the date this notice or order 113886
was mailed by the commissioner as shown on the notice or order, 113887
and all periods within which an appeal may be filed apply from and 113888
after that date." 113889

Unless the mailing is returned because of an undeliverable 113890
address, the mailing of that information is prima-facie evidence 113891

that delivery of the notice or order was completed ten days after 113892
the commissioner sent the notice or order by ordinary mail and 113893
that the notice or order was served. 113894

If the ordinary mail is subsequently returned because of an 113895
undeliverable address, the commissioner shall proceed under 113896
division (B)(1)(a) of this section. A person may challenge the 113897
presumption of delivery and service under this division in 113898
accordance with division (C) of this section. 113899

(C)(1) A person disputing the presumption of delivery and 113900
service under division (B) of this section bears the burden of 113901
proving by a preponderance of the evidence that the address to 113902
which the notice or order was sent was not an address with which 113903
the person was associated at the time the commissioner originally 113904
mailed the notice or order by certified mail. For the purposes of 113905
this section, a person is associated with an address at the time 113906
the commissioner originally mailed the notice or order if, at that 113907
time, the person was residing, receiving legal documents, or 113908
conducting business at the address; or if, before that time, the 113909
person had conducted business at the address and, when the notice 113910
or order was mailed, the person's agent or the person's affiliate 113911
was conducting business at the address. For the purposes of this 113912
section, a person's affiliate is any other person that, at the 113913
time the notice or order was mailed, owned or controlled at least 113914
twenty per cent, as determined by voting rights, of the 113915
addressee's business. 113916

(2) If the person elects to protest an assessment certified 113917
to the attorney general for collection, the person must do so 113918
within sixty days after the attorney general's initial contact 113919
with the person. The attorney general may enter into a compromise 113920
with the person under sections 131.02 and 5703.06 of the Revised 113921
Code if the person does not file a petition for reassessment with 113922
the tax commissioner. 113923

(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio

business gateway and shall recommend to the department of 113954
administrative services enhancements that will improve the Ohio 113955
business gateway. The committee shall consider all banking, 113956
technological, administrative, and other issues associated with 113957
the Ohio business gateway and shall make recommendations regarding 113958
the type of reporting forms or other tax documents to be filed 113959
through the Ohio business gateway. 113960

(C) The committee shall consist of: 113961

(1) The following members, appointed by the governor with the 113962
advice and consent of the senate: 113963

(a) Not more than ~~two~~ four representatives of the business 113964
community; 113965

(b) Not more than ~~three~~ representatives one representative of 113966
municipal tax administrators; and 113967

(c) Not more than two tax practitioners. 113968

(2) The following ex officio members: 113969

(a) The director or other highest officer of each state 113970
agency that has tax reporting forms or other tax documents filed 113971
with it through the Ohio business gateway or the director's 113972
designee; 113973

(b) The secretary of state or the secretary of state's 113974
designee; 113975

(c) The treasurer of state or the treasurer of state's 113976
designee; 113977

(d) The director of budget and management or the director's 113978
designee; 113979

(e) The state chief information officer or the officer's 113980
designee; 113981

(f) The tax commissioner or the tax commissioner's designee; 113982

and 113983

(g) The director of development or the director's designee. 113984

An appointed member shall serve until the member resigns or 113985
is removed by the governor. Vacancies shall be filled in the same 113986
manner as original appointments. 113987

(D) A vacancy on the committee does not impair the right of 113988
the other members to exercise all the functions of the committee. 113989
The presence of a majority of the members of the committee 113990
constitutes a quorum for the conduct of business of the committee. 113991
The concurrence of at least a majority of the members of the 113992
committee is necessary for any action to be taken by the 113993
committee. On request, each member of the committee shall be 113994
reimbursed for the actual and necessary expenses incurred in the 113995
discharge of the member's duties. 113996

(E) The committee is a part of the department of taxation for 113997
administrative purposes. 113998

(F) Each year, the governor shall select a member of the 113999
committee to serve as chairperson. The chairperson shall appoint 114000
an official or employee of the department of taxation to act as 114001
the committee's secretary. The secretary shall keep minutes of the 114002
committee's meetings and a journal of all meetings, proceedings, 114003
findings, and determinations of the committee. 114004

(G) The committee ~~shall~~ may hire professional, technical, and 114005
clerical staff needed to support its activities. 114006

(H) The committee shall meet as often as necessary to perform 114007
its duties. 114008

Sec. 5703.58. (A) Subject to ~~division (C)~~ divisions (B) and 114009
(D) of this section, the tax commissioner shall not make or issue 114010
an assessment for any tax payable to the state that is 114011
administered by the tax commissioner, or any penalty, interest, or 114012

additional charge on such tax, after the expiration of ten years, 114013
including any extension, from the date the tax return or report 114014
was due when such amount was not reported and paid, provided that 114015
the ten-year period shall be extended by the period of any lawful 114016
stay to such assessment. As used in this section, "assessment" has 114017
the same meaning as in section 5703.50 of the Revised Code. 114018

(B) Subject to division (D) of this section, the tax 114019
commissioner shall not make or issue an assessment against any 114020
person for any tax due under Chapter 5741. of the Revised Code, or 114021
any penalty, interest, or additional charge on such tax, after the 114022
expiration of seven years, including any extension, from the date 114023
the tax return or report was due if the amount of tax due was not 114024
reported and paid, provided that the seven-year period shall be 114025
extended by the period of any lawful stay to the assessment. The 114026
commissioner shall not make or issue an assessment against a 114027
consumer for any tax due under Chapter 5741. of the Revised Code, 114028
or for any penalty, interest, or additional charge on such tax, if 114029
the tax was due before January 1, 2008. 114030

(C) This section does not apply to either of the following: 114031

(1) Any amount collected for the state by a vendor or seller 114032
under Chapter 5739. or 5741. of the Revised Code or withheld by an 114033
employer under Chapter 5747. of the Revised Code. 114034

(2) Any person who fraudulently attempts to avoid such tax. 114035

~~(C)~~(D) This section does not authorize the assessment or 114036
collection of a tax for which the applicable period of limitation 114037
prescribed by law has expired and for which no valid assessment 114038
has been made and served as prescribed by law. 114039

Sec. 5705.01. As used in this chapter: 114040

(A) "Subdivision" means any county; municipal corporation; 114041
township; township police district; joint police district; 114042

township fire district; joint fire district; joint ambulance 114043
district; joint emergency medical services district; fire and 114044
ambulance district; joint recreation district; township waste 114045
disposal district; township road district; community college 114046
district; technical college district; detention facility district; 114047
a district organized under section 2151.65 of the Revised Code; a 114048
combined district organized under sections 2152.41 and 2151.65 of 114049
the Revised Code; a joint-county alcohol, drug addiction, and 114050
mental health service district; a drainage improvement district 114051
created under section 6131.52 of the Revised Code; a union 114052
cemetery district; a county school financing district; a city, 114053
local, exempted village, cooperative education, or joint 114054
vocational school district; or a regional student education 114055
district created under section 3313.83 of the Revised Code. 114056

(B) "Municipal corporation" means all municipal corporations, 114057
including those that have adopted a charter under Article XVIII, 114058
Ohio Constitution. 114059

(C) "Taxing authority" or "bond issuing authority" means, in 114060
the case of any county, the board of county commissioners; in the 114061
case of a municipal corporation, the council or other legislative 114062
authority of the municipal corporation; in the case of a city, 114063
local, exempted village, cooperative education, or joint 114064
vocational school district, the board of education; in the case of 114065
a community college district, the board of trustees of the 114066
district; in the case of a technical college district, the board 114067
of trustees of the district; in the case of a detention facility 114068
district, a district organized under section 2151.65 of the 114069
Revised Code, or a combined district organized under sections 114070
2152.41 and 2151.65 of the Revised Code, the joint board of county 114071
commissioners of the district; in the case of a township, the 114072
board of township trustees; in the case of a joint police 114073
district, the joint police district board; in the case of a joint 114074

fire district, the board of fire district trustees; in the case of 114075
a joint recreation district, the joint recreation district board 114076
of trustees; in the case of a joint-county alcohol, drug 114077
addiction, and mental health service district, the district's 114078
board of alcohol, drug addiction, and mental health services; in 114079
the case of a joint ambulance district or a fire and ambulance 114080
district, the board of trustees of the district; in the case of a 114081
union cemetery district, the legislative authority of the 114082
municipal corporation and the board of township trustees, acting 114083
jointly as described in section 759.341 of the Revised Code; in 114084
the case of a drainage improvement district, the board of county 114085
commissioners of the county in which the drainage district is 114086
located; in the case of a joint emergency medical services 114087
district, the joint board of county commissioners of all counties 114088
in which all or any part of the district lies; and in the case of 114089
a township police district, a township fire district, a township 114090
road district, or a township waste disposal district, the board of 114091
township trustees of the township in which the district is 114092
located. "Taxing authority" also means the educational service 114093
center governing board that serves as the taxing authority of a 114094
county school financing district as provided in section 3311.50 of 114095
the Revised Code, and the board of directors of a regional student 114096
education district created under section 3313.83 of the Revised 114097
Code. 114098

(D) "Fiscal officer" in the case of a county, means the 114099
county auditor; in the case of a municipal corporation, the city 114100
auditor or village clerk, or an officer who, by virtue of the 114101
charter, has the duties and functions of the city auditor or 114102
village clerk, except that in the case of a municipal university 114103
the board of directors of which have assumed, in the manner 114104
provided by law, the custody and control of the funds of the 114105
university, the chief accounting officer of the university shall 114106
perform, with respect to the funds, the duties vested in the 114107

fiscal officer of the subdivision by sections 5705.41 and 5705.44 114108
of the Revised Code; in the case of a school district, the 114109
treasurer of the board of education; in the case of a county 114110
school financing district, the treasurer of the educational 114111
service center governing board that serves as the taxing 114112
authority; in the case of a township, the township fiscal officer; 114113
in the case of a joint police district, the treasurer of the 114114
district; in the case of a joint fire district, the clerk of the 114115
board of fire district trustees; in the case of a joint ambulance 114116
district, the clerk of the board of trustees of the district; in 114117
the case of a joint emergency medical services district, the 114118
person appointed as fiscal officer pursuant to division (D) of 114119
section 307.053 of the Revised Code; in the case of a fire and 114120
ambulance district, the person appointed as fiscal officer 114121
pursuant to division (B) of section 505.375 of the Revised Code; 114122
in the case of a joint recreation district, the person designated 114123
pursuant to section 755.15 of the Revised Code; in the case of a 114124
union cemetery district, the clerk of the municipal corporation 114125
designated in section 759.34 of the Revised Code; in the case of a 114126
children's home district, educational service center, general 114127
health district, joint-county alcohol, drug addiction, and mental 114128
health service district, county library district, detention 114129
facility district, district organized under section 2151.65 of the 114130
Revised Code, a combined district organized under sections 2152.41 114131
and 2151.65 of the Revised Code, or a metropolitan park district 114132
for which no treasurer has been appointed pursuant to section 114133
1545.07 of the Revised Code, the county auditor of the county 114134
designated by law to act as the auditor of the district; in the 114135
case of a metropolitan park district which has appointed a 114136
treasurer pursuant to section 1545.07 of the Revised Code, that 114137
treasurer; in the case of a drainage improvement district, the 114138
auditor of the county in which the drainage improvement district 114139
is located; in the case of a regional student education district, 114140

the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation

district board of trustees, districts organized under section 114172
2151.65 of the Revised Code, combined districts organized under 114173
sections 2152.41 and 2151.65 of the Revised Code, and other such 114174
boards. 114175

(J) "Tax list" and "tax duplicate" mean the general tax lists 114176
and duplicates prescribed by sections 319.28 and 319.29 of the 114177
Revised Code. 114178

(K) "Property" as applied to a tax levy means taxable 114179
property listed on general tax lists and duplicates. 114180

(L) "School library district" means a school district in 114181
which a free public library has been established that is under the 114182
control and management of a board of library trustees as provided 114183
in section 3375.15 of the Revised Code. 114184

Sec. 5705.14. No transfer shall be made from one fund of a 114185
subdivision to any other fund, by order of the court or otherwise, 114186
except as follows: 114187

(A) The unexpended balance in a bond fund that is no longer 114188
needed for the purpose for which such fund was created shall be 114189
transferred to the sinking fund or bond retirement fund from which 114190
such bonds are payable. 114191

(B) The unexpended balance in any specific permanent 114192
improvement fund, other than a bond fund, after the payment of all 114193
obligations incurred in the acquisition of such improvement, shall 114194
be transferred to the sinking fund or bond retirement fund of the 114195
subdivision; provided that if such money is not required to meet 114196
the obligations payable from such funds, it may be transferred to 114197
a special fund for the acquisition of permanent improvements, or, 114198
with the approval of the court of common pleas of the county in 114199
which such subdivision is located, to the general fund of the 114200
subdivision. 114201

(C) The (1) Except as provided in division (C)(2) of this section, the unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund; provided that if such transfer is impossible by reason of the nonexistence of the fund to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county in which such division is located, may be transferred to any other fund of the subdivision. 114202
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(2) Money in a bond fund or bond retirement fund of a city, local, exempted village, cooperative education, or joint vocational school district may be transferred to a specific permanent improvement fund provided that the county budget commission of the county in which the school district is located approves the transfer upon its determination that the money transferred will not be required to meet the obligations payable from the bond fund or bond retirement fund. In arriving at such a determination, the county budget commission shall consider the balance of the bond fund or bond retirement fund, the outstanding obligations payable from the fund, and the sources and timing of the fund's revenue. 114214
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(D) The unexpended balance in any special fund, other than an improvement fund, existing in accordance with division (D), (F), or (G) of section 5705.09 or section 5705.12 of the Revised Code, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund. 114226
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(E) Money may be transferred from the general fund to any other fund of the subdivision. 114234
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(F) Moneys retained or received by a county under section 4501.04 or division (A)(3) of section 5735.27 of the Revised Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. 114236
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(G) Moneys retained or received by a municipal corporation under section 4501.04 or division (A)(1) or (2) of section 5735.27 of the Revised Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. 114241
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(H)(1) Money may be transferred from the county developmental disabilities general fund to the county developmental disabilities capital fund established under section 5705.091 of the Revised Code or to any other fund created for the purposes of the county board of developmental disabilities, so long as money in the fund to which the money is transferred can be spent for the particular purpose of the transferred money. The county board of developmental disabilities may request, by resolution, that the board of county commissioners make the transfer. The county board of developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners may make the transfer. Money transferred to a fund shall be credited to an account appropriate to its particular purpose. 114247
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(2) An unexpended balance in an account in the county developmental disabilities capital fund or any other fund created for the purposes of the county board of developmental disabilities may be transferred back to the county developmental disabilities general fund. The transfer may be made if the unexpended balance 114261
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is no longer needed for its particular purpose and all outstanding 114266
obligations have been paid. Money transferred back to the county 114267
developmental disabilities general fund shall be credited to an 114268
account for current expenses within that fund. The county board of 114269
developmental disabilities may request, by resolution, that the 114270
board of county commissioners make the transfer. The county board 114271
of developmental disabilities shall transmit a certified copy of 114272
the resolution to the board of county commissioners. Upon 114273
receiving the resolution, the board of county commissioners may 114274
make the transfer. 114275

(I) Money may be transferred from the public assistance fund 114276
established under section 5101.161 of the Revised Code to either 114277
of the following funds, so long as the money to be transferred 114278
from the public assistance fund may be spent for the purposes for 114279
which money in the receiving fund may be used: 114280

(1) The children services fund established under section 114281
5101.144 of the Revised Code; 114282

(2) The child support enforcement administrative fund 114283
established, as authorized under rules adopted by the director of 114284
job and family services, in the county treasury for use by any 114285
county family services agency. 114286

Except in the case of transfer pursuant to division (E) of 114287
this section, transfers authorized by this section shall only be 114288
made by resolution of the taxing authority passed with the 114289
affirmative vote of two-thirds of the members. 114290

Sec. 5705.16. A resolution of the taxing authority of any 114291
political subdivision shall be passed by a majority of all the 114292
members thereof, declaring the necessity for the transfer of funds 114293
authorized by section 5705.15 of the Revised Code, and such taxing 114294
authority shall prepare a petition addressed to the court of 114295
common pleas of the county in which the funds are held. The 114296

petition shall set forth the name and amount of the fund, the fund 114297
to which it is desired to be transferred, a copy of such 114298
resolution with a full statement of the proceedings pertaining to 114299
its passage, and the reason or necessity for the transfer. A 114300
duplicate copy of said petition shall be forwarded to the tax 114301
commissioner for ~~his~~ the commissioner's examination and approval. 114302

If the petition is disapproved by the commissioner, it shall 114303
be returned within ten days of its receipt to the officers who 114304
submitted it, with a memorandum of the commissioner's objections. 114305
This disapproval shall not prejudice a later application for 114306
approval. If the petition is approved by the commissioner, it 114307
shall be forwarded within ten days of its receipt to the clerk of 114308
the court of common pleas of the county to whose court of common 114309
pleas the petition is addressed, marked with the approval of the 114310
commissioner. If the commissioner approves the petition, ~~he~~ the 114311
commissioner shall notify immediately the officers who submitted 114312
the petition, who then may file the petition in the court to which 114313
it is addressed. 114314

The petitioner shall give notice of the filing, object, and 114315
prayer of the petition, and of the time when it will be heard. The 114316
notice shall be given by one publication in ~~two newspapers having~~ 114317
a newspaper of general circulation in the territory to be affected 114318
by such transfer of funds, ~~preference being given to newspapers~~ 114319
~~published within the territory~~. If there are is no such ~~newspapers~~ 114320
newspaper, the notice shall be posted in ten conspicuous places 114321
within the territory for ~~the~~ a period of four weeks. 114322

The petition may be heard at the time stated in the notice, 114323
or as soon thereafter as convenient for the court. Any person who 114324
objects to the prayer of such petition shall file ~~his~~ the person's 114325
objections in such cause on or before the time fixed in the notice 114326
for hearing, and ~~he~~ that person shall be entitled to be heard. 114327

If, upon hearing, the court finds that the notice has been 114328

given as required by this section, that the petition states 114329
sufficient facts, that there are good reasons, or that a necessity 114330
exists, for the transfer, and that no injury will result 114331
therefrom, it shall grant the prayer of the petition and order the 114332
petitioners to make such transfer. 114333

A copy of the findings, orders, and judgments of the court 114334
shall be certified by the clerk and entered on the records of the 114335
petitioning officers or board, and thereupon the petitioners may 114336
make the transfer of funds as directed by the court. All costs of 114337
such proceedings shall be paid by the petitioners, except that if 114338
objections are filed the court may order such objectors to pay all 114339
or a portion of the costs. 114340

Sec. 5705.19. This section does not apply to school districts 114341
or county school financing districts. 114342

The taxing authority of any subdivision at any time and in 114343
any year, by vote of two-thirds of all the members of the taxing 114344
authority, may declare by resolution and certify the resolution to 114345
the board of elections not less than ninety days before the 114346
election upon which it will be voted that the amount of taxes that 114347
may be raised within the ten-mill limitation will be insufficient 114348
to provide for the necessary requirements of the subdivision and 114349
that it is necessary to levy a tax in excess of that limitation 114350
for any of the following purposes: 114351

(A) For current expenses of the subdivision, except that the 114352
total levy for current expenses of a detention facility district 114353
or district organized under section 2151.65 of the Revised Code 114354
shall not exceed two mills and that the total levy for current 114355
expenses of a combined district organized under sections 2151.65 114356
and 2152.41 of the Revised Code shall not exceed four mills; 114357

(B) For the payment of debt charges on certain described 114358
bonds, notes, or certificates of indebtedness of the subdivision 114359

issued subsequent to January 1, 1925;	114360
(C) For the debt charges on all bonds, notes, and	114361
certificates of indebtedness issued and authorized to be issued	114362
prior to January 1, 1925;	114363
(D) For a public library of, or supported by, the subdivision	114364
under whatever law organized or authorized to be supported;	114365
(E) For a municipal university, not to exceed two mills over	114366
the limitation of one mill prescribed in section 3349.13 of the	114367
Revised Code;	114368
(F) For the construction or acquisition of any specific	114369
permanent improvement or class of improvements that the taxing	114370
authority of the subdivision may include in a single bond issue;	114371
(G) For the general construction, reconstruction,	114372
resurfacing, and repair of streets, roads, and bridges in	114373
municipal corporations, counties, or townships;	114374
(H) For parks and recreational purposes;	114375
(I) For the purpose of providing and maintaining fire	114376
apparatus, appliances, buildings, or sites therefor, or sources of	114377
water supply and materials therefor, or the establishment and	114378
maintenance of lines of fire alarm telegraph, or the payment of	114379
<u>firefighting companies or permanent, part-time, or volunteer</u>	114380
<u>firefighters or firefighting companies, emergency medical service,</u>	114381
<u>administrative, or communications personnel</u> to operate the same,	114382
including the payment of the firefighter employers' contribution	114383
<u>any employer contributions</u> required <u>for such personnel</u> under	114384
section <u>145.48 or 742.34</u> of the Revised Code, or the purchase of	114385
ambulance equipment, or the provision of ambulance, paramedic, or	114386
other emergency medical services operated by a fire department or	114387
firefighting company;	114388
(J) For the purpose of providing and maintaining motor	114389

vehicles, communications, other equipment, buildings, and sites 114390
for such buildings used directly in the operation of a police 114391
department, or the payment of salaries of permanent or part-time 114392
police, communications, or administrative personnel to operate the 114393
same, including the payment of ~~the police officer employers'~~ 114394
~~contribution~~ any employer contributions required for such 114395
personnel under section 145.48 or 742.33 of the Revised Code, or 114396
the payment of the costs incurred by townships as a result of 114397
contracts made with other political subdivisions in order to 114398
obtain police protection, or the provision of ambulance or 114399
emergency medical services operated by a police department; 114400

(K) For the maintenance and operation of a county home or 114401
detention facility; 114402

(L) For community mental retardation and developmental 114403
disabilities programs and services pursuant to Chapter 5126. of 114404
the Revised Code, except that the procedure for such levies shall 114405
be as provided in section 5705.222 of the Revised Code; 114406

(M) For regional planning; 114407

(N) For a county's share of the cost of maintaining and 114408
operating schools, district detention facilities, forestry camps, 114409
or other facilities, or any combination thereof, established under 114410
section 2151.65 or 2152.41 of the Revised Code or both of those 114411
sections; 114412

(O) For providing for flood defense, providing and 114413
maintaining a flood wall or pumps, and other purposes to prevent 114414
floods; 114415

(P) For maintaining and operating sewage disposal plants and 114416
facilities; 114417

(Q) For the purpose of purchasing, acquiring, constructing, 114418
enlarging, improving, equipping, repairing, maintaining, or 114419
operating, or any combination of the foregoing, a county transit 114420

system pursuant to sections 306.01 to 306.13 of the Revised Code,	114421
or of making any payment to a board of county commissioners	114422
operating a transit system or a county transit board pursuant to	114423
section 306.06 of the Revised Code;	114424
(R) For the subdivision's share of the cost of acquiring or	114425
constructing any schools, forestry camps, detention facilities, or	114426
other facilities, or any combination thereof, under section	114427
2151.65 or 2152.41 of the Revised Code or both of those sections;	114428
(S) For the prevention, control, and abatement of air	114429
pollution;	114430
(T) For maintaining and operating cemeteries;	114431
(U) For providing ambulance service, emergency medical	114432
service, or both;	114433
(V) For providing for the collection and disposal of garbage	114434
or refuse, including yard waste;	114435
(W) For the payment of the police officer employers'	114436
contribution or the firefighter employers' contribution required	114437
under sections 742.33 and 742.34 of the Revised Code;	114438
(X) For the construction and maintenance of a drainage	114439
improvement pursuant to section 6131.52 of the Revised Code;	114440
(Y) For providing or maintaining senior citizens services or	114441
facilities as authorized by section 307.694, 307.85, 505.70, or	114442
505.706 or division (EE) of section 717.01 of the Revised Code;	114443
(Z) For the provision and maintenance of zoological park	114444
services and facilities as authorized under section 307.76 of the	114445
Revised Code;	114446
(AA) For the maintenance and operation of a free public	114447
museum of art, science, or history;	114448
(BB) For the establishment and operation of a 9-1-1 system,	114449
as defined in section 4931.40 of the Revised Code;	114450

(CC) For the purpose of acquiring, rehabilitating, or 114451
developing rail property or rail service. As used in this 114452
division, "rail property" and "rail service" have the same 114453
meanings as in section 4981.01 of the Revised Code. This division 114454
applies only to a county, township, or municipal corporation. 114455

(DD) For the purpose of acquiring property for, constructing, 114456
operating, and maintaining community centers as provided for in 114457
section 755.16 of the Revised Code; 114458

(EE) For the creation and operation of an office or joint 114459
office of economic development, for any economic development 114460
purpose of the office, and to otherwise provide for the 114461
establishment and operation of a program of economic development 114462
pursuant to sections 307.07 and 307.64 of the Revised Code, or to 114463
the extent that the expenses of a county land reutilization 114464
corporation organized under Chapter 1724. of the Revised Code are 114465
found by the board of county commissioners to constitute the 114466
promotion of economic development, for the payment of such 114467
operations and expenses; 114468

(FF) For the purpose of acquiring, establishing, 114469
constructing, improving, equipping, maintaining, or operating, or 114470
any combination of the foregoing, a township airport, landing 114471
field, or other air navigation facility pursuant to section 505.15 114472
of the Revised Code; 114473

(GG) For the payment of costs incurred by a township as a 114474
result of a contract made with a county pursuant to section 114475
505.263 of the Revised Code in order to pay all or any part of the 114476
cost of constructing, maintaining, repairing, or operating a water 114477
supply improvement; 114478

(HH) For a board of township trustees to acquire, other than 114479
by appropriation, an ownership interest in land, water, or 114480
wetlands, or to restore or maintain land, water, or wetlands in 114481

which the board has an ownership interest, not for purposes of 114482
recreation, but for the purposes of protecting and preserving the 114483
natural, scenic, open, or wooded condition of the land, water, or 114484
wetlands against modification or encroachment resulting from 114485
occupation, development, or other use, which may be styled as 114486
protecting or preserving "greenspace" in the resolution, notice of 114487
election, or ballot form. Except as otherwise provided in this 114488
division, land is not acquired for purposes of recreation, even if 114489
the land is used for recreational purposes, so long as no 114490
building, structure, or fixture used for recreational purposes is 114491
permanently attached or affixed to the land. Except as otherwise 114492
provided in this division, land that previously has been acquired 114493
in a township for these greenspace purposes may subsequently be 114494
used for recreational purposes if the board of township trustees 114495
adopts a resolution approving that use and no building, structure, 114496
or fixture used for recreational purposes is permanently attached 114497
or affixed to the land. The authorization to use greenspace land 114498
for recreational use does not apply to land located in a township 114499
that had a population, at the time it passed its first greenspace 114500
levy, of more than thirty-eight thousand within a county that had 114501
a population, at that time, of at least eight hundred sixty 114502
thousand. 114503

(II) For the support by a county of a crime victim assistance 114504
program that is provided and maintained by a county agency or a 114505
private, nonprofit corporation or association under section 307.62 114506
of the Revised Code; 114507

(JJ) For any or all of the purposes set forth in divisions 114508
(I) and (J) of this section. This division applies only to a 114509
township. 114510

(KK) For a countywide public safety communications system 114511
under section 307.63 of the Revised Code. This division applies 114512
only to counties. 114513

(LL) For the support by a county of criminal justice services 114514
under section 307.45 of the Revised Code; 114515

(MM) For the purpose of maintaining and operating a jail or 114516
other detention facility as defined in section 2921.01 of the 114517
Revised Code; 114518

(NN) For purchasing, maintaining, or improving, or any 114519
combination of the foregoing, real estate on which to hold 114520
agricultural fairs. This division applies only to a county. 114521

(OO) For constructing, rehabilitating, repairing, or 114522
maintaining sidewalks, walkways, trails, bicycle pathways, or 114523
similar improvements, or acquiring ownership interests in land 114524
necessary for the foregoing improvements; 114525

(PP) For both of the purposes set forth in divisions (G) and 114526
(OO) of this section. 114527

(QQ) For both of the purposes set forth in divisions (H) and 114528
(HH) of this section. This division applies only to a township. 114529

(RR) For the legislative authority of a municipal 114530
corporation, board of county commissioners of a county, or board 114531
of township trustees of a township to acquire agricultural 114532
easements, as defined in section 5301.67 of the Revised Code, and 114533
to supervise and enforce the easements. 114534

(SS) For both of the purposes set forth in divisions (BB) and 114535
(KK) of this section. This division applies only to a county. 114536

(TT) For the maintenance and operation of a facility that is 114537
organized in whole or in part to promote the sciences and natural 114538
history under section 307.761 of the Revised Code. 114539

(UU) For the creation and operation of a county land 114540
reutilization corporation and for any programs or activities of 114541
the corporation found by the board of directors of the corporation 114542
to be consistent with the purposes for which the corporation is 114543

organized; 114544

(VV) For construction and maintenance of improvements and 114545
expenses of soil and water conservation district programs under 114546
Chapter 1515. of the Revised Code; 114547

(WW) For the Ohio cooperative extension service fund created 114548
under section 3335.35 of the Revised Code for the purposes 114549
prescribed under section 3335.36 of the Revised Code for the 114550
benefit of the citizens of a county. This division applies only to 114551
a county. 114552

The resolution shall be confined to the purpose or purposes 114553
described in one division of this section, to which the revenue 114554
derived therefrom shall be applied. The existence in any other 114555
division of this section of authority to levy a tax for any part 114556
or all of the same purpose or purposes does not preclude the use 114557
of such revenues for any part of the purpose or purposes of the 114558
division under which the resolution is adopted. 114559

The resolution shall specify the amount of the increase in 114560
rate that it is necessary to levy, the purpose of that increase in 114561
rate, and the number of years during which the increase in rate 114562
shall be in effect, which may or may not include a levy upon the 114563
duplicate of the current year. The number of years may be any 114564
number not exceeding five, except as follows: 114565

(1) When the additional rate is for the payment of debt 114566
charges, the increased rate shall be for the life of the 114567
indebtedness. 114568

(2) When the additional rate is for any of the following, the 114569
increased rate shall be for a continuing period of time: 114570

(a) For the current expenses for a detention facility 114571
district, a district organized under section 2151.65 of the 114572
Revised Code, or a combined district organized under sections 114573
2151.65 and 2152.41 of the Revised Code; 114574

(b) For providing a county's share of the cost of maintaining 114575
and operating schools, district detention facilities, forestry 114576
camps, or other facilities, or any combination thereof, 114577
established under section 2151.65 or 2152.41 of the Revised Code 114578
or under both of those sections. 114579

(3) When the additional rate is for either of the following, 114580
the increased rate may be for a continuing period of time: 114581

(a) For the purposes set forth in division (I), (J), (U), or 114582
(KK) of this section; 114583

(b) For the maintenance and operation of a joint recreation 114584
district. 114585

(4) When the increase is for the purpose or purposes set 114586
forth in division (D), (G), (H), (CC), or (PP) of this section, 114587
the tax levy may be for any specified number of years or for a 114588
continuing period of time, as set forth in the resolution. 114589

(5) When the additional rate is for the purpose described in 114590
division (Z) of this section, the increased rate shall be for any 114591
number of years not exceeding ten. 114592

A levy for one of the purposes set forth in division (G), 114593
(I), (J), or (U) of this section may be reduced pursuant to 114594
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 114595
the purposes set forth in division (G), (I), (J), or (U) of this 114596
section may also be terminated or permanently reduced by the 114597
taxing authority if it adopts a resolution stating that the 114598
continuance of the levy is unnecessary and the levy shall be 114599
terminated or that the millage is excessive and the levy shall be 114600
decreased by a designated amount. 114601

A resolution of a detention facility district, a district 114602
organized under section 2151.65 of the Revised Code, or a combined 114603
district organized under both sections 2151.65 and 2152.41 of the 114604
Revised Code may include both current expenses and other purposes, 114605

provided that the resolution shall apportion the annual rate of 114606
levy between the current expenses and the other purpose or 114607
purposes. The apportionment need not be the same for each year of 114608
the levy, but the respective portions of the rate actually levied 114609
each year for the current expenses and the other purpose or 114610
purposes shall be limited by the apportionment. 114611

Whenever a board of county commissioners, acting either as 114612
the taxing authority of its county or as the taxing authority of a 114613
sewer district or subdistrict created under Chapter 6117. of the 114614
Revised Code, by resolution declares it necessary to levy a tax in 114615
excess of the ten-mill limitation for the purpose of constructing, 114616
improving, or extending sewage disposal plants or sewage systems, 114617
the tax may be in effect for any number of years not exceeding 114618
twenty, and the proceeds of the tax, notwithstanding the general 114619
provisions of this section, may be used to pay debt charges on any 114620
obligations issued and outstanding on behalf of the subdivision 114621
for the purposes enumerated in this paragraph, provided that any 114622
such obligations have been specifically described in the 114623
resolution. 114624

The resolution shall go into immediate effect upon its 114625
passage, and no publication of the resolution is necessary other 114626
than that provided for in the notice of election. 114627

When the electors of a subdivision have approved a tax levy 114628
under this section, the taxing authority of the subdivision may 114629
anticipate a fraction of the proceeds of the levy and issue 114630
anticipation notes in accordance with section 5705.191 or 5705.193 114631
of the Revised Code. 114632

Sec. 5705.191. The taxing authority of any subdivision, other 114633
than the board of education of a school district or the taxing 114634
authority of a county school financing district, by a vote of 114635
two-thirds of all its members, may declare by resolution that the 114636

amount of taxes that may be raised within the ten-mill limitation 114637
by levies on the current tax duplicate will be insufficient to 114638
provide an adequate amount for the necessary requirements of the 114639
subdivision, and that it is necessary to levy a tax in excess of 114640
such limitation for any of the purposes in section 5705.19 of the 114641
Revised Code, or to supplement the general fund for the purpose of 114642
making appropriations for one or more of the following purposes: 114643
public assistance, human or social services, relief, welfare, 114644
hospitalization, health, and support of general hospitals, and 114645
that the question of such additional tax levy shall be submitted 114646
to the electors of the subdivision at a general, primary, or 114647
special election to be held at a time therein specified. Such 114648
resolution shall not include a levy on the current tax list and 114649
duplicate unless such election is to be held at or prior to the 114650
general election day of the current tax year. Such resolution 114651
shall conform to the requirements of section 5705.19 of the 114652
Revised Code, except that a levy to supplement the general fund 114653
for the purposes of public assistance, human or social services, 114654
relief, welfare, hospitalization, health, or the support of 114655
general or tuberculosis hospitals may not be for a longer period 114656
than ten years. All other levies under this section may not be for 114657
a longer period than five years unless a longer period is 114658
permitted by section 5705.19 of the Revised Code, and the 114659
resolution shall specify the date of holding such election, which 114660
shall not be earlier than ninety days after the adoption and 114661
certification of such resolution. The resolution shall go into 114662
immediate effect upon its passage and no publication of the same 114663
is necessary other than that provided for in the notice of 114664
election. A copy of such resolution, immediately after its 114665
passage, shall be certified to the board of elections of the 114666
proper county or counties in the manner provided by section 114667
5705.25 of the Revised Code, and such section shall govern the 114668
arrangements for the submission of such question and other matters 114669

with respect to such election, to which section 5705.25 of the Revised Code refers, excepting that such election shall be held on the date specified in the resolution, which shall be consistent with the requirements of section 3501.01 of the Revised Code, provided that only one special election for the submission of such question may be held in any one calendar year and provided that a special election may be held upon the same day a primary election is held. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

If a majority of the electors voting on the question vote in favor thereof, the taxing authority of the subdivision may make the necessary levy within such subdivision at the additional rate or at any lesser rate outside the ten-mill limitation on the tax list and duplicate for the purpose stated in the resolution. Such tax levy shall be included in the next annual tax budget that is certified to the county budget commission.

After the approval of such a levy by the electors, the taxing authority of the subdivision may anticipate a fraction of the proceeds of such levy and issue anticipation notes. In the case of a continuing levy that is not levied for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy for the succeeding ten years, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for a fixed period that is not for the purpose of current expenses, notes may be issued at any time after

approval of the levy in an amount not more than fifty per cent of 114702
the total estimated proceeds of the levy throughout the remaining 114703
life of the levy, less an amount equal to the fraction of the 114704
proceeds of the levy previously anticipated by the issuance of 114705
anticipation notes. In the case of a levy for current expenses, 114706
notes may be issued after the approval of the levy by the electors 114707
and prior to the time when the first tax collection from the levy 114708
can be made. Such notes may be issued in an amount not more than 114709
fifty per cent of the total estimated proceeds of the levy 114710
throughout the term of the levy in the case of a levy for a fixed 114711
period, or fifty per cent of the total estimated proceeds for the 114712
first ten years of the levy in the case of a continuing levy. 114713

No anticipation notes that increase the net indebtedness of a 114714
county may be issued without the prior consent of the board of 114715
county commissioners of that county. The notes shall be issued as 114716
provided in section 133.24 of the Revised Code, shall have 114717
principal payments during each year after the year of their 114718
issuance over a period not exceeding the life of the levy 114719
anticipated, and may have a principal payment in the year of their 114720
issuance. 114721

"Taxing authority" and "subdivision" have the same meanings 114722
as in section 5705.01 of the Revised Code. 114723

This section is supplemental to and not in derogation of 114724
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 114725

Sec. 5705.194. The board of education of any city, local, 114726
exempted village, cooperative education, or joint vocational 114727
school district at any time may declare by resolution that the 114728
revenue that will be raised by all tax levies which the district 114729
is authorized to impose, when combined with state and federal 114730
revenues, will be insufficient to provide for the emergency 114731
requirements of the school district or to avoid an operating 114732

deficit, and that it is therefore necessary to levy an additional 114733
tax in excess of the ten-mill limitation. The resolution shall be 114734
confined to a single purpose and shall specify that purpose. If 114735
the levy is proposed to renew all or a portion of the proceeds 114736
derived from one or more existing levies imposed pursuant to this 114737
section, it shall be called a renewal levy and shall be so 114738
designated on the ballot. If two or more existing levies are to be 114739
included in a single renewal levy but are not scheduled to expire 114740
in the same year, the resolution shall specify that the existing 114741
levies to be renewed shall not be levied after the year preceding 114742
the year in which the renewal levy is first imposed. 114743
Notwithstanding the original purpose of any one or more existing 114744
levies that are to be in any single renewal levy, the purpose of 114745
the renewal levy may be either to avoid an operating deficit or to 114746
provide for the emergency requirements of the school district. The 114747
resolution shall further specify the amount of money it is 114748
necessary to raise for the specified purpose for each calendar 114749
year the millage is to be imposed; if a renewal levy, whether the 114750
levy is to renew all, or a portion of, the proceeds derived from 114751
one or more existing levies; and the number of years in which the 114752
millage is to be in effect, which may include a levy upon the 114753
current year's tax list. The number of years may be any number not 114754
exceeding ten. 114755

The question shall be submitted at a special election on a 114756
date specified in the resolution. The date shall not be earlier 114757
than eighty days after the adoption and certification of the 114758
resolution to the county auditor and shall be consistent with the 114759
requirements of section 3501.01 of the Revised Code. A resolution 114760
for a renewal levy shall not be placed on the ballot unless the 114761
question is submitted on a date on which a special election may be 114762
held under division (D) of section 3501.01 of the Revised Code, 114763
except for the first Tuesday after the first Monday in February 114764
and August, during the last year the levy to be renewed may be 114765

extended on the real and public utility property tax list and 114766
duplicate, or at any election held in the ensuing year, except 114767
that if the resolution proposes renewing two or more existing 114768
levies, the question shall be submitted on the date of the general 114769
or primary election held during the last year at least one of the 114770
levies to be renewed may be extended on that list and duplicate, 114771
or at any election held during the ensuing year. For purposes of 114772
this section, a levy shall be considered to be an "existing levy" 114773
through the year following the last year it can be placed on the 114774
real and public utility property tax list and duplicate. 114775

The submission of questions to the electors under this 114776
section is subject to the limitation on the number of election 114777
dates established by section 5705.214 of the Revised Code. 114778

The resolution shall go into immediate effect upon its 114779
passage, and no publication of the resolution shall be necessary 114780
other than that provided for in the notice of election. A copy of 114781
the resolution shall immediately after its passing be certified to 114782
the county auditor of the proper county. Section 5705.195 of the 114783
Revised Code shall govern the arrangements for the submission of 114784
questions to the electors under this section and other matters 114785
concerning the election. Publication of notice of the election 114786
shall be made in one ~~or more newspapers~~ newspaper of general 114787
circulation in the county once a week for two consecutive weeks, 114788
or as provided in section 7.16 of the Revised Code, prior to the 114789
election, ~~and, if.~~ If the board of elections operates and 114790
maintains a web site, the board of elections shall post notice of 114791
the election on its web site for thirty days prior to the 114792
election. If a majority of the electors voting on the question 114793
submitted in an election vote in favor of the levy, the board of 114794
education of the school district may make the additional levy 114795
necessary to raise the amount specified in the resolution for the 114796
purpose stated in the resolution. The tax levy shall be included 114797

in the next tax budget that is certified to the county budget 114798
commission. 114799

After the approval of the levy and prior to the time when the 114800
first tax collection from the levy can be made, the board of 114801
education may anticipate a fraction of the proceeds of the levy 114802
and issue anticipation notes in an amount not exceeding the total 114803
estimated proceeds of the levy to be collected during the first 114804
year of the levy. 114805

The notes shall be issued as provided in section 133.24 of 114806
the Revised Code, shall have principal payments during each year 114807
after the year of their issuance over a period not to exceed five 114808
years, and may have principal payment in the year of their 114809
issuance. 114810

Sec. 5705.196. The election provided for in section 5705.194 114811
of the Revised Code shall be held at the regular places for voting 114812
in the district, and shall be conducted, canvassed, and certified 114813
in the same manner as regular elections in the district for the 114814
election of county officers, provided that in any such election in 114815
which only part of the electors of a precinct are qualified to 114816
vote, the board of elections may assign voters in such part to an 114817
adjoining precinct. Such an assignment may be made to an adjoining 114818
precinct in another county with the consent and approval of the 114819
board of elections of such other county. Notice of the election 114820
shall be published in one ~~or more newspapers~~ newspaper of general 114821
circulation in the district once a week for two consecutive weeks 114822
or as provided in section 7.16 of the Revised Code, prior to the 114823
election, ~~and, if~~ If the board of elections operates and 114824
maintains a web site, the board of elections shall post notice of 114825
the election on its web site for thirty days prior to the 114826
election. Such notice shall state the annual proceeds of the 114827
proposed levy, the purpose for which such proceeds are to be used, 114828

the number of years during which the levy shall run, and the 114829
estimated average additional tax rate expressed in dollars and 114830
cents for each one hundred dollars of valuation as well as in 114831
mills for each one dollar of valuation, outside the limitation 114832
imposed by Section 2 of Article XII, Ohio Constitution, as 114833
certified by the county auditor. 114834

Sec. 5705.21. (A) At any time, the board of education of any 114835
city, local, exempted village, cooperative education, or joint 114836
vocational school district, by a vote of two-thirds of all its 114837
members, may declare by resolution that the amount of taxes which 114838
may be raised within the ten-mill limitation by levies on the 114839
current tax duplicate will be insufficient to provide an adequate 114840
amount for the necessary requirements of the school district, that 114841
it is necessary to levy a tax in excess of such limitation for one 114842
of the purposes specified in division (A), (D), (F), (H), or (DD) 114843
of section 5705.19 of the Revised Code, for general permanent 114844
improvements, for the purpose of operating a cultural center, or 114845
for the purpose of providing education technology, and that the 114846
question of such additional tax levy shall be submitted to the 114847
electors of the school district at a special election on a day to 114848
be specified in the resolution. If the resolution states that the 114849
levy is for the purpose of operating a cultural center, the ballot 114850
shall state that the levy is "for the purpose of operating the 114851
..... (name of cultural center)." 114852

As used in this section, "cultural center" means a 114853
freestanding building, separate from a public school building, 114854
that is open to the public for educational, musical, artistic, and 114855
cultural purposes; "education technology" means, but is not 114856
limited to, computer hardware, equipment, materials, and 114857
accessories, equipment used for two-way audio or video, and 114858
software; and "general permanent improvements" means permanent 114859
improvements without regard to the limitation of division (F) of 114860

section 5705.19 of the Revised Code that the improvements be a 114861
specific improvement or a class of improvements that may be 114862
included in a single bond issue. 114863

The submission of questions to the electors under this 114864
section is subject to the limitation on the number of election 114865
dates established by section 5705.214 of the Revised Code. 114866

(B) Such resolution shall be confined to a single purpose and 114867
shall specify the amount of the increase in rate that it is 114868
necessary to levy, the purpose of the levy, and the number of 114869
years during which the increase in rate shall be in effect. The 114870
number of years may be any number not exceeding five or, if the 114871
levy is for current expenses of the district or for general 114872
permanent improvements, for a continuing period of time. The 114873
resolution shall specify the date of holding such election, which 114874
shall not be earlier than ninety days after the adoption and 114875
certification of the resolution and which shall be consistent with 114876
the requirements of section 3501.01 of the Revised Code. 114877

The resolution may propose to renew one or more existing 114878
levies imposed under this section or to increase or decrease a 114879
single levy imposed under this section. If the board of education 114880
imposes one or more existing levies for the purpose specified in 114881
division (F) of section 5705.19 of the Revised Code, the 114882
resolution may propose to renew one or more of those existing 114883
levies, or to increase or decrease a single such existing levy, 114884
for the purpose of general permanent improvements. If the 114885
resolution proposes to renew two or more existing levies, the 114886
levies shall be levied for the same purpose. The resolution shall 114887
identify those levies and the rates at which they are levied. The 114888
resolution also shall specify that the existing levies shall not 114889
be extended on the tax lists after the year preceding the year in 114890
which the renewal levy is first imposed, regardless of the years 114891
for which those levies originally were authorized to be levied. 114892

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the

levy to be collected during the first year of the levy. 114926

(2) After the approval of a levy for general permanent 114927
improvements for a specified number of years, or for permanent 114928
improvements having the purpose specified in division (F) of 114929
section 5705.19 of the Revised Code, the board of education may 114930
anticipate a fraction of the proceeds of the levy and issue 114931
anticipation notes in a principal amount not exceeding fifty per 114932
cent of the total estimated proceeds of the levy remaining to be 114933
collected in each year over a period of five years after the 114934
issuance of the notes. 114935

The notes shall be issued as provided in section 133.24 of 114936
the Revised Code, shall have principal payments during each year 114937
after the year of their issuance over a period not to exceed five 114938
years, and may have a principal payment in the year of their 114939
issuance. 114940

(3) After approval of a levy for general permanent 114941
improvements for a continuing period of time, the board of 114942
education may anticipate a fraction of the proceeds of the levy 114943
and issue anticipation notes in a principal amount not exceeding 114944
fifty per cent of the total estimated proceeds of the levy to be 114945
collected in each year over a specified period of years, not 114946
exceeding ten, after the issuance of the notes. 114947

The notes shall be issued as provided in section 133.24 of 114948
the Revised Code, shall have principal payments during each year 114949
after the year of their issuance over a period not to exceed ten 114950
years, and may have a principal payment in the year of their 114951
issuance. 114952

Sec. 5705.211. (A) As used in this section: 114953

(1) "Adjusted charge-off increase" for a tax year means two 114954
and two-tenths per cent of the cumulative carryover property value 114955

~~increase. If the cumulative carryover property value increase is 114956
computed on the basis of a school district's recognized valuation 114957
for a fiscal year before fiscal year 2014, the adjusted charge-off 114958
increase shall be adjusted to account for the greater charge-off 114959
rates prescribed for such fiscal years under sections 3317.022 and 114960
3306.13 of the Revised Code. 114961~~

(2) "Cumulative carryover property value increase" means the 114962
sum of the increases in carryover value certified under division 114963
(B)(2) of section 3317.015 of the Revised Code and included in a 114964
school district's total taxable value in the computation of 114965
recognized valuation under division (B) of that section for all 114966
fiscal years from the fiscal year that ends in the first tax year 114967
a levy under this section is extended on the tax list of real and 114968
public utility property until and including the fiscal year that 114969
ends in the current tax year. 114970

(3) "Taxes charged and payable" means the taxes charged and 114971
payable from a tax levy extended on the real and public utility 114972
property tax list and the general list of personal property before 114973
any reduction under section 319.302, 323.152, or 323.158 of the 114974
Revised Code. 114975

(B) The board of education of a city, local, or exempted 114976
village school district may adopt a resolution proposing the levy 114977
of a tax in excess of the ten-mill limitation for the purpose of 114978
paying the current operating expenses of the district. If the 114979
resolution is approved as provided in division (D) of this 114980
section, the tax may be levied at such a rate each tax year that 114981
the total taxes charged and payable from the levy equals the 114982
adjusted charge-off increase for the tax year or equals a lesser 114983
amount as prescribed under division (C) of this section. The tax 114984
may be levied for a continuing period of time or for a specific 114985
number of years, but not fewer than five years, as provided in the 114986
resolution. The tax may not be placed on the tax list for a tax 114987

year beginning before the first day of January following adoption 114988
of the resolution. A board of education may not adopt a resolution 114989
under this section proposing to levy a tax under this section 114990
concurrently with any other tax levied by the board under this 114991
section. 114992

(C) After the first year a tax is levied under this section, 114993
the rate of the tax in any year shall not exceed the rate, 114994
estimated by the county auditor, that would cause the sums levied 114995
from the tax against carryover property to exceed one hundred four 114996
per cent of the sums levied from the tax against carryover 114997
property in the preceding year. A board of education imposing a 114998
tax under this section may specify in the resolution imposing the 114999
tax that the percentage shall be less than one hundred four per 115000
cent, but the percentage shall not be less than one hundred per 115001
cent. At any time after a resolution adopted under this section is 115002
approved by a majority of electors as provided in division (D) of 115003
this section, the board of education, by resolution, may decrease 115004
the percentage specified in the resolution levying the tax. 115005

(D) A resolution adopted under this section shall state that 115006
the purpose of the tax is to pay current operating expenses of the 115007
district, and shall specify the first year in which the tax is to 115008
be levied, the number of years the tax will be levied or that it 115009
will be levied for a continuing period of time, and the election 115010
at which the question of the tax is to appear on the ballot, which 115011
shall be a general or special election consistent with the 115012
requirements of section 3501.01 of the Revised Code. If the board 115013
of education specifies a percentage less than one hundred four per 115014
cent pursuant to division (C) of this section, the percentage 115015
shall be specified in the resolution. 115016

Upon adoption of the resolution, the board of education may 115017
certify a copy of the resolution to the proper county board of 115018
elections. The copy of the resolution shall be certified to the 115019

board of elections not later than ninety days before the day of 115020
the election at which the question of the tax is to appear on the 115021
ballot. Upon receiving a timely certified copy of such a 115022
resolution, the board of elections shall make the necessary 115023
arrangements for the submission of the question to the electors of 115024
the school district, and the election shall be conducted, 115025
canvassed, and certified in the same manner as regular elections 115026
in the school district for the election of members of the board of 115027
education. Notice of the election shall be published in ~~one or~~ 115028
~~more newspapers~~ a newspaper of general circulation in the school 115029
district once per week for four consecutive weeks or as provided 115030
in section 7.16 of the Revised Code. The notice shall state that 115031
the purpose of the tax is for the current operating expenses of 115032
the school district, the first year the tax is to be levied, the 115033
number of years the tax is to be levied or that it is to be levied 115034
for a continuing period of time, that the tax is to be levied each 115035
year in an amount estimated to offset decreases in state base cost 115036
funding caused by appreciation in real estate values, and that the 115037
estimated additional tax in any year shall not exceed the previous 115038
year's by more than four per cent, or a lesser percentage 115039
specified in the resolution levying the tax, except for increases 115040
caused by the addition of new taxable property. 115041

The question shall be submitted as a separate proposition but 115042
may be printed on the same ballot with any other proposition 115043
submitted at the same election other than the election of 115044
officers. 115045

The form of the ballot shall be substantially as follows: 115046

"An additional tax for the benefit of (name of school 115047
district) for the purpose of paying the current operating expenses 115048
of the district, for (number of years or for continuing 115049
period of time), at a rate sufficient to offset any reduction in 115050
basic state funding caused by appreciation in real estate values? 115051

This levy will permit variable annual growth in revenue up to 115052
..... (amount specified by school district) per cent for the 115053
duration of the levy. 115054

	For the tax levy	
	Against the tax levy	"

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If a majority of the electors of the school district voting 115059
on the question vote in favor of the question, the board of 115060
elections shall certify the results of the election to the board 115061
of education and to the tax commissioner immediately after the 115062
canvass. 115063

(E) When preparing any estimate of the contemplated receipts 115064
from a tax levied pursuant to this section for the purposes of 115065
sections 5705.28 to 5705.40 of the Revised Code, and in preparing 115066
to certify the tax under section 5705.34 of the Revised Code, a 115067
board of education authorized to levy such a tax shall use 115068
information supplied by the department of education to determine 115069
the adjusted charge-off increase for the tax year for which that 115070
certification is made. If the board levied a tax under this 115071
section in the preceding tax year, the sum to be certified for 115072
collection from the tax shall not exceed the sum that would exceed 115073
the limitation imposed under division (C) of this section. At the 115074
request of the board of education or the treasurer of the school 115075
district, the county auditor shall assist the board of education 115076
in determining the rate or sum that may be levied under this 115077
section. 115078

The board of education shall certify the sum authorized to be 115079
levied to the county auditor, and, for the purpose of the county 115080
auditor determining the rate at which the tax is to be levied in 115081
the tax year, the sum so certified shall be the sum to be raised 115082

by the tax unless the sum exceeds the limitation imposed by 115083
division (C) of this section. A tax levied pursuant to this 115084
section shall not be levied at a rate in excess of the rate 115085
estimated by the county auditor to produce the sum certified by 115086
the board of education before the reductions under sections 115087
319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding 115088
section 5705.34 of the Revised Code, a board of education 115089
authorized to levy a tax under this section shall certify the tax 115090
to the county auditor before the first day of October of the tax 115091
year in which the tax is to be levied, or at a later date as 115092
approved by the tax commissioner. 115093

Sec. 5705.214. Not more than three elections during any 115094
calendar year shall include the questions by a school district of 115095
tax levies proposed under any one or any combination of the 115096
following sections: sections 5705.194, 5705.199, 5705.21, 115097
5705.212, 5705.213, 5705.217, 5705.218, ~~and 5705.219,~~ and 5748.09 115098
of the Revised Code. 115099

Sec. 5705.218. (A) The board of education of a city, local, 115100
or exempted village school district, at any time by a vote of 115101
two-thirds of all its members, may declare by resolution that it 115102
may be necessary for the school district to issue general 115103
obligation bonds for permanent improvements. The resolution shall 115104
state all of the following: 115105

(1) The necessity and purpose of the bond issue; 115106

(2) The date of the special election at which the question 115107
shall be submitted to the electors; 115108

(3) The amount, approximate date, estimated rate of interest, 115109
and maximum number of years over which the principal of the bonds 115110
may be paid; 115111

(4) The necessity of levying a tax outside the ten-mill 115112

limitation to pay debt charges on the bonds and any anticipatory securities. 115113
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On adoption of the resolution, the board shall certify a copy of it to the county auditor. The county auditor promptly shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code. 115115
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(B) After receiving the county auditor's certification under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities; that it is necessary for a specified number of years or for a continuing period of time to levy additional taxes in excess of the ten-mill limitation to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements or to pay for current operating expenses, or both; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following: 115121
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(1) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the 115143
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bonds to pay debt charges on the bonds; 115145

(2) The proposed rate of the tax, if any, for current 115146
operating expenses, the first year the tax will be levied, and the 115147
number of years it will be levied, or that it will be levied for a 115148
continuing period of time; 115149

(3) The proposed rate of the tax, if any, for permanent 115150
improvements, the first year the tax will be levied, and the 115151
number of years it will be levied, or that it will be levied for a 115152
continuing period of time. 115153

The resolution shall apportion the annual rate of the tax 115154
between current operating expenses and permanent improvements, if 115155
both taxes are proposed. The apportionment may but need not be the 115156
same for each year of the tax, but the respective portions of the 115157
rate actually levied each year for current operating expenses and 115158
permanent improvements shall be limited by the apportionment. The 115159
resolution shall go into immediate effect upon its passage, and no 115160
publication of it is necessary other than that provided in the 115161
notice of election. The board of education shall certify a copy of 115162
the resolution, along with copies of the auditor's estimate and 115163
its resolution under division (A) of this section, to the board of 115164
elections immediately after its adoption. 115165

(C) The board of elections shall make the arrangements for 115166
the submission of the question to the electors of the school 115167
district, and the election shall be conducted, canvassed, and 115168
certified in the same manner as regular elections in the district 115169
for the election of county officers. The resolution shall be put 115170
before the electors as one ballot question, with a favorable vote 115171
indicating approval of the bond issue, the levy to pay debt 115172
charges on the bonds and any anticipatory securities, the current 115173
operating expenses levy, and the permanent improvements levy, if 115174
either or both levies are proposed. The board of elections shall 115175
publish notice of the election in ~~one or more newspapers a~~ 115176

newspaper of general circulation in the school district once a 115177
week for two consecutive weeks, or as provided in section 7.16 of 115178
the Revised Code, prior to the election, ~~and, if.~~ If a board of 115179
elections operates and maintains a web site, that board also shall 115180
post notice of the election on its web site for thirty days prior 115181
to the election. The notice of election shall state all of the 115182
following: 115183

(1) The principal amount of the proposed bond issue; 115184

(2) The permanent improvements for which the bonds are to be 115185
issued; 115186

(3) The maximum number of years over which the principal of 115187
the bonds may be paid; 115188

(4) The estimated additional average annual property tax rate 115189
to pay the debt charges on the bonds, as certified by the county 115190
auditor; 115191

(5) The proposed rate of the additional tax, if any, for 115192
current operating expenses; 115193

(6) The number of years the current operating expenses tax 115194
will be in effect, or that it will be in effect for a continuing 115195
period of time; 115196

(7) The proposed rate of the additional tax, if any, for 115197
permanent improvements; 115198

(8) The number of years the permanent improvements tax will 115199
be in effect, or that it will be in effect for a continuing period 115200
of time; 115201

(9) The time and place of the special election. 115202

(D) The form of the ballot for an election under this section 115203
is as follows: 115204

"Shall the school district be authorized to do the 115205
following: 115206

(1) Issue bonds for the purpose of in the 115207
principal amount of \$....., to be repaid annually over a maximum 115208
period of years, and levy a property tax outside the 115209
ten-mill limitation, estimated by the county auditor to average 115210
over the bond repayment period mills for each one dollar of 115211
tax valuation, which amounts to (rate expressed in cents or 115212
dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 115213
tax valuation, to pay the annual debt charges on the bonds, and to 115214
pay debt charges on any notes issued in anticipation of those 115215
bonds?" 115216

If either a levy for permanent improvements or a levy for 115217
current operating expenses is proposed, or both are proposed, the 115218
ballot also shall contain the following language, as appropriate: 115219

"(2) Levy an additional property tax to provide funds for the 115220
acquisition, construction, enlargement, renovation, and financing 115221
of permanent improvements at a rate not exceeding mills 115222
for each one dollar of tax valuation, which amounts to 115223
(rate expressed in cents or dollars and cents) for each \$100 of 115224
tax valuation, for (number of years of the levy, or a 115225
continuing period of time)? 115226

(3) Levy an additional property tax to pay current operating 115227
expenses at a rate not exceeding mills for each one dollar 115228
of tax valuation, which amounts to (rate expressed in 115229
cents or dollars and cents) for each \$100 of tax valuation, for 115230
..... (number of years of the levy, or a continuing period of 115231
time)? 115232

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)	
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)	"

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(E) The board of elections promptly shall certify the results 115237

of the election to the tax commissioner and the county auditor of 115238
the county in which the school district is located. If a majority 115239
of the electors voting on the question vote for it, the board of 115240
education may proceed with issuance of the bonds and with the levy 115241
and collection of the property tax or taxes at the additional rate 115242
or any lesser rate in excess of the ten-mill limitation. Any 115243
securities issued by the board of education under this section are 115244
Chapter 133. securities, as that term is defined in section 133.01 115245
of the Revised Code. 115246

(F)(1) After the approval of a tax for current operating 115247
expenses under this section and prior to the time the first 115248
collection and distribution from the levy can be made, the board 115249
of education may anticipate a fraction of the proceeds of such 115250
levy and issue anticipation notes in a principal amount not 115251
exceeding fifty per cent of the total estimated proceeds of the 115252
tax to be collected during the first year of the levy. 115253

(2) After the approval of a tax under this section for 115254
permanent improvements having a specific purpose, the board of 115255
education may anticipate a fraction of the proceeds of such tax 115256
and issue anticipation notes in a principal amount not exceeding 115257
fifty per cent of the total estimated proceeds of the tax 115258
remaining to be collected in each year over a period of five years 115259
after issuance of the notes. 115260

(3) After the approval of a tax for general, on-going 115261
permanent improvements under this section, the board of education 115262
may anticipate a fraction of the proceeds of such tax and issue 115263
anticipation notes in a principal amount not exceeding fifty per 115264
cent of the total estimated proceeds of the tax to be collected in 115265
each year over a specified period of years, not exceeding ten, 115266
after issuance of the notes. 115267

Anticipation notes under this section shall be issued as 115268
provided in section 133.24 of the Revised Code. Notes issued under 115269

division (F)(1) or (2) of this section shall have principal 115270
payments during each year after the year of their issuance over a 115271
period not to exceed five years, and may have a principal payment 115272
in the year of their issuance. Notes issued under division (F)(3) 115273
of this section shall have principal payments during each year 115274
after the year of their issuance over a period not to exceed ten 115275
years, and may have a principal payment in the year of their 115276
issuance. 115277

(G) A tax for current operating expenses or for permanent 115278
improvements levied under this section for a specified number of 115279
years may be renewed or replaced in the same manner as a tax for 115280
current operating expenses or for permanent improvements levied 115281
under section 5705.21 of the Revised Code. A tax for current 115282
operating expenses or for permanent improvements levied under this 115283
section for a continuing period of time may be decreased in 115284
accordance with section 5705.261 of the Revised Code. 115285

(H) The submission of a question to the electors under this 115286
section is subject to the limitation on the number of elections 115287
that can be held in a year under section 5705.214 of the Revised 115288
Code. 115289

(I) A school district board of education proposing a ballot 115290
measure under this section to generate local resources for a 115291
project under the school building assistance expedited local 115292
partnership program under section 3318.36 of the Revised Code may 115293
combine the questions under division (D) of this section with a 115294
question for the levy of a property tax to generate moneys for 115295
maintenance of the classroom facilities acquired under that 115296
project as prescribed in section 3318.361 of the Revised Code. 115297

Sec. 5705.25. (A) A copy of any resolution adopted as 115298
provided in section 5705.19 or 5705.2111 of the Revised Code shall 115299
be certified by the taxing authority to the board of elections of 115300

the proper county not less than ninety days before the general 115301
election in any year, and the board shall submit the proposal to 115302
the electors of the subdivision at the succeeding November 115303
election. Except as otherwise provided in this division, a 115304
resolution to renew an existing levy, regardless of the section of 115305
the Revised Code under which the tax was imposed, shall not be 115306
placed on the ballot unless the question is submitted at the 115307
general election held during the last year the tax to be renewed 115308
or replaced may be extended on the real and public utility 115309
property tax list and duplicate, or at any election held in the 115310
ensuing year. The limitation of the foregoing sentence does not 115311
apply to a resolution to renew and increase or to renew part of an 115312
existing levy that was imposed under section 5705.191 of the 115313
Revised Code to supplement the general fund for the purpose of 115314
making appropriations for one or more of the following purposes: 115315
for public assistance, human or social services, relief, welfare, 115316
hospitalization, health, and support of general hospitals. The 115317
limitation of the second preceding sentence also does not apply to 115318
a resolution that proposes to renew two or more existing levies 115319
imposed under section 5705.21 of the Revised Code, in which case 115320
the question shall be submitted on the date of the general or 115321
primary election held during the last year at least one of the 115322
levies to be renewed may be extended on the real and public 115323
utility property tax list and duplicate, or at any election held 115324
during the ensuing year. For purposes of this section, a levy 115325
shall be considered to be an "existing levy" through the year 115326
following the last year it can be placed on that tax list and 115327
duplicate. 115328

The board shall make the necessary arrangements for the 115329
submission of such questions to the electors of such subdivision, 115330
and the election shall be conducted, canvassed, and certified in 115331
the same manner as regular elections in such subdivision for the 115332
election of county officers. Notice of the election shall be 115333

published in a newspaper of general circulation in the subdivision 115334
once a week for two consecutive weeks, or as provided in section 115335
7.16 of the Revised Code, prior to the election, ~~and, if~~. If the 115336
board of elections operates and maintains a web site, the board of 115337
elections shall post notice of the election on its web site for 115338
thirty days prior to the election. The notice shall state the 115339
purpose, the proposed increase in rate expressed in dollars and 115340
cents for each one hundred dollars of valuation as well as in 115341
mills for each one dollar of valuation, the number of years during 115342
which the increase will be in effect, the first month and year in 115343
which the tax will be levied, and the time and place of the 115344
election. 115345

(B) The form of the ballots cast at an election held pursuant 115346
to division (A) of this section shall be as follows: 115347

"An additional tax for the benefit of (name of subdivision or 115348
public library) for the purpose of (purpose stated in 115349
the resolution) at a rate not exceeding mills 115350
for each one dollar of valuation, which amounts to (rate expressed 115351
in dollars and cents) for each one hundred dollars of 115352
valuation, for (life of indebtedness or number of years the 115353
levy is to run). 115354

	For the Tax Levy
	Against the Tax Levy

"

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(C) If the levy is to be in effect for a continuing period of 115359
time, the notice of election and the form of ballot shall so state 115360
instead of setting forth a specified number of years for the levy. 115361

If the tax is to be placed on the current tax list, the form 115362
of the ballot shall be modified by adding, after the statement of 115363
the number of years the levy is to run, the phrase ", commencing 115364

in (first year the tax is to be levied), first due in 115365
calendar year (first calendar year in which the tax 115366
shall be due)." 115367

If the levy submitted is a proposal to renew, increase, or 115368
decrease an existing levy, the form of the ballot specified in 115369
division (B) of this section may be changed by substituting for 115370
the words "An additional" at the beginning of the form, the words 115371
"A renewal of a" in case of a proposal to renew an existing levy 115372
in the same amount; the words "A renewal of mills and an 115373
increase of mills to constitute a" in the case of an 115374
increase; or the words "A renewal of part of an existing levy, 115375
being a reduction of mills, to constitute a" in the case of 115376
a decrease in the proposed levy. 115377

If the levy submitted is a proposal to renew two or more 115378
existing levies imposed under section 5705.21 of the Revised Code, 115379
the form of the ballot specified in division (B) of this section 115380
shall be modified by substituting for the words "an additional 115381
tax" the words "a renewal of(insert the number of levies to 115382
be renewed) existing taxes." 115383

The question covered by such resolution shall be submitted as 115384
a separate proposition but may be printed on the same ballot with 115385
any other proposition submitted at the same election, other than 115386
the election of officers. More than one such question may be 115387
submitted at the same election. 115388

(D) A levy voted in excess of the ten-mill limitation under 115389
this section shall be certified to the tax commissioner. In the 115390
first year of the levy, it shall be extended on the tax lists 115391
after the February settlement succeeding the election. If the 115392
additional tax is to be placed upon the tax list of the current 115393
year, as specified in the resolution providing for its submission, 115394
the result of the election shall be certified immediately after 115395
the canvass by the board of elections to the taxing authority, who 115396

shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.251. (A) A copy of a resolution adopted under section 5705.212 or 5705.213 of the Revised Code shall be certified by the board of education to the board of elections of the proper county not less than ninety days before the date of the election specified in the resolution, and the board of elections shall submit the proposal to the electors of the school district at a special election to be held on that date. The board of elections shall make the necessary arrangements for the submission of the question or questions to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if.~~ If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

(1) In the case of a resolution adopted under section 5705.212 of the Revised Code, the notice shall state separately, for each tax being proposed, the purpose; the proposed increase in rate, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation; the number of years during which the increase will be in effect; and the first calendar year in which the tax will be due. For an election on the question of a renewal levy, the notice shall state the purpose; the proposed rate, expressed in dollars and cents for

each one hundred dollars of valuation as well as in mills for each 115429
one dollar of valuation; and the number of years the tax will be 115430
in effect. 115431

(2) In the case of a resolution adopted under section 115432
5705.213 of the Revised Code, the notice shall state the purpose; 115433
the amount proposed to be raised by the tax in the first year it 115434
is levied; the estimated average additional tax rate for the first 115435
year it is proposed to be levied, expressed in mills for each one 115436
dollar of valuation and in dollars and cents for each one hundred 115437
dollars of valuation; the number of years during which the 115438
increase will be in effect; and the first calendar year in which 115439
the tax will be due. The notice also shall state the amount by 115440
which the amount to be raised by the tax may be increased in each 115441
year after the first year. The amount of the allowable increase 115442
may be expressed in terms of a dollar increase over, or a 115443
percentage of, the amount raised by the tax in the immediately 115444
preceding year. For an election on the question of a renewal levy, 115445
the notice shall state the purpose; the amount proposed to be 115446
raised by the tax; the estimated tax rate, expressed in mills for 115447
each one dollar of valuation and in dollars and cents for each one 115448
hundred dollars of valuation; and the number of years the tax will 115449
be in effect. 115450

In any case, the notice also shall state the time and place 115451
of the election. 115452

(B) The form of the ballot in an election on taxes proposed 115453
under section 5705.212 of the Revised Code shall be as follows: 115454

"Shall the school district be authorized to levy 115455
taxes for current expenses, the aggregate rate of which may 115456
increase in (number) increment(s) of not more than 115457
mill(s) for each dollar of valuation, from an original rate of 115458
..... mill(s) for each dollar of valuation, which amounts to 115459
..... (rate expressed in dollars and cents) for each one hundred 115460

dollars of valuation, to a maximum rate of mill(s) for each 115461
dollar of valuation, which amounts to (rate expressed in 115462
dollars and cents) for each one hundred dollars of valuation? The 115463
original tax is first proposed to be levied in (the first 115464
year of the tax), and the incremental tax in (the first 115465
year of the increment) (if more than one incremental tax is 115466
proposed in the resolution, the first year that each incremental 115467
tax is proposed to be levied shall be stated in the preceding 115468
format, and the increments shall be referred to as the first, 115469
second, third, or fourth increment, depending on their number). 115470
The aggregate rate of tax so authorized will (insert 115471
either, "expire with the original rate of tax which shall be in 115472
effect for years" or "be in effect for a continuing period 115473
of time"). 115474

	FOR THE TAX LEVIES
	AGAINST THE TAX LEVIES

"

The form of the ballot in an election on the question of a 115479
renewal levy under section 5705.212 of the Revised Code shall be 115480
as follows: 115481

"Shall the school district be authorized to renew a 115482
tax for current expenses at a rate not exceeding mills 115483
for each dollar of valuation, which amounts to (rate 115484
expressed in dollars and cents) for each one hundred dollars of 115485
valuation, for (number of years the levy shall be in 115486
effect, or a continuing period of time)? 115487

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

115491

If the tax is to be placed on the current tax list, the form 115492
of the ballot shall be modified by adding, after the statement of 115493
the number of years the levy is to be in effect, the phrase ", 115494
commencing in (first year the tax is to be levied), 115495
first due in calendar year (first calendar year in 115496
which the tax shall be due)." 115497

(C) The form of the ballot in an election on a tax proposed 115498
under section 5705.213 of the Revised Code shall be as follows: 115499

"Shall the school district be authorized to levy the 115500
following tax for current expenses? The tax will first be levied 115501
in (year) to raise (dollars). In the (number 115502
of years) following years, the tax will increase by not more than 115503
..... (per cent or dollar amount of increase) each year, so that, 115504
during (last year of the tax), the tax will raise 115505
approximately (dollars). The county auditor estimates that 115506
the rate of the tax per dollar of valuation will be 115507
mill(s), which amounts to \$. per one hundred dollars of 115508
valuation, both during (first year of the tax) and 115509
mill(s), which amounts to \$. per one hundred dollars of 115510
valuation, during (last year of the tax). The tax will not 115511
be levied after (year). 115512

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

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115514
115515
115516

The form of the ballot in an election on the question of a 115517
renewal levy under section 5705.213 of the Revised Code shall be 115518
as follows: 115519

"Shall the school district be authorized to renew a 115520
tax for current expenses which will raise (dollars), 115521
estimated by the county auditor to be mills for each 115522

dollar of valuation, which amounts to (rate expressed in 115523
dollars and cents) for each one hundred dollars of valuation? The 115524
tax shall be in effect for (the number of years the levy 115525
shall be in effect, or a continuing period of time). 115526

	FOR THE TAX LEVY	
	AGAINST THE TAX LEVY	"

115527
115528
115529
115530

If the tax is to be placed on the current tax list, the form 115531
of the ballot shall be modified by adding, after the statement of 115532
the number of years the levy is to be in effect, the phrase ", 115533
commencing in (first year the tax is to be levied), 115534
first due in calendar year (first calendar year in 115535
which the tax shall be due)." 115536

(D) The question covered by a resolution adopted under 115537
section 5705.212 or 5705.213 of the Revised Code shall be 115538
submitted as a separate question, but may be printed on the same 115539
ballot with any other question submitted at the same election, 115540
other than the election of officers. More than one question may be 115541
submitted at the same election. 115542

(E) Taxes voted in excess of the ten-mill limitation under 115543
division (B) or (C) of this section shall be certified to the tax 115544
commissioner. If an additional tax is to be placed upon the tax 115545
list of the current year, as specified in the resolution providing 115546
for its submission, the result of the election shall be certified 115547
immediately after the canvass by the board of elections to the 115548
board of education. The board of education immediately shall make 115549
the necessary levy and certify it to the county auditor, who shall 115550
extend it on the tax list for collection. After the first year, 115551
the levy shall be included in the annual tax budget that is 115552
certified to the county budget commission. 115553

Sec. 5705.261. The question of decrease of an increased rate 115554
of levy approved for a continuing period of time by the voters of 115555
a subdivision may be initiated by the filing of a petition with 115556
the board of elections of the proper county not less than ninety 115557
days before the general election in any year requesting that an 115558
election be held on such question. Such petition shall state the 115559
amount of the proposed decrease in the rate of levy and shall be 115560
signed by qualified electors residing in the subdivision equal in 115561
number to at least ten per cent of the total number of votes cast 115562
in the subdivision for the office of governor at the most recent 115563
general election for that office. Only one such petition may be 115564
filed during each five-year period following the election at which 115565
the voters approved the increased rate for a continuing period of 115566
time. 115567

After determination by it that such petition is valid, the 115568
board of elections shall submit the question to the electors of 115569
the district at the succeeding general election. The election 115570
shall be conducted, canvassed, and certified in the same manner as 115571
regular elections in such subdivision for county offices. Notice 115572
of the election shall be published in a newspaper of general 115573
circulation in the district once a week for two consecutive weeks, 115574
or as provided in section 7.16 of the Revised Code, prior to the 115575
election, ~~and, if,~~ If the board of elections operates and 115576
maintains a web site, the board of elections shall post notice of 115577
the election on its web site for thirty days prior to the 115578
election. The notice shall state the purpose, the amount of the 115579
proposed decrease in rate, and the time and place of the election. 115580
The form of the ballot cast at such election shall be prescribed 115581
by the secretary of state. The question covered by such petition 115582
shall be submitted as a separate proposition but it may be printed 115583
on the same ballot with any other propositions submitted at the 115584
same election other than the election of officers. If a majority 115585

of the qualified electors voting on the question of a decrease at 115586
such election approve the proposed decrease in rate, the result of 115587
the election shall be certified immediately after the canvass by 115588
the board of elections to the subdivision's taxing authority, 115589
which shall thereupon, after the current year, cease to levy such 115590
increased rate or levy such tax at such reduced rate upon the 115591
duplicate of the subdivision. If notes have been issued in 115592
anticipation of the collection of such levy, the taxing authority 115593
shall continue to levy and collect under authority of the election 115594
authorizing the original levy such amounts as will be sufficient 115595
to pay the principal of and interest on such anticipation notes as 115596
the same fall due. 115597

Sec. 5705.29. This section does not apply to a subdivision or 115598
taxing unit for which the county budget commission has waived the 115599
requirement to adopt a tax budget pursuant to section 5705.281 of 115600
the Revised Code. The tax budget shall present the following 115601
information in such detail as is prescribed by the auditor of 115602
state: 115603

(A)(1) A statement of the necessary current operating 115604
expenses for the ensuing fiscal year for each department and 115605
division of the subdivision, classified as to personal services 115606
and other expenses, and the fund from which such expenditures are 115607
to be made. Except in the case of a school district, this estimate 115608
may include a contingent expense not designated for any particular 115609
purpose, and not to exceed three per cent of the total amount of 115610
appropriations for current expenses. In the case of a school 115611
district, this estimate may include a contingent expense not 115612
designated for any particular purpose and not to exceed thirteen 115613
per cent of the total amount of appropriations for current 115614
expenses. 115615

(2) A statement of the expenditures for the ensuing fiscal 115616

year necessary for permanent improvements, exclusive of any	115617
expense to be paid from bond issues, classified as to the	115618
improvements contemplated by the subdivision and the fund from	115619
which such expenditures are to be made;	115620
(3) The amounts required for the payment of final judgments;	115621
(4) A statement of expenditures for the ensuing fiscal year	115622
necessary for any purpose for which a special levy is authorized,	115623
and the fund from which such expenditures are to be made;	115624
(5) Comparative statements, so far as possible, in parallel	115625
columns of corresponding items of expenditures for the current	115626
fiscal year and the two preceding fiscal years.	115627
(B)(1) An estimate of receipts from other sources than the	115628
general property tax during the ensuing fiscal year, which shall	115629
include an estimate of unencumbered balances at the end of the	115630
current fiscal year, and the funds to which such estimated	115631
receipts are credited;	115632
(2) The amount each fund requires from the general property	115633
tax, which shall be the difference between the contemplated	115634
expenditure from the fund and the estimated receipts, as provided	115635
in this section. The section of the Revised Code under which the	115636
tax is authorized shall be set forth.	115637
(3) Comparative statements, so far as possible, in parallel	115638
columns of taxes and other revenues for the current fiscal year	115639
and the two preceding fiscal years.	115640
(C)(1) The amount required for debt charges;	115641
(2) The estimated receipts from sources other than the tax	115642
levy for payment of such debt charges, including the proceeds of	115643
refunding bonds to be issued to refund bonds maturing in the next	115644
succeeding fiscal year;	115645
(3) The net amount for which a tax levy shall be made,	115646

classified as to bonds authorized and issued prior to January 1, 115647
1922, and those authorized and issued subsequent to such date, and 115648
as to what portion of the levy will be within and what in excess 115649
of the ten-mill limitation. 115650

(D) An estimate of amounts from taxes authorized to be levied 115651
in excess of the ten-mill limitation on the tax rate, and the fund 115652
to which such amounts will be credited, together with the sections 115653
of the Revised Code under which each such tax is exempted from all 115654
limitations on the tax rate. 115655

(E)(1) A board of education may include in its budget for the 115656
fiscal year in which a levy proposed under section 5705.194, 115657
5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy 115658
proposed under section 5748.09, or the original levy under section 115659
5705.212 of the Revised Code is first extended on the tax list and 115660
duplicate an estimate of expenditures to be known as a voluntary 115661
contingency reserve balance, which shall not be greater than 115662
twenty-five per cent of the total amount of the levy estimated to 115663
be available for appropriation in such year. 115664

(2) A board of education may include in its budget for the 115665
fiscal year following the year in which a levy proposed under 115666
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 115667
property tax levy proposed under section 5748.09, or the original 115668
levy under section 5705.212 of the Revised Code is first extended 115669
on the tax list and duplicate an estimate of expenditures to be 115670
known as a voluntary contingency reserve balance, which shall not 115671
be greater than twenty per cent of the amount of the levy 115672
estimated to be available for appropriation in such year. 115673

(3) Except as provided in division (E)(4) of this section, 115674
the full amount of any reserve balance the board includes in its 115675
budget shall be retained by the county auditor and county 115676
treasurer out of the first semiannual settlement of taxes until 115677
the beginning of the next succeeding fiscal year, and thereupon, 115678

with the depository interest apportioned thereto, it shall be 115679
turned over to the board of education, to be used for the purposes 115680
of such fiscal year. 115681

(4) A board of education, by a two-thirds vote of all members 115682
of the board, may appropriate any amount withheld as a voluntary 115683
contingency reserve balance during the fiscal year for any lawful 115684
purpose, provided that prior to such appropriation the board of 115685
education has authorized the expenditure of all amounts 115686
appropriated for contingencies under section 5705.40 of the 115687
Revised Code. Upon request by the board of education, the county 115688
auditor shall draw a warrant on the district's account in the 115689
county treasury payable to the district in the amount requested. 115690

(F)(1) A board of education may include a spending reserve in 115691
its budget for fiscal years ending on or before June 30, 2002. The 115692
spending reserve shall consist of an estimate of expenditures not 115693
to exceed the district's spending reserve balance. A district's 115694
spending reserve balance is the amount by which the designated 115695
percentage of the district's estimated personal property taxes to 115696
be settled during the calendar year in which the fiscal year ends 115697
exceeds the estimated amount of personal property taxes to be so 115698
settled and received by the district during that fiscal year. 115699
Moneys from a spending reserve shall be appropriated in accordance 115700
with section 133.301 of the Revised Code. 115701

(2) For the purposes of computing a school district's 115702
spending reserve balance for a fiscal year, the designated 115703
percentage shall be as follows: 115704

Fiscal year ending in:	Designated percentage	
1998	50%	115705
1999	40%	115706
2000	30%	115707
2001	20%	115708
2002	10%	115709

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of section 5747.51 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5705.314. If the board of education of a city, local, or exempted village school district proposes to change its levy within the ten-mill limitation in a manner that will result in an increase in the amount of real property taxes levied by the board in the tax year the change takes effect, the board shall hold a public hearing solely on the proposal before adopting a resolution to implement the proposal. The board shall publish notice of the hearing in a newspaper of general circulation in the school district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The second publication shall be not less than ten nor more than thirty days before the date of the hearing. ~~The, and the~~ notice shall include the date, time, place, and subject of the hearing, and a statement that the change proposed by the board may result in an increase in the amount of real property taxes levied by the board. At the time the board submits the notice for publication, the board shall send a copy of the notice to the auditor of the county where the school district

is located or, if the school district is located in more than one 115743
county, to the auditor of each of those counties. 115744

Sec. 5705.392. (A) A board of county commissioners may adopt 115745
as a part of its annual appropriation measure a spending plan, or 115746
in the case of an amended appropriation measure, an amended 115747
spending plan, setting forth a quarterly schedule of expenses and 115748
expenditures of all appropriations for the fiscal year from the 115749
county general fund. The spending plan shall be classified to set 115750
forth separately a quarterly schedule of expenses and expenditures 115751
for each office, department, and division, and within each, the 115752
amount appropriated for personal services. Each office, 115753
department, and division shall be limited in its expenses and 115754
expenditures of moneys appropriated from the general fund during 115755
any quarter by the schedule established in the spending plan. The 115756
schedule established in the spending plan shall serve as a 115757
limitation during a quarter on the making of contracts and giving 115758
of orders involving the expenditure of money during that quarter 115759
for purposes of division (D) of section 5705.41 of the Revised 115760
Code. 115761

(B)(1) A board of county commissioners, by resolution, may 115762
adopt a spending plan or an amended spending plan setting forth 115763
separately a quarterly schedule of expenses and expenditures of 115764
appropriations from any county fund, for the second half of a 115765
fiscal year and any subsequent fiscal year, for any county office, 115766
department, or division that has spent or encumbered more than 115767
six-tenths of the amount appropriated for personal services and 115768
payrolls during the first half of any fiscal year. 115769

(2) During any fiscal year, a board of county commissioners, 115770
by resolution, may adopt a spending plan or an amended spending 115771
plan setting forth separately a quarterly schedule of expenses and 115772
expenditures of appropriations from any county fund, for any 115773

county office, department, or division that, during the previous 115774
fiscal year, spent one hundred ten per cent or more of the total 115775
amount appropriated for personal services and payrolls by the 115776
board in its annual appropriation measure required by section 115777
5705.38 of the Revised Code. The spending plan or amended spending 115778
plan shall remain in effect two fiscal years, or until the county 115779
officer of the office for which the plan was adopted is no longer 115780
in office, including terms of office to which the county officer 115781
is re-elected, whichever is later. 115782

(3) At least thirty days before adopting a resolution under 115783
division (B)(1) or (2) of this section, the board of county 115784
commissioners shall provide written notice to each county office, 115785
department, or division for which it intends to adopt a spending 115786
plan or an amended spending plan. The notice shall be sent by 115787
regular first class mail or provided by personal service, and 115788
shall include a copy of the proposed spending plan or proposed 115789
amended spending plan. The county office, department, or division 115790
may meet with the board at any regular session of the board to 115791
comment on the notice, or to express concerns or ask questions 115792
about the proposed spending plan or proposed amended spending 115793
plan. 115794

Sec. 5705.412. (A) As used in this section, "qualifying 115795
contract" means any agreement for the expenditure of money under 115796
which aggregate payments from the funds included in the school 115797
district's five-year forecast under section 5705.391 of the 115798
Revised Code will exceed the lesser of the following amounts: 115799

(1) Five hundred thousand dollars; 115800

(2) One per cent of the total revenue to be credited in the 115801
current fiscal year to the district's general fund, as specified 115802
in the district's most recent certificate of estimated resources 115803
certified under section 5705.36 of the Revised Code. 115804

(B)(1) Notwithstanding section 5705.41 of the Revised Code, 115805
no school district shall adopt any appropriation measure, make any 115806
qualifying contract, or increase during any school year any wage 115807
or salary schedule unless there is attached thereto a certificate, 115808
signed as required by this section, that the school district has 115809
in effect the authorization to levy taxes including the renewal or 115810
replacement of existing levies which, when combined with the 115811
estimated revenue from all other sources available to the district 115812
at the time of certification, are sufficient to provide the 115813
operating revenues necessary to enable the district to maintain 115814
all personnel and programs for all the days set forth in its 115815
adopted school calendars for the current fiscal year and for a 115816
number of days in succeeding fiscal years equal to the number of 115817
days instruction was held or is scheduled for the current fiscal 115818
year, as follows: 115819

~~(1)~~(a) A certificate attached to an appropriation measure 115820
under this section shall cover only the fiscal year in which the 115821
appropriation measure is effective and shall not consider the 115822
renewal or replacement of an existing levy as the authority to 115823
levy taxes that are subject to appropriation in the current fiscal 115824
year unless the renewal or replacement levy has been approved by 115825
the electors and is subject to appropriation in the current fiscal 115826
year. 115827

~~(2)~~(b) A certificate attached, in accordance with this 115828
section, to any qualifying contract shall cover the term of the 115829
contract. 115830

~~(3)~~(c) A certificate attached under this section to a wage or 115831
salary schedule shall cover the term of the schedule. 115832

If the board of education has not adopted a school calendar 115833
for the school year beginning on the first day of the fiscal year 115834
in which a certificate is required, the certificate attached to an 115835
appropriation measure shall include the number of days on which 115836

instruction was held in the preceding fiscal year and other 115837
certificates required under this section shall include that number 115838
of days for the fiscal year in which the certificate is required 115839
and any succeeding fiscal years that the certificate must cover. 115840

The certificate shall be signed by the treasurer and 115841
president of the board of education and the superintendent of the 115842
school district, unless the district is in a state of fiscal 115843
emergency declared under Chapter 3316. of the Revised Code. In 115844
that case, the certificate shall be signed by a member of the 115845
district's financial planning and supervision commission who is 115846
designated by the commission for this purpose. 115847

(2) In lieu of the certificate required under division (B) of 115848
this section, an alternative certificate stating the following may 115849
be attached: 115850

(a) The contract is a multi-year contract for materials, 115851
equipment, or nonpayroll services essential to the education 115852
program of the district; 115853

(b) The multi-year contract demonstrates savings over the 115854
duration of the contract as compared to costs that otherwise would 115855
have been demonstrated in a single year contract, and the terms 115856
will allow the district to reduce the deficit it is currently 115857
facing in future years as demonstrated in its five-year forecast 115858
adopted in accordance with section 5705.391 of the Revised Code. 115859

The certificate shall be signed by the treasurer and 115860
president of the board of education and the superintendent of the 115861
school district, unless the district is in a state of fiscal 115862
emergency declared under Chapter 3316. of the Revised Code. In 115863
that case, the certificate shall be signed by a member of the 115864
district's financial planning and supervision commission who is 115865
designated by the commission for this purpose. 115866

(C) Every qualifying contract made or wage or salary schedule 115867

adopted or put into effect without such a certificate shall be 115868
void, and no payment of any amount due thereon shall be made. 115869

(D) The department of education and the auditor of state 115870
jointly shall adopt rules governing the methods by which 115871
treasurers, presidents of boards of education, superintendents, 115872
and members of financial planning and supervision commissions 115873
shall estimate revenue and determine whether such revenue is 115874
sufficient to provide necessary operating revenue for the purpose 115875
of making certifications required by this section. 115876

(E) The auditor of state shall be responsible for determining 115877
whether school districts are in compliance with this section. At 115878
the time a school district is audited pursuant to section 117.11 115879
of the Revised Code, the auditor of state shall review each 115880
certificate issued under this section since the district's last 115881
audit, and the appropriation measure, contract, or wage and salary 115882
schedule to which such certificate was attached. If the auditor of 115883
state determines that a school district has not complied with this 115884
section with respect to any qualifying contract or wage or salary 115885
schedule, the auditor of state shall notify the prosecuting 115886
attorney for the county, the city director of law, or other chief 115887
law officer of the school district. That officer may file a civil 115888
action in any court of appropriate jurisdiction to seek a 115889
declaration that the contract or wage or salary schedule is void, 115890
to recover for the school district from the payee the amount of 115891
payments already made under it, or both, except that the officer 115892
shall not seek to recover payments made under any collective 115893
bargaining agreement entered into under Chapter 4117. of the 115894
Revised Code. If the officer does not file such an action within 115895
one hundred twenty days after receiving notice of noncompliance 115896
from the auditor of state, any taxpayer may institute the action 115897
in the taxpayer's own name on behalf of the school district. 115898

(F) This section does not apply to any contract or increase 115899

in any wage or salary schedule that is necessary in order to 115900
enable a board of education to comply with division (B) of section 115901
3317.13 of the Revised Code, provided the contract or increase 115902
does not exceed the amount required to be paid to be in compliance 115903
with such division. 115904

(G) Any officer, employee, or other person who expends or 115905
authorizes the expenditure of any public funds or authorizes or 115906
executes any contract or schedule contrary to this section, 115907
expends or authorizes the expenditure of any public funds on the 115908
void contract or schedule, or issues a certificate under this 115909
section which contains any false statements is liable to the 115910
school district for the full amount paid from the district's funds 115911
on the contract or schedule. The officer, employee, or other 115912
person is jointly and severally liable in person and upon any 115913
official bond that the officer, employee, or other person has 115914
given to the school district to the extent of any payments on the 115915
void claim, not to exceed ten thousand dollars. However, no 115916
officer, employee, or other person shall be liable for a mistaken 115917
estimate of available resources made in good faith and based upon 115918
reasonable grounds. If an officer, employee, or other person is 115919
found to have complied with rules jointly adopted by the 115920
department of education and the auditor of state under this 115921
section governing methods by which revenue shall be estimated and 115922
determined sufficient to provide necessary operating revenue for 115923
the purpose of making certifications required by this section, the 115924
officer, employee, or other person shall not be liable under this 115925
section if the estimates and determinations made according to 115926
those rules do not, in fact, conform with actual revenue. The 115927
prosecuting attorney of the county, the city director of law, or 115928
other chief law officer of the district shall enforce this 115929
liability by civil action brought in any court of appropriate 115930
jurisdiction in the name of and on behalf of the school district. 115931
If the prosecuting attorney, city director of law, or other chief 115932

law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer in the taxpayer's own name, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for current payrolls of, or contracts of employment with, any employees or officers of the school district.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(3) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

Sec. 5705.71. (A) The electors of a county may initiate the question of a tax levy for support of senior citizens services or facilities by the filing of a petition with the board of elections of that county not less than ninety days before the date of any primary or general election requesting that an election be held on such question. The petition shall be signed by at least ten per cent of the qualified electors residing in the county and voting for the office of governor at the last general election.

(B) The petition shall state the purpose for which the senior

citizens tax levy is being proposed, shall specify the amount of 115963
the proposed increase in rate, the period of time during which the 115964
increase is to be in effect, and whether the levy is to be imposed 115965
in the current year. The number of years may be any number not 115966
exceeding five, except that when the additional rate is for the 115967
payment of debt charges the increased rate shall be for the life 115968
of the indebtedness. 115969

(C) After determination by it that such petition is valid, 115970
the board of elections shall submit the question to the electors 115971
of the county at the succeeding primary or general election. 115972

(D) The election shall be conducted, canvassed, and certified 115973
in the same manner as regular elections in such county for county 115974
offices. Notice of the election shall be published in a newspaper 115975
of general circulation in the county once a week for two 115976
consecutive weeks, or as provided in section 7.16 of the Revised 115977
Code, prior to the election, ~~and, if.~~ If the board of elections 115978
operates and maintains a web site, the board of elections shall 115979
post notice of the election on its web site for thirty days prior 115980
to the election. The notice shall state the purpose, the amount of 115981
the proposed increase in rate, and the time and place of the 115982
election. 115983

(E) The form of the ballot cast at such election shall be 115984
prescribed by the secretary of state. If the tax is to be placed 115985
on the tax list of the current tax year, the form of the ballot 115986
shall include a statement to that effect and shall indicate the 115987
first calendar year the tax will be due. The question covered by 115988
such petition shall be submitted as a separate proposition but it 115989
may be printed on the same ballot with any other propositions 115990
submitted at the same election other than the election of 115991
officers. 115992

(F) If a majority of electors voting on the question vote in 115993
favor of the levy, the board of county commissioners shall levy a 115994

tax, for the period and the purpose stated within the petition. If 115995
the tax is to be placed upon the tax list of the current year, as 115996
specified in the petition, the result of the election shall be 115997
certified immediately after the canvass by the board of elections 115998
to the board of county commissioners, which shall forthwith make 115999
the necessary levy and certify it to the county auditor, who shall 116000
extend it on the tax list for collection. After the first year, 116001
the tax levy shall be included in the annual tax budget that is 116002
certified to the county budget commission. 116003

Sec. 5707.031. As used in this section, "qualifying dealer in 116004
intangibles" ~~has the same meaning as "qualifying dealer" in~~ 116005
~~section 5725.24 of the Revised Code~~ means a dealer in intangibles 116006
that is a qualifying dealer in intangibles as defined in section 116007
5733.45 of the Revised Code or a member of a qualifying controlled 116008
group, as defined in section 5733.04 of the Revised Code, of which 116009
an insurance company also is a member on the first day of January 116010
of the year in and for which the tax imposed by section 5707.03 of 116011
the Revised Code is required to be paid by the dealer. 116012

Upon the issuance of a tax credit certificate by the Ohio 116013
venture capital authority under section 150.07 of the Revised 116014
Code, a refundable credit may be claimed against the tax imposed 116015
on a qualifying dealer in intangibles under section 5707.03 and 116016
Chapter 5725. of the Revised Code. The credit shall be claimed on 116017
a return due under section 5725.14 of the Revised Code after the 116018
certificate is issued by the authority. 116019

Sec. 5709.07. (A) The following property shall be exempt from 116020
taxation: 116021

(1) ~~Public schoolhouses, the books and furniture in them, and~~ 116022
~~the ground attached to them necessary for the proper occupancy,~~ 116023
~~use, and enjoyment of the schoolhouses, and not leased or~~ 116024

~~otherwise used with a view to profit; Real property used by a~~ 116025
~~school for primary or secondary educational purposes, including~~ 116026
~~only so much of the land as is necessary for the proper occupancy,~~ 116027
~~use, and enjoyment of such real property by the school for primary~~ 116028
~~or secondary educational purposes. The exemption under division~~ 116029
~~(A)(1) of this section does not apply to any portion of the real~~ 116030
~~property not used for primary or secondary educational purposes.~~ 116031

For purposes of division (A)(1) of this section: 116032

(a) "School" means a public or nonpublic school. "School" 116033
excludes home instruction as authorized under section 3321.04 of 116034
the Revised Code. 116035

(b) "Public school" includes schools of a school district, 116036
STEM schools established under Chapter 3326. of the Revised Code, 116037
community schools established under Chapter 3314. of the Revised 116038
Code, and educational service centers established under section 116039
3311.05 of the Revised Code. 116040

(c) "Nonpublic school" means a nonpublic school for which the 116041
state board of education has issued a charter pursuant to section 116042
3301.16 of the Revised Code and prescribes minimum standards under 116043
division (D)(2) of section 3301.07 of the Revised Code. 116044

(2) Houses used exclusively for public worship, the books and 116045
furniture in them, and the ground attached to them that is not 116046
leased or otherwise used with a view to profit and that is 116047
necessary for their proper occupancy, use, and enjoyment; 116048

(3) Real property owned and operated by a church that is used 116049
primarily for church retreats or church camping, and that is not 116050
used as a permanent residence. Real property exempted under 116051
division (A)(3) of this section may be made available by the 116052
church on a limited basis to charitable and educational 116053
institutions if the property is not leased or otherwise made 116054
available with a view to profit. 116055

(4) Public colleges and academies and all buildings connected 116056
with them, and all lands connected with public institutions of 116057
learning, not used with a view to profit, including those 116058
buildings and lands that satisfy all of the following: 116059

(a) The buildings are used for housing for full-time students 116060
or housing-related facilities for students, faculty, or employees 116061
of a state university, or for other purposes related to the state 116062
university's educational purpose, and the lands are underneath the 116063
buildings or are used for common space, walkways, and green spaces 116064
for the state university's students, faculty, or employees. As 116065
used in this division, "housing-related facilities" includes both 116066
parking facilities related to the buildings and common buildings 116067
made available to students, faculty, or employees of a state 116068
university. The leasing of space in housing-related facilities 116069
shall not be considered an activity with a view to profit for 116070
purposes of division (A)(4) of this section. 116071

(b) The buildings and lands are supervised or otherwise under 116072
the control, directly or indirectly, of an organization that is 116073
exempt from federal income taxation under section 501(c)(3) of the 116074
Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 116075
amended, and the state university has entered into a qualifying 116076
joint use agreement with the organization that entitles the 116077
students, faculty, or employees of the state university to use the 116078
lands or buildings; 116079

(c) The state university has agreed, under the terms of the 116080
qualifying joint use agreement with the organization described in 116081
division (A)(4)(b) of this section, that the state university, to 116082
the extent applicable under the agreement, will make payments to 116083
the organization in amounts sufficient to maintain agreed-upon 116084
debt service coverage ratios on bonds related to the lands or 116085
buildings. 116086

(B) This section shall not extend to leasehold estates or 116087

real property held under the authority of a college or university 116088
of learning in this state; but leaseholds, or other estates or 116089
property, real or personal, the rents, issues, profits, and income 116090
of which is given to a municipal corporation, school district, or 116091
subdistrict in this state exclusively for the use, endowment, or 116092
support of schools for the free education of youth without charge 116093
shall be exempt from taxation as long as such property, or the 116094
rents, issues, profits, or income of the property is used and 116095
exclusively applied for the support of free education by such 116096
municipal corporation, district, or subdistrict. Division (B) of 116097
this section shall not apply with respect to buildings and lands 116098
that satisfy all of the requirements specified in divisions 116099
(A)(4)(a) to (c) of this section. 116100

(C) For purposes of this section, if the requirements 116101
specified in divisions (A)(4)(a) to (c) of this section are 116102
satisfied, the buildings and lands with respect to which exemption 116103
is claimed under division (A)(4) of this section shall be deemed 116104
to be used with reasonable certainty in furthering or carrying out 116105
the necessary objects and purposes of a state university. 116106

(D) As used in this section: 116107

(1) "Church" means a fellowship of believers, congregation, 116108
society, corporation, convention, or association that is formed 116109
primarily or exclusively for religious purposes and that is not 116110
formed for the private profit of any person. 116111

(2) "State university" has the same meaning as in section 116112
3345.011 of the Revised Code. 116113

(3) "Qualifying joint use agreement" means an agreement that 116114
satisfies all of the following: 116115

(a) The agreement was entered into before June 30, 2004; 116116

(b) The agreement is between a state university and an 116117
organization that is exempt from federal income taxation under 116118

section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 116119
2085, 26 U.S.C. 1, as amended; and 116120

(c) The state university that is a party to the agreement 116121
reported to the Ohio board of regents that the university 116122
maintained a headcount of at least twenty-five thousand students 116123
on its main campus during the academic school year that began in 116124
calendar year 2003 and ended in calendar year 2004. 116125

Sec. 5709.084. Real and personal property comprising a 116126
convention center that is constructed or, in the case of personal 116127
property, acquired, after January 1, 2010, are exempt from 116128
taxation if the convention center is located in a county having a 116129
population, when construction of the convention center commences, 116130
of more than one million two hundred thousand according to the 116131
most recent federal decennial census, and if the convention 116132
center, or the land upon which the convention center is situated, 116133
is owned or leased by the county. For the purposes of this 116134
section, construction of the convention center commences upon the 116135
earlier of issuance of debt to finance all or a portion of the 116136
convention center, demolition of existing structures on the site, 116137
or grading of the site in preparation for construction. 116138

Real and personal property comprising a convention center 116139
owned by the largest city in a county having a population greater 116140
than seven hundred thousand but less than nine hundred thousand 116141
according to the most recent federal decennial census is exempt 116142
from taxation, regardless of whether the property is leased to or 116143
otherwise operated or managed by a person other than the city. 116144

As used in this section, "convention center" has the same 116145
meaning as in section 307.695 of the Revised Code. 116146

Sec. 5709.40. (A) As used in this section: 116147

(1) "Blighted area" and "impacted city" have the same 116148

meanings as in section 1728.01 of the Revised Code. 116149

(2) "Business day" means a day of the week excluding 116150
Saturday, Sunday, and a legal holiday as defined under section 116151
1.14 of the Revised Code. 116152

(3) "Housing renovation" means a project carried out for 116153
residential purposes. 116154

(4) "Improvement" means the increase in the assessed value of 116155
any real property that would first appear on the tax list and 116156
duplicate of real and public utility property after the effective 116157
date of an ordinance adopted under this section were it not for 116158
the exemption granted by that ordinance. 116159

(5) "Incentive district" means an area not more than three 116160
hundred acres in size enclosed by a continuous boundary in which a 116161
project is being, or will be, undertaken and having one or more of 116162
the following distress characteristics: 116163

(a) At least fifty-one per cent of the residents of the 116164
district have incomes of less than eighty per cent of the median 116165
income of residents of the political subdivision in which the 116166
district is located, as determined in the same manner specified 116167
under section 119(b) of the "Housing and Community Development Act 116168
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 116169

(b) The average rate of unemployment in the district during 116170
the most recent twelve-month period for which data are available 116171
is equal to at least one hundred fifty per cent of the average 116172
rate of unemployment for this state for the same period. 116173

(c) At least twenty per cent of the people residing in the 116174
district live at or below the poverty level as defined in the 116175
federal Housing and Community Development Act of 1974, 42 U.S.C. 116176
5301, as amended, and regulations adopted pursuant to that act. 116177

(d) The district is a blighted area. 116178

(e) The district is in a situational distress area as 116179
designated by the director of development under division (F) of 116180
section 122.23 of the Revised Code. 116181

(f) As certified by the engineer for the political 116182
subdivision, the public infrastructure serving the district is 116183
inadequate to meet the development needs of the district as 116184
evidenced by a written economic development plan or urban renewal 116185
plan for the district that has been adopted by the legislative 116186
authority of the subdivision. 116187

(g) The district is comprised entirely of unimproved land 116188
that is located in a distressed area as defined in section 122.23 116189
of the Revised Code. 116190

(6) "Project" means development activities undertaken on one 116191
or more parcels, including, but not limited to, construction, 116192
expansion, and alteration of buildings or structures, demolition, 116193
remediation, and site development, and any building or structure 116194
that results from those activities. 116195

(7) "Public infrastructure improvement" includes, but is not 116196
limited to, public roads and highways; water and sewer lines; 116197
environmental remediation; land acquisition, including acquisition 116198
in aid of industry, commerce, distribution, or research; 116199
demolition, including demolition on private property when 116200
determined to be necessary for economic development purposes; 116201
stormwater and flood remediation projects, including such projects 116202
on private property when determined to be necessary for public 116203
health, safety, and welfare; the provision of gas, electric, and 116204
communications service facilities; and the enhancement of public 116205
waterways through improvements that allow for greater public 116206
access. 116207

(B) The legislative authority of a municipal corporation, by 116208
ordinance, may declare improvements to certain parcels of real 116209

property located in the municipal corporation to be a public 116210
purpose. Improvements with respect to a parcel that is used or to 116211
be used for residential purposes may be declared a public purpose 116212
under this division only if the parcel is located in a blighted 116213
area of an impacted city. Except with the approval under division 116214
(D) of this section of the board of education of each city, local, 116215
or exempted village school district within which the improvements 116216
are located, not more than seventy-five per cent of an improvement 116217
thus declared to be a public purpose may be exempted from real 116218
property taxation for a period of not more than ten years. The 116219
ordinance shall specify the percentage of the improvement to be 116220
exempted from taxation and the life of the exemption. 116221

An ordinance adopted or amended under this division shall 116222
designate the specific public infrastructure improvements made, to 116223
be made, or in the process of being made by the municipal 116224
corporation that directly benefit, or that once made will directly 116225
benefit, the parcels for which improvements are declared to be a 116226
public purpose. The service payments provided for in section 116227
5709.42 of the Revised Code shall be used to finance the public 116228
infrastructure improvements designated in the ordinance, for the 116229
purpose described in division (D)(1) of this section or as 116230
provided in section 5709.43 of the Revised Code. 116231

(C)(1) The legislative authority of a municipal corporation 116232
may adopt an ordinance creating an incentive district and 116233
declaring improvements to parcels within the district to be a 116234
public purpose and, except as provided in division (F) of this 116235
section, exempt from taxation as provided in this section, but no 116236
legislative authority of a municipal corporation that has a 116237
population that exceeds twenty-five thousand, as shown by the most 116238
recent federal decennial census, shall adopt an ordinance that 116239
creates an incentive district if the sum of the taxable value of 116240
real property in the proposed district for the preceding tax year 116241

and the taxable value of all real property in the municipal 116242
corporation that would have been taxable in the preceding year 116243
were it not for the fact that the property was in an existing 116244
incentive district and therefore exempt from taxation exceeds 116245
twenty-five per cent of the taxable value of real property in the 116246
municipal corporation for the preceding tax year. The ordinance 116247
shall delineate the boundary of the district and specifically 116248
identify each parcel within the district. A district may not 116249
include any parcel that is or has been exempted from taxation 116250
under division (B) of this section or that is or has been within 116251
another district created under this division. An ordinance may 116252
create more than one such district, and more than one ordinance 116253
may be adopted under division (C)(1) of this section. 116254

(2) Not later than thirty days prior to adopting an ordinance 116255
under division (C)(1) of this section, if the municipal 116256
corporation intends to apply for exemptions from taxation under 116257
section 5709.911 of the Revised Code on behalf of owners of real 116258
property located within the proposed incentive district, the 116259
legislative authority of a municipal corporation shall conduct a 116260
public hearing on the proposed ordinance. Not later than thirty 116261
days prior to the public hearing, the legislative authority shall 116262
give notice of the public hearing and the proposed ordinance by 116263
first class mail to every real property owner whose property is 116264
located within the boundaries of the proposed incentive district 116265
that is the subject of the proposed ordinance. 116266

(3)(a) An ordinance adopted under division (C)(1) of this 116267
section shall specify the life of the incentive district and the 116268
percentage of the improvements to be exempted, shall designate the 116269
public infrastructure improvements made, to be made, or in the 116270
process of being made, that benefit or serve, or, once made, will 116271
benefit or serve parcels in the district. The ordinance also shall 116272
identify one or more specific projects being, or to be, undertaken 116273

in the district that place additional demand on the public 116274
infrastructure improvements designated in the ordinance. The 116275
project identified may, but need not be, the project under 116276
division (C)(3)(b) of this section that places real property in 116277
use for commercial or industrial purposes. Except as otherwise 116278
permitted under that division, the service payments provided for 116279
in section 5709.42 of the Revised Code shall be used to finance 116280
the designated public infrastructure improvements, for the purpose 116281
described in division (D)(1) or (E) of this section, or as 116282
provided in section 5709.43 of the Revised Code. 116283

An ordinance adopted under division (C)(1) of this section on 116284
or after ~~the effective date of this amendment~~ March 30, 2006, 116285
shall not designate police or fire equipment as public 116286
infrastructure improvements, and no service payment provided for 116287
in section 5709.42 of the Revised Code and received by the 116288
municipal corporation under the ordinance shall be used for police 116289
or fire equipment. 116290

(b) An ordinance adopted under division (C)(1) of this 116291
section may authorize the use of service payments provided for in 116292
section 5709.42 of the Revised Code for the purpose of housing 116293
renovations within the incentive district, provided that the 116294
ordinance also designates public infrastructure improvements that 116295
benefit or serve the district, and that a project within the 116296
district places real property in use for commercial or industrial 116297
purposes. Service payments may be used to finance or support 116298
loans, deferred loans, and grants to persons for the purpose of 116299
housing renovations within the district. The ordinance shall 116300
designate the parcels within the district that are eligible for 116301
housing renovation. The ordinance shall state separately the 116302
amounts or the percentages of the expected aggregate service 116303
payments that are designated for each public infrastructure 116304
improvement and for the general purpose of housing renovations. 116305

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall

not exceed one hundred per cent. Not later than forty-five 116338
business days prior to adopting an ordinance under this section 116339
declaring improvements to be a public purpose that is subject to 116340
approval by a board of education under this division, the 116341
legislative authority shall deliver to the board of education a 116342
notice stating its intent to adopt an ordinance making that 116343
declaration. The notice regarding improvements with respect to a 116344
parcel under division (B) of this section shall identify the 116345
parcels for which improvements are to be exempted from taxation, 116346
provide an estimate of the true value in money of the 116347
improvements, specify the period for which the improvements would 116348
be exempted from taxation and the percentage of the improvement 116349
that would be exempted, and indicate the date on which the 116350
legislative authority intends to adopt the ordinance. The notice 116351
regarding improvements to parcels within an incentive district 116352
under division (C) of this section shall delineate the boundaries 116353
of the district, specifically identify each parcel within the 116354
district, identify each anticipated improvement in the district, 116355
provide an estimate of the true value in money of each such 116356
improvement, specify the life of the district and the percentage 116357
of improvements that would be exempted, and indicate the date on 116358
which the legislative authority intends to adopt the ordinance. 116359
The board of education, by resolution adopted by a majority of the 116360
board, may approve the exemption for the period or for the 116361
exemption percentage specified in the notice; may disapprove the 116362
exemption for the number of years in excess of ten, may disapprove 116363
the exemption for the percentage of the improvement to be exempted 116364
in excess of seventy-five per cent, or both; or may approve the 116365
exemption on the condition that the legislative authority and the 116366
board negotiate an agreement providing for compensation to the 116367
school district equal in value to a percentage of the amount of 116368
taxes exempted in the eleventh and subsequent years of the 116369
exemption period or, in the case of exemption percentages in 116370

excess of seventy-five per cent, compensation equal in value to a 116371
percentage of the taxes that would be payable on the portion of 116372
the improvement in excess of seventy-five per cent were that 116373
portion to be subject to taxation, or other mutually agreeable 116374
compensation. If an agreement is negotiated between the 116375
legislative authority and the board to compensate the school 116376
district for all or part of the taxes exempted, including 116377
agreements for payments in lieu of taxes under section 5709.42 of 116378
the Revised Code, the legislative authority shall compensate the 116379
joint vocational school district within which the parcel or 116380
district is located at the same rate and under the same terms 116381
received by the city, local, or exempted village school district. 116382

(3) The board of education shall certify its resolution to 116383
the legislative authority not later than fourteen days prior to 116384
the date the legislative authority intends to adopt the ordinance 116385
as indicated in the notice. If the board of education and the 116386
legislative authority negotiate a mutually acceptable compensation 116387
agreement, the ordinance may declare the improvements a public 116388
purpose for the number of years specified in the ordinance or, in 116389
the case of exemption percentages in excess of seventy-five per 116390
cent, for the exemption percentage specified in the ordinance. In 116391
either case, if the board and the legislative authority fail to 116392
negotiate a mutually acceptable compensation agreement, the 116393
ordinance may declare the improvements a public purpose for not 116394
more than ten years, and shall not exempt more than seventy-five 116395
per cent of the improvements from taxation. If the board fails to 116396
certify a resolution to the legislative authority within the time 116397
prescribed by this division, the legislative authority thereupon 116398
may adopt the ordinance and may declare the improvements a public 116399
purpose for up to thirty years, or, in the case of exemption 116400
percentages proposed in excess of seventy-five per cent, for the 116401
exemption percentage specified in the ordinance. The legislative 116402
authority may adopt the ordinance at any time after the board of 116403

education certifies its resolution approving the exemption to the 116404
legislative authority, or, if the board approves the exemption on 116405
the condition that a mutually acceptable compensation agreement be 116406
negotiated, at any time after the compensation agreement is agreed 116407
to by the board and the legislative authority. 116408

(4) If a board of education has adopted a resolution waiving 116409
its right to approve exemptions from taxation under this section 116410
and the resolution remains in effect, approval of exemptions by 116411
the board is not required under division (D) of this section. If a 116412
board of education has adopted a resolution allowing a legislative 116413
authority to deliver the notice required under division (D) of 116414
this section fewer than forty-five business days prior to the 116415
legislative authority's adoption of the ordinance, the legislative 116416
authority shall deliver the notice to the board not later than the 116417
number of days prior to such adoption as prescribed by the board 116418
in its resolution. If a board of education adopts a resolution 116419
waiving its right to approve agreements or shortening the 116420
notification period, the board shall certify a copy of the 116421
resolution to the legislative authority. If the board of education 116422
rescinds such a resolution, it shall certify notice of the 116423
rescission to the legislative authority. 116424

(5) If the legislative authority is not required by division 116425
(D) of this section to notify the board of education of the 116426
legislative authority's intent to declare improvements to be a 116427
public purpose, the legislative authority shall comply with the 116428
notice requirements imposed under section 5709.83 of the Revised 116429
Code, unless the board has adopted a resolution under that section 116430
waiving its right to receive such a notice. 116431

(E)(1) If a proposed ordinance under division (C)(1) of this 116432
section exempts improvements with respect to a parcel within an 116433
incentive district for more than ten years, or the percentage of 116434
the improvement exempted from taxation exceeds seventy-five per 116435

cent, not later than forty-five business days prior to adopting 116436
the ordinance the legislative authority of the municipal 116437
corporation shall deliver to the board of county commissioners of 116438
the county within which the incentive district will be located a 116439
notice that states its intent to adopt an ordinance creating an 116440
incentive district. The notice shall include a copy of the 116441
proposed ordinance, identify the parcels for which improvements 116442
are to be exempted from taxation, provide an estimate of the true 116443
value in money of the improvements, specify the period of time for 116444
which the improvements would be exempted from taxation, specify 116445
the percentage of the improvements that would be exempted from 116446
taxation, and indicate the date on which the legislative authority 116447
intends to adopt the ordinance. 116448

(2) The board of county commissioners, by resolution adopted 116449
by a majority of the board, may object to the exemption for the 116450
number of years in excess of ten, may object to the exemption for 116451
the percentage of the improvement to be exempted in excess of 116452
seventy-five per cent, or both. If the board of county 116453
commissioners objects, the board may negotiate a mutually 116454
acceptable compensation agreement with the legislative authority. 116455
In no case shall the compensation provided to the board exceed the 116456
property taxes ~~foregone~~ forgone due to the exemption. If the board 116457
of county commissioners objects, and the board and legislative 116458
authority fail to negotiate a mutually acceptable compensation 116459
agreement, the ordinance adopted under division (C)(1) of this 116460
section shall provide to the board compensation in the eleventh 116461
and subsequent years of the exemption period equal in value to not 116462
more than fifty per cent of the taxes that would be payable to the 116463
county or, if the board's objection includes an objection to an 116464
exemption percentage in excess of seventy-five per cent, 116465
compensation equal in value to not more than fifty per cent of the 116466
taxes that would be payable to the county, on the portion of the 116467
improvement in excess of seventy-five per cent, were that portion 116468

to be subject to taxation. The board of county commissioners shall 116469
certify its resolution to the legislative authority not later than 116470
thirty days after receipt of the notice. 116471

(3) If the board of county commissioners does not object or 116472
fails to certify its resolution objecting to an exemption within 116473
thirty days after receipt of the notice, the legislative authority 116474
may adopt the ordinance, and no compensation shall be provided to 116475
the board of county commissioners. If the board timely certifies 116476
its resolution objecting to the ordinance, the legislative 116477
authority may adopt the ordinance at any time after a mutually 116478
acceptable compensation agreement is agreed to by the board and 116479
the legislative authority, or, if no compensation agreement is 116480
negotiated, at any time after the legislative authority agrees in 116481
the proposed ordinance to provide compensation to the board of 116482
fifty per cent of the taxes that would be payable to the county in 116483
the eleventh and subsequent years of the exemption period or on 116484
the portion of the improvement in excess of seventy-five per cent, 116485
were that portion to be subject to taxation. 116486

(F) Service payments in lieu of taxes that are attributable 116487
to any amount by which the effective tax rate of either a renewal 116488
levy with an increase or a replacement levy exceeds the effective 116489
tax rate of the levy renewed or replaced, or that are attributable 116490
to an additional levy, for a levy authorized by the voters for any 116491
of the following purposes on or after January 1, 2006, and which 116492
are provided pursuant to an ordinance creating an incentive 116493
district under division (C)(1) of this section that is adopted on 116494
or after January 1, 2006, shall be distributed to the appropriate 116495
taxing authority as required under division (C) of section 5709.42 116496
of the Revised Code in an amount equal to the amount of taxes from 116497
that additional levy or from the increase in the effective tax 116498
rate of such renewal or replacement levy that would have been 116499
payable to that taxing authority from the following levies were it 116500

not for the exemption authorized under division (C) of this	116501
section:	116502
(1) A tax levied under division (L) of section 5705.19 or	116503
section 5705.191 of the Revised Code for community mental	116504
retardation and developmental disabilities programs and services	116505
pursuant to Chapter 5126. of the Revised Code;	116506
(2) A tax levied under division (Y) of section 5705.19 of the	116507
Revised Code for providing or maintaining senior citizens services	116508
or facilities;	116509
(3) A tax levied under section 5705.22 of the Revised Code	116510
for county hospitals;	116511
(4) A tax levied by a joint-county district or by a county	116512
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	116513
for alcohol, drug addiction, and mental health services or	116514
facilities;	116515
(5) A tax levied under section 5705.23 of the Revised Code	116516
for library purposes;	116517
(6) A tax levied under section 5705.24 of the Revised Code	116518
for the support of children services and the placement and care of	116519
children;	116520
(7) A tax levied under division (Z) of section 5705.19 of the	116521
Revised Code for the provision and maintenance of zoological park	116522
services and facilities under section 307.76 of the Revised Code;	116523
(8) A tax levied under section 511.27 or division (H) of	116524
section 5705.19 of the Revised Code for the support of township	116525
park districts;	116526
(9) A tax levied under division (A), (F), or (H) of section	116527
5705.19 of the Revised Code for parks and recreational purposes of	116528
a joint recreation district organized pursuant to division (B) of	116529
section 755.14 of the Revised Code;	116530

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division

(D)(2) of this section, but in no case shall the improvement be 116563
exempted from taxation for more than thirty years. Exemptions 116564
shall be claimed and allowed in the same manner as in the case of 116565
other real property exemptions. If an exemption status changes 116566
during a year, the procedure for the apportionment of the taxes 116567
for that year is the same as in the case of other changes in tax 116568
exemption status during the year. 116569

(H) Additional municipal financing of public infrastructure 116570
improvements and housing renovations may be provided by any 116571
methods that the municipal corporation may otherwise use for 116572
financing such improvements or renovations. If the municipal 116573
corporation issues bonds or notes to finance the public 116574
infrastructure improvements and housing renovations and pledges 116575
money from the municipal public improvement tax increment 116576
equivalent fund to pay the interest on and principal of the bonds 116577
or notes, the bonds or notes are not subject to Chapter 133. of 116578
the Revised Code. 116579

(I) The municipal corporation, not later than fifteen days 116580
after the adoption of an ordinance under this section, shall 116581
submit to the director of development a copy of the ordinance. On 116582
or before the thirty-first day of March of each year, the 116583
municipal corporation shall submit a status report to the director 116584
of development. The report shall indicate, in the manner 116585
prescribed by the director, the progress of the project during 116586
each year that an exemption remains in effect, including a summary 116587
of the receipts from service payments in lieu of taxes; 116588
expenditures of money from the funds created under section 5709.43 116589
of the Revised Code; a description of the public infrastructure 116590
improvements and housing renovations financed with such 116591
expenditures; and a quantitative summary of changes in employment 116592
and private investment resulting from each project. 116593

(J) Nothing in this section shall be construed to prohibit a 116594

legislative authority from declaring to be a public purpose 116595
improvements with respect to more than one parcel. 116596

Sec. 5709.41. (A) As used in this section: 116597

(1) "Business day" means a day of the week excluding 116598
Saturday, Sunday, and a legal holiday as defined under section 116599
1.14 of the Revised Code. 116600

(2) "Improvement" means the increase in assessed value of any 116601
parcel of property subsequent to the acquisition of the parcel by 116602
a municipal corporation engaged in urban redevelopment. 116603

(B) The legislative authority of a municipal corporation, by 116604
ordinance, may declare to be a public purpose any improvement to a 116605
parcel of real property if both of the following apply: 116606

(1) The municipal corporation held fee title to the parcel 116607
prior to the adoption of the ordinance; 116608

(2) The parcel is leased, or the fee of the parcel is 116609
conveyed, to any person either before or after adoption of the 116610
ordinance. 116611

Improvements used or to be used for residential purposes may 116612
be declared a public purpose under this section only if the parcel 116613
is located in a blighted area of an impacted city as those terms 116614
are defined in section 1728.01 of the Revised Code. 116615

(C) Except as otherwise provided in division (C)(1), (2), or 116616
(3) of this section, not more than seventy-five per cent of an 116617
improvement thus declared to be a public purpose may be exempted 116618
from real property taxation. The ordinance shall specify the 116619
percentage of the improvement to be exempted from taxation. 116620

(1) If the ordinance declaring improvements to a parcel to be 116621
a public purpose specifies that payments in lieu of taxes provided 116622
for in section 5709.42 of the Revised Code shall be paid to the 116623
city, local, or exempted village school district in which the 116624

parcel is located in the amount of the taxes that would have been 116625
payable to the school district if the improvements had not been 116626
exempted from taxation, the percentage of the improvement that may 116627
be exempted from taxation may exceed seventy-five per cent, and 116628
the exemption may be granted for up to thirty years, without the 116629
approval of the board of education as otherwise required under 116630
division (C)(2) of this section. 116631

(2) Improvements may be exempted from taxation for up to ten 116632
years or, with the approval of the board of education of the city, 116633
local, or exempted village school district within the territory of 116634
which the improvements are or will be located, for up to thirty 116635
years. The percentage of the improvement exempted from taxation 116636
may, with such approval, exceed seventy-five per cent, but shall 116637
not exceed one hundred per cent. Not later than forty-five 116638
business days prior to adopting an ordinance under this section, 116639
the legislative authority shall deliver to the board of education 116640
a notice stating its intent to declare improvements to be a public 116641
purpose under this section. The notice shall describe the parcel 116642
and the improvements, provide an estimate of the true value in 116643
money of the improvements, specify the period for which the 116644
improvements would be exempted from taxation and the percentage of 116645
the improvements that would be exempted, and indicate the date on 116646
which the legislative authority intends to adopt the ordinance. 116647
The board of education, by resolution adopted by a majority of the 116648
board, may approve the exemption for the period or for the 116649
exemption percentage specified in the notice, may disapprove the 116650
exemption for the number of years in excess of ten, may disapprove 116651
the exemption for the percentage of the improvements to be 116652
exempted in excess of seventy-five per cent, or both, or may 116653
approve the exemption on the condition that the legislative 116654
authority and the board negotiate an agreement providing for 116655
compensation to the school district equal in value to a percentage 116656
of the amount of taxes exempted in the eleventh and subsequent 116657

years of the exemption period, or, in the case of exemption 116658
percentages in excess of seventy-five per cent, compensation equal 116659
in value to a percentage of the taxes that would be payable on the 116660
portion of the improvement in excess of seventy-five per cent were 116661
that portion to be subject to taxation. The board of education 116662
shall certify its resolution to the legislative authority not 116663
later than fourteen days prior to the date the legislative 116664
authority intends to adopt the ordinance as indicated in the 116665
notice. If the board of education approves the exemption on the 116666
condition that a compensation agreement be negotiated, the board 116667
in its resolution shall propose a compensation percentage. If the 116668
board of education and the legislative authority negotiate a 116669
mutually acceptable compensation agreement, the ordinance may 116670
declare the improvements a public purpose for the number of years 116671
specified in the ordinance or, in the case of exemption 116672
percentages in excess of seventy-five per cent, for the exemption 116673
percentage specified in the ordinance. In either case, if the 116674
board and the legislative authority fail to negotiate a mutually 116675
acceptable compensation agreement, the ordinance may declare the 116676
improvements a public purpose for not more than ten years, but 116677
shall not exempt more than seventy-five per cent of the 116678
improvements from taxation. If the board fails to certify a 116679
resolution to the legislative authority within the time prescribed 116680
by this division, the legislative authority thereupon may adopt 116681
the ordinance and may declare the improvements a public purpose 116682
for up to thirty years. The legislative authority may adopt the 116683
ordinance at any time after the board of education certifies its 116684
resolution approving the exemption to the legislative authority, 116685
or, if the board approves the exemption on the condition that a 116686
mutually acceptable compensation agreement be negotiated, at any 116687
time after the compensation agreement is agreed to by the board 116688
and the legislative authority. If a mutually acceptable 116689
compensation agreement is negotiated between the legislative 116690

authority and the board, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within the territory of which the improvements are or will be located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of exemptions by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (C)(1), (2), or (3) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(D) The exemption commences on the effective date of the ordinance and ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose. The exemption

shall be claimed and allowed in the same or a similar manner as in 116723
the case of other real property exemptions. If an exemption status 116724
changes during a tax year, the procedure for the apportionment of 116725
the taxes for that year is the same as in the case of other 116726
changes in tax exemption status during the year. 116727

(E) A municipal corporation, not later than fifteen days 116728
after the adoption of an ordinance granting a tax exemption under 116729
this section, shall submit to the director of development a copy 116730
of the ordinance. On or before the thirty-first day of March each 116731
year, the municipal corporation shall submit a status report to 116732
the director of development outlining the progress of the project 116733
during each year that the exemption remains in effect. 116734

Sec. 5709.62. (A) In any municipal corporation that is 116735
defined by the United States office of management and budget as a 116736
principal city of a metropolitan statistical area, the legislative 116737
authority of the municipal corporation may designate one or more 116738
areas within its municipal corporation as proposed enterprise 116739
zones. Upon designating an area, the legislative authority shall 116740
petition the director of development for certification of the area 116741
as having the characteristics set forth in division (A)(1) of 116742
section 5709.61 of the Revised Code as amended by Substitute 116743
Senate Bill No. 19 of the 120th general assembly. Except as 116744
otherwise provided in division (E) of this section, on and after 116745
July 1, 1994, legislative authorities shall not enter into 116746
agreements under this section unless the legislative authority has 116747
petitioned the director and the director has certified the zone 116748
under this section as amended by that act; however, all agreements 116749
entered into under this section as it existed prior to July 1, 116750
1994, and the incentives granted under those agreements shall 116751
remain in effect for the period agreed to under those agreements. 116752
Within sixty days after receiving such a petition, the director 116753
shall determine whether the area has the characteristics set forth 116754

in division (A)(1) of section 5709.61 of the Revised Code, and 116755
shall forward the findings to the legislative authority of the 116756
municipal corporation. If the director certifies the area as 116757
having those characteristics, and thereby certifies it as a zone, 116758
the legislative authority may enter into an agreement with an 116759
enterprise under division (C) of this section. 116760

(B) Any enterprise that wishes to enter into an agreement 116761
with a municipal corporation under division (C) of this section 116762
shall submit a proposal to the legislative authority of the 116763
municipal corporation on a form prescribed by the director of 116764
development, together with the application fee established under 116765
section 5709.68 of the Revised Code. The form shall require the 116766
following information: 116767

(1) An estimate of the number of new employees whom the 116768
enterprise intends to hire, or of the number of employees whom the 116769
enterprise intends to retain, within the zone at a facility that 116770
is a project site, and an estimate of the amount of payroll of the 116771
enterprise attributable to these employees; 116772

(2) An estimate of the amount to be invested by the 116773
enterprise to establish, expand, renovate, or occupy a facility, 116774
including investment in new buildings, additions or improvements 116775
to existing buildings, machinery, equipment, furniture, fixtures, 116776
and inventory; 116777

(3) A listing of the enterprise's current investment, if any, 116778
in a facility as of the date of the proposal's submission. 116779

The enterprise shall review and update the listings required 116780
under this division to reflect material changes, and any agreement 116781
entered into under division (C) of this section shall set forth 116782
final estimates and listings as of the time the agreement is 116783
entered into. The legislative authority may, on a separate form 116784
and at any time, require any additional information necessary to 116785

determine whether an enterprise is in compliance with an agreement 116786
and to collect the information required to be reported under 116787
section 5709.68 of the Revised Code. 116788

(C) Upon receipt and investigation of a proposal under 116789
division (B) of this section, if the legislative authority finds 116790
that the enterprise submitting the proposal is qualified by 116791
financial responsibility and business experience to create and 116792
preserve employment opportunities in the zone and improve the 116793
economic climate of the municipal corporation, the legislative 116794
authority, on or before October 15, ~~2011~~ 2012, may do one of the 116795
following: 116796

(1) Enter into an agreement with the enterprise under which 116797
the enterprise agrees to establish, expand, renovate, or occupy a 116798
facility and hire new employees, or preserve employment 116799
opportunities for existing employees, in return for one or more of 116800
the following incentives: 116801

(a) Exemption for a specified number of years, not to exceed 116802
fifteen, of a specified portion, up to seventy-five per cent, of 116803
the assessed value of tangible personal property first used in 116804
business at the project site as a result of the agreement. If an 116805
exemption for inventory is specifically granted in the agreement 116806
pursuant to this division, the exemption applies to inventory 116807
required to be listed pursuant to sections 5711.15 and 5711.16 of 116808
the Revised Code, except that, in the instance of an expansion or 116809
other situations in which an enterprise was in business at the 116810
facility prior to the establishment of the zone, the inventory 116811
that is exempt is that amount or value of inventory in excess of 116812
the amount or value of inventory required to be listed in the 116813
personal property tax return of the enterprise in the return for 116814
the tax year in which the agreement is entered into. 116815

(b) Exemption for a specified number of years, not to exceed 116816
fifteen, of a specified portion, up to seventy-five per cent, of 116817

the increase in the assessed valuation of real property 116818
constituting the project site subsequent to formal approval of the 116819
agreement by the legislative authority; 116820

(c) Provision for a specified number of years, not to exceed 116821
fifteen, of any optional services or assistance that the municipal 116822
corporation is authorized to provide with regard to the project 116823
site. 116824

(2) Enter into an agreement under which the enterprise agrees 116825
to remediate an environmentally contaminated facility, to spend an 116826
amount equal to at least two hundred fifty per cent of the true 116827
value in money of the real property of the facility prior to 116828
remediation as determined for the purposes of property taxation to 116829
establish, expand, renovate, or occupy the remediated facility, 116830
and to hire new employees or preserve employment opportunities for 116831
existing employees at the remediated facility, in return for one 116832
or more of the following incentives: 116833

(a) Exemption for a specified number of years, not to exceed 116834
fifteen, of a specified portion, not to exceed fifty per cent, of 116835
the assessed valuation of the real property of the facility prior 116836
to remediation; 116837

(b) Exemption for a specified number of years, not to exceed 116838
fifteen, of a specified portion, not to exceed one hundred per 116839
cent, of the increase in the assessed valuation of the real 116840
property of the facility during or after remediation; 116841

(c) The incentive under division (C)(1)(a) of this section, 116842
except that the percentage of the assessed value of such property 116843
exempted from taxation shall not exceed one hundred per cent; 116844

(d) The incentive under division (C)(1)(c) of this section. 116845

(3) Enter into an agreement with an enterprise that plans to 116846
purchase and operate a large manufacturing facility that has 116847
ceased operation or announced its intention to cease operation, in 116848

return for exemption for a specified number of years, not to 116849
exceed fifteen, of a specified portion, up to one hundred per 116850
cent, of the assessed value of tangible personal property used in 116851
business at the project site as a result of the agreement, or of 116852
the assessed valuation of real property constituting the project 116853
site, or both. 116854

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 116855
section, the portion of the assessed value of tangible personal 116856
property or of the increase in the assessed valuation of real 116857
property exempted from taxation under those divisions may exceed 116858
seventy-five per cent in any year for which that portion is 116859
exempted if the average percentage exempted for all years in which 116860
the agreement is in effect does not exceed sixty per cent, or if 116861
the board of education of the city, local, or exempted village 116862
school district within the territory of which the property is or 116863
will be located approves a percentage in excess of seventy-five 116864
per cent. 116865

(2) Notwithstanding any provision of the Revised Code to the 116866
contrary, the exemptions described in divisions (C)(1)(a), (b), 116867
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 116868
be for up to fifteen years if the board of education of the city, 116869
local, or exempted village school district within the territory of 116870
which the property is or will be located approves a number of 116871
years in excess of ten. 116872

(3) For the purpose of obtaining the approval of a city, 116873
local, or exempted village school district under division (D)(1) 116874
or (2) of this section, the legislative authority shall deliver to 116875
the board of education a notice not later than forty-five days 116876
prior to approving the agreement, excluding Saturdays, Sundays, 116877
and legal holidays as defined in section 1.14 of the Revised Code. 116878
The notice shall state the percentage to be exempted, an estimate 116879
of the true value of the property to be exempted, and the number 116880

of years the property is to be exempted. The board of education, 116881
by resolution adopted by a majority of the board, shall approve or 116882
disapprove the agreement and certify a copy of the resolution to 116883
the legislative authority not later than fourteen days prior to 116884
the date stipulated by the legislative authority as the date upon 116885
which approval of the agreement is to be formally considered by 116886
the legislative authority. The board of education may include in 116887
the resolution conditions under which the board would approve the 116888
agreement, including the execution of an agreement to compensate 116889
the school district under division (B) of section 5709.82 of the 116890
Revised Code. The legislative authority may approve the agreement 116891
at any time after the board of education certifies its resolution 116892
approving the agreement to the legislative authority, or, if the 116893
board approves the agreement conditionally, at any time after the 116894
conditions are agreed to by the board and the legislative 116895
authority. 116896

If a board of education has adopted a resolution waiving its 116897
right to approve agreements and the resolution remains in effect, 116898
approval of an agreement by the board is not required under this 116899
division. If a board of education has adopted a resolution 116900
allowing a legislative authority to deliver the notice required 116901
under this division fewer than forty-five business days prior to 116902
the legislative authority's approval of the agreement, the 116903
legislative authority shall deliver the notice to the board not 116904
later than the number of days prior to such approval as prescribed 116905
by the board in its resolution. If a board of education adopts a 116906
resolution waiving its right to approve agreements or shortening 116907
the notification period, the board shall certify a copy of the 116908
resolution to the legislative authority. If the board of education 116909
rescinds such a resolution, it shall certify notice of the 116910
rescission to the legislative authority. 116911

(4) The legislative authority shall comply with section 116912

5709.83 of the Revised Code unless the board of education has 116913
adopted a resolution under that section waiving its right to 116914
receive such notice. 116915

(E) This division applies to zones certified by the director 116916
of development under this section prior to July 22, 1994. 116917

On or before October 15, ~~2011~~ 2012, the legislative authority 116918
that designated a zone to which this division applies may enter 116919
into an agreement with an enterprise if the legislative authority 116920
finds that the enterprise satisfies one of the criteria described 116921
in divisions (E)(1) to (5) of this section: 116922

(1) The enterprise currently has no operations in this state 116923
and, subject to approval of the agreement, intends to establish 116924
operations in the zone; 116925

(2) The enterprise currently has operations in this state 116926
and, subject to approval of the agreement, intends to establish 116927
operations at a new location in the zone that would not result in 116928
a reduction in the number of employee positions at any of the 116929
enterprise's other locations in this state; 116930

(3) The enterprise, subject to approval of the agreement, 116931
intends to relocate operations, currently located in another 116932
state, to the zone; 116933

(4) The enterprise, subject to approval of the agreement, 116934
intends to expand operations at an existing site in the zone that 116935
the enterprise currently operates; 116936

(5) The enterprise, subject to approval of the agreement, 116937
intends to relocate operations, currently located in this state, 116938
to the zone, and the director of development has issued a waiver 116939
for the enterprise under division (B) of section 5709.633 of the 116940
Revised Code. 116941

The agreement shall require the enterprise to agree to 116942

establish, expand, renovate, or occupy a facility in the zone and 116943
hire new employees, or preserve employment opportunities for 116944
existing employees, in return for one or more of the incentives 116945
described in division (C) of this section. 116946

(F) All agreements entered into under this section shall be 116947
in the form prescribed under section 5709.631 of the Revised Code. 116948
After an agreement is entered into under this section, if the 116949
legislative authority revokes its designation of a zone, or if the 116950
director of development revokes a zone's certification, any 116951
entitlements granted under the agreement shall continue for the 116952
number of years specified in the agreement. 116953

(G) Except as otherwise provided in this division, an 116954
agreement entered into under this section shall require that the 116955
enterprise pay an annual fee equal to the greater of one per cent 116956
of the dollar value of incentives offered under the agreement or 116957
five hundred dollars; provided, however, that if the value of the 116958
incentives exceeds two hundred fifty thousand dollars, the fee 116959
shall not exceed two thousand five hundred dollars. The fee shall 116960
be payable to the legislative authority once per year for each 116961
year the agreement is effective on the days and in the form 116962
specified in the agreement. Fees paid shall be deposited in a 116963
special fund created for such purpose by the legislative authority 116964
and shall be used by the legislative authority exclusively for the 116965
purpose of complying with section 5709.68 of the Revised Code and 116966
by the tax incentive review council created under section 5709.85 116967
of the Revised Code exclusively for the purposes of performing the 116968
duties prescribed under that section. The legislative authority 116969
may waive or reduce the amount of the fee charged against an 116970
enterprise, but such a waiver or reduction does not affect the 116971
obligations of the legislative authority or the tax incentive 116972
review council to comply with section 5709.68 or 5709.85 of the 116973
Revised Code. 116974

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the

accuracy of any exemption granted by an agreement entered into 117007
under this section is limited to divisions (C)(1)(a) and (b), 117008
(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 117009
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 117010
and, as authorized by law, to enforcing any modification to, or 117011
revocation of, that agreement by the legislative authority of a 117012
municipal corporation or the director of development. 117013

Sec. 5709.63. (A) With the consent of the legislative 117014
authority of each affected municipal corporation or of a board of 117015
township trustees, a board of county commissioners may, in the 117016
manner set forth in section 5709.62 of the Revised Code, designate 117017
one or more areas in one or more municipal corporations or in 117018
unincorporated areas of the county as proposed enterprise zones. A 117019
board of county commissioners may designate no more than one area 117020
within a township, or within adjacent townships, as a proposed 117021
enterprise zone. The board shall petition the director of 117022
development for certification of the area as having the 117023
characteristics set forth in division (A)(1) or (2) of section 117024
5709.61 of the Revised Code as amended by Substitute Senate Bill 117025
No. 19 of the 120th general assembly. Except as otherwise provided 117026
in division (D) of this section, on and after July 1, 1994, boards 117027
of county commissioners shall not enter into agreements under this 117028
section unless the board has petitioned the director and the 117029
director has certified the zone under this section as amended by 117030
that act; however, all agreements entered into under this section 117031
as it existed prior to July 1, 1994, and the incentives granted 117032
under those agreements shall remain in effect for the period 117033
agreed to under those agreements. The director shall make the 117034
determination in the manner provided under section 5709.62 of the 117035
Revised Code. 117036

Any enterprise wishing to enter into an agreement with the 117037
board under division (B) or (D) of this section shall submit a 117038

proposal to the board on the form and accompanied by the 117039
application fee prescribed under division (B) of section 5709.62 117040
of the Revised Code. The enterprise shall review and update the 117041
estimates and listings required by the form in the manner required 117042
under that division. The board may, on a separate form and at any 117043
time, require any additional information necessary to determine 117044
whether an enterprise is in compliance with an agreement and to 117045
collect the information required to be reported under section 117046
5709.68 of the Revised Code. 117047

(B) If the board of county commissioners finds that an 117048
enterprise submitting a proposal is qualified by financial 117049
responsibility and business experience to create and preserve 117050
employment opportunities in the zone and to improve the economic 117051
climate of the municipal corporation or municipal corporations or 117052
the unincorporated areas in which the zone is located and to which 117053
the proposal applies, the board, on or before October 15, ~~2011~~ 117054
2012, and with the consent of the legislative authority of each 117055
affected municipal corporation or of the board of township 117056
trustees may do either of the following: 117057

(1) Enter into an agreement with the enterprise under which 117058
the enterprise agrees to establish, expand, renovate, or occupy a 117059
facility in the zone and hire new employees, or preserve 117060
employment opportunities for existing employees, in return for the 117061
following incentives: 117062

(a) When the facility is located in a municipal corporation, 117063
the board may enter into an agreement for one or more of the 117064
incentives provided in division (C) of section 5709.62 of the 117065
Revised Code, subject to division (D) of that section; 117066

(b) When the facility is located in an unincorporated area, 117067
the board may enter into an agreement for one or more of the 117068
following incentives: 117069

(i) Exemption for a specified number of years, not to exceed 117070
fifteen, of a specified portion, up to sixty per cent, of the 117071
assessed value of tangible personal property first used in 117072
business at a project site as a result of the agreement. If an 117073
exemption for inventory is specifically granted in the agreement 117074
pursuant to this division, the exemption applies to inventory 117075
required to be listed pursuant to sections 5711.15 and 5711.16 of 117076
the Revised Code, except, in the instance of an expansion or other 117077
situations in which an enterprise was in business at the facility 117078
prior to the establishment of the zone, the inventory that is 117079
exempt is that amount or value of inventory in excess of the 117080
amount or value of inventory required to be listed in the personal 117081
property tax return of the enterprise in the return for the tax 117082
year in which the agreement is entered into. 117083

(ii) Exemption for a specified number of years, not to exceed 117084
fifteen, of a specified portion, up to sixty per cent, of the 117085
increase in the assessed valuation of real property constituting 117086
the project site subsequent to formal approval of the agreement by 117087
the board; 117088

(iii) Provision for a specified number of years, not to 117089
exceed fifteen, of any optional services or assistance the board 117090
is authorized to provide with regard to the project site; 117091

(iv) The incentive described in division (C)(2) of section 117092
5709.62 of the Revised Code. 117093

(2) Enter into an agreement with an enterprise that plans to 117094
purchase and operate a large manufacturing facility that has 117095
ceased operation or has announced its intention to cease 117096
operation, in return for exemption for a specified number of 117097
years, not to exceed fifteen, of a specified portion, up to one 117098
hundred per cent, of tangible personal property used in business 117099
at the project site as a result of the agreement, or of real 117100
property constituting the project site, or both. 117101

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 117102
this section, the portion of the assessed value of tangible 117103
personal property or of the increase in the assessed valuation of 117104
real property exempted from taxation under those divisions may 117105
exceed sixty per cent in any year for which that portion is 117106
exempted if the average percentage exempted for all years in which 117107
the agreement is in effect does not exceed fifty per cent, or if 117108
the board of education of the city, local, or exempted village 117109
school district within the territory of which the property is or 117110
will be located approves a percentage in excess of sixty per cent. 117111

(b) Notwithstanding any provision of the Revised Code to the 117112
contrary, the exemptions described in divisions (B)(1)(b)(i), 117113
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 117114
fifteen years if the board of education of the city, local, or 117115
exempted village school district within the territory of which the 117116
property is or will be located approves a number of years in 117117
excess of ten. 117118

(c) For the purpose of obtaining the approval of a city, 117119
local, or exempted village school district under division 117120
(C)(1)(a) or (b) of this section, the board of county 117121
commissioners shall deliver to the board of education a notice not 117122
later than forty-five days prior to approving the agreement, 117123
excluding Saturdays, Sundays, and legal holidays as defined in 117124
section 1.14 of the Revised Code. The notice shall state the 117125
percentage to be exempted, an estimate of the true value of the 117126
property to be exempted, and the number of years the property is 117127
to be exempted. The board of education, by resolution adopted by a 117128
majority of the board, shall approve or disapprove the agreement 117129
and certify a copy of the resolution to the board of county 117130
commissioners not later than fourteen days prior to the date 117131
stipulated by the board of county commissioners as the date upon 117132
which approval of the agreement is to be formally considered by 117133

the board of county commissioners. The board of education may 117134
include in the resolution conditions under which the board would 117135
approve the agreement, including the execution of an agreement to 117136
compensate the school district under division (B) of section 117137
5709.82 of the Revised Code. The board of county commissioners may 117138
approve the agreement at any time after the board of education 117139
certifies its resolution approving the agreement to the board of 117140
county commissioners, or, if the board of education approves the 117141
agreement conditionally, at any time after the conditions are 117142
agreed to by the board of education and the board of county 117143
commissioners. 117144

If a board of education has adopted a resolution waiving its 117145
right to approve agreements and the resolution remains in effect, 117146
approval of an agreement by the board of education is not required 117147
under division (C) of this section. If a board of education has 117148
adopted a resolution allowing a board of county commissioners to 117149
deliver the notice required under this division fewer than 117150
forty-five business days prior to approval of the agreement by the 117151
board of county commissioners, the board of county commissioners 117152
shall deliver the notice to the board of education not later than 117153
the number of days prior to such approval as prescribed by the 117154
board of education in its resolution. If a board of education 117155
adopts a resolution waiving its right to approve agreements or 117156
shortening the notification period, the board of education shall 117157
certify a copy of the resolution to the board of county 117158
commissioners. If the board of education rescinds such a 117159
resolution, it shall certify notice of the rescission to the board 117160
of county commissioners. 117161

(2) The board of county commissioners shall comply with 117162
section 5709.83 of the Revised Code unless the board of education 117163
has adopted a resolution under that section waiving its right to 117164
receive such notice. 117165

(D) This division applies to zones certified by the director 117166
of development under this section prior to July 22, 1994. 117167

On or before October 15, ~~2011~~ 2012, and with the consent of 117168
the legislative authority of each affected municipal corporation 117169
or board of township trustees of each affected township, the board 117170
of county commissioners that designated a zone to which this 117171
division applies may enter into an agreement with an enterprise if 117172
the board finds that the enterprise satisfies one of the criteria 117173
described in divisions (D)(1) to (5) of this section: 117174

(1) The enterprise currently has no operations in this state 117175
and, subject to approval of the agreement, intends to establish 117176
operations in the zone; 117177

(2) The enterprise currently has operations in this state 117178
and, subject to approval of the agreement, intends to establish 117179
operations at a new location in the zone that would not result in 117180
a reduction in the number of employee positions at any of the 117181
enterprise's other locations in this state; 117182

(3) The enterprise, subject to approval of the agreement, 117183
intends to relocate operations, currently located in another 117184
state, to the zone; 117185

(4) The enterprise, subject to approval of the agreement, 117186
intends to expand operations at an existing site in the zone that 117187
the enterprise currently operates; 117188

(5) The enterprise, subject to approval of the agreement, 117189
intends to relocate operations, currently located in this state, 117190
to the zone, and the director of development has issued a waiver 117191
for the enterprise under division (B) of section 5709.633 of the 117192
Revised Code. 117193

The agreement shall require the enterprise to agree to 117194
establish, expand, renovate, or occupy a facility in the zone and 117195
hire new employees, or preserve employment opportunities for 117196

existing employees, in return for one or more of the incentives 117197
described in division (B) of this section. 117198

(E) All agreements entered into under this section shall be 117199
in the form prescribed under section 5709.631 of the Revised Code. 117200
After an agreement under this section is entered into, if the 117201
board of county commissioners revokes its designation of a zone, 117202
or if the director of development revokes a zone's certification, 117203
any entitlements granted under the agreement shall continue for 117204
the number of years specified in the agreement. 117205

(F) Except as otherwise provided in this division, an 117206
agreement entered into under this section shall require that the 117207
enterprise pay an annual fee equal to the greater of one per cent 117208
of the dollar value of incentives offered under the agreement or 117209
five hundred dollars; provided, however, that if the value of the 117210
incentives exceeds two hundred fifty thousand dollars, the fee 117211
shall not exceed two thousand five hundred dollars. The fee shall 117212
be payable to the board of county commissioners once per year for 117213
each year the agreement is effective on the days and in the form 117214
specified in the agreement. Fees paid shall be deposited in a 117215
special fund created for such purpose by the board and shall be 117216
used by the board exclusively for the purpose of complying with 117217
section 5709.68 of the Revised Code and by the tax incentive 117218
review council created under section 5709.85 of the Revised Code 117219
exclusively for the purposes of performing the duties prescribed 117220
under that section. The board may waive or reduce the amount of 117221
the fee charged against an enterprise, but such waiver or 117222
reduction does not affect the obligations of the board or the tax 117223
incentive review council to comply with section 5709.68 or 5709.85 117224
of the Revised Code, respectively. 117225

(G) With the approval of the legislative authority of a 117226
municipal corporation or the board of township trustees of a 117227
township in which a zone is designated under division (A) of this 117228

section, the board of county commissioners may delegate to that 117229
legislative authority or board any powers and duties of the board 117230
of county commissioners to negotiate and administer agreements 117231
with regard to that zone under this section. 117232

(H) When an agreement is entered into pursuant to this 117233
section, the board of county commissioners authorizing the 117234
agreement or the legislative authority or board of township 117235
trustees that negotiates and administers the agreement shall 117236
forward a copy of the agreement to the director of development and 117237
to the tax commissioner within fifteen days after the agreement is 117238
entered into. If any agreement includes terms not provided for in 117239
section 5709.631 of the Revised Code affecting the revenue of a 117240
city, local, or exempted village school district or causing 117241
revenue to be foregone by the district, including any compensation 117242
to be paid to the school district pursuant to section 5709.82 of 117243
the Revised Code, those terms also shall be forwarded in writing 117244
to the director of development along with the copy of the 117245
agreement forwarded under this division. 117246

(I) After an agreement is entered into, the enterprise shall 117247
file with each personal property tax return required to be filed, 117248
or annual report that is required to be filed under section 117249
5727.08 of the Revised Code, while the agreement is in effect, an 117250
informational return, on a form prescribed by the tax commissioner 117251
for that purpose, setting forth separately the property, and 117252
related costs and values, exempted from taxation under the 117253
agreement. 117254

(J) Enterprises may agree to give preference to residents of 117255
the zone within which the agreement applies relative to residents 117256
of this state who do not reside in the zone when hiring new 117257
employees under the agreement. 117258

(K) An agreement entered into under this section may include 117259
a provision requiring the enterprise to create one or more 117260

temporary internship positions for students enrolled in a course 117261
of study at a school or other educational institution in the 117262
vicinity, and to create a scholarship or provide another form of 117263
educational financial assistance for students holding such a 117264
position in exchange for the student's commitment to work for the 117265
enterprise at the completion of the internship. 117266

(L) The tax commissioner's authority in determining the 117267
accuracy of any exemption granted by an agreement entered into 117268
under this section is limited to divisions (B)(1)(b)(i) and (ii), 117269
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 117270
this section as it pertains to divisions (C)(2)(a), (b), and (c) 117271
of section 5709.62 of the Revised Code, and divisions (B)(1) to 117272
(10) of section 5709.631 of the Revised Code and, as authorized by 117273
law, to enforcing any modification to, or revocation of, that 117274
agreement by the board of county commissioners or the director of 117275
development or, if the board's powers and duties are delegated 117276
under division (G) of this section, by the legislative authority 117277
of a municipal corporation or board of township trustees. 117278

Sec. 5709.632. (A)(1) The legislative authority of a 117279
municipal corporation defined by the United States office of 117280
management and budget as a principal city of a metropolitan 117281
statistical area may, in the manner set forth in section 5709.62 117282
of the Revised Code, designate one or more areas in the municipal 117283
corporation as a proposed enterprise zone. 117284

(2) With the consent of the legislative authority of each 117285
affected municipal corporation or of a board of township trustees, 117286
a board of county commissioners may, in the manner set forth in 117287
section 5709.62 of the Revised Code, designate one or more areas 117288
in one or more municipal corporations or in unincorporated areas 117289
of the county as proposed urban jobs and enterprise zones, except 117290
that a board of county commissioners may designate no more than 117291

one area within a township, or within adjacent townships, as a 117292
proposed urban jobs and enterprise zone. 117293

(3) The legislative authority or board of county 117294
commissioners may petition the director of development for 117295
certification of the area as having the characteristics set forth 117296
in division (A)(3) of section 5709.61 of the Revised Code. Within 117297
sixty days after receiving such a petition, the director shall 117298
determine whether the area has the characteristics set forth in 117299
that division and forward the findings to the legislative 117300
authority or board of county commissioners. If the director 117301
certifies the area as having those characteristics and thereby 117302
certifies it as a zone, the legislative authority or board may 117303
enter into agreements with enterprises under division (B) of this 117304
section. Any enterprise wishing to enter into an agreement with a 117305
legislative authority or board of county commissioners under this 117306
section and satisfying one of the criteria described in divisions 117307
(B)(1) to (5) of this section shall submit a proposal to the 117308
legislative authority or board on the form prescribed under 117309
division (B) of section 5709.62 of the Revised Code and shall 117310
review and update the estimates and listings required by the form 117311
in the manner required under that division. The legislative 117312
authority or board may, on a separate form and at any time, 117313
require any additional information necessary to determine whether 117314
an enterprise is in compliance with an agreement and to collect 117315
the information required to be reported under section 5709.68 of 117316
the Revised Code. 117317

(B) Prior to entering into an agreement with an enterprise, 117318
the legislative authority or board of county commissioners shall 117319
determine whether the enterprise submitting the proposal is 117320
qualified by financial responsibility and business experience to 117321
create and preserve employment opportunities in the zone and to 117322
improve the economic climate of the municipal corporation or 117323

municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2011~~ 2012, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to

establish, expand, renovate, or occupy a facility in the zone and 117355
hire new employees, or preserve employment opportunities for 117356
existing employees, in return for the following incentives: 117357

(1) When the facility is located in a municipal corporation, 117358
a legislative authority or board of commissioners may enter into 117359
an agreement for one or more of the incentives provided in 117360
division (C) of section 5709.62 of the Revised Code, subject to 117361
division (D) of that section; 117362

(2) When the facility is located in an unincorporated area, a 117363
board of commissioners may enter into an agreement for one or more 117364
of the incentives provided in divisions (B)(1)(b), (B)(2), and 117365
(B)(3) of section 5709.63 of the Revised Code, subject to division 117366
(C) of that section. 117367

(D) All agreements entered into under this section shall be 117368
in the form prescribed under section 5709.631 of the Revised Code. 117369
After an agreement under this section is entered into, if the 117370
legislative authority or board of county commissioners revokes its 117371
designation of the zone, or if the director of development revokes 117372
the zone's certification, any entitlements granted under the 117373
agreement shall continue for the number of years specified in the 117374
agreement. 117375

(E) Except as otherwise provided in this division, an 117376
agreement entered into under this section shall require that the 117377
enterprise pay an annual fee equal to the greater of one per cent 117378
of the dollar value of incentives offered under the agreement or 117379
five hundred dollars; provided, however, that if the value of the 117380
incentives exceeds two hundred fifty thousand dollars, the fee 117381
shall not exceed two thousand five hundred dollars. The fee shall 117382
be payable to the legislative authority or board of commissioners 117383
once per year for each year the agreement is effective on the days 117384
and in the form specified in the agreement. Fees paid shall be 117385
deposited in a special fund created for such purpose by the 117386

legislative authority or board and shall be used by the 117387
legislative authority or board exclusively for the purpose of 117388
complying with section 5709.68 of the Revised Code and by the tax 117389
incentive review council created under section 5709.85 of the 117390
Revised Code exclusively for the purposes of performing the duties 117391
prescribed under that section. The legislative authority or board 117392
may waive or reduce the amount of the fee charged against an 117393
enterprise, but such waiver or reduction does not affect the 117394
obligations of the legislative authority or board or the tax 117395
incentive review council to comply with section 5709.68 or 5709.85 117396
of the Revised Code, respectively. 117397

(F) With the approval of the legislative authority of a 117398
municipal corporation or the board of township trustees of a 117399
township in which a zone is designated under division (A)(2) of 117400
this section, the board of county commissioners may delegate to 117401
that legislative authority or board any powers and duties of the 117402
board to negotiate and administer agreements with regard to that 117403
zone under this section. 117404

(G) When an agreement is entered into pursuant to this 117405
section, the legislative authority or board of commissioners 117406
authorizing the agreement shall forward a copy of the agreement to 117407
the director of development and to the tax commissioner within 117408
fifteen days after the agreement is entered into. If any agreement 117409
includes terms not provided for in section 5709.631 of the Revised 117410
Code affecting the revenue of a city, local, or exempted village 117411
school district or causing revenue to be forgone by the district, 117412
including any compensation to be paid to the school district 117413
pursuant to section 5709.82 of the Revised Code, those terms also 117414
shall be forwarded in writing to the director of development along 117415
with the copy of the agreement forwarded under this division. 117416

(H) After an agreement is entered into, the enterprise shall 117417
file with each personal property tax return required to be filed 117418

while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have 117449
the same meanings as in section 5709.40 of the Revised Code. 117450

(B) A board of township trustees may, by unanimous vote, 117451
adopt a resolution that declares to be a public purpose any public 117452
infrastructure improvements made that are necessary for the 117453
development of certain parcels of land located in the 117454
unincorporated area of the township. Except with the approval 117455
under division (D) of this section of the board of education of 117456
each city, local, or exempted village school district within which 117457
the improvements are located, the resolution may exempt from real 117458
property taxation not more than seventy-five per cent of further 117459
improvements to a parcel of land that directly benefits from the 117460
public infrastructure improvements, for a period of not more than 117461
ten years. The resolution shall specify the percentage of the 117462
further improvements to be exempted and the life of the exemption. 117463

(C)(1) A board of township trustees may adopt, by unanimous 117464
vote, a resolution creating an incentive district and declaring 117465
improvements to parcels within the district to be a public purpose 117466
and, except as provided in division (F) of this section, exempt 117467
from taxation as provided in this section, but no board of 117468
township trustees of a township that has a population that exceeds 117469
twenty-five thousand, as shown by the most recent federal 117470
decennial census, shall adopt a resolution that creates an 117471
incentive district if the sum of the taxable value of real 117472
property in the proposed district for the preceding tax year and 117473
the taxable value of all real property in the township that would 117474
have been taxable in the preceding year were it not for the fact 117475
that the property was in an existing incentive district and 117476
therefore exempt from taxation exceeds twenty-five per cent of the 117477
taxable value of real property in the township for the preceding 117478
tax year. The district shall be located within the unincorporated 117479
area of the township and shall not include any territory that is 117480

included within a district created under division (B) of section 117481
5709.78 of the Revised Code. The resolution shall delineate the 117482
boundary of the district and specifically identify each parcel 117483
within the district. A district may not include any parcel that is 117484
or has been exempted from taxation under division (B) of this 117485
section or that is or has been within another district created 117486
under this division. A resolution may create more than one 117487
district, and more than one resolution may be adopted under 117488
division (C)(1) of this section. 117489

(2) Not later than thirty days prior to adopting a resolution 117490
under division (C)(1) of this section, if the township intends to 117491
apply for exemptions from taxation under section 5709.911 of the 117492
Revised Code on behalf of owners of real property located within 117493
the proposed incentive district, the board shall conduct a public 117494
hearing on the proposed resolution. Not later than thirty days 117495
prior to the public hearing, the board shall give notice of the 117496
public hearing and the proposed resolution by first class mail to 117497
every real property owner whose property is located within the 117498
boundaries of the proposed incentive district that is the subject 117499
of the proposed resolution. 117500

(3)(a) A resolution adopted under division (C)(1) of this 117501
section shall specify the life of the incentive district and the 117502
percentage of the improvements to be exempted, shall designate the 117503
public infrastructure improvements made, to be made, or in the 117504
process of being made, that benefit or serve, or, once made, will 117505
benefit or serve parcels in the district. The resolution also 117506
shall identify one or more specific projects being, or to be, 117507
undertaken in the district that place additional demand on the 117508
public infrastructure improvements designated in the resolution. 117509
The project identified may, but need not be, the project under 117510
division (C)(3)(b) of this section that places real property in 117511
use for commercial or industrial purposes. 117512

A resolution adopted under division (C)(1) of this section on 117513
or after ~~the effective date of this amendment~~ March 30, 2006, 117514
shall not designate police or fire equipment as public 117515
infrastructure improvements, and no service payment provided for 117516
in section 5709.74 of the Revised Code and received by the 117517
township under the resolution shall be used for police or fire 117518
equipment. 117519

(b) A resolution adopted under division (C)(1) of this 117520
section may authorize the use of service payments provided for in 117521
section 5709.74 of the Revised Code for the purpose of housing 117522
renovations within the incentive district, provided that the 117523
resolution also designates public infrastructure improvements that 117524
benefit or serve the district, and that a project within the 117525
district places real property in use for commercial or industrial 117526
purposes. Service payments may be used to finance or support 117527
loans, deferred loans, and grants to persons for the purpose of 117528
housing renovations within the district. The resolution shall 117529
designate the parcels within the district that are eligible for 117530
housing renovations. The resolution shall state separately the 117531
amount or the percentages of the expected aggregate service 117532
payments that are designated for each public infrastructure 117533
improvement and for the purpose of housing renovations. 117534

(4) Except with the approval of the board of education of 117535
each city, local, or exempted village school district within the 117536
territory of which the incentive district is or will be located, 117537
and subject to division (E) of this section, the life of an 117538
incentive district shall not exceed ten years, and the percentage 117539
of improvements to be exempted shall not exceed seventy-five per 117540
cent. With approval of the board of education, the life of a 117541
district may be not more than thirty years, and the percentage of 117542
improvements to be exempted may be not more than one hundred per 117543
cent. The approval of a board of education shall be obtained in 117544

the manner provided in division (D) of this section $\text{\$}$. 117545

(D) Improvements with respect to a parcel may be exempted 117546
from taxation under division (B) of this section, and improvements 117547
to parcels within an incentive district may be exempted from 117548
taxation under division (C) of this section, for up to ten years 117549
or, with the approval of the board of education of the city, 117550
local, or exempted village school district within which the parcel 117551
or district is located, for up to thirty years. The percentage of 117552
the improvements exempted from taxation may, with such approval, 117553
exceed seventy-five per cent, but shall not exceed one hundred per 117554
cent. Not later than forty-five business days prior to adopting a 117555
resolution under this section declaring improvements to be a 117556
public purpose that is subject to approval by a board of education 117557
under this division, the board of township trustees shall deliver 117558
to the board of education a notice stating its intent to adopt a 117559
resolution making that declaration. The notice regarding 117560
improvements with respect to a parcel under division (B) of this 117561
section shall identify the parcels for which improvements are to 117562
be exempted from taxation, provide an estimate of the true value 117563
in money of the improvements, specify the period for which the 117564
improvements would be exempted from taxation and the percentage of 117565
the improvements that would be exempted, and indicate the date on 117566
which the board of township trustees intends to adopt the 117567
resolution. The notice regarding improvements made under division 117568
(C) of this section to parcels within an incentive district shall 117569
delineate the boundaries of the district, specifically identify 117570
each parcel within the district, identify each anticipated 117571
improvement in the district, provide an estimate of the true value 117572
in money of each such improvement, specify the life of the 117573
district and the percentage of improvements that would be 117574
exempted, and indicate the date on which the board of township 117575
trustees intends to adopt the resolution. The board of education, 117576
by resolution adopted by a majority of the board, may approve the 117577

exemption for the period or for the exemption percentage specified 117578
in the notice; may disapprove the exemption for the number of 117579
years in excess of ten, may disapprove the exemption for the 117580
percentage of the improvements to be exempted in excess of 117581
seventy-five per cent, or both; or may approve the exemption on 117582
the condition that the board of township trustees and the board of 117583
education negotiate an agreement providing for compensation to the 117584
school district equal in value to a percentage of the amount of 117585
taxes exempted in the eleventh and subsequent years of the 117586
exemption period or, in the case of exemption percentages in 117587
excess of seventy-five per cent, compensation equal in value to a 117588
percentage of the taxes that would be payable on the portion of 117589
the improvements in excess of seventy-five per cent were that 117590
portion to be subject to taxation, or other mutually agreeable 117591
compensation. 117592

The board of education shall certify its resolution to the 117593
board of township trustees not later than fourteen days prior to 117594
the date the board of township trustees intends to adopt the 117595
resolution as indicated in the notice. If the board of education 117596
and the board of township trustees negotiate a mutually acceptable 117597
compensation agreement, the resolution may declare the 117598
improvements a public purpose for the number of years specified in 117599
the resolution or, in the case of exemption percentages in excess 117600
of seventy-five per cent, for the exemption percentage specified 117601
in the resolution. In either case, if the board of education and 117602
the board of township trustees fail to negotiate a mutually 117603
acceptable compensation agreement, the resolution may declare the 117604
improvements a public purpose for not more than ten years, and 117605
shall not exempt more than seventy-five per cent of the 117606
improvements from taxation. If the board of education fails to 117607
certify a resolution to the board of township trustees within the 117608
time prescribed by this section, the board of township trustees 117609
thereupon may adopt the resolution and may declare the 117610

improvements a public purpose for up to thirty years or, in the 117611
case of exemption percentages proposed in excess of seventy-five 117612
per cent, for the exemption percentage specified in the 117613
resolution. The board of township trustees may adopt the 117614
resolution at any time after the board of education certifies its 117615
resolution approving the exemption to the board of township 117616
trustees, or, if the board of education approves the exemption on 117617
the condition that a mutually acceptable compensation agreement be 117618
negotiated, at any time after the compensation agreement is agreed 117619
to by the board of education and the board of township trustees. 117620
If a mutually acceptable compensation agreement is negotiated 117621
between the board of township trustees and the board of education, 117622
including agreements for payments in lieu of taxes under section 117623
5709.74 of the Revised Code, the board of township trustees shall 117624
compensate the joint vocational school district within which the 117625
parcel or district is located at the same rate and under the same 117626
terms received by the city, local, or exempted village school 117627
district. 117628

If a board of education has adopted a resolution waiving its 117629
right to approve exemptions from taxation under this section and 117630
the resolution remains in effect, approval of such exemptions by 117631
the board of education is not required under division (D) of this 117632
section. If a board of education has adopted a resolution allowing 117633
a board of township trustees to deliver the notice required under 117634
division (D) of this section fewer than forty-five business days 117635
prior to adoption of the resolution by the board of township 117636
trustees, the board of township trustees shall deliver the notice 117637
to the board of education not later than the number of days prior 117638
to the adoption as prescribed by the board of education in its 117639
resolution. If a board of education adopts a resolution waiving 117640
its right to approve exemptions or shortening the notification 117641
period, the board of education shall certify a copy of the 117642
resolution to the board of township trustees. If the board of 117643

education rescinds the resolution, it shall certify notice of the 117644
rescission to the board of township trustees. 117645

If the board of township trustees is not required by division 117646
(D) of this section to notify the board of education of the board 117647
of township trustees' intent to declare improvements to be a 117648
public purpose, the board of township trustees shall comply with 117649
the notice requirements imposed under section 5709.83 of the 117650
Revised Code before taking formal action to adopt the resolution 117651
making that declaration, unless the board of education has adopted 117652
a resolution under that section waiving its right to receive the 117653
notice. 117654

(E)(1) If a proposed resolution under division (C)(1) of this 117655
section exempts improvements with respect to a parcel within an 117656
incentive district for more than ten years, or the percentage of 117657
the improvement exempted from taxation exceeds seventy-five per 117658
cent, not later than forty-five business days prior to adopting 117659
the resolution the board of township trustees shall deliver to the 117660
board of county commissioners of the county within which the 117661
incentive district is or will be located a notice that states its 117662
intent to adopt a resolution creating an incentive district. The 117663
notice shall include a copy of the proposed resolution, identify 117664
the parcels for which improvements are to be exempted from 117665
taxation, provide an estimate of the true value in money of the 117666
improvements, specify the period of time for which the 117667
improvements would be exempted from taxation, specify the 117668
percentage of the improvements that would be exempted from 117669
taxation, and indicate the date on which the board of township 117670
trustees intends to adopt the resolution. 117671

(2) The board of county commissioners, by resolution adopted 117672
by a majority of the board, may object to the exemption for the 117673
number of years in excess of ten, may object to the exemption for 117674
the percentage of the improvement to be exempted in excess of 117675

seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide

compensation to the board of county commissioners of fifty per 117709
cent of the taxes that would be payable to the county in the 117710
eleventh and subsequent years of the exemption period or on the 117711
portion of the improvement in excess of seventy-five per cent, 117712
were that portion to be subject to taxation. 117713

(F) Service payments in lieu of taxes that are attributable 117714
to any amount by which the effective tax rate of either a renewal 117715
levy with an increase or a replacement levy exceeds the effective 117716
tax rate of the levy renewed or replaced, or that are attributable 117717
to an additional levy, for a levy authorized by the voters for any 117718
of the following purposes on or after January 1, 2006, and which 117719
are provided pursuant to a resolution creating an incentive 117720
district under division (C)(1) of this section that is adopted on 117721
or after January 1, 2006, shall be distributed to the appropriate 117722
taxing authority as required under division (C) of section 5709.74 117723
of the Revised Code in an amount equal to the amount of taxes from 117724
that additional levy or from the increase in the effective tax 117725
rate of such renewal or replacement levy that would have been 117726
payable to that taxing authority from the following levies were it 117727
not for the exemption authorized under division (C) of this 117728
section: 117729

(1) A tax levied under division (L) of section 5705.19 or 117730
section 5705.191 of the Revised Code for community mental 117731
retardation and developmental disabilities programs and services 117732
pursuant to Chapter 5126. of the Revised Code; 117733

(2) A tax levied under division (Y) of section 5705.19 of the 117734
Revised Code for providing or maintaining senior citizens services 117735
or facilities; 117736

(3) A tax levied under section 5705.22 of the Revised Code 117737
for county hospitals; 117738

(4) A tax levied by a joint-county district or by a county 117739

under section 5705.19, 5705.191, or 5705.221 of the Revised Code 117740
for alcohol, drug addiction, and mental health services or 117741
families; 117742

(5) A tax levied under section 5705.23 of the Revised Code 117743
for library purposes; 117744

(6) A tax levied under section 5705.24 of the Revised Code 117745
for the support of children services and the placement and care of 117746
children; 117747

(7) A tax levied under division (Z) of section 5705.19 of the 117748
Revised Code for the provision and maintenance of zoological park 117749
services and facilities under section 307.76 of the Revised Code; 117750

(8) A tax levied under section 511.27 or division (H) of 117751
section 5705.19 of the Revised Code for the support of township 117752
park districts; 117753

(9) A tax levied under division (A), (F), or (H) of section 117754
5705.19 of the Revised Code for parks and recreational purposes of 117755
a joint recreation district organized pursuant to division (B) of 117756
section 755.14 of the Revised Code; 117757

(10) A tax levied under section 1545.20 or 1545.21 of the 117758
Revised Code for park district purposes; 117759

(11) A tax levied under section 5705.191 of the Revised Code 117760
for the purpose of making appropriations for public assistance; 117761
human or social services; public relief; public welfare; public 117762
health and hospitalization; and support of general hospitals; 117763

(12) A tax levied under section 3709.29 of the Revised Code 117764
for a general health district program. 117765

(G) An exemption from taxation granted under this section 117766
commences with the tax year specified in the resolution so long as 117767
the year specified in the resolution commences after the effective 117768
date of the resolution. If the resolution specifies a year 117769

commencing before the effective date of the resolution or 117770
specifies no year whatsoever, the exemption commences with the tax 117771
year in which an exempted improvement first appears on the tax 117772
list and duplicate of real and public utility property and that 117773
commences after the effective date of the resolution. Except as 117774
otherwise provided in this division, the exemption ends on the 117775
date specified in the resolution as the date the improvement 117776
ceases to be a public purpose or the incentive district expires, 117777
or ends on the date on which the public infrastructure 117778
improvements and housing renovations are paid in full from the 117779
township public improvement tax increment equivalent fund 117780
established under section 5709.75 of the Revised Code, whichever 117781
occurs first. The exemption of an improvement with respect to a 117782
parcel or within an incentive district may end on a later date, as 117783
specified in the resolution, if the board of township trustees and 117784
the board of education of the city, local, or exempted village 117785
school district within which the parcel or district is located 117786
have entered into a compensation agreement under section 5709.82 117787
of the Revised Code with respect to the improvement and the board 117788
of education has approved the term of the exemption under division 117789
(D) of this section, but in no case shall the improvement be 117790
exempted from taxation for more than thirty years. The board of 117791
township trustees may, by majority vote, adopt a resolution 117792
permitting the township to enter into such agreements as the board 117793
finds necessary or appropriate to provide for the construction or 117794
undertaking of public infrastructure improvements and housing 117795
renovations. Any exemption shall be claimed and allowed in the 117796
same or a similar manner as in the case of other real property 117797
exemptions. If an exemption status changes during a tax year, the 117798
procedure for the apportionment of the taxes for that year is the 117799
same as in the case of other changes in tax exemption status 117800
during the year. 117801

(H) The board of township trustees may issue the notes of the 117802

township to finance all costs pertaining to the construction or 117803
undertaking of public infrastructure improvements and housing 117804
renovations made pursuant to this section. The notes shall be 117805
signed by the board and attested by the signature of the township 117806
fiscal officer, shall bear interest not to exceed the rate 117807
provided in section 9.95 of the Revised Code, and are not subject 117808
to Chapter 133. of the Revised Code. The resolution authorizing 117809
the issuance of the notes shall pledge the funds of the township 117810
public improvement tax increment equivalent fund established 117811
pursuant to section 5709.75 of the Revised Code to pay the 117812
interest on and principal of the notes. The notes, which may 117813
contain a clause permitting prepayment at the option of the board, 117814
shall be offered for sale on the open market or given to the 117815
vendor or contractor if no sale is made. 117816

(I) The township, not later than fifteen days after the 117817
adoption of a resolution under this section, shall submit to the 117818
director of development a copy of the resolution. On or before the 117819
thirty-first day of March of each year, the township shall submit 117820
a status report to the director of development. The report shall 117821
indicate, in the manner prescribed by the director, the progress 117822
of the project during each year that the exemption remains in 117823
effect, including a summary of the receipts from service payments 117824
in lieu of taxes; expenditures of money from the fund created 117825
under section 5709.75 of the Revised Code; a description of the 117826
public infrastructure improvements and housing renovations 117827
financed with the expenditures; and a quantitative summary of 117828
changes in private investment resulting from each project. 117829

(J) Nothing in this section shall be construed to prohibit a 117830
board of township trustees from declaring to be a public purpose 117831
improvements with respect to more than one parcel. 117832

(K) A board of township trustees that adopted a resolution 117833
under this section prior to July 21, 1994, may amend that 117834

resolution to include any additional public infrastructure 117835
improvement. A board of township trustees that seeks by the 117836
amendment to utilize money from its township public improvement 117837
tax increment equivalent fund for land acquisition in aid of 117838
industry, commerce, distribution, or research, demolition on 117839
private property, or stormwater and flood remediation projects may 117840
do so provided that the board currently is a party to a 117841
hold-harmless agreement with the board of education of the city, 117842
local, or exempted village school district within the territory of 117843
which are located the parcels that are subject to an exemption. 117844
For the purposes of this division, a "hold-harmless agreement" 117845
means an agreement under which the board of township trustees 117846
agrees to compensate the school district for one hundred per cent 117847
of the tax revenue that the school district would have received 117848
from further improvements to parcels designated in the resolution 117849
were it not for the exemption granted by the resolution. 117850

Sec. 5709.78. (A) A board of county commissioners may, by 117851
resolution, declare improvements to certain parcels of real 117852
property located in the unincorporated territory of the county to 117853
be a public purpose. Except with the approval under division (C) 117854
of this section of the board of education of each city, local, or 117855
exempted village school district within which the improvements are 117856
located, not more than seventy-five per cent of an improvement 117857
thus declared to be a public purpose may be exempted from real 117858
property taxation, for a period of not more than ten years. The 117859
resolution shall specify the percentage of the improvement to be 117860
exempted and the life of the exemption. 117861

A resolution adopted under this division shall designate the 117862
specific public infrastructure improvements made, to be made, or 117863
in the process of being made by the county that directly benefit, 117864
or that once made will directly benefit, the parcels for which 117865
improvements are declared to be a public purpose. The service 117866

payments provided for in section 5709.79 of the Revised Code shall 117867
be used to finance the public infrastructure improvements 117868
designated in the resolution, or as provided in section 5709.80 of 117869
the Revised Code. 117870

(B)(1) A board of county commissioners may adopt a resolution 117871
creating an incentive district and declaring improvements to 117872
parcels within the district to be a public purpose and, except as 117873
provided in division (E) of this section, exempt from taxation as 117874
provided in this section, but no board of county commissioners of 117875
a county that has a population that exceeds twenty-five thousand, 117876
as shown by the most recent federal decennial census, shall adopt 117877
a resolution that creates an incentive district if the sum of the 117878
taxable value of real property in the proposed district for the 117879
preceding tax year and the taxable value of all real property in 117880
the county that would have been taxable in the preceding year were 117881
it not for the fact that the property was in an existing incentive 117882
district and therefore exempt from taxation exceeds twenty-five 117883
per cent of the taxable value of real property in the county for 117884
the preceding tax year. The district shall be located within the 117885
unincorporated territory of the county and shall not include any 117886
territory that is included within a district created under 117887
division (C) of section 5709.73 of the Revised Code. The 117888
resolution shall delineate the boundary of the district and 117889
specifically identify each parcel within the district. A district 117890
may not include any parcel that is or has been exempted from 117891
taxation under division (A) of this section or that is or has been 117892
within another district created under this division. A resolution 117893
may create more than one such district, and more than one 117894
resolution may be adopted under division (B)(1) of this section. 117895

(2) Not later than thirty days prior to adopting a resolution 117896
under division (B)(1) of this section, if the county intends to 117897
apply for exemptions from taxation under section 5709.911 of the 117898

Revised Code on behalf of owners of real property located within 117899
the proposed incentive district, the board of county commissioners 117900
shall conduct a public hearing on the proposed resolution. Not 117901
later than thirty days prior to the public hearing, the board 117902
shall give notice of the public hearing and the proposed 117903
resolution by first class mail to every real property owner whose 117904
property is located within the boundaries of the proposed 117905
incentive district that is the subject of the proposed resolution. 117906
The board also shall provide the notice by first class mail to the 117907
clerk of each township in which the proposed incentive district 117908
will be located. 117909

(3)(a) A resolution adopted under division (B)(1) of this 117910
section shall specify the life of the incentive district and the 117911
percentage of the improvements to be exempted, shall designate the 117912
public infrastructure improvements made, to be made, or in the 117913
process of being made, that benefit or serve, or, once made, will 117914
benefit or serve parcels in the district. The resolution also 117915
shall identify one or more specific projects being, or to be, 117916
undertaken in the district that place additional demand on the 117917
public infrastructure improvements designated in the resolution. 117918
The project identified may, but need not be, the project under 117919
division (B)(3)(b) of this section that places real property in 117920
use for commercial or industrial purposes. 117921

A resolution adopted under division (B)(1) of this section on 117922
or after ~~the effective date of this amendment~~ March 30, 2006, 117923
shall not designate police or fire equipment as public 117924
infrastructure improvements, and no service payment provided for 117925
in section 5709.79 of the Revised Code and received by the county 117926
under the resolution shall be used for police or fire equipment. 117927

(b) A resolution adopted under division (B)(1) of this 117928
section may authorize the use of service payments provided for in 117929
section 5709.79 of the Revised Code for the purpose of housing 117930

renovations within the incentive district, provided that the 117931
resolution also designates public infrastructure improvements that 117932
benefit or serve the district, and that a project within the 117933
district places real property in use for commercial or industrial 117934
purposes. Service payments may be used to finance or support 117935
loans, deferred loans, and grants to persons for the purpose of 117936
housing renovations within the district. The resolution shall 117937
designate the parcels within the district that are eligible for 117938
housing renovations. The resolution shall state separately the 117939
amount or the percentages of the expected aggregate service 117940
payments that are designated for each public infrastructure 117941
improvement and for the purpose of housing renovations. 117942

(4) Except with the approval of the board of education of 117943
each city, local, or exempted village school district within the 117944
territory of which the incentive district is or will be located, 117945
and subject to division (D) of this section, the life of an 117946
incentive district shall not exceed ten years, and the percentage 117947
of improvements to be exempted shall not exceed seventy-five per 117948
cent. With approval of the board of education, the life of a 117949
district may be not more than thirty years, and the percentage of 117950
improvements to be exempted may be not more than one hundred per 117951
cent. The approval of a board of education shall be obtained in 117952
the manner provided in division (C) of this section. 117953

(C)(1) Improvements with respect to a parcel may be exempted 117954
from taxation under division (A) of this section, and improvements 117955
to parcels within an incentive district may be exempted from 117956
taxation under division (B) of this section, for up to ten years 117957
or, with the approval of the board of education of ~~the~~ each city, 117958
local, or exempted village school district within which the parcel 117959
or district is located, for up to thirty years. The percentage of 117960
the improvements exempted from taxation may, with such approval, 117961
exceed seventy-five per cent, but shall not exceed one hundred per 117962

cent. Not later than forty-five business days prior to adopting a 117963
resolution under this section declaring improvements to be a 117964
public purpose that is subject to the approval of a board of 117965
education under this division, the board of county commissioners 117966
shall deliver to the board of education a notice stating its 117967
intent to adopt a resolution making that declaration. The notice 117968
regarding improvements with respect to a parcel under division (A) 117969
of this section shall identify the parcels for which improvements 117970
are to be exempted from taxation, provide an estimate of the true 117971
value in money of the improvements, specify the period for which 117972
the improvements would be exempted from taxation and the 117973
percentage of the improvements that would be exempted, and 117974
indicate the date on which the board of county commissioners 117975
intends to adopt the resolution. The notice regarding improvements 117976
to parcels within an incentive district under division (B) of this 117977
section shall delineate the boundaries of the district, 117978
specifically identify each parcel within the district, identify 117979
each anticipated improvement in the district, provide an estimate 117980
of the true value in money of each such improvement, specify the 117981
life of the district and the percentage of improvements that would 117982
be exempted, and indicate the date on which the board of county 117983
commissioners intends to adopt the resolution. The board of 117984
education, by resolution adopted by a majority of the board, may 117985
approve the exemption for the period or for the exemption 117986
percentage specified in the notice; may disapprove the exemption 117987
for the number of years in excess of ten, may disapprove the 117988
exemption for the percentage of the improvements to be exempted in 117989
excess of seventy-five per cent, or both; or may approve the 117990
exemption on the condition that the board of county commissioners 117991
and the board of education negotiate an agreement providing for 117992
compensation to the school district equal in value to a percentage 117993
of the amount of taxes exempted in the eleventh and subsequent 117994
years of the exemption period or, in the case of exemption 117995

percentages in excess of seventy-five per cent, compensation equal 117996
in value to a percentage of the taxes that would be payable on the 117997
portion of the improvements in excess of seventy-five per cent 117998
were that portion to be subject to taxation, or other mutually 117999
agreeable compensation. 118000

(2) The board of education shall certify its resolution to 118001
the board of county commissioners not later than fourteen days 118002
prior to the date the board of county commissioners intends to 118003
adopt its resolution as indicated in the notice. If the board of 118004
education and the board of county commissioners negotiate a 118005
mutually acceptable compensation agreement, the resolution of the 118006
board of county commissioners may declare the improvements a 118007
public purpose for the number of years specified in that 118008
resolution or, in the case of exemption percentages in excess of 118009
seventy-five per cent, for the exemption percentage specified in 118010
the resolution. In either case, if the board of education and the 118011
board of county commissioners fail to negotiate a mutually 118012
acceptable compensation agreement, the resolution may declare the 118013
improvements a public purpose for not more than ten years, and 118014
shall not exempt more than seventy-five per cent of the 118015
improvements from taxation. If the board of education fails to 118016
certify a resolution to the board of county commissioners within 118017
the time prescribed by this section, the board of county 118018
commissioners thereupon may adopt the resolution and may declare 118019
the improvements a public purpose for up to thirty years or, in 118020
the case of exemption percentages proposed in excess of 118021
seventy-five per cent, for the exemption percentage specified in 118022
the resolution. The board of county commissioners may adopt the 118023
resolution at any time after the board of education certifies its 118024
resolution approving the exemption to the board of county 118025
commissioners, or, if the board of education approves the 118026
exemption on the condition that a mutually acceptable compensation 118027
agreement be negotiated, at any time after the compensation 118028

agreement is agreed to by the board of education and the board of 118029
county commissioners. If a mutually acceptable compensation 118030
agreement is negotiated between the board of county commissioners 118031
and the board of education, including agreements for payments in 118032
lieu of taxes under section 5709.79 of the Revised Code, the board 118033
of county commissioners shall compensate the joint vocational 118034
school district within which the parcel or district is located at 118035
the same rate and under the same terms received by the city, 118036
local, or exempted village school district. 118037

(3) If a board of education has adopted a resolution waiving 118038
its right to approve exemptions from taxation under this section 118039
and the resolution remains in effect, approval of such exemptions 118040
by the board of education is not required under division (C) of 118041
this section. If a board of education has adopted a resolution 118042
allowing a board of county commissioners to deliver the notice 118043
required under division (C) of this section fewer than forty-five 118044
business days prior to approval of the resolution by the board of 118045
county commissioners, the board of county commissioners shall 118046
deliver the notice to the board of education not later than the 118047
number of days prior to such approval as prescribed by the board 118048
of education in its resolution. If a board of education adopts a 118049
resolution waiving its right to approve exemptions or shortening 118050
the notification period, the board of education shall certify a 118051
copy of the resolution to the board of county commissioners. If 118052
the board of education rescinds such a resolution, it shall 118053
certify notice of the rescission to the board of county 118054
commissioners. 118055

(D)(1) If a proposed resolution under division (B)(1) of this 118056
section exempts improvements with respect to a parcel within an 118057
incentive district for more than ten years, or the percentage of 118058
the improvement exempted from taxation exceeds seventy-five per 118059
cent, not later than forty-five business days prior to adopting 118060

the resolution the board of county commissioners shall deliver to 118061
the board of township trustees of any township within which the 118062
incentive district is or will be located a notice that states its 118063
intent to adopt a resolution creating an incentive district. The 118064
notice shall include a copy of the proposed resolution, identify 118065
the parcels for which improvements are to be exempted from 118066
taxation, provide an estimate of the true value in money of the 118067
improvements, specify the period of time for which the 118068
improvements would be exempted from taxation, specify the 118069
percentage of the improvements that would be exempted from 118070
taxation, and indicate the date on which the board intends to 118071
adopt the resolution. 118072

(2) The board of township trustees, by resolution adopted by 118073
a majority of the board, may object to the exemption for the 118074
number of years in excess of ten, may object to the exemption for 118075
the percentage of the improvement to be exempted in excess of 118076
seventy-five per cent, or both. If the board of township trustees 118077
objects, the board of township trustees may negotiate a mutually 118078
acceptable compensation agreement with the board of county 118079
commissioners. In no case shall the compensation provided to the 118080
board of township trustees exceed the property taxes ~~foregone~~ 118081
forgone due to the exemption. If the board of township trustees 118082
objects, and the board of township trustees and the board of 118083
county commissioners fail to negotiate a mutually acceptable 118084
compensation agreement, the resolution adopted under division 118085
(B)(1) of this section shall provide to the board of township 118086
trustees compensation in the eleventh and subsequent years of the 118087
exemption period equal in value to not more than fifty per cent of 118088
the taxes that would be payable to the township or, if the board 118089
of township trustee's objection includes an objection to an 118090
exemption percentage in excess of seventy-five per cent, 118091
compensation equal in value to not more than fifty per cent of the 118092
taxes that would be payable to the township on the portion of the 118093

improvement in excess of seventy-five per cent, were that portion 118094
to be subject to taxation. The board of township trustees shall 118095
certify its resolution to the board of county commissioners not 118096
later than thirty days after receipt of the notice. 118097

(3) If the board of township trustees does not object or 118098
fails to certify a resolution objecting to an exemption within 118099
thirty days after receipt of the notice, the board of county 118100
commissioners may adopt its resolution, and no compensation shall 118101
be provided to the board of township trustees. If the board of 118102
township trustees certifies its resolution objecting to the 118103
commissioners' resolution, the board of county commissioners may 118104
adopt its resolution at any time after a mutually acceptable 118105
compensation agreement is agreed to by the board of county 118106
commissioners and the board of township trustees. If the board of 118107
township trustees certifies a resolution objecting to the 118108
commissioners' resolution, the board of county commissioners may 118109
adopt its resolution at any time after a mutually acceptable 118110
compensation agreement is agreed to by the board of county 118111
commissioners and the board of township trustees, or, if no 118112
compensation agreement is negotiated, at any time after the board 118113
of county commissioners in the proposed resolution to provide 118114
compensation to the board of township trustees of fifty per cent 118115
of the taxes that would be payable to the township in the eleventh 118116
and subsequent years of the exemption period or on the portion of 118117
the improvement in excess of seventy-five per cent, were that 118118
portion to be subject to taxation. 118119

(E) Service payments in lieu of taxes that are attributable 118120
to any amount by which the effective tax rate of either a renewal 118121
levy with an increase or a replacement levy exceeds the effective 118122
tax rate of the levy renewed or replaced, or that are attributable 118123
to an additional levy, for a levy authorized by the voters for any 118124
of the following purposes on or after January 1, 2006, and which 118125

are provided pursuant to a resolution creating an incentive 118126
district under division (B)(1) of this section that is adopted on 118127
or after January 1, 2006, shall be distributed to the appropriate 118128
taxing authority as required under division (D) of section 5709.79 118129
of the Revised Code in an amount equal to the amount of taxes from 118130
that additional levy or from the increase in the effective tax 118131
rate of such renewal or replacement levy that would have been 118132
payable to that taxing authority from the following levies were it 118133
not for the exemption authorized under division (B) of this 118134
section: 118135

(1) A tax levied under division (L) of section 5705.19 or 118136
section 5705.191 of the Revised Code for community mental 118137
retardation and developmental disabilities programs and services 118138
pursuant to Chapter 5126. of the Revised Code; 118139

(2) A tax levied under division (Y) of section 5705.19 of the 118140
Revised Code for providing or maintaining senior citizens services 118141
or facilities; 118142

(3) A tax levied under section 5705.22 of the Revised Code 118143
for county hospitals; 118144

(4) A tax levied by a joint-county district or by a county 118145
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 118146
for alcohol, drug addiction, and mental health services or 118147
facilities; 118148

(5) A tax levied under section 5705.23 of the Revised Code 118149
for library purposes; 118150

(6) A tax levied under section 5705.24 of the Revised Code 118151
for the support of children services and the placement and care of 118152
children; 118153

(7) A tax levied under division (Z) of section 5705.19 of the 118154
Revised Code for the provision and maintenance of zoological park 118155
services and facilities under section 307.76 of the Revised Code; 118156

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

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(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

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(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

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(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

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(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

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(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive

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district may end on a later date, as specified in the resolution, 118188
if the board of commissioners and the board of education of the 118189
city, local, or exempted village school district within which the 118190
parcel or district is located have entered into a compensation 118191
agreement under section 5709.82 of the Revised Code with respect 118192
to the improvement, and the board of education has approved the 118193
term of the exemption under division (C)(1) of this section, but 118194
in no case shall the improvement be exempted from taxation for 118195
more than thirty years. Exemptions shall be claimed and allowed in 118196
the same or a similar manner as in the case of other real property 118197
exemptions. If an exemption status changes during a tax year, the 118198
procedure for the apportionment of the taxes for that year is the 118199
same as in the case of other changes in tax exemption status 118200
during the year. 118201

(G) If the board of county commissioners is not required by 118202
this section to notify the board of education of the board of 118203
county commissioners' intent to declare improvements to be a 118204
public purpose, the board of county commissioners shall comply 118205
with the notice requirements imposed under section 5709.83 of the 118206
Revised Code before taking formal action to adopt the resolution 118207
making that declaration, unless the board of education has adopted 118208
a resolution under that section waiving its right to receive such 118209
a notice. 118210

(H) The county, not later than fifteen days after the 118211
adoption of a resolution under this section, shall submit to the 118212
director of development a copy of the resolution. On or before the 118213
thirty-first day of March of each year, the county shall submit a 118214
status report to the director of development. The report shall 118215
indicate, in the manner prescribed by the director, the progress 118216
of the project during each year that an exemption remains in 118217
effect, including a summary of the receipts from service payments 118218
in lieu of taxes; expenditures of money from the fund created 118219

under section 5709.80 of the Revised Code; a description of the 118220
public infrastructure improvements and housing renovations 118221
financed with such expenditures; and a quantitative summary of 118222
changes in employment and private investment resulting from each 118223
project. 118224

(I) Nothing in this section shall be construed to prohibit a 118225
board of county commissioners from declaring to be a public 118226
purpose improvements with respect to more than one parcel. 118227

Sec. 5709.82. (A) As used in this section: 118228

(1) "New employee" means both of the following: 118229

(a) Persons employed in the construction of real property 118230
exempted from taxation under the chapters or sections of the 118231
Revised Code enumerated in division (B) of this section; 118232

(b) Persons not described by division (A)(1)(a) of this 118233
section who are first employed at the site of such property and 118234
who within the two previous years have not been subject, prior to 118235
being employed at that site, to income taxation by the municipal 118236
corporation within whose territory the site is located on income 118237
derived from employment for the person's current employer. "New 118238
employee" does not include any person who replaces a person who is 118239
not a new employee under division (A)(1) of this section. 118240

(2) "Infrastructure costs" means costs incurred by a 118241
municipal corporation in a calendar year to acquire, construct, 118242
reconstruct, improve, plan, or equip real or tangible personal 118243
property that directly benefits or will directly benefit the 118244
exempted property. If the municipal corporation finances the 118245
acquisition, construction, reconstruction, improvement, planning, 118246
or equipping of real or tangible personal property that directly 118247
benefits the exempted property by issuing debt, "infrastructure 118248
costs" means the annual debt charges incurred by the municipal 118249

corporation from the issuance of such debt. Real or tangible 118250
personal property directly benefits exempted property only if the 118251
exempted property places or will place direct, additional demand 118252
on the real or tangible personal property for which such costs 118253
were or will be incurred. 118254

(3) "Taxing unit" has the same meaning as in division (H) of 118255
section 5705.01 of the Revised Code. 118256

(B)(1) Except as otherwise provided under division (C) of 118257
this section, the legislative authority of any political 118258
subdivision that has acted under the authority of Chapter 725. or 118259
1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 118260
5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 118261
of the Revised Code to grant an exemption from taxation for real 118262
or tangible personal property may negotiate with the board of 118263
education of each city, local, exempted village, or joint 118264
vocational school district or other taxing unit within the 118265
territory of which the exempted property is located, and enter 118266
into an agreement whereby the school district or taxing unit is 118267
compensated for tax revenue foregone by the school district or 118268
taxing unit as a result of the exemption. Except as otherwise 118269
provided in division (B)(1) of this section, if a political 118270
subdivision enters into more than one agreement under this section 118271
with respect to a tax exemption, the political subdivision shall 118272
provide to each school district or taxing unit with which it 118273
contracts the same percentage of tax revenue foregone by the 118274
school district or taxing unit, which may be based on a good faith 118275
projection made at the time the exemption is granted. Such 118276
percentage shall be calculated on the basis of amounts paid by the 118277
political subdivision and any amounts paid by an owner under 118278
division (B)(2) of this section. A political subdivision may 118279
provide a school district or other taxing unit with a smaller 118280
percentage of foregone tax revenue than that provided to other 118281

school districts or taxing units only if the school district or 118282
taxing unit expressly consents in the agreement to receiving a 118283
smaller percentage. If a subdivision has acted under the authority 118284
of section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised 118285
Code and enters into a compensation agreement with a city, local, 118286
or exempted village school district, the subdivision shall provide 118287
compensation to the joint vocational school district within the 118288
territory of which the exempted property is located at the same 118289
rate and under the same terms as received by the city, local, or 118290
exempted village school district. 118291

(2) An owner of property exempted from taxation under the 118292
authority described in division (B)(1) of this section may, by 118293
becoming a party to an agreement described in division (B)(1) of 118294
this section or by entering into a separate agreement with a 118295
school district or other taxing unit, agree to compensate the 118296
school district or taxing unit by paying cash or by providing 118297
property or services by gift, loan, or otherwise. If the owner's 118298
property is exempted under the authority of section 5709.40, 118299
5709.41, 5709.73, or 5709.78 of the Revised Code and the owner 118300
enters into a compensation agreement with a city, local, or 118301
exempted village school district, the owner shall provide 118302
compensation to the joint vocational school district within the 118303
territory of which the owner's property is located at the same 118304
rate and under the same terms as received by the city, local, or 118305
exempted village school district. 118306

(C) This division does not apply to the following: 118307

(1) The legislative authority of a municipal corporation that 118308
has acted under the authority of division (H) of section 715.70 or 118309
section 715.81 of the Revised Code to consent to the granting of 118310
an exemption from taxation for real or tangible personal property 118311
in a joint economic development district. 118312

(2) The legislative authority of a municipal corporation that 118313

has specified in an ordinance adopted under section 5709.40 or 118314
5709.41 of the Revised Code that payments in lieu of taxes 118315
provided for under section 5709.42 of the Revised Code shall be 118316
paid to the city, local, or exempted village school district in 118317
which the improvements are located in the amount of taxes that 118318
would have been payable to the school district if the improvements 118319
had not been exempted from taxation, as directed in the ordinance. 118320

If the legislative authority of any municipal corporation has 118321
acted under the authority of Chapter 725. or 1728. or section 118322
3735.671, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, or 118323
5709.88, or a housing officer under section 3735.67 of the Revised 118324
Code, to grant or consent to the granting of an exemption from 118325
taxation for real or tangible personal property on or after July 1, 1994, the municipal corporation imposes a tax on incomes, and 118326
the payroll of new employees resulting from the exercise of that 118327
authority equals or exceeds one million dollars in any tax year 118328
for which such property is exempted, the legislative authority and 118329
the board of education of each city, local, or exempted village 118330
school district within the territory of which the exempted 118331
property is located shall attempt to negotiate an agreement 118332
providing for compensation to the school district for all or a 118333
portion of the tax revenue the school district would have received 118334
had the property not been exempted from taxation. The agreement 118335
may include as a party the owner of the property exempted or to be 118336
exempted from taxation and may include provisions obligating the 118337
owner to compensate the school district by paying cash or 118338
providing property or services by gift, loan, or otherwise. Such 118339
an obligation is enforceable by the board of education of the 118340
school district pursuant to the terms of the agreement. 118341
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If the legislative authority and board of education fail to 118343
negotiate an agreement that is mutually acceptable within six 118344
months of formal approval by the legislative authority of the 118345

instrument granting the exemption, the legislative authority shall 118346
compensate the school district in the amount and manner prescribed 118347
by division (D) of this section. 118348

(D) Annually, the legislative authority of a municipal 118349
corporation subject to this division shall pay to the city, local, 118350
or exempted village school district within the territory of which 118351
the exempted property is located an amount equal to fifty per cent 118352
of the difference between the amount of taxes levied and collected 118353
by the municipal corporation on the incomes of new employees in 118354
the calendar year ending on the day the payment is required to be 118355
made, and the amount of any infrastructure costs incurred in that 118356
calendar year. For purposes of such computation, the amount of 118357
infrastructure costs shall not exceed thirty-five per cent of the 118358
amount of those taxes unless the board of education of the school 118359
district, by resolution adopted by a majority of the board, 118360
approves an amount in excess of that percentage. If the amount of 118361
those taxes or infrastructure costs must be estimated at the time 118362
the payment is made, payments in subsequent years shall be 118363
adjusted to compensate for any departure of those estimates from 118364
the actual amount of those taxes. 118365

A municipal corporation required to make a payment under this 118366
section shall make the payment from its general fund or a special 118367
fund established for the purpose. The payment is payable on the 118368
thirty-first day of December of the tax year for or in which the 118369
exemption from taxation commences and on that day for each 118370
subsequent tax year property is exempted and the legislative 118371
authority and board fail to negotiate an acceptable agreement 118372
under division (C) of this section. 118373

Sec. 5709.83. (A) Except as otherwise provided in division 118374
(B) or (C) of this section, prior to taking formal action to adopt 118375
or enter into any instrument granting a tax exemption under 118376

section 725.02, 1728.06, 5709.40, 5709.41, 5709.62, 5709.63, 118377
5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised 118378
Code or formally approving an agreement under section 3735.671 of 118379
the Revised Code, or prior to forwarding an application for a tax 118380
exemption for residential property under section 3735.67 of the 118381
Revised Code to the county auditor, the legislative authority of 118382
the political subdivision or housing officer shall notify the 118383
board of education of each city, local, exempted village, or joint 118384
vocational school district in which the proposed tax-exempted 118385
property is located. The notice shall include a copy of the 118386
instrument or application. The notice shall be delivered not later 118387
than fourteen days prior to the day the legislative authority 118388
takes formal action to adopt or enter into the instrument, or not 118389
later than fourteen days prior to the day the housing officer 118390
forwards the application to the county auditor. If the board of 118391
education comments on the instrument or application to the 118392
legislative authority or housing officer, the legislative 118393
authority or housing officer shall consider the comments. If the 118394
board of education of the city, local, ~~or~~ exempted village, or 118395
joint vocational school district so requests, the legislative 118396
authority or the housing officer shall meet in person with a 118397
representative designated by the board of education to discuss the 118398
terms of the instrument or application. 118399

(B) The notice otherwise required to be provided to boards of 118400
education under division (A) of this section is not required if 118401
the board has adopted a resolution waiving its right to receive 118402
such notices, and that resolution remains in effect. If a board of 118403
education adopts such a resolution, the board shall cause a copy 118404
of the resolution to be certified to the legislative authority. If 118405
the board of education rescinds such a resolution, it shall 118406
certify notice of the rescission to the legislative authority. A 118407
board of education may adopt such a resolution with respect to any 118408
one or more counties, townships, or municipal corporations 118409

situated in whole or in part within the school district. 118410

(C) If a legislative authority is required to provide notice 118411
to a city, local, or exempted village school district of its 118412
intent to grant such an exemption as required by section 5709.40, 118413
5709.41, 5709.73, or 5709.78 of the Revised Code, the legislative 118414
authority, before adopting a resolution or ordinance under that 118415
section, shall notify the board of education of each joint 118416
vocational school district in which the property to be exempted is 118417
located. The notice shall be delivered not later than forty-five 118418
days before the day the legislative authority adopts a resolution 118419
or ordinance under any of those sections. The content of the 118420
notice and procedures for responding to the notice are the same as 118421
required in division (A) of this section. 118422

Sec. 5713.01. (A) Each county shall be the unit for assessing 118423
real estate for taxation purposes. The county auditor shall be the 118424
assessor of all the real estate in the auditor's county for 118425
purposes of taxation, but this section does not affect the power 118426
conferred by Chapter 5727. of the Revised Code upon the tax 118427
commissioner regarding the valuation and assessment of real 118428
property used in railroad operations. 118429

(B) The auditor shall assess all the real estate situated in 118430
the county at its taxable value in accordance with sections 118431
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 118432
rules and methods applicable to the auditor's county adopted, 118433
prescribed, and promulgated by the tax commissioner. The auditor 118434
shall view and appraise or cause to be viewed and appraised at its 118435
true value in money, each lot or parcel of real estate, including 118436
land devoted exclusively to agricultural use, and the improvements 118437
located thereon at least once in each six-year period and the 118438
taxable values required to be derived therefrom shall be placed on 118439
the auditor's tax list and the county treasurer's duplicate for 118440

the tax year ordered by the commissioner pursuant to section 118441
5715.34 of the Revised Code. The commissioner may grant an 118442
extension of one year or less if the commissioner finds that good 118443
cause exists for the extension. When the auditor so views and 118444
appraises, the auditor may enter each structure located thereon to 118445
determine by actual view what improvements have been made therein 118446
or additions made thereto since the next preceding valuation. The 118447
auditor shall revalue and assess at any time all or any part of 118448
the real estate in such county, including land devoted exclusively 118449
to agricultural use, where the auditor finds that the true or 118450
taxable values thereof have changed, and when a conservation 118451
easement is created under sections 5301.67 to 5301.70 of the 118452
Revised Code. The auditor may increase or decrease the true or 118453
taxable value of any lot or parcel of real estate in any township, 118454
municipal corporation, or other taxing district by an amount which 118455
will cause all real property on the tax list to be valued as 118456
required by law, or the auditor may increase or decrease the 118457
aggregate value of all real property, or any class of real 118458
property, in the county, township, municipal corporation, or other 118459
taxing district, or in any ward or other division of a municipal 118460
corporation by a per cent or amount which will cause all property 118461
to be properly valued and assessed for taxation in accordance with 118462
Section 36, Article II, Section 2, Article XII, Ohio Constitution, 118463
this section, and sections 5713.03, 5713.31, and 5715.01 of the 118464
Revised Code. 118465

(C) When the auditor determines to reappraise all the real 118466
estate in the county or any class thereof, when the tax 118467
commissioner orders an increase in the aggregate true or taxable 118468
value of the real estate in any taxing subdivision, or when the 118469
taxable value of real estate is increased by the application of a 118470
uniform taxable value per cent of true value pursuant to the order 118471
of the commissioner, the auditor shall advertise the completion of 118472
the reappraisal or equalization action in a newspaper of general 118473

circulation in the county once a week for the three consecutive 118474
weeks next preceding the issuance of the tax bills, or as provided 118475
in section 7.16 of the Revised Code for the two consecutive weeks 118476
next preceding the issuance of the tax bills. When the auditor 118477
changes the true or taxable value of any individual parcels of 118478
real estate, the auditor shall notify the owner of the real 118479
estate, or the person in whose name the same stands charged on the 118480
duplicate, by mail or in person, of the changes the auditor has 118481
made in the assessments of such property. Such notice shall be 118482
given at least thirty days prior to the issuance of the tax bills. 118483
Failure to receive notice shall not invalidate any proceeding 118484
under this section. 118485

(D) The auditor shall make the necessary abstracts from books 118486
of the auditor's office containing descriptions of real estate in 118487
such county, together with such platbooks and lists of transfers 118488
of title to land as the auditor deems necessary in the performance 118489
of the auditor's duties in valuing such property for taxation. 118490
Such abstracts, platbooks, and lists shall be in such form and 118491
detail as the tax commissioner prescribes. 118492

(E) The auditor, with the approval of the tax commissioner, 118493
may appoint and employ such experts, deputies, clerks, or other 118494
employees as the auditor deems necessary to the performance of the 118495
auditor's duties as assessor, or, with the approval of the tax 118496
commissioner, the auditor may enter into a contract with an 118497
individual, partnership, firm, company, or corporation to do all 118498
or any part of the work; the amount to be expended in the payment 118499
of the compensation of such employees shall be fixed by the board 118500
of county commissioners. If, in the opinion of the auditor, the 118501
board of county commissioners fails to provide a sufficient amount 118502
for the compensation of such employees, the auditor may apply to 118503
the tax commissioner for an additional allowance, and the 118504
additional amount of compensation allowed by the commissioner 118505

shall be certified to the board of county commissioners, and the 118506
same shall be final. The salaries and compensation of such 118507
experts, deputies, clerks, and employees shall be paid upon the 118508
warrant of the auditor out of the general fund or the real estate 118509
assessment fund of the county, or both. If the salaries and 118510
compensation are in whole or in part fixed by the commissioner, 118511
they shall constitute a charge against the county regardless of 118512
the amount of money in the county treasury levied or appropriated 118513
for such purposes. 118514

(F) Any contract for goods or services related to the 118515
auditor's duties as assessor, including contracts for mapping, 118516
computers, and reproduction on any medium of any documents, 118517
records, photographs, microfiche, or magnetic tapes, but not 118518
including contracts for the professional services of an appraiser, 118519
shall be awarded pursuant to the competitive bidding procedures 118520
set forth in sections 307.86 to 307.92 of the Revised Code and 118521
shall be paid for, upon the warrant of the auditor, from the real 118522
estate assessment fund. 118523

(G) Experts, deputies, clerks, and other employees, in 118524
addition to their other duties, shall perform such services as the 118525
auditor directs in ascertaining such facts, description, location, 118526
character, dimensions of buildings and improvements, and other 118527
circumstances reflecting upon the value of real estate as will aid 118528
the auditor in fixing its true and taxable value and, in the case 118529
of land valued in accordance with section 5713.31 of the Revised 118530
Code, its current agricultural use value. The auditor may also 118531
summon and examine any person under oath in respect to any matter 118532
pertaining to the value of any real property within the county. 118533

Sec. 5715.17. When the county board of revision has completed 118534
its work of equalization and transmitted the returns to ~~him~~ the 118535
county auditor, the ~~county~~ auditor shall give notice by 118536

advertising in ~~two newspapers of opposite politics published in~~ 118537
~~and a newspaper~~ of general circulation throughout the county that 118538
the tax returns for the current year have been revised and the 118539
valuations have been completed and are open for public inspection 118540
in ~~his~~ the auditor's office, and that complaints against any 118541
valuation or assessment, except the valuations fixed and 118542
assessments made by the department of taxation, will be heard by 118543
the board, stating in the notice the time and place of the meeting 118544
of such board. Such advertisement shall be inserted in a 118545
conspicuous place in ~~each~~ such newspaper and be published daily 118546
for ten days, ~~unless there is no daily newspaper published in and~~ 118547
~~of general circulation throughout such county, in which event such~~ 118548
~~advertisement shall be so published once each week for two weeks~~ 118549
or as provided in section 7.16 of the Revised Code. 118550

The auditor shall, upon request, furnish to any person a 118551
certificate setting forth the assessment and valuation of any 118552
tract, lot, or parcel of real estate or any specific personal 118553
property, and mail the same when requested to do so upon receipt 118554
of sufficient postage. 118555

The auditor shall furnish notice to boards of education of 118556
school districts within the county of all hearings, and the 118557
results of such hearings, held in regard to the reduction or 118558
increasing of tax valuations in excess of one hundred thousand 118559
dollars directly affecting the revenue of such district. 118560

Sec. 5715.23. Annually, immediately after the county board of 118561
revision has acted upon the assessments for the current year as 118562
required under section 5715.16 of the Revised Code and the county 118563
auditor has given notice by advertisement in ~~two newspapers a~~ 118564
newspaper of general circulation in the county that the valuations 118565
have been revised and are open for public inspection as provided 118566
in section 5715.17 of the Revised Code, each auditor shall make 118567

out and transmit to the tax commissioner an abstract of the real 118568
property of each taxing district in ~~his~~ the auditor's county, in 118569
which ~~he~~ the auditor shall set forth the aggregate amount and 118570
valuation of each class of real property in such county and in 118571
each taxing district therein as it appears on ~~his~~ the auditor's 118572
tax list or the statements and returns on file in ~~his~~ the 118573
auditor's office and an abstract of the current year's true value 118574
of land valued for such year under section 5713.31 of the Revised 118575
Code as it appears in the current year's agricultural land tax 118576
list. 118577

Sec. 5715.26. (A)(1) Upon receiving the statement required by 118578
section 5715.25 of the Revised Code, the county auditor shall 118579
forthwith add to or deduct from each tract, lot, or parcel of real 118580
property or class of real property the required percentage or 118581
amount of the valuation thereof, adding or deducting any sum less 118582
than five dollars so that the value of any separate tract, lot, or 118583
parcel of real property shall be ten dollars or some multiple 118584
thereof. 118585

(2) After making the additions or deductions required by this 118586
section, the auditor shall transmit to the tax commissioner the 118587
appropriate adjusted abstract of the real property of each taxing 118588
district in the auditor's county in which an adjustment was 118589
required. 118590

(3) If the commissioner increases or decreases the aggregate 118591
value of the real property or any class thereof in any county or 118592
taxing district thereof and does not receive within ninety days 118593
thereafter an adjusted abstract conforming to its statement for 118594
such county or taxing district therein, the commissioner shall 118595
withhold from such county or taxing district therein fifty per 118596
cent of its share in the distribution of state revenues to local 118597
governments pursuant to sections 5747.50 to 5747.55 of the Revised 118598

Code and shall direct the department of education to withhold 118599
therefrom fifty per cent of state revenues to school districts 118600
pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code. 118601
The commissioner shall withhold the distribution of such funds 118602
until such county auditor has complied with this division, and the 118603
department shall withhold the distribution of such funds until the 118604
commissioner has notified the department that such county auditor 118605
has complied with this division. 118606

(B)(1) If the commissioner's determination is appealed under 118607
section 5715.251 of the Revised Code, the county auditor, 118608
treasurer, and all other officers shall forthwith proceed with the 118609
levy and collection of the current year's taxes in the manner 118610
prescribed by law. The taxes shall be determined and collected as 118611
if the commissioner had determined under section 5715.24 of the 118612
Revised Code that the real property and the various classes 118613
thereof in the county as shown in the auditor's abstract were 118614
assessed for taxation and the true and agricultural use values 118615
were recorded on the agricultural land tax list as required by 118616
law. 118617

(2) If as a result of the appeal to the board it is finally 118618
determined either that all real property and the various classes 118619
thereof have not been assessed as required by law or that the 118620
values set forth in the agricultural land tax list do not 118621
correctly reflect the true and agricultural use values of the 118622
lands contained therein, the county auditor shall forthwith add to 118623
or deduct from each tract, lot, or parcel of real property or 118624
class of real property the required percentage or amount of the 118625
valuation in accordance with the order of the board or judgment of 118626
the court to which the board's order was appealed, and the taxes 118627
on each tract, lot, or parcel and the percentages required by 118628
section 319.301 of the Revised Code shall be recomputed using the 118629
valuation as finally determined. The order or judgment making the 118630

final determination shall prescribe the time and manner for 118631
collecting, crediting, or refunding the resultant increases or 118632
decreases in taxes. 118633

Sec. 5719.04. (A) Immediately after each settlement required 118634
by division (D) of section 321.24 of the Revised Code the county 118635
auditor shall make a tax list and duplicates thereof of all 118636
general personal and classified property taxes remaining unpaid, 118637
as shown by the county treasurer's books and the list of taxes 118638
returned as delinquent by the treasurer to the auditor at such 118639
settlement. The county auditor shall also include in such list all 118640
taxes assessed by the tax commissioner pursuant to law which were 118641
not charged upon the tax lists and duplicates on which such 118642
settlements were made nor previously charged upon a delinquent tax 118643
list and duplicates pursuant to this section, but the auditor 118644
shall not include taxes specifically excepted from collection 118645
pursuant to section 5711.32 of the Revised Code. Such tax list and 118646
duplicates shall contain the name of the person charged and the 118647
amount of such taxes, and the penalty, due and unpaid, and shall 118648
set forth separately the amount charged or chargeable on the 118649
general and on the classified list and duplicate. The auditor 118650
shall deliver one such duplicate to the treasurer on the first day 118651
of December, annually. Upon receipt of the duplicate the treasurer 118652
may prepare and mail tax bills to all persons charged with such 118653
delinquent taxes. Each bill shall include a notice that the 118654
interest charge prescribed by section 5719.041 of the Revised Code 118655
has begun to accrue. 118656

The auditor shall cause a copy of the delinquent personal and 118657
classified property tax list and duplicate provided for in this 118658
division to be published twice within sixty days after delivery of 118659
such duplicate to the treasurer in a newspaper ~~published in the~~ 118660
~~English language in the county and~~ of general circulation therein; 118661
~~provided that before in the county. The newspaper shall meet the~~ 118662

requirements of section 7.12 of the Revised Code. The auditor may 118663
publish the tax list on a pre-printed insert in the newspaper. The 118664
cost of the second publication of the list shall not exceed 118665
three-fourths of the cost of the first publication of the list. 118666

Before such publication, the auditor shall cause a display 118667
notice of the forthcoming publication of such delinquent personal 118668
and classified property tax list to be inserted once a week for 118669
two consecutive weeks in a newspaper ~~published in the English~~ 118670
~~language in the county and~~ of general circulation therein in the 118671
county. Copy for such display notice shall be furnished by the 118672
auditor to the newspaper selected to publish such delinquent tax 118673
lists simultaneously with the delivery of the duplicate to the 118674
treasurer. ~~If there is only one newspaper published in the county,~~ 118675
~~such display notice and delinquent personal and classified~~ 118676
~~property tax lists shall be published in it.~~ Publication of the 118677
delinquent lists may be made by a newspaper in installments, 118678
provided that complete publication thereof is made twice during 118679
said sixty-day period. 118680

The office of the county treasurer shall be kept open to 118681
receive the payment of delinquent general and classified property 118682
taxes from the day of delivery of the duplicate thereof until the 118683
final publication of the delinquent tax list. The name of any 118684
taxpayer who prior to seven days before either the first or second 118685
publication of said list pays such taxes in full or enters into a 118686
delinquent tax contract to pay such taxes in installments pursuant 118687
to section 5719.05 of the Revised Code shall be stricken from such 118688
list, and the taxpayer's name shall not be included in the list 118689
for that publication. 118690

The other such duplicate, from which shall first be 118691
eliminated the names of persons whose total liability for taxes 118692
and penalty is less than one hundred dollars, shall be filed by 118693
the auditor on the first day of December, annually, in the office 118694

of the county recorder, and the same shall constitute a notice of 118695
lien and operate as of the date of delivery as a lien on the lands 118696
and tenements, vested legal interests therein, and permanent 118697
leasehold estates of each person named therein having such real 118698
estate in such county. Such notice of lien and such lien shall not 118699
be valid as against any mortgagee, pledgee, purchaser, or judgment 118700
creditor whose rights have attached prior to the date of such 118701
delivery. Such duplicate shall be kept by the recorder, designated 118702
as the personal tax lien record, and indexed under the name of the 118703
person charged with such tax. No fee shall be charged by the 118704
recorder for the services required under this section. 118705

The auditor shall add to the tax list made pursuant to this 118706
section all such taxes omitted in a previous year when assessed by 118707
the auditor or finally assessed by the tax commissioner pursuant 118708
to law, and by proper certificates cause the same to be added to 118709
the treasurer's delinquent tax duplicate provided for in this 118710
section, and, in proper cases, file notice of the lien with the 118711
recorder, as provided in this section. 118712

If the authority making any assessment believes that the 118713
collection of such taxes will be jeopardized by delay, such 118714
assessing authority shall so certify on the assessment certificate 118715
thereof, and the auditor shall include a certificate of such 118716
jeopardy in the certificate given by the auditor to the treasurer. 118717
In such event the treasurer shall proceed immediately to collect 118718
such taxes, and to enforce the collection thereof by any means 118719
provided by law, and the treasurer may not accept a tender of any 118720
part of such taxes; but the person or the representatives of the 118721
person against whom such assessment is made may, in the event of 118722
an appeal to the tax commissioner therefrom, obtain a stay of 118723
collection of the whole or any part of the amount of such 118724
assessment by filing with the treasurer a bond in an amount not 118725
exceeding double the amount as to which the stay is desired, with 118726

such surety as the treasurer deems necessary, conditioned upon the 118727
payment of the amount determined to be due by the decision of the 118728
commissioner which has become final, and further conditioned that 118729
if an appeal is not filed within the period provided by law, the 118730
amount of collection which is stayed by the bond will be paid on 118731
notice and demand of the treasurer at any time after the 118732
expiration of such period. The taxpayer may waive such stay as to 118733
the whole or any part of the amount covered by the bond, and if as 118734
the result of such waiver any part of the amount covered by the 118735
bond is paid, then the bond shall be proportionately reduced on 118736
the request of the taxpayer. 118737

(B) Immediately after each settlement required by division 118738
(D) of section 321.24 of the Revised Code the auditor shall make a 118739
separate list and duplicate, prepared as prescribed in division 118740
(A) of this section, of all general personal and classified 118741
property taxes that remain unpaid but are excepted from collection 118742
pursuant to section 5711.32 of the Revised Code. The duplicate of 118743
such list shall be delivered to the treasurer at the time of 118744
delivery of the delinquent personal and classified property tax 118745
duplicate. 118746

Sec. 5721.01. (A) As used in this chapter: 118747

(1) "Delinquent lands" means all lands upon which delinquent 118748
taxes, as defined in section 323.01 of the Revised Code, remain 118749
unpaid at the time a settlement is made between the county 118750
treasurer and auditor pursuant to division (C) of section 321.24 118751
of the Revised Code. 118752

(2) "Delinquent vacant lands" means all lands that have been 118753
delinquent lands for at least one year and that are unimproved by 118754
any dwelling. 118755

(3) "County land reutilization corporation" means a county 118756
land reutilization corporation organized under Chapter 1724. of 118757

the Revised Code. 118758

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the 118759
Revised Code and in any other sections of the Revised Code to 118760
which those sections are applicable, a "newspaper" or "newspaper 118761
of general circulation ~~shall be a publication bearing a title or~~ 118762
~~name, regularly issued as frequently as once a week for a definite~~ 118763
~~price or consideration paid for by not less than fifty per cent of~~ 118764
~~those to whom distribution is made, having a second class mailing~~ 118765
~~privilege, being not less than four pages, published continuously~~ 118766
~~during the immediately preceding one year period, and circulated~~ 118767
~~generally in the political subdivision in which it is published.~~ 118768
Such publication shall be of a type to which the general public 118769
resorts for passing events of a political, religious, commercial, 118770
and social nature, current happenings, announcements, 118771
~~miscellaneous reading matter, advertisements, and other notices"~~ 118772
has the same meaning as in section 7.12 of the Revised Code. 118773

Sec. 5721.03. (A) At the time of making the delinquent land 118774
list, as provided in section 5721.011 of the Revised Code, the 118775
county auditor shall compile a delinquent tax list consisting of 118776
all lands on the delinquent land list on which taxes have become 118777
delinquent at the close of the collection period immediately 118778
preceding the making of the delinquent land list. The auditor 118779
shall also compile a delinquent vacant land tax list of all 118780
delinquent vacant lands prior to the institution of any 118781
foreclosure and forfeiture actions against delinquent vacant lands 118782
under section 5721.14 of the Revised Code or any foreclosure 118783
actions against delinquent vacant lands under section 5721.18 of 118784
the Revised Code. 118785

The delinquent tax list, and the delinquent vacant land tax 118786
list if one is compiled, shall contain all of the information 118787
included on the delinquent land list, except that, if the 118788

auditor's records show that the name of the person in whose name 118789
the property currently is listed is not the name that appears on 118790
the delinquent land list, the name used in the delinquent tax list 118791
or the delinquent vacant land tax list shall be the name of the 118792
person the auditor's records show as the person in whose name the 118793
property currently is listed. 118794

Lands that have been included in a previously published 118795
delinquent tax list shall not be included in the delinquent tax 118796
list so long as taxes have remained delinquent on such lands for 118797
the entire intervening time. 118798

In either list, there may be included lands that have been 118799
omitted in error from a prior list and lands with respect to which 118800
the auditor has received a certification that a delinquent tax 118801
contract has become void since the publication of the last 118802
previously published list, provided the name of the owner was 118803
stricken from a prior list under section 5721.02 of the Revised 118804
Code. 118805

(B)(1) The auditor shall cause the delinquent tax list and 118806
the delinquent vacant land tax list, if one is compiled, to be 118807
published twice within sixty days after the delivery of the 118808
delinquent land duplicate to the county treasurer, in a newspaper 118809
of general circulation in the county. The newspaper shall meet the 118810
requirements of section 7.12 of the Revised Code. The publication 118811
shall be printed in the English language auditor may publish the 118812
list or lists on a pre-printed insert in the newspaper. The cost 118813
of the second publication of the list or lists shall not exceed 118814
three-fourths of the cost of the first publication of the list or 118815
lists. 118816

The auditor shall insert display notices of the forthcoming 118817
publication of the delinquent tax list and, if it is to be 118818
published, the delinquent vacant land tax list once a week for two 118819
consecutive weeks in a newspaper of general circulation in the 118820

county. The display notices shall contain the times and methods of 118821
payment of taxes provided by law, including information concerning 118822
installment payments made in accordance with a written delinquent 118823
tax contract. The display notice for the delinquent tax list also 118824
shall include a notice that an interest charge will accrue on 118825
accounts remaining unpaid after the last day of November unless 118826
the taxpayer enters into a written delinquent tax contract to pay 118827
such taxes in installments. The display notice for the delinquent 118828
vacant land tax list if it is to be published also shall include a 118829
notice that delinquent vacant lands in the list are lands on which 118830
taxes have remained unpaid for one year after being certified 118831
delinquent, and that they are subject to foreclosure proceedings 118832
as provided in section 323.25, sections 323.65 to 323.79, or 118833
section 5721.18 of the Revised Code, or foreclosure and forfeiture 118834
proceedings as provided in section 5721.14 of the Revised Code. 118835
Each display notice also shall state that the lands are subject to 118836
a tax certificate sale under section 5721.32 or 5721.33 of the 118837
Revised Code or assignment to a county land reutilization 118838
corporation, as the case may be, and shall include any other 118839
information that the auditor considers pertinent to the purpose of 118840
the notice. The display notices shall be furnished by the auditor 118841
to the ~~newspapers~~ newspaper selected to publish the lists at least 118842
ten days before their first publication. 118843

(2) Publication of the list or lists may be made by a 118844
newspaper in installments, provided the complete publication of 118845
each list is made twice during the sixty-day period. 118846

(3) There shall be attached to the delinquent tax list a 118847
notice that the delinquent lands will be certified for foreclosure 118848
by the auditor unless the taxes, assessments, interest, and 118849
penalties due and owing on them are paid. There shall be attached 118850
to the delinquent vacant land tax list, if it is to be published, 118851
a notice that delinquent vacant lands will be certified for 118852

foreclosure or foreclosure and forfeiture by the auditor unless 118853
the taxes, assessments, interest, and penalties due and owing on 118854
them are paid within twenty-eight days after the final publication 118855
of the notice. 118856

(4) The auditor shall review the first publication of each 118857
list for accuracy and completeness and may correct any errors 118858
appearing in the list in the second publication. 118859

(C) For the purposes of section 5721.18 of the Revised Code, 118860
land is first certified delinquent on the date of the 118861
certification of the delinquent land list containing that land. 118862

Sec. 5721.04. The proper and necessary expenses of publishing 118863
the delinquent tax lists, delinquent vacant land tax lists, and 118864
display notices provided for by sections 5719.04 and 5721.03 of 118865
the Revised Code shall be paid from the county treasury as county 118866
expenses are paid, and the board of county commissioners shall 118867
make provision for them in the annual budget of the county 118868
submitted to the budget commission, and shall make the necessary 118869
appropriations. If the board fails to make such appropriations, or 118870
if an appropriation is insufficient to meet such an expense, any 118871
person interested may apply to the court of common pleas of the 118872
county for an allowance to cover the expense, and the court shall 118873
issue an order instructing the county auditor to issue ~~his~~ a 118874
warrant upon the county treasurer for the amount necessary. The 118875
order by the court shall be final and shall be complied with 118876
immediately. 118877

The aggregate amount paid ~~shall for publication~~ may be 118878
apportioned by the county auditor among the taxing districts in 118879
which the lands on each list are located in proportion to the 118880
amount of delinquent taxes so advertised in such subdivision, or 118881
the county auditor may charge the property owner of land on a list 118882
a flat fee established under section 319.54 of the Revised Code 118883

for the cost of publishing the list and, if the fee is not paid, 118884
may place the fee upon the tax duplicate as a lien on the land, to 118885
be collected as other taxes. Thereafter, the auditor, in making 118886
~~his~~ the auditor's semiannual apportionment of funds, shall retain 118887
at each semiannual apportionment one half the amount apportioned 118888
to each such taxing district. The amounts retained shall be 118889
credited to the general fund of the county until the aggregate of 118890
all amounts paid in the first instance out of the treasury have 118891
been fully reimbursed. 118892

Sec. 5721.18. The county prosecuting attorney, upon the 118893
delivery to the prosecuting attorney by the county auditor of a 118894
delinquent land or delinquent vacant land tax certificate, or of a 118895
master list of delinquent or delinquent vacant tracts, shall 118896
institute a foreclosure proceeding under this section in the name 118897
of the county treasurer to foreclose the lien of the state, in any 118898
court with jurisdiction or in the county board of revision with 118899
jurisdiction pursuant to section 323.66 of the Revised Code, 118900
unless the taxes, assessments, charges, penalties, and interest 118901
are paid prior to the time a complaint is filed, or unless a 118902
foreclosure or foreclosure and forfeiture action has been or will 118903
be instituted under section 323.25, sections 323.65 to 323.79, or 118904
section 5721.14 of the Revised Code. If the delinquent land or 118905
delinquent vacant land tax certificate or the master list of 118906
delinquent or delinquent vacant tracts lists minerals or rights to 118907
minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 118908
of the Revised Code, the county prosecuting attorney may institute 118909
a foreclosure proceeding in the name of the county treasurer, in 118910
any court with jurisdiction, to foreclose the lien of the state 118911
against such minerals or rights to minerals, unless the taxes, 118912
assessments, charges, penalties, and interest are paid prior to 118913
the time the complaint is filed, or unless a foreclosure or 118914
foreclosure and forfeiture action has been or will be instituted 118915

under section 323.25, sections 323.65 to 323.79, or section 118916
5721.14 of the Revised Code. 118917

The prosecuting attorney shall prosecute the proceeding to 118918
final judgment and satisfaction. Within ten days after obtaining a 118919
judgment, the prosecuting attorney shall notify the treasurer in 118920
writing that judgment has been rendered. If there is a copy of a 118921
written delinquent tax contract attached to the certificate or an 118922
asterisk next to an entry on the master list, or if a copy of a 118923
delinquent tax contract is received from the auditor prior to the 118924
commencement of the proceeding under this section, the prosecuting 118925
attorney shall not institute the proceeding under this section, 118926
unless the prosecuting attorney receives a certification of the 118927
treasurer that the delinquent tax contract has become void. 118928

(A) This division applies to all foreclosure proceedings not 118929
instituted and prosecuted under section 323.25 of the Revised Code 118930
or division (B) or (C) of this section. The foreclosure 118931
proceedings shall be instituted and prosecuted in the same manner 118932
as is provided by law for the foreclosure of mortgages on land, 118933
except that, if service by publication is necessary, such 118934
publication shall be made once a week for three consecutive weeks 118935
instead of as provided by the Rules of Civil Procedure, and the 118936
service shall be complete at the expiration of three weeks after 118937
the date of the first publication. In any proceeding prosecuted 118938
under this section, if the prosecuting attorney determines that 118939
service upon a defendant may be obtained ultimately only by 118940
publication, the prosecuting attorney may cause service to be made 118941
simultaneously by certified mail, return receipt requested, 118942
ordinary mail, and publication. 118943

In any county that has adopted a permanent parcel number 118944
system, the parcel may be described in the notice by parcel number 118945
only, instead of also with a complete legal description, if the 118946
prosecuting attorney determines that the publication of the 118947

complete legal description is not necessary to provide reasonable 118948
notice of the foreclosure proceeding to the interested parties. If 118949
the complete legal description is not published, the notice shall 118950
indicate where the complete legal description may be obtained. 118951

It is sufficient, having been made a proper party to the 118952
foreclosure proceeding, for the treasurer to allege in the 118953
treasurer's complaint that the certificate or master list has been 118954
duly filed by the auditor, that the amount of money appearing to 118955
be due and unpaid is due and unpaid, and that there is a lien 118956
against the property described in the certificate or master list, 118957
without setting forth in the complaint any other or special matter 118958
relating to the foreclosure proceeding. The prayer of the 118959
complaint shall be that the court or the county board of revision 118960
with jurisdiction pursuant to section 323.66 of the Revised Code 118961
issue an order that the property be sold or conveyed by the 118962
sheriff or otherwise be disposed of, and the equity of redemption 118963
be extinguished, according to the alternative redemption 118964
procedures prescribed in sections 323.65 to 323.79 of the Revised 118965
Code, or if the action is in the municipal court by the bailiff, 118966
in the manner provided in section 5721.19 of the Revised Code. 118967

In the foreclosure proceeding, the treasurer may join in one 118968
action any number of lots or lands, but the decree shall be 118969
rendered separately, and any proceedings may be severed, in the 118970
discretion of the court or board of revision, for the purpose of 118971
trial or appeal, and the court or board of revision shall make 118972
such order for the payment of costs as is considered proper. The 118973
certificate or master list filed by the auditor with the 118974
prosecuting attorney is prima-facie evidence at the trial of the 118975
foreclosure action of the amount and validity of the taxes, 118976
assessments, charges, penalties, and interest appearing due and 118977
unpaid and of their nonpayment. 118978

(B) Foreclosure proceedings constituting an action in rem may 118979

be commenced by the filing of a complaint after the end of the 118980
second year from the date on which the delinquency was first 118981
certified by the auditor. Prior to filing such an action in rem, 118982
the prosecuting attorney shall cause a title search to be 118983
conducted for the purpose of identifying any lienholders or other 118984
persons with interests in the property subject to foreclosure. 118985
Following the title search, the action in rem shall be instituted 118986
by filing in the office of the clerk of a court with jurisdiction 118987
a complaint bearing a caption substantially in the form set forth 118988
in division (A) of section 5721.181 of the Revised Code. 118989

Any number of parcels may be joined in one action. Each 118990
separate parcel included in a complaint shall be given a serial 118991
number and shall be separately indexed and docketed by the clerk 118992
of the court in a book kept by the clerk for such purpose. A 118993
complaint shall contain the permanent parcel number of each parcel 118994
included in it, the full street address of the parcel when 118995
available, a description of the parcel as set forth in the 118996
certificate or master list, the name and address of the last known 118997
owner of the parcel if they appear on the general tax list, the 118998
name and address of each lienholder and other person with an 118999
interest in the parcel identified in the title search relating to 119000
the parcel that is required by this division, and the amount of 119001
taxes, assessments, charges, penalties, and interest due and 119002
unpaid with respect to the parcel. It is sufficient for the 119003
treasurer to allege in the complaint that the certificate or 119004
master list has been duly filed by the auditor with respect to 119005
each parcel listed, that the amount of money with respect to each 119006
parcel appearing to be due and unpaid is due and unpaid, and that 119007
there is a lien against each parcel, without setting forth any 119008
other or special matters. The prayer of the complaint shall be 119009
that the court issue an order that the land described in the 119010
complaint be sold in the manner provided in section 5721.19 of the 119011
Revised Code. 119012

(1) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure substantially in the form of the notice set forth in division (B) of section 5721.181 of the Revised Code to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the third publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the last publication.

Within thirty days after the filing of a complaint and before the final date of publication of the notice of foreclosure, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.181 of the Revised Code to be mailed by certified mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the

name and address of the last known owner of a parcel included in a 119045
complaint is not set forth in it, the auditor shall file an 119046
affidavit with the clerk stating that the name and address of the 119047
last known owner does not appear on the general tax list. 119048

(2)(a) An answer may be filed in an action in rem under this 119049
division by any person owning or claiming any right, title, or 119050
interest in, or lien upon, any parcel described in the complaint. 119051
The answer shall contain the caption and number of the action and 119052
the serial number of the parcel concerned. The answer shall set 119053
forth the nature and amount of interest claimed in the parcel and 119054
any defense or objection to the foreclosure of the lien of the 119055
state for delinquent taxes, assessments, charges, penalties, and 119056
interest as shown in the complaint. The answer shall be filed in 119057
the office of the clerk of the court, and a copy of the answer 119058
shall be served on the prosecuting attorney, not later than 119059
twenty-eight days after the date of final publication of the 119060
notice of foreclosure. If an answer is not filed within such time, 119061
a default judgment may be taken as to any parcel included in a 119062
complaint as to which no answer has been filed. A default judgment 119063
is valid and effective with respect to all persons owning or 119064
claiming any right, title, or interest in, or lien upon, any such 119065
parcel, notwithstanding that one or more of such persons are 119066
minors, incompetents, absentees or nonresidents of the state, or 119067
convicts in confinement. 119068

(b)(i) A receiver appointed pursuant to divisions (C)(2) and 119069
(3) of section 3767.41 of the Revised Code may file an answer 119070
pursuant to division (B)(2)(a) of this section, but is not 119071
required to do so as a condition of receiving proceeds in a 119072
distribution under division (B)(1) of section 5721.17 of the 119073
Revised Code. 119074

(ii) When a receivership under section 3767.41 of the Revised 119075
Code is associated with a parcel, the notice of foreclosure set 119076

forth in division (B) of section 5721.181 of the Revised Code and 119077
the notice set forth in division (C) of that section shall be 119078
modified to reflect the provisions of division (B)(2)(b)(i) of 119079
this section. 119080

(3) At the trial of an action in rem under this division, the 119081
certificate or master list filed by the auditor with the 119082
prosecuting attorney shall be prima-facie evidence of the amount 119083
and validity of the taxes, assessments, charges, penalties, and 119084
interest appearing due and unpaid on the parcel to which the 119085
certificate or master list relates and their nonpayment. If an 119086
answer is properly filed, the court may, in its discretion, and 119087
shall, at the request of the person filing the answer, grant a 119088
severance of the proceedings as to any parcel described in such 119089
answer for purposes of trial or appeal. 119090

(C) In addition to the actions in rem authorized under 119091
division (B) of this section and section 5721.14 of the Revised 119092
Code, an action in rem may be commenced under this division. An 119093
action commenced under this division shall conform to all of the 119094
requirements of division (B) of this section except as follows: 119095

(1) The prosecuting attorney shall not cause a title search 119096
to be conducted for the purpose of identifying any lienholders or 119097
other persons with interests in the property subject to 119098
foreclosure, except that the prosecuting attorney shall cause a 119099
title search to be conducted to identify any receiver's lien. 119100

(2) The names and addresses of lienholders and persons with 119101
an interest in the parcel shall not be contained in the complaint, 119102
and notice shall not be mailed to lienholders and persons with an 119103
interest as provided in division (B)(1) of this section, except 119104
that the name and address of a receiver under section 3767.41 of 119105
the Revised Code shall be contained in the complaint and notice 119106
shall be mailed to the receiver. 119107

(3) With respect to the forms applicable to actions commenced 119108
under division (B) of this section and contained in section 119109
5721.181 of the Revised Code: 119110

(a) The notice of foreclosure prescribed by division (B) of 119111
section 5721.181 of the Revised Code shall be revised to exclude 119112
any reference to the inclusion of the name and address of each 119113
lienholder and other person with an interest in the parcel 119114
identified in a statutorily required title search relating to the 119115
parcel, and to exclude any such names and addresses from the 119116
published notice, except that the revised notice shall refer to 119117
the inclusion of the name and address of a receiver under section 119118
3767.41 of the Revised Code and the published notice shall include 119119
the receiver's name and address. The notice of foreclosure also 119120
shall include the following in boldface type: 119121

"If pursuant to the action the parcel is sold, the sale shall 119122
not affect or extinguish any lien or encumbrance with respect to 119123
the parcel other than a receiver's lien and other than the lien 119124
for land taxes, assessments, charges, interest, and penalties for 119125
which the lien is foreclosed and in satisfaction of which the 119126
property is sold. All other liens and encumbrances with respect to 119127
the parcel shall survive the sale." 119128

(b) The notice to the owner, lienholders, and other persons 119129
with an interest in a parcel shall be a notice only to the owner 119130
and to any receiver under section 3767.41 of the Revised Code, and 119131
the last two sentences of the notice shall be omitted. 119132

(4) As used in this division, a "receiver's lien" means the 119133
lien of a receiver appointed pursuant to divisions (C)(2) and (3) 119134
of section 3767.41 of the Revised Code that is acquired pursuant 119135
to division (H)(2)(b) of that section for any unreimbursed 119136
expenses and other amounts paid in accordance with division (F) of 119137
that section by the receiver and for the fees of the receiver 119138
approved pursuant to division (H)(1) of that section. 119139

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.19. (A) In its judgment of foreclosure rendered with respect to actions filed pursuant to section 5721.18 of the Revised Code, the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code shall enter a finding with respect to each parcel of the amount of the taxes, assessments, charges, penalties, and interest, and the costs incurred in the foreclosure proceeding instituted against it, that are due and unpaid. The court or the county board of revision shall order such premises to be transferred pursuant to division (I) of this section or may order each parcel to be sold, without appraisal, for not less than either of the following:

(1) The fair market value of the parcel, as determined by the county auditor, plus the costs incurred in the foreclosure proceeding;

(2) The total amount of the finding entered by the court or the county board of revision, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to

the transfer of the deed of the parcel to the purchaser following 119171
confirmation of sale, plus the costs incurred in the foreclosure 119172
proceeding. For purposes of determining such amount, the county 119173
treasurer may estimate the amount of taxes, assessments, interest, 119174
penalties, and costs that will be payable at the time the deed of 119175
the property is transferred to the purchaser. 119176

Notwithstanding the minimum sales price provisions of 119177
divisions (A)(1) and (2) of this section to the contrary, a parcel 119178
sold pursuant to this section shall not be sold for less than the 119179
amount described in division (A)(2) of this section if the highest 119180
bidder is the owner of record of the parcel immediately prior to 119181
the judgment of foreclosure or a member of the following class of 119182
parties connected to that owner: a member of that owner's 119183
immediate family, a person with a power of attorney appointed by 119184
that owner who subsequently transfers the parcel to the owner, a 119185
sole proprietorship owned by that owner or a member of that 119186
owner's immediate family, or a partnership, trust, business trust, 119187
corporation, or association in which the owner or a member of the 119188
owner's immediate family owns or controls directly or indirectly 119189
more than fifty per cent. If a parcel sells for less than the 119190
amount described in division (A)(2) of this section, the officer 119191
conducting the sale shall require the buyer to complete an 119192
affidavit stating that the buyer is not the owner of record 119193
immediately prior to the judgment of foreclosure or a member of 119194
the specified class of parties connected to that owner, and the 119195
affidavit shall become part of the court records of the 119196
proceeding. If the county auditor discovers within three years 119197
after the date of the sale that a parcel was sold to that owner or 119198
a member of the specified class of parties connected to that owner 119199
for a price less than the amount so described, and if the parcel 119200
is still owned by that owner or a member of the specified class of 119201
parties connected to that owner, the auditor within thirty days 119202
after such discovery shall add the difference between that amount 119203

and the sale price to the amount of taxes that then stand charged 119204
against the parcel and is payable at the next succeeding date for 119205
payment of real property taxes. As used in this paragraph, 119206
"immediate family" means a spouse who resides in the same 119207
household and children. 119208

(B) Each parcel affected by the court's finding and order of 119209
sale shall be separately sold, unless the court orders any of such 119210
parcels to be sold together. 119211

Each parcel shall be advertised and sold by the officer to 119212
whom the order of sale is directed in the manner provided by law 119213
for the sale of real property on execution. The advertisement for 119214
sale of each parcel shall be published once a week for three 119215
consecutive weeks and shall include the date on which a second 119216
sale will be conducted if no bid is accepted at the first sale. 119217
Any number of parcels may be included in one advertisement. 119218

The notice of the advertisement shall be substantially in the 119219
form of the notice set forth in section 5721.191 of the Revised 119220
Code. In any county that has adopted a permanent parcel number 119221
system, the parcel may be described in the notice by parcel number 119222
only, instead of also with a complete legal description, if the 119223
prosecuting attorney determines that the publication of the 119224
complete legal description is not necessary to provide reasonable 119225
notice of the foreclosure sale to potential bidders. If the 119226
complete legal description is not published, the notice shall 119227
indicate where the complete legal description may be obtained. 119228

(C)(1) Whenever the officer charged to conduct the sale 119229
offers any parcel for sale the officer first shall read aloud a 119230
complete legal description of the parcel, or in the alternative, 119231
may read aloud only a summary description, including the complete 119232
street address of the parcel, if any, and a parcel number if the 119233
county has adopted a permanent parcel number system and if the 119234
advertising notice prepared pursuant to this section includes a 119235

complete legal description or indicates where the complete legal description may be obtained. Whenever the officer charged to conduct the sale offers any parcel for sale and no bids are made equal to the lesser of the amounts described in divisions (A)(1) and (2) of this section, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second date shall be not less than two weeks or more than six weeks from the day on which the parcel was first offered for sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court.

(2)(a) If a parcel remains unsold after being offered at two sales, or one sale in the case of abandoned lands foreclosed under sections 323.65 to 323.79 of the Revised Code, or if a parcel sells at any sale but the amount of the price is less than the costs incurred in the proceeding instituted against the parcel under section 5721.18 of the Revised Code, then the clerk of the court shall certify to the county auditor the amount of those costs that remains unpaid. At the next semiannual apportionment of real property taxes that occurs following any such certification, the auditor shall reduce the real property taxes that the auditor otherwise would distribute to each taxing district. In making the reductions, the auditor shall subtract from the otherwise distributable real property taxes to a taxing district an amount that shall be determined by multiplying the certified costs by a fraction the numerator of which shall be the amount of the taxes, assessments, charges, penalties, and interest on the parcel owed to that taxing district at the time the parcel first was offered for sale pursuant to this section, and the denominator of which shall be the total of the taxes, assessments, charges, penalties,

and interest on the parcel owed to all the taxing districts at 119269
that time. The auditor promptly shall pay to the clerk of the 119270
court the amounts of the reductions. 119271

(b) If reductions occur pursuant to division (C)(2)(a) of 119272
this section, and if at a subsequent time a parcel is sold at a 119273
foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of 119274
the Revised Code, then, notwithstanding other provisions of the 119275
Revised Code, except section 5721.17 of the Revised Code, 119276
governing the distribution of the proceeds of a foreclosure or 119277
forfeiture sale, the proceeds first shall be distributed to 119278
reimburse the taxing districts subjected to reductions in their 119279
otherwise distributable real property taxes. The distributions 119280
shall be based on the same proportions used for purposes of 119281
division (C)(2)(a) of this section. 119282

(3) The court, in its discretion, may order any parcel not 119283
sold pursuant to the original order of sale to be advertised and 119284
offered for sale at a subsequent foreclosure sale. For such 119285
purpose, the court may direct the parcel to be appraised and fix a 119286
minimum price for which it may be sold. 119287

(D) Except as otherwise provided in division (B)(1) of 119288
section 5721.17 of the Revised Code, upon the confirmation of a 119289
sale, the proceeds of the sale shall be applied as follows: 119290

(1) The costs incurred in any proceeding filed against the 119291
parcel pursuant to section 5721.18 of the Revised Code shall be 119292
paid first. 119293

(2) Following the payment required by division (D)(1) of this 119294
section, the part of the proceeds that is equal to five per cent 119295
of the taxes and assessments due shall be deposited in equal 119296
shares into each of the delinquent tax and assessment collection 119297
~~fund funds~~ created pursuant to section 321.261 of the Revised 119298
Code. If a county land reutilization corporation is operating in 119299

the county, the board of county commissioners, by resolution, may 119300
provide that an additional amount, not to exceed five per cent of 119301
such taxes and assessments, shall be credited to the county land 119302
reutilization corporation fund created by section 321.263 of the 119303
Revised Code to pay for the corporation's expenses. If such a 119304
resolution is in effect, the percentage of such taxes and 119305
assessments so provided shall be credited to that fund. 119306

(3) Following the payment required by division (D)(2) of this 119307
section, the amount found due for taxes, assessments, charges, 119308
penalties, and interest shall be paid, including all taxes, 119309
assessments, charges, penalties, and interest payable subsequent 119310
to the delivery to the county prosecuting attorney of the 119311
delinquent land tax certificate or master list of delinquent 119312
tracts and prior to the transfer of the deed of the parcel to the 119313
purchaser following confirmation of sale. If the proceeds 119314
available for distribution pursuant to division (D)(3) of this 119315
section are sufficient to pay the entire amount of those taxes, 119316
assessments, charges, penalties, and interest, the portion of the 119317
proceeds representing taxes, interest, and penalties shall be paid 119318
to each claimant in proportion to the amount of taxes levied by 119319
the claimant in the preceding tax year, and the amount 119320
representing assessments and other charges shall be paid to each 119321
claimant in the order in which they became due. If the proceeds 119322
are not sufficient to pay that entire amount, the proportion of 119323
the proceeds representing taxes, penalties, and interest shall be 119324
paid to each claimant in the same proportion that the amount of 119325
taxes levied by the claimant against the parcel in the preceding 119326
tax year bears to the taxes levied by all such claimants against 119327
the parcel in the preceding tax year, and the proportion of the 119328
proceeds representing items of assessments and other charges shall 119329
be credited to those items in the order in which they became due. 119330

(E) If the proceeds from the sale of a parcel are 119331

insufficient to pay in full the amount of the taxes, assessments, 119332
charges, penalties, and interest which are due and unpaid; the 119333
costs incurred in the foreclosure proceeding instituted against it 119334
which are due and unpaid; and, if division (B)(1) of section 119335
5721.17 of the Revised Code is applicable, any notes issued by a 119336
receiver pursuant to division (F) of section 3767.41 of the 119337
Revised Code and any receiver's lien as defined in division (C)(4) 119338
of section 5721.18 of the Revised Code, the court, pursuant to 119339
section 5721.192 of the Revised Code, may enter a deficiency 119340
judgment against the owner of record of the parcel for the unpaid 119341
amount. If that owner of record is a corporation, the court may 119342
enter the deficiency judgment against the stockholder holding a 119343
majority of that corporation's stock. 119344

If after distribution of proceeds from the sale of the parcel 119345
under division (D) of this section the amount of proceeds to be 119346
applied to pay the taxes, assessments, charges, penalties, 119347
interest, and costs is insufficient to pay them in full, and the 119348
court does not enter a deficiency judgment against the owner of 119349
record pursuant to this division, the taxes, assessments, charges, 119350
penalties, interest, and costs shall be deemed satisfied. 119351

(F)(1) Upon confirmation of a sale, a spouse of the party 119352
charged with the delinquent taxes or assessments shall thereby be 119353
barred of the right of dower in the property sold, though such 119354
spouse was not a party to the action. No statute of limitations 119355
shall apply to such action. When the land or lots stand charged on 119356
the tax duplicate as certified delinquent, it is not necessary to 119357
make the state a party to the foreclosure proceeding, but the 119358
state shall be deemed a party to such action through and be 119359
represented by the county treasurer. 119360

(2) Except as otherwise provided in divisions (F)(3) and (G) 119361
of this section, unless such land or lots were previously redeemed 119362
pursuant to section 5721.25 of the Revised Code, upon the filing 119363

of the entry of confirmation of any sale or the expiration of the 119364
alternative redemption period as defined in section 323.65 of the 119365
Revised Code, if applicable, the title to such land or lots shall 119366
be incontestable in the purchaser and shall be free and clear of 119367
all liens and encumbrances, except a federal tax lien notice of 119368
which is properly filed in accordance with section 317.09 of the 119369
Revised Code prior to the date that a foreclosure proceeding is 119370
instituted pursuant to division (B) of section 5721.18 of the 119371
Revised Code and the easements and covenants of record running 119372
with the land or lots that were created prior to the time the 119373
taxes or assessments, for the nonpayment of which the land or lots 119374
are sold at foreclosure, became due and payable. 119375

(3) When proceedings for foreclosure are instituted under 119376
division (C) of section 5721.18 of the Revised Code, unless the 119377
land or lots were previously redeemed pursuant to section 5721.25 119378
of the Revised Code or before the expiration of the alternative 119379
redemption period, upon the filing of the entry of confirmation of 119380
sale or after the expiration of the alternative redemption period, 119381
as may apply to the case, the title to such land or lots shall be 119382
incontestable in the purchaser and shall be free of any receiver's 119383
lien as defined in division (C)(4) of section 5721.18 of the 119384
Revised Code and, except as otherwise provided in division (G) of 119385
this section, the liens for land taxes, assessments, charges, 119386
interest, and penalties for which the lien was foreclosed and in 119387
satisfaction of which the property was sold. All other liens and 119388
encumbrances with respect to the land or lots shall survive the 119389
sale. 119390

(4) The title shall not be invalid because of any 119391
irregularity, informality, or omission of any proceedings under 119392
this chapter, or in any processes of taxation, if such 119393
irregularity, informality, or omission does not abrogate the 119394
provision for notice to holders of title, lien, or mortgage to, or 119395

other interests in, such foreclosed lands or lots, as prescribed 119396
in this chapter. 119397

(G) If a parcel is sold under this section for the amount 119398
described in division (A)(2) of this section, and the county 119399
treasurer's estimate exceeds the amount of taxes, assessments, 119400
interest, penalties, and costs actually payable when the deed is 119401
transferred to the purchaser, the officer who conducted the sale 119402
shall refund to the purchaser the difference between the estimate 119403
and the amount actually payable. If the amount of taxes, 119404
assessments, interest, penalties, and costs actually payable when 119405
the deed is transferred to the purchaser exceeds the county 119406
treasurer's estimate, the officer shall certify the amount of the 119407
excess to the treasurer, who shall enter that amount on the real 119408
and public utility property tax duplicate opposite the property; 119409
the amount of the excess shall be payable at the next succeeding 119410
date prescribed for payment of taxes in section 323.12 of the 119411
Revised Code. 119412

(H) If a parcel is sold or transferred under this section or 119413
sections 323.28 and 323.65 to 323.78 of the Revised Code, the 119414
officer who conducted the sale or made the transfer of the 119415
property shall collect the recording fee and any associated costs 119416
to cover the recording from the purchaser or transferee at the 119417
time of the sale or transfer and, following confirmation of the 119418
sale or transfer, shall execute and record the deed conveying 119419
title to the parcel to the purchaser or transferee. For purposes 119420
of recording such deed, by placement of a bid or making a 119421
statement of interest by any party ultimately awarded the parcel, 119422
that purchaser or transferee thereby appoints the officer who 119423
makes the sale or is charged with executing and delivering the 119424
deed as agent for the purchaser or transferee for the sole purpose 119425
of accepting delivery of the deed. For such purposes, the 119426
confirmation of any such sale or order to transfer the parcel 119427

without appraisal or sale shall be deemed delivered upon the 119428
confirmation of such sale or transfer. 119429

(I) Notwithstanding section 5722.03 of the Revised Code, if 119430
the complaint alleges that the property is delinquent vacant land 119431
as defined in section 5721.01 of the Revised Code, abandoned lands 119432
as defined in section 323.65 of the Revised Code, or lands 119433
described in division (E) of section 5722.01 of the Revised Code, 119434
and the value of the taxes, assessments, penalties, interest, and 119435
all other charges and costs of the action exceed the auditor's 119436
fair market value of the parcel, then the court or board of 119437
revision having jurisdiction over the matter on motion of the 119438
plaintiff, or on the court's or board's own motion, shall, upon 119439
any adjudication of foreclosure, order, without appraisal and 119440
without sale, the fee simple title of the property to be 119441
transferred to and vested in an electing subdivision as defined in 119442
division (A) of section 5722.01 of the Revised Code. For purposes 119443
of determining whether the taxes, assessments, penalties, 119444
interest, and all other charges and costs of the action exceed the 119445
actual fair market value of the parcel, the auditor's most current 119446
valuation shall be rebuttably presumed to be, and constitute 119447
prima-facie evidence of, the fair market value of the parcel. In 119448
such case, the filing for journalization of a decree of 119449
foreclosure ordering that direct transfer without appraisal or 119450
sale shall constitute confirmation of the transfer and thereby 119451
terminate any further statutory or common law right of redemption. 119452

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the 119453
Revised Code: 119454

(A) "Tax certificate," "certificate," or "duplicate 119455
certificate" means a document that may be issued as a physical 119456
certificate, in book-entry form, or through an electronic medium, 119457
at the discretion of the county treasurer. Such document shall 119458

contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person, including a county land reutilization corporation, that purchases or otherwise acquires a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate has been transferred pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the sale of tax certificates under sections 5721.32, 5721.33, and 5721.42 of the Revised Code, the amount equal to delinquent taxes charged against a certificate parcel at the time the tax certificate respecting that parcel is sold or transferred, not including any delinquent taxes the lien for which has been conveyed to a certificate holder through a prior sale of a tax certificate respecting that parcel. Payment of the certificate purchase price in a sale under section 5721.33 of the Revised Code may be made wholly in cash or partially in cash and partially by noncash consideration acceptable to the county treasurer from the purchaser, and, in the case of a county land reutilization corporation, with notes. In the event that any such noncash consideration is delivered to pay a portion of the certificate purchase price, such noncash consideration may be subordinate to the rights of the holders of other obligations whose proceeds paid the cash portion of the certificate purchase price.

"Certificate purchase price" also includes the amount of the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(E)(1) With respect to a sale of tax certificates under section 5721.32 of the Revised Code, and except as provided in division (E)(2) of this section, "certificate redemption price" means the certificate purchase price plus the greater of the following:

(a) Simple interest, at the certificate rate of interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with section 5721.41 of the Revised Code;

(b) Six per cent of the certificate purchase price.

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:

(1) The certificate purchase price;

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33

of the Revised Code; 119521

(4) Any other fees charged by any county office in connection 119522
with the recording of tax certificates. 119523

(G) "Certificate rate of interest" means the rate of simple 119524
interest per year bid by the winning bidder in an auction of a tax 119525
certificate held under section 5721.32 of the Revised Code, or the 119526
rate of simple interest per year not to exceed eighteen per cent 119527
per year fixed pursuant to section 5721.42 of the Revised Code or 119528
by the county treasurer with respect to any tax certificate sold 119529
or transferred pursuant to a negotiated sale under section 5721.33 119530
of the Revised Code. The certificate rate of interest shall not be 119531
less than zero per cent per year. 119532

(H) "Cash" means United States currency, certified checks, 119533
money orders, bank drafts, electronic transfer of funds, or other 119534
forms of payment authorized by the county treasurer, and excludes 119535
any other form of payment not so authorized. 119536

(I) "The date on which a tax certificate is sold or 119537
transferred," "the date the certificate was sold or transferred," 119538
"the date the certificate is purchased," and any other phrase of 119539
similar content mean, with respect to a sale pursuant to an 119540
auction under section 5721.32 of the Revised Code, the date 119541
designated by the county treasurer for the submission of bids and, 119542
with respect to a negotiated sale or transfer under section 119543
5721.33 of the Revised Code, the date of delivery of the tax 119544
certificates to the purchasers thereof pursuant to a tax 119545
certificate sale/purchase agreement. 119546

(J) "Certificate interest period" means, with respect to a 119547
tax certificate sold under section 5721.32 or 5721.42 of the 119548
Revised Code and for the purpose of accruing interest under 119549
section 5721.41 of the Revised Code, the period beginning on the 119550
date on which the certificate is purchased and, with respect to a 119551

tax certificate sold or transferred under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) The date the certificate holder files a request for foreclosure or notice of intent to foreclose under division (A) of section 5721.37 of the Revised Code and submits the payment required under division (B) of that section;

(2) The date the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, redeems the certificate parcel under division (A) or (C) of section 5721.38 of the Revised Code or redeems the certificate under section 5721.381 of the Revised Code.

(K) "Qualified trustee" means a trust company within the state or a bank having the power of a trust company within the state with a combined capital stock, surplus, and undivided profits of at least one hundred million dollars.

(L) "Tax certificate sale/purchase agreement" means the purchase and sale agreement described in division (C) of section 5721.33 of the Revised Code setting forth the certificate purchase price, plus any applicable premium or less any applicable discount, including, without limitation, the amount to be paid in cash and the amount and nature of any noncash consideration, the date of delivery of the tax certificates, and the other terms and conditions of the sale, including, without limitation, the rate of interest that the tax certificates shall bear.

(M) "Noncash consideration" means any form of consideration other than cash, including, but not limited to, promissory notes whether subordinate or otherwise.

(N) "Private attorney" means any attorney licensed to practice law in this state whose license has not been revoked and

is not currently suspended, and who is retained to bring 119583
foreclosure proceedings pursuant to section 5721.37 of the Revised 119584
Code on behalf of a certificate holder. 119585

(O) "Related certificate parcel" means, with respect to a 119586
certificate holder, the certificate parcel with respect to which 119587
the certificate holder has purchased and holds a tax certificate 119588
pursuant to sections 5721.30 to 5721.43 of the Revised Code and, 119589
with respect to a tax certificate, the certificate parcel against 119590
which the tax certificate has been sold pursuant to those 119591
sections. 119592

(P) "Delinquent taxes" means delinquent taxes as defined in 119593
section 323.01 of the Revised Code and includes assessments and 119594
charges, and penalties and interest computed under section 323.121 119595
of the Revised Code. 119596

(O) "Certificate period" means the period of time after the 119597
sale or delivery of a tax certificate within which a certificate 119598
holder must initiate an action to foreclose the tax lien 119599
represented by the certificate as specified under division (A) of 119600
section 5721.32 of the Revised Code or as negotiated under section 119601
5721.33 of the Revised Code. 119602

Sec. 5721.31. (A)(1) After receipt of a duplicate of the 119603
delinquent land list compiled under section 5721.011 of the 119604
Revised Code, or a delinquent land list compiled previously under 119605
that section, the county treasurer may select from the list 119606
parcels of delinquent land the lien against which the county 119607
treasurer may attempt to transfer by the sale of tax certificates 119608
under sections 5721.30 to 5721.43 of the Revised Code. None of the 119609
following parcels may be selected for a tax certificate sale: 119610

(a) A parcel for which the full amount of taxes, assessments, 119611
penalties, interest, and charges have been paid; 119612

(b) A parcel for which a valid contract under section 119613
323.122, 323.31, or 5713.20 of the Revised Code is in force; 119614

(c) A parcel the owner of which has filed a petition in 119615
bankruptcy, so long as the parcel is property of the bankruptcy 119616
estate. 119617

(2) The county treasurer shall compile a separate list of 119618
parcels selected for tax certificate sales, including the same 119619
information as is required to be included in the delinquent land 119620
list. 119621

Upon compiling the list of parcels selected for tax 119622
certificate sales, the county treasurer may conduct a title search 119623
for any parcel on the list. 119624

(B)(1) Except as otherwise provided in division (B)(3) of 119625
this section, when tax certificates are to be sold under section 119626
5721.32 of the Revised Code with respect to parcels, the county 119627
treasurer shall send written notice by certified mail to either 119628
the owner of record or all interested parties discoverable through 119629
a title search, or both, of each parcel on the list. A notice to 119630
an owner shall be sent to the owner's last known tax-mailing 119631
address. The notice shall inform the owner or interested parties 119632
that a tax certificate will be offered for sale on the parcel, and 119633
that the owner or interested parties may incur additional expenses 119634
as a result of the sale. 119635

(2) Except as otherwise provided in division (B)(3) of this 119636
section, when tax certificates are to be sold or transferred under 119637
section 5721.33 of the Revised Code with respect to parcels, the 119638
county treasurer, at least thirty days prior to the date of sale 119639
or transfer of such tax certificates, shall send written notice of 119640
the sale or transfer by certified mail to the last known 119641
tax-mailing address of the record owner of the property or parcel 119642
and may send such notice to all parties with an interest in the 119643

property that has been recorded in the property records of the 119644
county pursuant to section 317.08 of the Revised Code. The notice 119645
shall state that a tax certificate will be offered for sale or 119646
transfer on the parcel, and that the owner or interested parties 119647
may incur additional expenses as a result of the sale or transfer. 119648

(3) The county treasurer is not required to send a notice 119649
under division (B)(1) or (B)(2) of this section if the treasurer 119650
previously has attempted to send such notice to the owner of the 119651
parcel and the notice has been returned by the post office as 119652
undeliverable. The absence of a valid tax-mailing address for the 119653
owner of a parcel does not preclude the county treasurer from 119654
selling or transferring a tax certificate for the parcel. 119655

(C) The county treasurer shall advertise the sale of tax 119656
certificates under section 5721.32 of the Revised Code in a 119657
newspaper of general circulation in the county, once a week for 119658
two consecutive weeks. The newspaper shall meet the requirements 119659
of section 7.12 of the Revised Code. The advertisement shall 119660
include the date, the time, and the place of the public auction, 119661
abbreviated legal descriptions of the parcels, and the names of 119662
the owners of record of the parcels. The advertisement also shall 119663
include the certificate purchase prices of the parcels or the 119664
total purchase price of tax certificates for sale in blocks of tax 119665
certificates. 119666

(D) After the county treasurer has compiled the list of 119667
parcels selected for tax certificate sales but before a tax 119668
certificate respecting a parcel is sold or transferred, if the 119669
owner of record of the parcel pays to the county treasurer in cash 119670
the delinquent taxes respecting the parcel or otherwise acts so 119671
that any condition in division (A)(1)(a), (b), or (c) of this 119672
section applies to the parcel, the owner of record of the parcel 119673
also shall pay a fee in an amount prescribed by the treasurer to 119674
cover the administrative costs of the treasurer under this section 119675

respecting the parcel. The fee shall be deposited in the county treasury to the credit of the tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code or as otherwise permitted in this division. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code. To the extent there is a surplus in the fund from time to time, the surplus may, with the approval of the county treasurer, be utilized for the purposes of a county land reutilization corporation operating in the county.

(F) The county treasurers of more than one county may jointly conduct a regional sale of tax certificates under section 5721.32 of the Revised Code. A regional sale shall be held at a single location in one county, where the tax certificates from each of the participating counties shall be offered for sale at public auction. Before the regional sale, each county treasurer shall advertise the sale for the parcels in the treasurer's county as required by division (C) of this section. At the regional sale, tax certificates shall be sold on parcels from one county at a time, with all of the certificates for one county offered for sale before any certificates for the next county are offered for sale.

(G) The tax commissioner shall prescribe the form of the tax certificate under this section, and county treasurers shall use the form so prescribed.

Sec. 5721.32. (A) The sale of tax certificates by public

auction may be conducted at any time after completion of the 119707
advertising of the sale under section 5721.31 of the Revised Code, 119708
on the date and at the time and place designated in the 119709
advertisements, and may be continued from time to time as the 119710
county treasurer directs. The county treasurer may offer the tax 119711
certificates for sale in blocks of tax certificates, consisting of 119712
any number of tax certificates as determined by the county 119713
treasurer, and may specify a certificate period of not less than 119714
three years and not more than six years. 119715

(B)(1) The sale of tax certificates under this section shall 119716
be conducted at a public auction by the county treasurer or a 119717
designee of the county treasurer. 119718

(2) No person shall be permitted to bid without completing a 119719
bidder registration form, in the form prescribed by the tax 119720
commissioner, and without filing the form with the county 119721
treasurer prior to the start of the auction, together with 119722
remittance of a registration fee, in cash, of five hundred 119723
dollars. The bidder registration form shall include a tax 119724
identification number of the registrant. The registration fee is 119725
refundable at the end of bidding on the day of the auction, unless 119726
the registrant is the winning bidder for one or more tax 119727
certificates or one or more blocks of tax certificates, in which 119728
case the fee may be applied toward the deposit required by this 119729
section. 119730

(3) The county treasurer may require a person who wishes to 119731
bid on one or more parcels to submit a letter from a financial 119732
institution stating that the bidder has sufficient funds available 119733
to pay the purchase price of the parcels and a written 119734
authorization for the treasurer to verify such information with 119735
the financial institution. The county treasurer may require 119736
submission of the letter and authorization sufficiently in advance 119737
of the auction to allow for verification. No person who fails to 119738

submit the required letter and authorization, or whose financial 119739
institution fails to provide the requested verification, shall be 119740
permitted to bid. 119741

(C) At the public auction, the county treasurer or the 119742
treasurer's designee or agent shall begin the bidding at eighteen 119743
per cent per year simple interest, and accept lower bids in even 119744
increments of one-fourth of one per cent to the rate of zero per 119745
cent. The county treasurer, designee, or agent shall award the tax 119746
certificate to the person bidding the lowest certificate rate of 119747
interest. The county treasurer shall decide which person is the 119748
winning bidder in the event of a tie for the lowest bid offered, 119749
or if a person contests the lowest bid offered. The county 119750
treasurer's decision is not appealable. 119751

(D)(1) The winning bidder shall pay the county treasurer a 119752
cash deposit of at least ten per cent of the certificate purchase 119753
price not later than the close of business on the day of the sale. 119754
The winning bidder shall pay the balance and the fee required 119755
under division (H) of this section not later than five business 119756
days after the day on which the certificate is sold. Except as 119757
provided under division (D)(2) of this section, if the winning 119758
bidder fails to pay the balance and fee within the prescribed 119759
time, the bidder forfeits the deposit, and the county treasurer 119760
shall retain the tax certificate and may attempt to sell it at any 119761
auction conducted at a later date. 119762

(2) At the request of a winning bidder, the county treasurer 119763
may release the bidder from the bidder's tax certificate purchase 119764
obligation. The county treasurer may retain all or any portion of 119765
the deposit of a bidder granted a release. After granting a 119766
release under this division, the county treasurer may award the 119767
tax certificate to the person that submitted the second lowest bid 119768
at the auction. 119769

(3) The county treasurer shall deposit the deposit forfeited 119770

or retained under divisions (D)(1) or (2) of this section in the 119771
county treasury to the credit of the tax certificate 119772
administration fund. 119773

(E) Upon receipt of the full payment of the certificate 119774
purchase price from the purchaser, the county treasurer shall 119775
issue the tax certificate and record the tax certificate sale by 119776
entering into a tax certificate register the certificate purchase 119777
price, the certificate rate of interest, the date the certificate 119778
was sold, the certificate period, the name and address of the 119779
certificate holder, and any other information the county treasurer 119780
considers necessary. The county treasurer may keep the tax 119781
certificate register in a hard-copy format or in an electronic 119782
format. The name and address of the certificate holder may be, 119783
upon receipt of instructions from the purchaser, that of the 119784
secured party of the actual purchaser, or an agent or custodian 119785
for the purchaser or secured party. The county treasurer also 119786
shall transfer the tax certificate to the certificate holder. The 119787
county treasurer shall apportion the part of the proceeds from the 119788
sale representing taxes, penalties, and interest among the several 119789
taxing districts in the same proportion that the amount of taxes 119790
levied by each district against the certificate parcel in the 119791
preceding tax year bears to the taxes levied by all such districts 119792
against the certificate parcel in the preceding tax year, and 119793
credit the part of the proceeds representing assessments and other 119794
charges to the items of assessments and charges in the order in 119795
which those items became due. Upon issuing a tax certificate, the 119796
delinquent taxes that make up the certificate purchase price are 119797
transferred, and the superior lien of the state and its taxing 119798
districts for those delinquent taxes is conveyed intact to the 119799
certificate holder. 119800

(F) If a tax certificate is offered for sale under this 119801
section but is not sold, the county treasurer may sell the 119802

certificate in a negotiated sale authorized under section 5721.33 119803
of the Revised Code, or may strike the corresponding certificate 119804
parcel from the list of parcels selected for tax certificate 119805
sales. The lien for taxes, assessments, charges, penalties, and 119806
interest against a parcel stricken from the list thereafter may be 119807
foreclosed in the manner prescribed by section 323.25, sections 119808
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 119809
Code unless, prior to the institution of such proceedings against 119810
the parcel, the county treasurer restores the parcel to the list 119811
of parcels selected for tax certificate sales. 119812

(G) A certificate holder shall not be liable for damages 119813
arising from a violation of sections 3737.87 to 3737.891 or 119814
Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 119815
6111. of the Revised Code, or a rule adopted or order, permit, 119816
license, variance, or plan approval issued under any of those 119817
chapters, that is or was committed by another person in connection 119818
with the parcel for which the tax certificate is held. 119819

(H) When selling a tax certificate under this section, the 119820
county treasurer shall charge a fee to the purchaser of the 119821
certificate. The county treasurer shall set the fee at a 119822
reasonable amount that covers the treasurer's costs of 119823
administering the sale of the tax certificate. The county 119824
treasurer shall deposit the fee in the county treasury to the 119825
credit of the tax certificate administration fund. 119826

(I) After selling a tax certificate under this section, the 119827
county treasurer shall send written notice by certified mail to 119828
the owner of the certificate parcel at the owner's last known 119829
tax-mailing address. The notice shall inform the owner that the 119830
tax certificate was sold, shall describe the owner's options to 119831
redeem the parcel, including entering into a redemption payment 119832
plan under division (C)(1) of section 5721.38 of the Revised Code, 119833
and shall name the certificate holder and its secured party, if 119834

any. However, the county treasurer is not required to send a 119835
notice under this division if the treasurer previously has 119836
attempted to send a notice to the owner of the parcel at the 119837
owner's last known tax-mailing address, and the postal service has 119838
returned the notice as undeliverable. 119839

(J) A tax certificate shall not be sold to the owner of the 119840
certificate parcel. 119841

Sec. 5721.37. (A)(1) ~~Division (A)(1) of this section applies~~ 119842
~~to tax certificates purchased under section 5721.32 of the Revised~~ 119843
~~Code, or under section 5721.42 of the Revised Code by the holder~~ 119844
~~of a certificate issued under section 5721.32 of the Revised Code.~~ 119845
At any time after one year from the date shown on the tax 119846
certificate as the date the tax certificate was sold, and not 119847
later than ~~six years after that date~~ the end of the certificate 119848
period, a certificate holder, except for a county land 119849
reutilization corporation, may file with the county treasurer a 119850
request for foreclosure, or a private attorney on behalf of the 119851
certificate holder may file with the county treasurer a notice of 119852
intent to foreclose, on a form prescribed by the tax commissioner, 119853
provided the certificate parcel has not been redeemed under 119854
division (A) or (C) of section 5721.38 of the Revised Code and at 119855
least one certificate respecting the certificate parcel, held by 119856
the certificate holder filing the request for foreclosure or 119857
notice of intent to foreclose and eligible to be enforced through 119858
a foreclosure proceeding, has not been voided under section 119859
5721.381 of the Revised Code. If the certificate holder is a 119860
county land reutilization corporation, the corporation may 119861
institute a foreclosure action under the statutes pertaining to 119862
the foreclosure of mortgages or as permitted under sections 323.65 119863
to 323.79 of the Revised Code at any time after it acquires the 119864
tax certificate. 119865

~~(2) Division (A)(2) of this section applies to tax certificates purchased under section 5721.33 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code. At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of a certificate holder other than a county land reutilization corporation may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.~~

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~~(3)(a) Division (A)(3)(a) of this section applies to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, and not held by a county land reutilization corporation. If, before the expiration of six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold~~

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~~files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of six years after the date the certificate was sold or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the six year period measured from the date the certificate was sold is tolled while the property owner's bankruptcy case remains open.~~

~~(b) Division (A)(3)(b) of this section applies to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, and not held by a county land reutilization corporation. If, before six years after the date a tax certificate was sold or before the date negotiated by the county treasurer If, before the expiration of the certificate period, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or a notice of intent to foreclose is the later of six years after the date the tax certificate was sold or the date negotiated by the county treasurer, the expiration of the certificate period or one hundred eighty days after the~~

certificate parcel is no longer property of the bankruptcy estate; 119932
however, the ~~six year or negotiated period being measured after~~ 119933
~~the date the certificate was sold~~ certificate period is tolled 119934
while the property owner's bankruptcy case remains open. If the 119935
certificate holder is a county land reutilization corporation, the 119936
corporation may institute a foreclosure action under the statutes 119937
pertaining to the foreclosure of mortgages or as permitted under 119938
sections 323.65 to 323.79 of the Revised Code at any time after it 119939
acquires such tax certificate, subject to any restrictions under 119940
such bankruptcy law or proceeding. 119941

~~(e)~~ Interest at the certificate rate of interest continues to 119942
accrue during any extension of time required by division ~~(A)(3)(a)~~ 119943
~~or (b)(A)(2)~~ of this section unless otherwise provided under Title 119944
11 of the United States Code. 119945

~~(4)(3)~~ If, before the expiration of three years from the date 119946
a tax certificate was sold, the owner of property for which the 119947
certificate was sold applies for an exemption under section 119948
3735.67 or 5715.27 of the Revised Code or under any other section 119949
of the Revised Code under the jurisdiction of the director of 119950
environmental protection, the county treasurer shall notify the 119951
certificate holder by ordinary first-class or certified mail or by 119952
binary means of the filing of the application. Once a 119953
determination has been made on the exemption application, the 119954
county treasurer shall notify the certificate holder of the 119955
determination by ordinary first-class or certified mail or by 119956
binary means. Except with respect to a county land reutilization 119957
corporation, the last day on which the certificate holder may file 119958
a request for foreclosure shall be the later of three years from 119959
the date the certificate was sold or forty-five days after notice 119960
of the determination was provided. 119961

(B) When a request for foreclosure or a notice of intent to 119962
foreclose is filed under ~~division (A)(1) or (2)~~ of this section, 119963

the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates that have been sold on the parcel, other than tax certificates held by the person requesting foreclosure;

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C)(1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the

tax certificates is forthcoming. Within ninety days of receiving 119996
the copy of the foreclosure request, the prosecuting attorney 119997
shall commence a foreclosure proceeding in the name of the county 119998
treasurer in the manner provided under section 323.25, sections 119999
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 120000
Code, to enforce the lien vested in the certificate holder by the 120001
certificate. The prosecuting attorney shall attach to the 120002
complaint the foreclosure request and the county treasurer's 120003
written certification. 120004

(2) With respect to a certificate purchased under section 120005
5721.32, 5721.33, or 5721.42 of the Revised Code, if the 120006
certificate parcel has not been redeemed, at least one certificate 120007
respecting the certificate parcel, held by the certificate holder 120008
filing the notice of intent to foreclose and eligible to be 120009
enforced through a foreclosure proceeding, has not been voided 120010
under section 5721.381 of the Revised Code, a notice of intent to 120011
foreclose has been filed, and the payment required under division 120012
(B) of this section has been made, the county treasurer shall 120013
certify notice to that effect to the private attorney. The county 120014
treasurer also shall send notice by ordinary first class or 120015
certified mail or by binary means to all certificate holders other 120016
than the certificate holder represented by the attorney that a 120017
notice of intent to foreclose has been filed and that payment for 120018
the tax certificates is forthcoming. After receipt of the 120019
treasurer's certification and not later than one hundred twenty 120020
days after the filing of the intent to foreclose or the number of 120021
days specified under the terms of a negotiated sale under section 120022
5721.33 of the Revised Code, the private attorney shall commence a 120023
foreclosure proceeding in the name of the certificate holder in 120024
the manner provided under division (F) of this section to enforce 120025
the lien vested in the certificate holder by the certificate. The 120026
private attorney shall attach to the complaint the notice of 120027
intent to foreclose and the county treasurer's written 120028

certification. 120029

(D) The county treasurer shall credit the amount received 120030
under division (B)(1) of this section to the tax certificate 120031
redemption fund. The tax certificates respecting the payment shall 120032
be paid as provided in division (D) of section 5721.38 of the 120033
Revised Code. The amount received under division (B)(2) of this 120034
section shall be distributed to the taxing districts to which the 120035
delinquent and unpaid amounts are owed. The county treasurer shall 120036
deposit the fee received under division (B)(3) of this section in 120037
the county treasury to the credit of the delinquent tax and 120038
assessment collection fund. 120039

~~(E)(1)(a) Except with respect to a county land reutilization 120040
corporation, if, in the case of a certificate purchased under 120041
section 5721.32 of the Revised Code, or under section 5721.42 of 120042
the Revised Code by the holder of a certificate issued under 120043
section 5721.32 of the Revised Code, the certificate holder does 120044
not file with the county treasurer a request for foreclosure or a 120045
notice of intent to foreclose with the required payment within six 120046
years after the date shown on the tax certificate as the date the 120047
certificate was sold or within the period provided under division 120048
(A)(3)(a) of this section, and during that time the certificate 120049
has not been voided under section 5721.381 of the Revised Code and 120050
the parcel has not been redeemed or foreclosed upon, the 120051
certificate holder's lien against the parcel is canceled, and the 120052
certificate is voided, subject to division (E)(1)(b) of this 120053
section. 120054~~

~~(b) In the case of any tax certificate purchased under 120055
section 5721.32 of the Revised Code or under section 5721.42 of 120056
the Revised Code by the holder of a certificate issued under 120057
section 5721.32 of the Revised Code prior to June 24, 2008, the 120058
county treasurer, upon application by the certificate holder, may 120059
sell to the certificate holder a new certificate extending the 120060~~

~~three year period prescribed by division (E)(1) of this section,~~ 120061
~~as that division existed prior to that date, to six years after~~ 120062
~~the date shown on the original certificate as the date it was sold~~ 120063
~~or any extension of that date.~~ 120064

~~(2)(a)~~ Except with respect to a county land reutilization 120065
corporation, if, ~~in the case of a certificate purchased under~~ 120066
~~section 5721.33 of the Revised Code, or under section 5721.42 of~~ 120067
~~the Revised Code by the holder of a certificate issued under~~ 120068
~~section 5721.33 of the Revised Code, the certificate holder does~~ 120069
not file with the county treasurer a request for foreclosure or a 120070
notice of intent to foreclose with respect to a certificate parcel 120071
with the required payment within ~~six years after the date shown on~~ 120072
~~the tax certificate as the date the certificate was sold~~ the 120073
certificate period or any extension of that ~~date~~ period pursuant 120074
to division (C)(2) of section 5721.38 of the Revised Code, or 120075
within the period provided under division ~~(A)(3)(b)~~ (A)(2) of this 120076
section ~~or as specified under the terms of a negotiated sale under~~ 120077
~~section 5721.33 of the Revised Code, and during that time the~~ 120078
certificate has not been voided under section 5721.381 of the 120079
Revised Code and the certificate parcel has not been redeemed or 120080
foreclosed upon, the certificate holder's lien against the parcel 120081
is canceled and the certificate is voided, subject to division 120082
~~(E)(2)(b)~~ (E)(2) of this section. 120083

~~(b)(2)~~ In the case of any tax certificate purchased under 120084
section ~~5721.33~~ 5721.32 of the Revised Code or under section 120085
5721.42 of the Revised Code by the holder of a certificate issued 120086
under section 5721.32 of the Revised Code prior to ~~October 10,~~ 120087
~~2000~~ June 24, 2008, the county treasurer, upon application by the 120088
certificate holder, may sell to the certificate holder a new 120089
certificate extending the three-year period prescribed by division 120090
~~(E)(2)~~ (E)(1) of this section, as that division existed prior to 120091
~~October 10, 2000~~ that date, to six years after the date shown on 120092

the original certificate as the date it was sold or any extension 120093
of that date. 120094

~~(3)~~ The county treasurer and the certificate holder shall 120095
negotiate the premium, in cash, to be paid for a new certificate 120096
sold under division ~~(E)(1)(b)~~ or ~~(2)(b)~~ (E)(2) of this section. If 120097
the county treasurer and certificate holder do not negotiate a 120098
mutually acceptable premium, the county treasurer and certificate 120099
holder may agree to engage a person experienced in the valuation 120100
of financial assets to appraise a fair premium for the new 120101
certificate. The certificate holder has the option to purchase the 120102
new certificate for the fair premium so appraised. Not less than 120103
one-half of the fee of the person so engaged shall be paid by the 120104
certificate holder requesting the new certificate; the remainder 120105
of the fee shall be paid from the proceeds of the sale of the new 120106
certificate. If the certificate holder does not purchase the new 120107
certificate for the premium so appraised, the certificate holder 120108
shall pay the entire fee. The county treasurer shall credit the 120109
remaining proceeds from the sale to the items of taxes, 120110
assessments, penalties, interest, and charges in the order in 120111
which they became due. 120112

~~(4)~~ A certificate issued under division ~~(E)(1)(b)~~ or 120113
~~(2)(b)~~ (E)(2) of this section vests in the certificate holder and 120114
its secured party, if any, the same rights, interests, privileges, 120115
and immunities as are vested by the original certificate under 120116
sections 5721.30 to 5721.43 of the Revised Code. The certificate 120117
shall be issued in the same form as the form prescribed for the 120118
original certificate issued except for any modifications 120119
necessary, in the county treasurer's discretion, to reflect the 120120
extension under this division of the certificate holder's lien to 120121
six years after the date shown on the original certificate as the 120122
date it was sold or any extension of that date. The certificate 120123
holder may record a certificate issued under division ~~(E)(1)(b)~~ or 120124

~~(2)(b)(E)(2)~~ of this section or memorandum thereof as provided in 120125
division (B) of section 5721.35 of the Revised Code, and the 120126
county recorder shall index the certificate and record any 120127
subsequent cancellation of the lien as provided in that section. 120128
The sale of a certificate extending the lien under division 120129
~~(E)(1)(b) or (2)(b)(E)(2)~~ of this section does not impair the 120130
right of redemption of the owner of record of the certificate 120131
parcel or of any other person entitled to redeem the property. 120132

~~(5)(3)~~ If the holder of a certificate purchased under section 120133
5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice 120134
of intent to foreclose to the county treasurer but fails to file a 120135
foreclosure action in a court of competent jurisdiction within the 120136
time specified in division (C)(2) of this section, the liens 120137
represented by all tax certificates respecting the certificate 120138
parcel held by that certificate holder, and for which the deadline 120139
for filing a notice of intent to foreclose has passed, are 120140
canceled and the certificates voided, and the certificate holder 120141
forfeits the payment of the amounts described in division (B)(2) 120142
of this section. 120143

(F) With respect to tax certificates purchased under section 120144
5721.32, 5721.33, or 5721.42 of the Revised Code, upon the 120145
delivery to the private attorney by the county treasurer of the 120146
certification provided for under division (C)(2) of this section, 120147
the private attorney shall institute a foreclosure proceeding 120148
under this division in the name of the certificate holder to 120149
enforce the holder's lien, in any court or board of revision with 120150
jurisdiction, unless the certificate redemption price is paid 120151
prior to the time a complaint is filed. The attorney shall 120152
prosecute the proceeding to final judgment and satisfaction, 120153
whether through sale of the property or the vesting of title and 120154
possession in the certificate holder or other disposition under 120155
sections 323.65 to 323.79 of the Revised Code or as may otherwise 120156

be provided by law. 120157

The foreclosure proceedings under this division, except as 120158
otherwise provided in this division, shall be instituted and 120159
prosecuted in the same manner as is provided by law for the 120160
foreclosure of mortgages on land, except that, if service by 120161
publication is necessary, such publication shall be made once a 120162
week for three consecutive weeks and the service shall be complete 120163
at the expiration of three weeks after the date of the first 120164
publication. 120165

Any notice given under this division shall include the name 120166
of the owner of the parcel as last set forth in the records of the 120167
county recorder, the owner's last known mailing address, the 120168
address of the subject parcel if different from that of the owner, 120169
and a complete legal description of the subject parcel. In any 120170
county that has adopted a permanent parcel number system, such 120171
notice may include the permanent parcel number in addition to a 120172
complete legal description. 120173

It is sufficient, having been made a proper party to the 120174
foreclosure proceeding, for the certificate holder to allege in 120175
such holder's complaint that the tax certificate has been duly 120176
purchased by the certificate holder, that the certificate 120177
redemption price is due and unpaid, that there is a lien against 120178
the property described in the tax certificate, and, if applicable, 120179
that the certificate holder desires to invoke the alternative 120180
redemption period prescribed in sections 323.65 to 323.79 of the 120181
Revised Code, without setting forth in such holder's complaint any 120182
other special matter relating to the foreclosure proceeding. The 120183
complaint shall pray for an order directing the sheriff, or the 120184
bailiff if the complaint is filed in municipal court, to offer the 120185
property for sale in the manner provided in section 5721.19 of the 120186
Revised Code or otherwise transferred according to any applicable 120187
procedures provided in sections 323.65 to 323.79 of the Revised 120188

Code, unless the complaint documents that the county auditor has 120189
determined that the true value of the certificate parcel is less 120190
than the certificate purchase price. In that case, the prayer of 120191
the complaint shall request that fee simple title to the property 120192
be transferred to and vested in the certificate holder free and 120193
clear of all subordinate liens. 120194

In the foreclosure proceeding, the certificate holder may 120195
join in one action any number of tax certificates relating to the 120196
same owner. However, the decree for each tax certificate shall be 120197
rendered separately and any proceeding may be severed, in the 120198
discretion of the court or board of revision, for the purpose of 120199
trial or appeal. Except as may otherwise be provided in sections 120200
323.65 to 323.79 of the Revised Code, upon confirmation of sale, 120201
the court or board of revision shall order payment of all costs 120202
related directly or indirectly to the tax certificate, including, 120203
without limitation, attorney's fees of the holder's attorney in 120204
accordance with section 5721.371 of the Revised Code. The tax 120205
certificate purchased by the certificate holder is presumptive 120206
evidence in all courts and boards of revision and in all 120207
proceedings, including, without limitation, at the trial of the 120208
foreclosure action, of the amount and validity of the taxes, 120209
assessments, charges, penalties by the court and added to such 120210
principal amount, and interest appearing due and unpaid and of 120211
their nonpayment. 120212

(G) If a parcel is sold under this section, the officer who 120213
conducted the sale shall collect the recording fee from the 120214
purchaser at the time of the sale and, following confirmation of 120215
the sale, shall prepare and record the deed conveying the title to 120216
the parcel to the purchaser. 120217

Sec. 5721.38. (A) At any time prior to payment to the county 120218
treasurer by the certificate holder to initiate foreclosure 120219

proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may redeem the parcel by paying to the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates respecting that parcel.

(B) At any time after payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under section 5721.37 of the Revised Code, and before the filing of the entry of confirmation of sale of a certificate parcel, or the expiration of the alternative redemption period defined in section 323.65 of the Revised Code under foreclosure proceedings filed by the county prosecuting attorney, and before the decree conveying title to the certificate holder is rendered as provided for in division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may redeem the parcel by paying to the county treasurer the sum of the following amounts:

(1) The amount described in division (A) of this section;

(2) Interest on the certificate purchase price for each tax certificate sold respecting the parcel at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division;

(3) An amount equal to the sum of the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code plus interest on that amount at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division. If the parcel is redeemed before the complaint has been filed, the prosecuting attorney shall adjust the fee to reflect services performed to the date of

redemption, and the county treasurer shall calculate the interest 120252
based on the adjusted fee and refund any excess fee to the 120253
certificate holder. 120254

(4) Reasonable attorney's fees in accordance with section 120255
5721.371 of the Revised Code if the certificate holder retained a 120256
private attorney to foreclose the lien; 120257

(5) Any other costs and fees of the proceeding allocable to 120258
the certificate parcel as determined by the court or board of 120259
revision. 120260

The county treasurer may collect the total amount due under 120261
divisions (B)(1) to (5) of this section in the form of guaranteed 120262
funds acceptable to the treasurer. Immediately upon receipt of 120263
such payments, the county treasurer shall reimburse the 120264
certificate holder who initiated foreclosure proceedings as 120265
provided in division (D) of this section. The county treasurer 120266
shall pay the certificate holder interest at the rate of eighteen 120267
per cent per year on amounts paid under divisions (B)(2) and (3) 120268
of section 5721.37 of the Revised Code, beginning on the day the 120269
certificate holder paid the amounts under those divisions and 120270
ending on the day the parcel is redeemed under this section. 120271

(C)(1) During the period beginning on the date a tax 120272
certificate is sold under section 5721.32 of the Revised Code and 120273
ending one year from that date, the county treasurer may enter 120274
into a redemption payment plan with the owner of record of the 120275
certificate parcel or any other person entitled to redeem that 120276
parcel. The plan shall require the owner or other person to pay 120277
the certificate redemption price for the tax certificate in 120278
installments, with the final installment due no later than one 120279
year after the date the tax certificate is sold. The certificate 120280
holder may at any time, by written notice to the county treasurer, 120281
agree to accept installments collected to the date of notice as 120282
payment in full. Receipt of such notice by the treasurer shall 120283

constitute satisfaction of the payment plan and redemption of the 120284
tax certificate. 120285

(2) During the period beginning on the date a tax certificate 120286
is sold under section 5721.33 of the Revised Code and ending on 120287
the date the decree is rendered on the foreclosure proceeding 120288
under division (F) of section 5721.37 of the Revised Code, the 120289
owner of record of the certificate parcel, or any other person 120290
entitled to redeem that parcel, may enter into a redemption 120291
payment plan with the certificate holder and all secured parties 120292
of the certificate holder. The plan shall require the owner or 120293
other person to pay the certificate redemption price for the tax 120294
certificate, an administrative fee not to exceed one hundred 120295
dollars per year, and the actual fees and costs incurred, in 120296
installments, with the final installment due no later than ~~six~~ 120297
~~years after the date the tax certificate is sold~~ the expiration of 120298
the certificate period. The certificate holder shall give written 120299
notice of the plan to the applicable county treasurer within sixty 120300
days after entering into the plan and written notice of default 120301
under the plan within ninety days after the default. If such a 120302
plan is entered into, the time period for filing a request for 120303
foreclosure or a notice of intent to foreclose under section 120304
5721.37 of the Revised Code is extended by the length of time the 120305
plan is in effect and not in default. 120306

(D)(1) Immediately upon receipt of full payment under 120307
division (A) or (B) of this section, the county treasurer shall 120308
make an entry to that effect in the tax certificate register, 120309
credit the payment to the tax certificate redemption fund created 120310
in the county treasury, and shall notify the certificate holder or 120311
holders by ordinary first class or certified mail or by binary 120312
means that the parcel has been redeemed and the lien or liens 120313
canceled, and that payment on the certificate or certificates is 120314
forthcoming. The treasurer shall pay the tax certificate holder or 120315

holders promptly. 120316

The county treasurer shall administer the tax certificate 120317
redemption fund for the purpose of redeeming tax certificates. 120318
Interest earned on the fund shall be credited to the county 120319
general fund. If the county has established a county land 120320
reutilization corporation, the county treasurer may apply interest 120321
earned on the fund to the payment of the expenses of such 120322
corporation. 120323

(2) If a redemption payment plan is entered into pursuant to 120324
division (C)(1) of this section, the county treasurer immediately 120325
shall notify each certificate holder by ordinary first class or 120326
certified mail or by binary means of the terms of the plan. 120327
Installment payments made pursuant to the plan shall be deposited 120328
in the tax certificate redemption fund. Any overpayment of the 120329
installments shall be refunded to the person responsible for 120330
causing the overpayment if the person applies for a refund under 120331
this section. If the person responsible for causing the 120332
overpayment fails to apply for a refund under this section within 120333
five years from the date the plan is satisfied, an amount equal to 120334
the overpayment shall be deposited into the general fund of the 120335
county. If the county has established a county land reutilization 120336
corporation, the county treasurer may apply such overpayment to 120337
the payment of the expenses of the corporation. 120338

Upon satisfaction of the plan, the county treasurer shall 120339
indicate in the tax certificate register that the plan has been 120340
satisfied, and shall notify each certificate holder by ordinary 120341
first class or certified mail or by binary means that the plan has 120342
been satisfied and that payment on the certificate or certificates 120343
is forthcoming. The treasurer shall pay each certificate holder 120344
promptly. 120345

If a redemption payment plan becomes void, the county 120346
treasurer shall notify each certificate holder by ordinary first 120347

class or certified mail or by binary means. If a certificate 120348
holder files a request for foreclosure under section 5721.37 of 120349
the Revised Code, upon the filing of the request for foreclosure, 120350
any money paid under the plan shall be refunded to the person that 120351
paid the money under the plan. 120352

(3) Upon receipt of the payment required under division 120353
(B)(1) of section 5721.37 of the Revised Code, the treasurer shall 120354
pay all other certificate holders and indicate in the tax 120355
certificate register that such certificates have been satisfied. 120356
If a county has organized a county land reutilization corporation, 120357
the county treasurer may apply the redemption price and any 120358
applicable interest payable under division (B) of this section to 120359
the payment of the expenses of the corporation. 120360

Sec. 5721.42. After the settlement required under division 120361
(C) of section 321.24 of the Revised Code, the county treasurer 120362
shall notify the certificate holder of the most recently issued 120363
tax certificate, by ordinary first class or certified mail or by 120364
binary means, that the certificate holder may purchase a 120365
subsequent tax certificate by paying all delinquent taxes on the 120366
related certificate parcel, the lien against which has not been 120367
transferred by the sale of a tax certificate. During the thirty 120368
days after receiving the notice, the certificate holder possesses 120369
the exclusive right to purchase the subsequent tax certificate by 120370
paying those amounts to the county treasurer. The amount of the 120371
payment shall constitute a separate lien against the certificate 120372
parcel that shall be evidenced by the issuance by the treasurer to 120373
the certificate holder of an additional tax certificate with 120374
respect to the delinquent taxes so paid on the related certificate 120375
parcel. The amount of the payment as set forth in the tax 120376
certificate shall earn interest at the rate of eighteen per cent 120377
per year. The certificate period of each subsequent tax 120378
certificate shall terminate on the expiration date of the 120379

certificate period of the most recent tax certificate for the same 120380
certificate parcel. 120381

Sec. 5722.13. Real property acquired and held by an electing 120382
subdivision pursuant to this chapter that is not sold or otherwise 120383
transferred within fifteen years after such acquisition shall be 120384
offered for sale at public auction during the sixteenth year after 120385
acquisition. If the real property is not sold at that time, it may 120386
be disposed of or retained for any lawful purpose without further 120387
application of this chapter. 120388

Notice of the sale shall contain a description of each 120389
parcel, the permanent parcel number, and the full street address 120390
when available. The notice shall be published once a week for 120391
three consecutive weeks prior to the sale in a newspaper of 120392
general circulation within the electing subdivision. The newspaper 120393
shall meet the requirements of section 7.12 of the Revised Code. 120394

Each parcel subsequent to the fifteenth year after its 120395
acquisition as part of a land reutilization program shall be sold 120396
for an amount equal to not less than the greater of: 120397

(A) Two-thirds of its fair market value; 120398

(B) The total amount of accrued taxes, assessments, 120399
penalties, interest, charges, and costs incurred by the electing 120400
subdivision in the acquisition, maintenance, and disposal of each 120401
parcel and the parcel's share of the costs and expenses of the 120402
land reutilization program. 120403

The sale requirements of this section do not apply to real 120404
property acquired and held by a county land reutilization 120405
corporation. 120406

Sec. 5723.05. If the taxes, assessments, charges, penalties, 120407
interest, and costs due on the forfeited lands have not been paid 120408
when the county auditor fixes the date for the sale of forfeited 120409

lands, the auditor shall give notice of them once a week for two 120410
consecutive weeks prior to the date fixed by the auditor for the 120411
sale, ~~in two newspapers~~ as provided in section 5721.03 of the 120412
Revised Code. The notice shall state that if the taxes, 120413
assessments, charges, penalties, interest, and costs charged 120414
against the lands forfeited to the state for nonpayment of taxes 120415
are not paid into the county treasury, and the county treasurer's 120416
receipt produced for the payment before the time specified in the 120417
notice for the sale of the lands, which day shall be named in the 120418
notice, each forfeited tract on which the taxes, assessments, 120419
charges, penalties, interest, and costs remain unpaid will be 120420
offered for sale beginning on the date set by the auditor, at the 120421
courthouse in the county, in order to satisfy the unpaid taxes, 120422
assessments, charges, penalties, interest, and costs, and that the 120423
sale will continue from day to day until each of the tracts is 120424
sold or offered for sale. 120425

The notice also shall state that, if the forfeited land is 120426
sold for an amount that is less than the amount of the delinquent 120427
taxes, assessments, charges, penalties, and interest against it, 120428
and, if division (B)(2) of section 5721.17 of the Revised Code is 120429
applicable, any notes issued by a receiver pursuant to division 120430
(F) of section 3767.41 of the Revised Code and any receiver's lien 120431
as defined in division (C)(4) of section 5721.18 of the Revised 120432
Code, the court, in a separate order, may enter a deficiency 120433
judgment against the last owner of record of the land before its 120434
forfeiture to the state, for the amount of the difference; and 120435
that, if that owner of record is a corporation, the court may 120436
enter the deficiency judgment against the stockholder holding a 120437
majority of that corporation's stock. 120438

Sec. 5723.18. (A) Except as otherwise provided in division 120439
(B)(2) of section 5721.17 and division (B) of section 319.43 of 120440
the Revised Code, the proceeds from a forfeiture sale shall be 120441

distributed as follows: 120442

(1) The county auditor shall deduct all costs pertaining to 120443
the forfeiture and sale of forfeited lands, including costs 120444
pertaining to a foreclosure and forfeiture proceeding instituted 120445
under section 5721.14 of the Revised Code, except those paid under 120446
section 5721.04 of the Revised Code, from the moneys received from 120447
the sale of land and town lots forfeited to the state for the 120448
nonpayment of taxes, and shall pay such costs into the proper 120449
fund. In the case of the forfeiture sale of a parcel against which 120450
a foreclosure and forfeiture proceeding was instituted under 120451
section 5721.14 of the Revised Code, if the proceeds from the 120452
forfeiture sale are insufficient to pay the costs pertaining to 120453
such proceeding, the county auditor, at the next semiannual 120454
apportionment of real property taxes, shall reduce the amount of 120455
real property taxes that the auditor otherwise would distribute to 120456
each subdivision to which taxes, assessments, charges, penalties, 120457
or interest charged against the parcel are due. The reduction in 120458
each subdivision's real property tax distribution shall equal the 120459
amount of the unpaid costs multiplied by a fraction, the numerator 120460
of which is the amount of taxes, assessments, charges, penalties, 120461
and interest due the subdivision, and the denominator of which is 120462
the total amount of taxes, assessments, charges, penalties, and 120463
interest due all such subdivisions. 120464

(2) Following the payment required by division (A)(1) of this 120465
section, the part of the proceeds that is equal to ten per cent of 120466
the taxes and assessments due shall be deposited in equal shares 120467
into each of the delinquent tax and assessment collection ~~fund~~ 120468
funds created pursuant to section 321.261 of the Revised Code. 120469

(3) Following the payment required by division (A)(2) of this 120470
section, the remaining proceeds shall be distributed by the 120471
auditor to the appropriate subdivisions to pay the taxes, 120472
assessments, charges, penalties, and interest which are due and 120473

unpaid. If the proceeds available for distribution under this 120474
division are insufficient to pay the entire amount of those taxes, 120475
assessments, charges, penalties, and interest, the auditor shall 120476
distribute the proceeds available for distribution under this 120477
division to the appropriate subdivisions in proportion to the 120478
amount of those taxes, assessments, charges, penalties, and 120479
interest that each is due. 120480

(B) If the proceeds from the sale of forfeited land are 120481
insufficient to pay in full the amount of the taxes, assessments, 120482
charges, penalties, and interest; the costs incurred in the 120483
proceedings instituted pursuant to this chapter and section 120484
5721.18 of the Revised Code, or the foreclosure and forfeiture 120485
proceeding instituted pursuant to section 5721.14 of the Revised 120486
Code; and, if division (B)(2) of section 5721.17 of the Revised 120487
Code is applicable, any notes issued by a receiver pursuant to 120488
division (F) of section 3767.41 of the Revised Code and any 120489
receiver's lien as defined in division (C)(4) of section 5721.18 120490
of the Revised Code, the court may enter a deficiency judgment 120491
against the last owner of record of the land before its forfeiture 120492
to the state, for the unpaid amount. The court shall enter the 120493
judgment pursuant to section 5721.192 of the Revised Code. Except 120494
as otherwise provided in division (B) of section 319.43 of the 120495
Revised Code, the proceeds paid pursuant to the entry and 120496
satisfaction of such a judgment shall be distributed as if they 120497
had been received as a part of the proceeds from the sale of the 120498
land to satisfy the amount of the taxes, assessments, charges, 120499
penalties, and interest which are due and unpaid; the costs 120500
incurred in the associated proceedings which were due and unpaid; 120501
and, if division (B)(2) of section 5721.17 of the Revised Code is 120502
applicable, any notes issued by a receiver pursuant to division 120503
(F) of section 3767.41 of the Revised Code and any receiver's lien 120504
as defined in division (C)(4) of section 5721.18 of the Revised 120505
Code. 120506

Sec. 5725.151. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code. 120507
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(B) There is allowed a credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year. 120510
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(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period. 120528
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~~(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to the general revenue fund and shall~~ 120534
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~~not be applied to reduce the amount to be credited to the 120538
undivided local government funds of the counties in which such 120539
taxes originate. 120540~~

~~Sec. 5725.24. (A) As used in this section, "qualifying 120541
dealer" means a dealer in intangibles that is a qualifying dealer 120542
in intangibles as defined in section 5733.45 of the Revised Code 120543
or a member of a qualifying controlled group, as defined in 120544
section 5733.04 of the Revised Code, of which an insurance company 120545
also is a member on the first day of January of the year in and 120546
for which the tax imposed by section 5707.03 of the Revised Code 120547
is required to be paid by the dealer. 120548~~

~~(B) The taxes levied by section 5725.18 of the Revised Code 120549
and collected pursuant to this chapter shall be paid into the 120550
state treasury to the credit of the general revenue fund. 120551~~

~~(C)(B) The taxes levied by section 5707.03 of the Revised 120552
Code on the value of shares in and capital employed by all dealers 120553
in intangibles ~~other than those that are qualifying dealers~~ shall 120554
be ~~for the use of~~ paid into the state treasury to the credit of 120555
the general revenue fund of the state and the local government 120556
funds of the several counties in which the taxes originate as 120557
provided in this division. 120558~~

~~During each month for which there is money in the state 120559
treasury for disbursement under this division, the tax 120560
commissioner shall provide for payment to the county treasurer of 120561
each county of five eighths of the amount of the taxes collected 120562
on account of shares in and capital employed by dealers in 120563
intangibles other than those that are qualifying dealers, 120564
representing capital employed in the county. The balance of the 120565
money received and credited on account of taxes assessed on shares 120566
in and capital employed by such dealers in intangibles shall be 120567
credited to the general revenue fund. 120568~~

~~Reductions in the amount of taxes collected on account of 120569
credits allowed under section 5725.151 of the Revised Code shall 120570
be applied to reduce the amount credited to the general revenue 120571
fund and shall not be applied to reduce the amount to be credited 120572
to the undivided local government funds of the counties in which 120573
such taxes originate. 120574~~

~~For the purpose of this division, such taxes are deemed to 120575
originate in the counties in which such dealers in intangibles 120576
have their offices. 120577~~

~~Money received into the treasury of a county pursuant to this 120578
section shall be credited to the undivided local government fund 120579
of the county and shall be distributed by the budget commission as 120580
provided by law. 120581~~

~~(D) All of the taxes levied under section 5707.03 of the 120582
Revised Code on the value of the shares in and capital employed by 120583
dealers in intangibles that are qualifying dealers shall be paid 120584
into the state treasury to the credit of the general revenue fund. 120585~~

Sec. 5725.34. (A) As used in this section, "certificate 120586
owner" has the same meaning as in section 149.311 of the Revised 120587
Code. 120588

(B) There is allowed a credit against the tax imposed by 120589
section 5725.18 of the Revised Code for an insurance company 120590
subject to that tax that is a certificate owner of a 120591
rehabilitation tax credit certificate issued under section 149.311 120592
of the Revised Code. The credit shall equal twenty-five per cent 120593
of the dollar amount indicated on the certificate, but the amount 120594
of the credit allowed for any company for any year shall not 120595
exceed five million dollars. The credit shall be claimed in the 120596
calendar year specified in the certificate and in the order 120597
required under section 5725.98 of the Revised Code. If the credit 120598
exceeds the amount of tax otherwise due in that year, the excess 120599

shall be refunded to the company but, if any amount of the credit 120600
is refunded, the sum of the amount refunded and the amount applied 120601
to reduce the tax otherwise due in that year shall not exceed 120602
three million dollars. The company may carry forward any balance 120603
of the credit in excess of the amount claimed in that year for not 120604
more than five ensuing years, and shall deduct any amount claimed 120605
in any such year from the amount claimed in an ensuing year. 120606

(C) An insurance company claiming a credit under this section 120607
shall retain the rehabilitation tax credit certificate for four 120608
years following the end of the year in which the credit was 120609
claimed, and shall make the certificate available for inspection 120610
by the tax commissioner upon the request of the tax commissioner 120611
during that period. 120612

Sec. 5725.98. (A) To provide a uniform procedure for 120613
calculating the amount of tax imposed by section 5725.18 of the 120614
Revised Code that is due under this chapter, a taxpayer shall 120615
claim any credits and offsets against tax liability to which it is 120616
entitled in the following order: 120617

(1) The credit for an insurance company or insurance company 120618
group under section 5729.031 of the Revised Code; 120619

(2) The credit for eligible employee training costs under 120620
section 5725.31 of the Revised Code; 120621

(3) The credit for purchasers of qualified low-income 120622
community investments under section 5725.33 of the Revised Code; 120623

(4) The nonrefundable job retention credit under division 120624
(B)(1) of section 122.171 of the Revised Code; 120625

(5) The offset of assessments by the Ohio life and health 120626
insurance guaranty association permitted by section 3956.20 of the 120627
Revised Code; 120628

(6) The refundable credit for rehabilitating a historic 120629

building under section 5725.34 of the Revised Code. 120630

(7) The refundable credit for Ohio job retention under 120631
division (B)(2) or (3) of section 122.171 of the Revised Code; 120632

~~(7)~~(8) The refundable credit for Ohio job creation under 120633
section 5725.32 of the Revised Code; 120634

~~(8)~~(9) The refundable credit under section 5725.19 of the 120635
Revised Code for losses on loans made under the Ohio venture 120636
capital program under sections 150.01 to 150.10 of the Revised 120637
Code. 120638

(B) For any credit except the refundable credits enumerated 120639
in this section, the amount of the credit for a taxable year shall 120640
not exceed the tax due after allowing for any other credit that 120641
precedes it in the order required under this section. Any excess 120642
amount of a particular credit may be carried forward if authorized 120643
under the section creating that credit. Nothing in this chapter 120644
shall be construed to allow a taxpayer to claim, directly or 120645
indirectly, a credit more than once for a taxable year. 120646

Sec. 5727.57. In addition to all other remedies for the 120647
collection of any taxes or penalties due under law, whenever any 120648
taxes, fees, or penalties due from any public utility have 120649
remained unpaid for a period of ninety days, or whenever any 120650
public utility has failed for a period of ninety days to make any 120651
report or return required by law, or to pay any penalty for 120652
failure to make or file such report or return, the attorney 120653
general, upon the request of the tax commissioner, shall file a 120654
petition in the court of common pleas in the county of the state 120655
in which such public utility has its principal place of business 120656
for a judgment for the amount of the taxes and penalties appearing 120657
to be due, the enforcement of any lien in favor of the state, and 120658
an injunction to restrain such public utility and its officers, 120659
directors, and managing agents from the transaction of any 120660

business within this state, other than such acts as are incidental 120661
to liquidation or winding up, until the payment of such taxes, 120662
fees, penalties, and the costs of the proceeding, which shall be 120663
fixed by the court, or the making and filing of such report or 120664
return. 120665

Such petition shall be in the name of the state. All or any 120666
of the public utilities having their principal places of business 120667
in the county may be joined in one suit. On the motion of the 120668
attorney general, the court of common pleas shall enter an order 120669
requiring all defendants to answer by a day certain, and may 120670
appoint a special master commissioner to take testimony, with such 120671
other power and authority as the court confers, and permit process 120672
to be served by certified mail and by publication in a newspaper 120673
of general circulation ~~published~~ in the county, which publication 120674
need not be made more than once, setting forth the name of each 120675
delinquent public utility, the matter in which such public utility 120676
is delinquent, the names of its officers, directors, and managing 120677
agents, if set forth in the petition, and the amount of any taxes, 120678
fees, or penalties claimed to be owing by said public utility. 120679

All of the officers, directors, shareholders, or managing 120680
agents of any public utility may be joined as defendants with such 120681
public utility. 120682

If it appears to the court upon hearing that any public 120683
utility which is a party to such proceeding is indebted to the 120684
state for taxes, fees, or penalties, judgment shall be entered 120685
therefor with interest, which shall be computed at the rate per 120686
annum prescribed by section 5703.47 of the Revised Code; and if it 120687
appears that any public utility has failed to make or file any 120688
report or return, a mandatory injunction may be issued against 120689
such public utility, its officers, directors, and managing agents, 120690
as such enjoining them from the transaction of any business within 120691
this state, other than acts incidental to liquidation or winding 120692

up, until the making and filing of all proper reports or returns 120693
and the payment in full of all taxes, fees, and penalties. 120694

If the officers, directors, shareholders, or managing agents 120695
of a public utility are not made parties in the first instance, 120696
and a judgment or an injunction is rendered or issued against such 120697
public utility, such officers, directors, shareholders, or 120698
managing agents, or any of them, may be made parties to such 120699
proceedings upon the motion of the attorney general, and, upon 120700
notice to them of the form and terms of such injunction, they 120701
shall be bound thereby as fully as if they had been made parties 120702
in the first instance. 120703

In any action authorized by this section, a statement of the 120704
commissioner or the secretary of state, when duly certified shall 120705
be prima-facie evidence of the amount of taxes, fees, or penalties 120706
due from any public utility, or of the failure of any public 120707
utility to file with the commissioner or the secretary of state 120708
any report required by law, and any such certificate of the 120709
commissioner or the secretary of state may be required in evidence 120710
in any such proceeding. 120711

On the application of any defendant and for good cause shown, 120712
the court may order a separate hearing of the issues as to any 120713
defendant. 120714

The costs of the proceeding shall be apportioned among the 120715
parties as the court deems proper. 120716

The court in such proceeding may make, enter, and enforce 120717
such other judgments and orders and grant such other relief as is 120718
necessary or incidental to the enforcement of the claims and lien 120719
of the state. 120720

In the performance of the duties enjoined ~~upon him~~ by this 120721
section the attorney general may direct any prosecuting attorney 120722
to bring an action, as authorized by this section, in the name of 120723

the state with respect to any delinquent public utilities within 120724
~~his~~ the prosecuting attorney's county, and like proceedings and 120725
orders shall be had as if such action were instituted by the 120726
attorney general. 120727

Sec. 5727.75. (A) For purposes of this section: 120728

(1) "Qualified energy project" means an energy project 120729
certified by the director of development pursuant to this section. 120730

(2) "Energy project" means a project to provide electric 120731
power through the construction, installation, and use of an energy 120732
facility. 120733

(3) "Alternative energy zone" means a county declared as such 120734
by the board of county commissioners under division (E)(1)(b) or 120735
(c) of this section. 120736

(4) "Full-time equivalent employee" means the total number of 120737
employee-hours for which compensation was paid to individuals 120738
employed at a qualified energy project for services performed at 120739
the project during the calendar year divided by two thousand 120740
eighty hours. 120741

(5) "Solar energy project" means an energy project composed 120742
of an energy facility using solar panels to generate electricity. 120743

(B)(1) Tangible personal property of a qualified energy 120744
project using renewable energy resources is exempt from taxation 120745
for tax years 2011 ~~and~~, 2012, 2013, and 2014 if all of the 120746
following conditions are satisfied: 120747

(a) On or before December 31, ~~2011~~ 2013, the owner or a 120748
lessee pursuant to a sale and leaseback transaction of the project 120749
submits an application to the power siting board for a certificate 120750
under section 4906.20 of the Revised Code, or if that section does 120751
not apply, submits an application for any approval, consent, 120752
permit, or certificate or satisfies any condition required by a 120753

public agency or political subdivision of this state for the 120754
construction or initial operation of an energy project. 120755

(b) Construction or installation of the energy facility 120756
begins on or after January 1, 2009, and before January 1, ~~2012~~ 120757
2014. For the purposes of this division, construction begins on 120758
the earlier of the date of application for a certificate or other 120759
approval or permit described in division (B)(1)(a) of this 120760
section, or the date the contract for the construction or 120761
installation of the energy facility is entered into. 120762

(c) For a qualified energy project with a nameplate capacity 120763
of five megawatts or greater, a board of county commissioners of a 120764
county in which property of the project is located has adopted a 120765
resolution under division (E)(1)(b) or (c) of this section to 120766
approve the application submitted under division (E) of this 120767
section to exempt the property located in that county from 120768
taxation. A board's adoption of a resolution rejecting an 120769
application or its failure to adopt a resolution approving the 120770
application does not affect the tax-exempt status of the qualified 120771
energy project's property that is located in another county. 120772

(2) If tangible personal property of a qualified energy 120773
project using renewable energy resources was exempt from taxation 120774
under this section ~~for beginning in any of~~ tax years 2011 ~~and,~~ 120775
2012, 2013, or 2014, and the certification under division (E)(2) 120776
of this section has not been revoked, the tangible personal 120777
property of the qualified energy project is exempt from taxation 120778
for tax year ~~2013~~ 2015 and all ensuing tax years if the property 120779
was placed into service before January 1, ~~2013~~ 2015, as certified 120780
in the construction progress report required under division (F)(2) 120781
of this section. Tangible personal property that has not been 120782
placed into service before that date is taxable property subject 120783
to taxation. An energy project for which certification has been 120784
revoked is ineligible for further exemption under this section. 120785

Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, ~~2017~~ 2019. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this ~~division~~ section,

real property of a qualified energy project is exempt from 120817
taxation for any tax year for which the tangible personal property 120818
of the qualified energy project is exempted under this section. 120819

(E)(1)(a) A person may apply to the director of development 120820
for certification of an energy project as a qualified energy 120821
project on or before the following dates: 120822

(i) December 31, ~~2011~~ 2013, for an energy project using 120823
renewable energy resources; 120824

(ii) December 31, ~~2013~~ 2015, for an energy project using 120825
clean coal technology, advanced nuclear technology, or 120826
cogeneration technology. 120827

(b) The director shall forward a copy of each application for 120828
certification of an energy project with a nameplate capacity of 120829
five megawatts or greater to the board of county commissioners of 120830
each county in which the project is located and to each taxing 120831
unit with territory located in each of the affected counties. Any 120832
board that receives from the director a copy of an application 120833
submitted under this division shall adopt a resolution approving 120834
or rejecting the application unless it has adopted a resolution 120835
under division (E)(1)(c) of this section. A resolution adopted 120836
under division (E)(1)(b) or (c) of this section may require an 120837
annual service payment to be made in addition to the service 120838
payment required under division (G) of this section. The sum of 120839
the service payment required in the resolution and the service 120840
payment required under division (G) of this section shall not 120841
exceed nine thousand dollars per megawatt of nameplate capacity 120842
located in the county. The resolution shall specify the time and 120843
manner in which the payments required by the resolution shall be 120844
paid to the county treasurer. The county treasurer shall deposit 120845
the payment to the credit of the county's general fund to be used 120846
for any purpose for which money credited to that fund may be used. 120847

The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of five megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of

the qualified energy project, has failed to comply with any 120879
requirement under this section. Upon certification or revocation, 120880
the director shall notify the person, owner, or lessee, the tax 120881
commissioner, and the county auditor of a county in which the 120882
project is located of the certification or revocation. Notice 120883
shall be provided in a manner convenient to the director. 120884

(F) The owner or a lessee pursuant to a sale and leaseback 120885
transaction of a qualified energy project shall do each of the 120886
following: 120887

(1) Comply with all applicable regulations; 120888

(2) File with the director of development a certified 120889
construction progress report before the first day of March of each 120890
year during the energy facility's construction or installation 120891
indicating the percentage of the project completed, and the 120892
project's nameplate capacity, as of the preceding thirty-first day 120893
of December. Unless otherwise instructed by the director of 120894
development, the owner or lessee of an energy project shall file a 120895
report with the director on or before the first day of March each 120896
year after completion of the energy facility's construction or 120897
installation indicating the project's nameplate capacity as of the 120898
preceding thirty-first day of December. Not later than sixty days 120899
after ~~the effective date of this section~~ June 17, 2010, the owner 120900
or lessee of an energy project, the construction of which was 120901
completed before ~~the effective date of this section~~ June 17, 2010, 120902
shall file a certificate indicating the project's nameplate 120903
capacity. 120904

(3) File with the director of development, in a manner 120905
prescribed by the director, a report of the total number of 120906
full-time equivalent employees, and the total number of full-time 120907
equivalent employees domiciled in Ohio, who are employed in the 120908
construction or installation of the energy facility; 120909

(4) For energy projects with a nameplate capacity of five 120910
megawatts or greater, repair all roads, bridges, and culverts 120911
affected by construction as reasonably required to restore them to 120912
their preconstruction condition, as determined by the county 120913
engineer in consultation with the local jurisdiction responsible 120914
for the roads, bridges, and culverts. In the event that the county 120915
engineer deems any road, bridge, or culvert to be inadequate to 120916
support the construction or decommissioning of the energy 120917
facility, the road, bridge, or culvert shall be rebuilt or 120918
reinforced to the specifications established by the county 120919
engineer prior to the construction or decommissioning of the 120920
facility. The owner or lessee of the facility shall post a bond in 120921
an amount established by the county engineer and to be held by the 120922
board of county commissioners to ensure funding for repairs of 120923
roads, bridges, and culverts affected during the construction. The 120924
bond shall be released by the board not later than one year after 120925
the date the repairs are completed. The energy facility owner or 120926
lessee pursuant to a sale and leaseback transaction shall post a 120927
bond, as may be required by the Ohio power siting board in the 120928
certificate authorizing commencement of construction issued 120929
pursuant to section 4906.10 of the Revised Code, to ensure funding 120930
for repairs to roads, bridges, and culverts resulting from 120931
decommissioning of the facility. The energy facility owner or 120932
lessee and the county engineer may enter into an agreement 120933
regarding specific transportation plans, reinforcements, 120934
modifications, use and repair of roads, financial security to be 120935
provided, and any other relevant issue. 120936

(5) Provide or facilitate training for fire and emergency 120937
responders for response to emergency situations related to the 120938
energy project and, for energy projects with a nameplate capacity 120939
of five megawatts or greater, at the person's expense, equip the 120940
fire and emergency responders with proper equipment as reasonably 120941
required to enable them to respond to such emergency situations; 120942

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers in the wind or solar energy

industry. The relationship may include endowments, cooperative 120976
programs, internships, apprenticeships, research and development 120977
projects, and curriculum development. 120978

(8) Offer to sell power or renewable energy credits from the 120979
energy project to electric distribution utilities or electric 120980
service companies subject to renewable energy resource 120981
requirements under section 4928.64 of the Revised Code that have 120982
issued requests for proposal for such power or renewable energy 120983
credits. If no electric distribution utility or electric service 120984
company issues a request for proposal on or before December 31, 120985
2010, or accepts an offer for power or renewable energy credits 120986
within forty-five days after the offer is submitted, power or 120987
renewable energy credits from the energy project may be sold to 120988
other persons. Division (F)(8) of this section does not apply if: 120989

(a) The owner or lessee is a rural electric company or a 120990
municipal power agency as defined in section 3734.058 of the 120991
Revised Code. 120992

(b) The owner or lessee is a person that, before completion 120993
of the energy project, contracted for the sale of power or 120994
renewable energy credits with a rural electric company or a 120995
municipal power agency. 120996

(c) The owner or lessee contracts for the sale of power or 120997
renewable energy credits from the energy project before ~~the~~ 120998
~~effective date of this section as enacted by this act~~ June 17, 120999
2010. 121000

(9) Make annual service payments as required by division (G) 121001
of this section and as may be required in a resolution adopted by 121002
a board of county commissioners under division (E) of this 121003
section. 121004

(G) The owner or a lessee pursuant to a sale and leaseback 121005
transaction of a qualified energy project shall make annual 121006

service payments in lieu of taxes to the county treasurer on or 121007
before the final dates for payments of taxes on public utility 121008
personal property on the real and public utility personal property 121009
tax list for each tax year for which property of the energy 121010
project is exempt from taxation under this section. The county 121011
treasurer shall allocate the payment on the basis of the project's 121012
physical location. Upon receipt of a payment, or if timely payment 121013
has not been received, the county treasurer shall certify such 121014
receipt or non-receipt to the director of development and tax 121015
commissioner in a form determined by the director and 121016
commissioner, respectively. Each payment shall be in the following 121017
amount: 121018

(1) In the case of a solar energy project, seven thousand 121019
dollars per megawatt of nameplate capacity located in the county 121020
as of December 31, 2010, for tax year 2011, as of December 31, 121021
2011, for tax year 2012, ~~and~~ as of December 31, 2012, for tax year 121022
2013, as of December 31, 2013, for tax year 2014, and as of 121023
December 31, 2014, for tax year 2015 and each tax year thereafter; 121024

(2) In the case of any other energy project using renewable 121025
energy resources, the following: 121026

(a) If the project maintains during the construction or 121027
installation of the energy facility a ratio of Ohio-domiciled 121028
full-time equivalent employees to total full-time equivalent 121029
employees of not less than seventy-five per cent, six thousand 121030
dollars per megawatt of nameplate capacity located in the county 121031
as of the thirty-first day of December of the preceding tax year; 121032

(b) If the project maintains during the construction or 121033
installation of the energy facility a ratio of Ohio-domiciled 121034
full-time equivalent employees to total full-time equivalent 121035
employees of less than seventy-five per cent but not less than 121036
sixty per cent, seven thousand dollars per megawatt of nameplate 121037
capacity located in the county as of the thirty-first day of 121038

December of the preceding tax year; 121039

(c) If the project maintains during the construction or 121040
installation of the energy facility a ratio of Ohio-domiciled 121041
full-time equivalent employees to total full-time equivalent 121042
employees of less than sixty per cent but not less than fifty per 121043
cent, eight thousand dollars per megawatt of nameplate capacity 121044
located in the county as of the thirty-first day of December of 121045
the preceding tax year. 121046

(3) In the case of an energy project using clean coal 121047
technology, advanced nuclear technology, or cogeneration 121048
technology, the following: 121049

(a) If the project maintains during the construction or 121050
installation of the energy facility a ratio of Ohio-domiciled 121051
full-time equivalent employees to total full-time equivalent 121052
employees of not less than seventy-five per cent, six thousand 121053
dollars per megawatt of nameplate capacity located in the county 121054
as of the thirty-first day of December of the preceding tax year; 121055

(b) If the project maintains during the construction or 121056
installation of the energy facility a ratio of Ohio-domiciled 121057
full-time equivalent employees to total full-time equivalent 121058
employees of less than seventy-five per cent but not less than 121059
sixty per cent, seven thousand dollars per megawatt of nameplate 121060
capacity located in the county as of the thirty-first day of 121061
December of the preceding tax year; 121062

(c) If the project maintains during the construction or 121063
installation of the energy facility a ratio of Ohio-domiciled 121064
full-time equivalent employees to total full-time equivalent 121065
employees of less than sixty per cent but not less than fifty per 121066
cent, eight thousand dollars per megawatt of nameplate capacity 121067
located in the county as of the thirty-first day of December of 121068
the preceding tax year. 121069

(H) The director of development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

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Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

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(1) "School district" means a city, local, or exempted village school district.

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121076

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

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(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

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(4) "State education aid," for a school district, means the following:

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121090

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section

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3310.41; division (C) of section 3314.08; division (D)(2) of 121100
section 3314.091; division (D) of section 3314.13; divisions (E), 121101
(K), (L), (M), and (N) of section 3317.023; division (C) of 121102
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 121103
Code. However, when calculating state education aid for a school 121104
district for fiscal years 2008 and 2009, include the amount 121105
computed for the district under Section 269.20.80 of H.B. 119 of 121106
the 127th general assembly, as subsequently amended, instead of 121107
division (D) of section 3317.022 of the Revised Code; and include 121108
amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of 121109
the 127th general assembly, as subsequently amended. 121110

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 121111
~~thereafter~~ 2011, the sum of the amounts computed for the district 121112
under former sections 3306.052, 3306.12, 3306.13, 3306.19, 121113
3306.191, and 3306.192+ of the Revised Code and the following 121114
provisions, as they existed for the applicable fiscal year: 121115
division (G) of section 3317.024; sections 3317.05, 3317.052, and 121116
3317.053 of the Revised Code; and the adjustments required by 121117
division (C) of section 3310.08; division (C)(2) of section 121118
3310.41; division (C) of section 3314.08; division (D)(2) of 121119
section 3314.091; division (D) of section 3314.13; divisions (E), 121120
(K), (L), (M), and (N) of section 3317.023; division (C) of 121121
section 3317.20; and sections 3313.979 ~~and~~, 3313.981, and 3326.33 121122
of the Revised Code. 121123

(c) For fiscal years 2012 and 2013, the amount paid in 121124
accordance with the section of H.B. 153 of the 129th general 121125
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 121126
SCHOOL DISTRICTS" and the adjustments required by division (C) of 121127
section 3310.08; division (C)(2) of section 3310.41; section 121128
3310.55; division (C) of section 3314.08; division (D)(2) of 121129
section 3314.091; division (D) of section 3314.13; divisions (B), 121130
(H), (I), (J), and (K) of section 3317.023; division (C) of 121131

section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. 121132
121133

(5) "State education aid," for a joint vocational school district, means the following: 121134
121135

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS".

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other

than a fixed-sum levy. 121162

(12) "Fixed-rate levy loss" means the amount determined under 121163
division (G) of this section. 121164

(13) "Fixed-sum levy" means a tax levied on property at 121165
whatever rate is required to produce a specified amount of tax 121166
money or levied in excess of the ten-mill limitation to pay debt 121167
charges, and includes school district emergency levies imposed 121168
pursuant to section 5705.194 of the Revised Code. 121169

(14) "Fixed-sum levy loss" means the amount determined under 121170
division (H) of this section. 121171

(15) "Consumer price index" means the consumer price index 121172
(all items, all urban consumers) prepared by the bureau of labor 121173
statistics of the United States department of labor. 121174

(16) "Total resources" has the same meaning as in section 121175
5751.20 of the Revised Code. 121176

(17) "2011 current expense S.B. 3 allocation" means the sum 121177
of payments received by a school district or joint vocational 121178
school district in fiscal year 2011 for current expense levy 121179
losses pursuant to division (C)(2) of section 5727.85 of the 121180
Revised Code. If a fixed-rate levy eligible for reimbursement is 121181
not imposed in any year after tax year 2010, "2011 current expense 121182
S.B. 3 allocation" used to compute payments to be made under 121183
division (C)(3) of section 5727.85 of the Revised Code in the tax 121184
years following the last year the levy is imposed shall be reduced 121185
by the amount of those payments attributable to the fixed-rate 121186
levy loss of that levy. 121187

(18) "2010 current expense S.B. 3 allocation" means the sum 121188
of payments received by a municipal corporation in calendar year 121189
2010 for current expense levy losses pursuant to division (A)(1) 121190
of section 5727.86 of the Revised Code. If a fixed-rate levy 121191
eligible for reimbursement is not imposed in any year after tax 121192

year 2010, "2010 current expense S.B. 3 allocation" used to 121193
compute payments to be made under division (A)(1)(d) of section 121194
5727.86 of the Revised Code in the tax years following the last 121195
year the levy is imposed shall be reduced by the amount of those 121196
payments attributable to the fixed-rate levy loss of that levy. 121197

(19) "2010 S.B. 3 allocation" means the sum of payments 121198
received by a local taxing unit during calendar year 2010 pursuant 121199
to division (A)(1) of section 5727.86 of the Revised Code. If a 121200
fixed-rate levy eligible for reimbursement is not imposed in any 121201
year after tax year 2010, "2010 S.B. 3 allocation" used to compute 121202
payments to be made under division (A)(1)(d) of section 5727.86 of 121203
the Revised Code in the tax years following the last year the levy 121204
is imposed shall be reduced by the amount of those payments 121205
attributable to the fixed-rate levy loss of that levy. 121206

(20) "Total S.B. 3 allocation" means, in the case of a school 121207
district or joint vocational school district, the sum of the 121208
amounts received in fiscal year 2011 pursuant to divisions (C)(2) 121209
and (D) of section 5727.85 of the Revised Code. In the case of a 121210
local taxing unit, "total S.B. 3 allocation" means the sum of 121211
payments received by the unit in calendar year 2010 pursuant to 121212
divisions (A)(1) and (4) of section 5727.86 of the Revised Code. 121213
If a fixed-rate levy eligible for reimbursement is not imposed in 121214
any year after tax year 2010, "total S.B. 3 allocation" used to 121215
compute payments to be made under division (C)(3) of section 121216
5727.85 or division (A)(1)(d) of section 5727.86 of the Revised 121217
Code in the tax years following the last year the levy is imposed 121218
shall be reduced by the amount of those payments attributable to 121219
the fixed-rate levy loss of that levy as would be computed under 121220
division (C)(2) of section 5727.85 or division (A)(1)(b) of 121221
section 5727.86 of the Revised Code. 121222

(21) "2011 non-current expense S.B. 3 allocation" means the 121223
difference of a school district's or joint vocational school 121224

district's total S.B. 3 allocation minus the sum of the school 121225
district's 2011 current expense S.B. 3 allocation and the portion 121226
of the school district's total S.B. 3 allocation constituting 121227
reimbursement for debt levies pursuant to division (D) of section 121228
5727.85 of the Revised Code. 121229

(22) "2010 non-current expense S.B. 3 allocation" means the 121230
difference of a municipal corporation's total S.B. 3 allocation 121231
minus the sum of its 2010 current expense S.B. 3 allocation and 121232
the portion of its total S.B. 3 allocation constituting 121233
reimbursement for debt levies pursuant to division (A)(4) of 121234
section 5727.86 of the Revised Code. 121235

(23) "Threshold per cent" means, in the case of a school 121236
district or joint vocational school district, two per cent for 121237
fiscal year 2012 and four per cent for fiscal years 2013 and 121238
thereafter. In the case of a local taxing unit, "threshold per 121239
cent" means two per cent for calendar year 2011, four per cent for 121240
calendar year 2012, and six per cent for calendar years 2013 and 121241
thereafter. 121242

(B) The kilowatt-hour tax receipts fund is hereby created in 121243
the state treasury and shall consist of money arising from the tax 121244
imposed by section 5727.81 of the Revised Code. All money in the 121245
kilowatt-hour tax receipts fund shall be credited as follows: 121246

~~(1) Sixty three per cent shall be credited to the general~~ 121247
~~revenue fund.~~ 121248

~~(2) Twenty five and four tenths per cent shall be credited to~~ 121249
~~the school district property tax replacement fund, which is hereby~~ 121250
~~created in the state treasury for the purpose of making the~~ 121251
~~payments described in section 5727.85 of the Revised Code.~~ 121252

~~(3) Eleven and six tenths per cent shall be credited to the~~ 121253
~~local government property tax replacement fund, which is hereby~~ 121254
~~created in the state treasury for the purpose of making the~~ 121255

~~payments described in section 5727.86 of the Revised Code.~~ 121256

<u>Fiscal Year</u>	<u>General Revenue</u>	<u>School District</u>	<u>Local Government</u>	
	<u>Fund</u>	<u>Property Tax</u>	<u>Property Tax</u>	
		<u>Replacement Fund</u>	<u>Replacement Fund</u>	
<u>2001-2011</u>	<u>63.0%</u>	<u>25.4%</u>	<u>11.6%</u>	121258
<u>2012 and</u>	<u>88.0%</u>	<u>9.0%</u>	<u>3.0%</u>	121259
<u>thereafter</u>				

(C) The natural gas tax receipts fund is hereby created in 121260
the state treasury and shall consist of money arising from the tax 121261
imposed by section 5727.811 of the Revised Code. All money in the 121262
fund shall be credited as follows: 121263

(1) For fiscal years before fiscal year 2012: 121264

(a) Sixty-eight and seven-tenths per cent shall be credited 121265
to the school district property tax replacement fund for the 121266
purpose of making the payments described in section 5727.85 of the 121267
Revised Code. 121268

~~(b)~~ Thirty-one and three-tenths per cent shall be credited 121269
to the local government property tax replacement fund for the 121270
purpose of making the payments described in section 5727.86 of the 121271
Revised Code. 121272

(2) For fiscal years 2012 and thereafter, one hundred per 121273
cent to the general revenue fund. 121274

(D) Not later than January 1, 2002, the tax commissioner 121275
shall determine for each taxing district its electric company tax 121276
value loss, which is the sum of the applicable amounts described 121277
in divisions (D)(1) to (4) of this section: 121278

(1) The difference obtained by subtracting the amount 121279
described in division (D)(1)(b) from the amount described in 121280
division (D)(1)(a) of this section. 121281

(a) The value of electric company and rural electric company 121282

tangible personal property as assessed by the tax commissioner for 121283
tax year 1998 on a preliminary assessment, or an amended 121284
preliminary assessment if issued prior to March 1, 1999, and as 121285
apportioned to the taxing district for tax year 1998; 121286

(b) The value of electric company and rural electric company 121287
tangible personal property as assessed by the tax commissioner for 121288
tax year 1998 had the property been apportioned to the taxing 121289
district for tax year 2001, and assessed at the rates in effect 121290
for tax year 2001. 121291

(2) The difference obtained by subtracting the amount 121292
described in division (D)(2)(b) from the amount described in 121293
division (D)(2)(a) of this section. 121294

(a) The three-year average for tax years 1996, 1997, and 1998 121295
of the assessed value from nuclear fuel materials and assemblies 121296
assessed against a person under Chapter 5711. of the Revised Code 121297
from the leasing of them to an electric company for those 121298
respective tax years, as reflected in the preliminary assessments; 121299

(b) The three-year average assessed value from nuclear fuel 121300
materials and assemblies assessed under division (D)(2)(a) of this 121301
section for tax years 1996, 1997, and 1998, as reflected in the 121302
preliminary assessments, using an assessment rate of twenty-five 121303
per cent. 121304

(3) In the case of a taxing district having a nuclear power 121305
plant within its territory, any amount, resulting in an electric 121306
company tax value loss, obtained by subtracting the amount 121307
described in division (D)(1) of this section from the difference 121308
obtained by subtracting the amount described in division (D)(3)(b) 121309
of this section from the amount described in division (D)(3)(a) of 121310
this section. 121311

(a) The value of electric company tangible personal property 121312
as assessed by the tax commissioner for tax year 2000 on a 121313

preliminary assessment, or an amended preliminary assessment if 121314
issued prior to March 1, 2001, and as apportioned to the taxing 121315
district for tax year 2000; 121316

(b) The value of electric company tangible personal property 121317
as assessed by the tax commissioner for tax year 2001 on a 121318
preliminary assessment, or an amended preliminary assessment if 121319
issued prior to March 1, 2002, and as apportioned to the taxing 121320
district for tax year 2001. 121321

(4) In the case of a taxing district having a nuclear power 121322
plant within its territory, the difference obtained by subtracting 121323
the amount described in division (D)(4)(b) of this section from 121324
the amount described in division (D)(4)(a) of this section, 121325
provided that such difference is greater than ten per cent of the 121326
amount described in division (D)(4)(a) of this section. 121327

(a) The value of electric company tangible personal property 121328
as assessed by the tax commissioner for tax year 2005 on a 121329
preliminary assessment, or an amended preliminary assessment if 121330
issued prior to March 1, 2006, and as apportioned to the taxing 121331
district for tax year 2005; 121332

(b) The value of electric company tangible personal property 121333
as assessed by the tax commissioner for tax year 2006 on a 121334
preliminary assessment, or an amended preliminary assessment if 121335
issued prior to March 1, 2007, and as apportioned to the taxing 121336
district for tax year 2006. 121337

(E) Not later than January 1, 2002, the tax commissioner 121338
shall determine for each taxing district its natural gas company 121339
tax value loss, which is the sum of the amounts described in 121340
divisions (E)(1) and (2) of this section: 121341

(1) The difference obtained by subtracting the amount 121342
described in division (E)(1)(b) from the amount described in 121343
division (E)(1)(a) of this section. 121344

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner

shall determine for each school district, joint vocational school 121376
district, and local taxing unit its fixed-rate levy loss, which is 121377
the sum of its electric company tax value loss multiplied by the 121378
tax rate in effect in tax year 1998 for fixed-rate levies and its 121379
natural gas company tax value loss multiplied by the tax rate in 121380
effect in tax year 1999 for fixed-rate levies. 121381

(H) Not later than January 1, 2002, the tax commissioner 121382
shall determine for each school district, joint vocational school 121383
district, and local taxing unit its fixed-sum levy loss, which is 121384
the amount obtained by subtracting the amount described in 121385
division (H)(2) of this section from the amount described in 121386
division (H)(1) of this section: 121387

(1) The sum of the electric company tax value loss multiplied 121388
by the tax rate in effect in tax year 1998, and the natural gas 121389
company tax value loss multiplied by the tax rate in effect in tax 121390
year 1999, for fixed-sum levies for all taxing districts within 121391
each school district, joint vocational school district, and local 121392
taxing unit. For the years 2002 through 2006, this computation 121393
shall include school district emergency levies that existed in 121394
1998 in the case of the electric company tax value loss, and 1999 121395
in the case of the natural gas company tax value loss, and all 121396
other fixed-sum levies that existed in 1998 in the case of the 121397
electric company tax value loss and 1999 in the case of the 121398
natural gas company tax value loss and continue to be charged in 121399
the tax year preceding the distribution year. For the years 2007 121400
through 2016 in the case of school district emergency levies, and 121401
for all years after 2006 in the case of all other fixed-sum 121402
levies, this computation shall exclude all fixed-sum levies that 121403
existed in 1998 in the case of the electric company tax value loss 121404
and 1999 in the case of the natural gas company tax value loss, 121405
but are no longer in effect in the tax year preceding the 121406
distribution year. For the purposes of this section, an emergency 121407

levy that existed in 1998 in the case of the electric company tax 121408
value loss, and 1999 in the case of the natural gas company tax 121409
value loss, continues to exist in a year beginning on or after 121410
January 1, 2007, but before January 1, 2017, if, in that year, the 121411
board of education levies a school district emergency levy for an 121412
annual sum at least equal to the annual sum levied by the board in 121413
tax year 1998 or 1999, respectively, less the amount of the 121414
payment certified under this division for 2002. 121415

(2) The total taxable value in tax year 1999 less the tax 121416
value loss in each school district, joint vocational school 121417
district, and local taxing unit multiplied by one-fourth of one 121418
mill. 121419

If the amount computed under division (H) of this section for 121420
any school district, joint vocational school district, or local 121421
taxing unit is greater than zero, that amount shall equal the 121422
fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of 121423
section 5727.85 of the Revised Code or division (A)(2) of section 121424
5727.86 of the Revised Code, and the one-fourth of one mill that 121425
is subtracted under division (H)(2) of this section shall be 121426
apportioned among all contributing fixed-sum levies in the 121427
proportion of each levy to the sum of all fixed-sum levies within 121428
each school district, joint vocational school district, or local 121429
taxing unit. 121430

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 121431
section, in computing the tax value loss, fixed-rate levy loss, 121432
and fixed-sum levy loss, the tax commissioner shall use the 121433
greater of the 1998 tax rate or the 1999 tax rate in the case of 121434
levy losses associated with the electric company tax value loss, 121435
but the 1999 tax rate shall not include for this purpose any tax 121436
levy approved by the voters after June 30, 1999, and the tax 121437
commissioner shall use the greater of the 1999 or the 2000 tax 121438
rate in the case of levy losses associated with the natural gas 121439

company tax value loss. 121440

(J) Not later than January 1, 2002, the tax commissioner 121441
shall certify to the department of education the tax value loss 121442
determined under divisions (D) and (E) of this section for each 121443
taxing district, the fixed-rate levy loss calculated under 121444
division (G) of this section, and the fixed-sum levy loss 121445
calculated under division (H) of this section. The calculations 121446
under divisions (G) and (H) of this section shall separately 121447
display the levy loss for each levy eligible for reimbursement. 121448

(K) Not later than September 1, 2001, the tax commissioner 121449
shall certify the amount of the fixed-sum levy loss to the county 121450
auditor of each county in which a school district with a fixed-sum 121451
levy loss has territory. 121452

Sec. 5727.85. (A) By the thirty-first day of July of each 121453
year, beginning in 2002 and ending in ~~2016~~ 2010, the department of 121454
education shall determine the following for each school district 121455
and each joint vocational school district: 121456

(1) The state education aid offset, which, except as provided 121457
in division (A)(1)(c) of this section, is the difference obtained 121458
by subtracting the amount described in division (A)(1)(b) of this 121459
section from the amount described in division (A)(1)(a) of this 121460
section: 121461

(a) The state education aid computed for the school district 121462
or joint vocational school district for the current fiscal year as 121463
of the thirty-first day of July; 121464

(b) The state education aid that would be computed for the 121465
school district or joint vocational school district for the 121466
current fiscal year as of the thirty-first day of July if the 121467
recognized valuation included the tax value loss for the school 121468
district or joint vocational school district; 121469

(c) The state education aid offset for fiscal year 2010 and 121470
fiscal year 2011 equals the greater of the state education aid 121471
offset calculated for that fiscal year under divisions (A)(1)(a) 121472
and (b) of this section or the state education aid offset 121473
calculated for fiscal year 2009. 121474

(2) The For fiscal years 2008 through 2011, the greater of 121475
zero or the difference obtained by subtracting the state education 121476
aid offset determined under division (A)(1) of this section from 121477
the fixed-rate levy loss certified under division (J) of section 121478
5727.84 of the Revised Code for all taxing districts in each 121479
school district and joint vocational school district. 121480

By the fifth day of August of each such year, the department 121481
of education shall certify the amount so determined under division 121482
(A)(1) of this section to the director of budget and management. 121483

(B) Not later than the thirty-first day of October of the 121484
years 2006 through ~~2016~~ 2010, the department of education shall 121485
determine all of the following for each school district: 121486

(1) The amount obtained by subtracting the district's state 121487
education aid computed for fiscal year 2002 from the district's 121488
state education aid computed for the current fiscal year as of the 121489
fifteenth day of July, by including in the definition of 121490
recognized valuation the machinery and equipment, inventory, 121491
furniture and fixtures, and telephone property tax value losses, 121492
as defined in section 5751.20 of the Revised Code, for the school 121493
district or joint vocational school district for the preceding tax 121494
year; 121495

(2) The inflation-adjusted property tax loss. The 121496
inflation-adjusted property tax loss equals the fixed-rate levy 121497
loss, excluding the tax loss from levies within the ten-mill 121498
limitation to pay debt charges, determined under division (G) of 121499
section 5727.84 of the Revised Code for all taxing districts in 121500

each school district, plus the product obtained by multiplying 121501
that loss by the cumulative percentage increase in the consumer 121502
price index from January 1, 2002, to the thirtieth day of June of 121503
the current year. 121504

(3) The difference obtained by subtracting the amount 121505
computed under division (B)(1) from the amount of the 121506
inflation-adjusted property tax loss. If this difference is zero 121507
or a negative number, no further payments shall be made under 121508
division (C) of this section to the school district from the 121509
school district property tax replacement fund. 121510

(C) The Beginning in 2002 for school districts and beginning 121511
in August 2011 for joint vocational school districts, the 121512
department of education shall pay from the school district 121513
property tax replacement fund to each school district all of the 121514
following: 121515

(1) In February 2002, one-half of the fixed-rate levy loss 121516
certified under division (J) of section 5727.84 of the Revised 121517
Code between the twenty-first and twenty-eighth days of February. 121518

(2) From August 2002 through ~~August 2017~~ February 2011, 121519
one-half of the amount calculated for that fiscal year under 121520
division (A)(2) of this section between the twenty-first and 121521
twenty-eighth days of August and of February, provided the 121522
difference computed under division (B)(3) of this section is not 121523
less than or equal to zero. 121524

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the 121525
amounts in divisions (C)(3)(a) or (b) and (c) of this section 121526
shall be paid on or before the thirty-first day of August and the 121527
twenty-eighth day of February: 121528

(a) If the ratio of 2011 current expense S.B. 3 allocation to 121529
total resources is equal to or less than the threshold per cent, 121530
zero; 121531

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

~~The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.~~

~~(D)~~(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal

year under division (A)(2) of this section between the 121563
twenty-first and twenty-eighth days of August and of February. 121564

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum 121565
levy levied by each school district or joint vocational school 121566
district and for each year for which a determination is made under 121567
division (H) of section 5727.84 of the Revised Code that a 121568
fixed-sum levy loss is to be reimbursed, the tax commissioner 121569
shall certify to the department of education the fixed-sum levy 121570
loss determined under that division. The certification shall cover 121571
a time period sufficient to include all fixed-sum levies for which 121572
the tax commissioner made such a determination. The department 121573
shall pay from the school district property tax replacement fund 121574
to the school district or joint vocational school district 121575
one-half of the fixed-sum levy loss so certified for each year 121576
between the twenty-first and twenty-eighth days of August and of 121577
February. 121578

(2) Beginning in 2003, by the thirty-first day of January of 121579
each year, the tax commissioner shall review the certification 121580
originally made under division ~~(E)~~(F)(1) of this section. If the 121581
commissioner determines that a debt levy that had been scheduled 121582
to be reimbursed in the current year has expired, a revised 121583
certification for that and all subsequent years shall be made to 121584
the department of education. 121585

~~(F)~~(G) If the balance of the half-mill equalization fund 121586
created under section 3318.18 of the Revised Code is insufficient 121587
to make the full amount of payments required under division (D) of 121588
that section, the department of education, at the end of the third 121589
quarter of the fiscal year, shall certify to the director of 121590
budget and management the amount of the deficiency, and the 121591
director shall transfer an amount equal to the deficiency from the 121592
school district property tax replacement fund to the half-mill 121593
equalization fund. 121594

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, 121595
the director of budget and management shall transfer from the 121596
school district property tax replacement fund to the general 121597
revenue fund each of the following: 121598

(1) Between the twenty-eighth day of August and the fifth day 121599
of September, the lesser of one-half of the amount certified for 121600
that fiscal year under division (A)(2) of this section or the 121601
balance in the school district property tax replacement fund; 121602

(2) Between the first and fifth days of May, the lesser of 121603
one-half of the amount certified for that fiscal year under 121604
division (A)(2) of this section or the balance in the school 121605
district property tax replacement fund. 121606

~~(H)~~(I) On the first day of June each year, the director of 121607
budget and management shall transfer any balance remaining in the 121608
school district property tax replacement fund after the payments 121609
have been made under divisions (C), (D), (E), (F), ~~and (G)~~, and 121610
(H) of this section to the half-mill equalization fund created 121611
under section 3318.18 of the Revised Code to the extent required 121612
to make any payments in the current fiscal year under that 121613
section, and shall transfer the remaining balance to the general 121614
revenue fund. 121615

~~(I)~~ (J) ~~From (J) After~~ fiscal year 2002 ~~through fiscal year 2016~~, 121616
if the total amount in the school district property tax 121617
replacement fund is insufficient to make all payments under 121618
divisions (C), (D), (E), ~~and (F)~~, and (G) of this section at the 121619
time the payments are to be made, the director of budget and 121620
management shall transfer from the general revenue fund to the 121621
school district property tax replacement fund the difference 121622
between the total amount to be paid and the total amount in the 121623
school district property tax replacement fund, except that no 121624
transfer shall be made by reason of a deficiency to the extent 121625
that it results from the amendment of section 5727.84 of the 121626

Revised Code by Amended Substitute House Bill No. 95 of the 125th 121627
general assembly. 121628

~~(J)~~(K) If all of the territory of a school district or joint 121629
vocational school district is merged with an existing district, or 121630
if a part of the territory of a school district or joint 121631
vocational school district is transferred to an existing or new 121632
district, the department of education, in consultation with the 121633
tax commissioner, shall adjust the payments made under this 121634
section as follows: 121635

(1) For the merger of all of the territory of two or more 121636
districts, the ~~fixed rate levy loss and the total resources, 2011~~ 121637
~~current expense S.B. 3 allocation, total 2011 S.B. 3 allocation,~~ 121638
~~2011 non-current expense S.B. 3 allocation, and~~ fixed-sum levy 121639
loss of the successor district shall be equal to the sum of the 121640
~~fixed rate levy losses and the total resources, 2011 current~~ 121641
~~expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011~~ 121642
~~non-current expense S.B. 3 allocation, and~~ fixed-sum levy ~~losses~~ 121643
~~loss~~ for each of the districts involved in the merger. 121644

(2) For the transfer of a part of one district's territory to 121645
an existing district, the amount of the ~~fixed rate levy loss total~~ 121646
~~resources, 2011 current expense S.B. 3 allocation, total 2011 S.B.~~ 121647
~~3 allocation, and 2011 non-current expense S.B. 3 allocation~~ that 121648
is transferred to the recipient district shall be an amount equal 121649
to the transferring district's ~~total fixed rate levy loss total~~ 121650
~~resources, 2011 current expense S.B. 3 allocation, total 2011 S.B.~~ 121651
~~3 allocation, and 2011 non-current expense S.B. 3 allocation~~ times 121652
a fraction, the numerator of which is the ~~value of electric~~ 121653
~~company tangible personal property located in the part of the~~ 121654
~~territory that was~~ number of pupils being transferred to the 121655
recipient district, measured, in the case of a school district, by 121656
average daily membership as reported under division (A) of section 121657
3317.03 of the Revised Code or, in the case of a joint vocational 121658

school district, by formula ADM as reported in division (D) of 121659
that section, and the denominator of which is the ~~total value of~~ 121660
~~electric company tangible personal property located in the entire~~ 121661
~~district from which the territory was transferred. The value of~~ 121662
~~electric company tangible personal property under this division~~ 121663
~~shall be determined for the most recent year for which data is~~ 121664
available average daily membership or formula ADM of the 121665
transferor district. Fixed-sum levy losses for both districts 121666
shall be determined under division ~~(J)~~(K)(4) of this section. 121667

(3) For the transfer of a part of the territory of one or 121668
more districts to create a new district: 121669

(a) If the new district is created on or after January 1, 121670
2000, but before January 1, 2005, the new district shall be paid 121671
its current fixed-rate levy loss through August 2009. ~~From~~ In 121672
~~February 2010 to,~~ August 2016 2010, and February 2011, the new 121673
district shall be paid fifty per cent of the lesser of: (i) the 121674
amount calculated under division (C)(2) of this section or (ii) an 121675
amount equal to seventy per cent of the new district's fixed-rate 121676
levy loss ~~multiplied by the percentage prescribed by the following~~ 121677
~~schedule:~~ 121678

YEAR	PERCENTAGE	
2010	70%	121680
2011	70%	121681
2012	60%	121682
2013	50%	121683
2014	40%	121684
2015	24%	121685
2016	11.5%	121686
2017 and thereafter	0%	121687

Beginning in fiscal year 2012, the new district shall be paid 121688
as provided in division (C) of this section. 121689

Fixed-sum levy losses for the districts shall be determined 121690

under division ~~(J)~~(K)(4) of this section. 121691

(b) If the new district is created on or after January 1, 121692
2005, the new district shall be deemed not to have any fixed-rate 121693
levy loss or, except as provided in division ~~(J)~~(K)(4) of this 121694
section, fixed-sum levy loss. The district or districts from which 121695
the territory was transferred shall have no reduction in their 121696
fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) 121697
of this section, their fixed-sum levy loss. 121698

(4) If a recipient district under division ~~(J)~~(K)(2) of this 121699
section or a new district under division ~~(J)~~(K)(3)(a) or (b) of 121700
this section takes on debt from one or more of the districts from 121701
which territory was transferred, and any of the districts 121702
transferring the territory had fixed-sum levy losses, the 121703
department of education, in consultation with the tax 121704
commissioner, shall make an equitable division of the fixed-sum 121705
levy losses. 121706

~~(K) There is hereby created the public utility property tax 121707
study committee, effective January 1, 2011. The committee shall 121708
consist of the following seven members: the tax commissioner, 121709
three members of the senate appointed by the president of the 121710
senate, and three members of the house of representatives 121711
appointed by the speaker of the house of representatives. The 121712
appointments shall be made not later than January 31, 2011. The 121713
tax commissioner shall be the chairperson of the committee. 121714~~

~~The committee shall study the extent to which each school 121715
district or joint vocational school district has been compensated, 121716
under sections 5727.84 and 5727.85 of the Revised Code as enacted 121717
by Substitute Senate Bill No. 3 of the 123rd general assembly and 121718
any subsequent acts, for the property tax loss caused by the 121719
reduction in the assessment rates for natural gas, electric, and 121720
rural electric company tangible personal property. Not later than 121721
June 30, 2011, the committee shall issue a report of its findings, 121722~~

~~including any recommendations for providing additional 121723
compensation for the property tax loss or regarding remedial 121724
legislation, to the president of the senate and the speaker of the 121725
house of representatives, at which time the committee shall cease 121726
to exist. 121727~~

~~The department of taxation and department of education shall 121728
provide such information and assistance as is required for the 121729
committee to carry out its duties. 121730~~

Sec. 5727.86. (A) Not later than January 1, 2002, the tax 121731
commissioner shall compute the payments to be made to each local 121732
taxing unit for each year according to divisions (A)(1), (2), (3), 121733
and (4) and division (E) of this section, and shall distribute the 121734
payments in the manner prescribed by division (C) of this section. 121735
The calculation of the fixed-sum levy loss shall cover a time 121736
period sufficient to include all fixed-sum levies for which the 121737
tax commissioner determined, pursuant to division (H) of section 121738
5727.84 of the Revised Code, that a fixed-sum levy loss is to be 121739
reimbursed. 121740

(1) Except as provided in divisions (A)(3) and (4) of this 121741
section, ~~for fixed rate levy losses determined under division (G) 121742
of section 5727.84 of the Revised Code, payments shall be made in 121743
each of the following years at the following percentage of the 121744
fixed rate levy loss certified under division (A) of this section:~~ 121745

YEAR	PERCENTAGE	
2002	100%	121746
2003	100%	121747
2004	100%	121748
2005	100%	121749
2006	100%	121750
2007	80%	121751
2008	80%	121752
		121753

2009	80%	121754
2010	80%	121755
2011	80%	121756
2012	66.7%	121757
2013	53.4%	121758
2014	40.1%	121759
2015	26.8%	121760
2016	13.5%	121761
2017 and thereafter	0%	121762

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February: 121763
121764

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 121765
121766
121767

(b) For years 2007 through 2010, forty per cent of the fixed rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 121768
121769
121770

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February; 121771
121772
121773

(d) For the payment in 2011 to be made on or before the thirty-first day of August and for all payments to be made in years 2012 and thereafter, the sum of the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section: 121774
121775
121776
121777

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero; 121778
121779
121780

(ii) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, the difference of fifty per cent of the 2010 S.B. 3 allocation minus the product of total resources multiplied 121781
121782
121783
121784

by the threshold per cent; 121785

(iii) In the case of a municipal corporation, fifty per cent 121786
of the product of its 2010 non-current expense S.B. 3 allocation 121787
multiplied by seventy-five per cent for year 2011, fifty per cent 121788
for year 2012, and twenty-five percent for years 2013 and 121789
thereafter. 121790

(2) For fixed-sum levy losses determined under division (H) 121791
of section 5727.84 of the Revised Code, payments shall be made in 121792
the amount of one hundred per cent of the fixed-sum levy loss for 121793
payments required to be made in 2002 and thereafter. 121794

(3) A local taxing unit in a county of less than two hundred 121795
fifty square miles that receives eighty per cent or more of its 121796
combined general fund and bond retirement fund revenues from 121797
property taxes and rollbacks based on 1997 actual revenues as 121798
presented in its 1999 tax budget, and in which electric companies 121799
and rural electric companies comprise over twenty per cent of its 121800
property valuation, shall receive one hundred per cent of its 121801
fixed-rate levy losses from electric company tax value losses 121802
certified under division (A) of this section in years 2002 to ~~2016~~ 121803
2010. Beginning in 2011, payments for such local taxing units 121804
shall be determined under division (A)(1) of this section. 121805

(4) For taxes levied within the ten-mill limitation or 121806
pursuant to a municipal charter for debt purposes in tax year 1998 121807
in the case of electric company tax value losses, and in tax year 121808
1999 in the case of natural gas company tax value losses, payments 121809
shall be made equal to one hundred per cent of the loss computed 121810
as if the tax were a fixed-rate levy, but those payments shall 121811
extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year~~ 2016 if the 121812
levy was imposed for debt purposes in tax year 2010. If the levy 121813
is not imposed for debt purposes in tax year 2010 or any following 121814
tax year before tax year 2016, payments for that levy shall be 121815
made under division (A)(1) of this section beginning with the 121816

first year after the year the levy is imposed for a purpose other 121817
than debt. For the purposes of this division, taxes levied 121818
pursuant to a municipal charter refer to taxes levied pursuant to 121819
a provision of a municipal charter that permits the tax to be 121820
levied without prior voter approval. 121821

(B) Beginning in 2003, by the thirty-first day of January of 121822
each year, the tax commissioner shall review the calculation 121823
originally made under division (A) of this section of the 121824
fixed-sum levy loss determined under division (H) of section 121825
5727.84 of the Revised Code. If the commissioner determines that a 121826
fixed-sum levy that had been scheduled to be reimbursed in the 121827
current year has expired, a revised calculation for that and all 121828
subsequent years shall be made. 121829

(C) Payments to local taxing units required to be made under 121830
divisions (A) and (E) of this section shall be paid from the local 121831
government property tax replacement fund to the county undivided 121832
income tax fund in the proper county treasury. ~~One half of the~~ 121833
~~amount certified under those divisions shall be paid between the~~ 121834
~~twenty first and twenty eighth days of August and of February.~~ The 121835
county treasurer shall distribute amounts paid under division (A) 121836
of this section to the proper local taxing unit as if they had 121837
been levied and collected as taxes, and the local taxing unit 121838
shall apportion the amounts so received among its funds in the 121839
same proportions as if those amounts had been levied and collected 121840
as taxes. Except in the case of amounts distributed to the county 121841
as a local taxing unit, amounts distributed under division (E)(2) 121842
of this section shall be credited to the general fund of the local 121843
taxing unit that receives them. Amounts distributed to each county 121844
as a local taxing unit under division (E)(2) of this section shall 121845
be credited in the proportion that the current taxes charged and 121846
payable from each levy of or by the county bears to the total 121847
current taxes charged and payable from all levies of or by the 121848

county. 121849

(D) By February 5, 2002, the tax commissioner shall estimate 121850
the amount of money in the local government property tax 121851
replacement fund in excess of the amount necessary to make 121852
payments in that month under division (C) of this section. 121853
Notwithstanding division (A) of this section, the tax commissioner 121854
may pay any local taxing unit, from those excess funds, nine and 121855
four-tenths times the amount computed for 2002 under division 121856
(A)(1) of this section. A payment made under this division shall 121857
be in lieu of the payment to be made in February 2002 under 121858
division (A)(1) of this section. A local taxing unit receiving a 121859
payment under this division will no longer be entitled to any 121860
further payments under division (A)(1) of this section. A payment 121861
made under this division shall be paid from the local government 121862
property tax replacement fund to the county undivided income tax 121863
fund in the proper county treasury. The county treasurer shall 121864
distribute the payment to the proper local taxing unit as if it 121865
had been levied and collected as taxes, and the local taxing unit 121866
shall apportion the amounts so received among its funds in the 121867
same proportions as if those amounts had been levied and collected 121868
as taxes. 121869

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 121870
2005, and 2006, and on the thirty-first day of January and July of 121871
2007 ~~and each year thereafter~~ through January 2011, if the amount 121872
credited to the local government property tax replacement fund 121873
exceeds the amount needed to be distributed from the fund under 121874
division (A) of this section in the following month, the tax 121875
commissioner shall distribute the excess to each county as 121876
follows: 121877

(a) One-half shall be distributed to each county in 121878
proportion to each county's population. 121879

(b) One-half shall be distributed to each county in the 121880

proportion that the amounts determined under divisions (G) and (H) 121881
of section 5727.84 of the Revised Code for all local taxing units 121882
in the county is of the total amounts so determined for all local 121883
taxing units in the state. 121884

(2) The amounts distributed to each county under division (E) 121885
of this section shall be distributed by the county auditor to each 121886
local taxing unit in the county in the proportion that the unit's 121887
current taxes charged and payable are of the total current taxes 121888
charged and payable of all the local taxing units in the county. 121889
If the amount that the county auditor determines to be distributed 121890
to a local taxing unit is less than five dollars, that amount 121891
shall not be distributed, and the amount not distributed shall 121892
remain credited to the county undivided income tax fund. At the 121893
time of the next distribution under division (E)(2) of this 121894
section, any amount that had not been distributed in the prior 121895
distribution shall be added to the amount available for the next 121896
distribution prior to calculation of the amount to be distributed. 121897
As used in this division, "current taxes charged and payable" 121898
means the taxes charged and payable as most recently determined 121899
for local taxing units in the county. 121900

~~(3) If, in the opinion of the tax commissioner, the excess 121901
remaining in the local government property tax replacement fund in 121902
any year is not sufficient to warrant distribution After January 121903
2011, any amount that exceeds the amount needed to be distributed 121904
from the fund under division ~~(E)(A)~~ of this section, ~~the excess~~ 121905
~~shall remain to the credit of~~ in the following month shall be 121906
transferred to the general revenue fund. 121907~~

~~(F) From fiscal year 2002 through fiscal year 2016, if If the 121908
total amount in the local government property tax replacement fund 121909
is insufficient to make all payments under division (C) of this 121910
section at the times the payments are to be made, the director of 121911
budget and management shall transfer from the general revenue fund 121912~~

to the local government property tax replacement fund the 121913
difference between the total amount to be paid and the amount in 121914
the local government property tax replacement fund, except that no 121915
transfer shall be made by reason of a deficiency to the extent 121916
that it results from the amendment of section 5727.84 of the 121917
Revised Code by Amended Substitute House Bill 95 of the 125th 121918
general assembly. 121919

(G) If all or a part of the territories of two or more local 121920
taxing units are merged, or unincorporated territory of a township 121921
is annexed by a municipal corporation, the tax commissioner shall 121922
adjust the payments made under this section to each of the local 121923
taxing units in proportion to the ~~tax value loss~~ square mileage 121924
apportioned to the merged or annexed territory, or as otherwise 121925
provided by a written agreement between the legislative 121926
authorities of the local taxing units certified to the tax 121927
commissioner not later than the first day of June of the calendar 121928
year in which the payment is to be made. 121929

Sec. 5729.17. (A) As used in this section, "certificate 121930
owner" has the same meaning as in section 149.311 of the Revised 121931
Code. 121932

(B) There is allowed a credit against the tax imposed by 121933
section 5729.03 of the Revised Code for an insurance company 121934
subject to that tax that is a certificate owner of a 121935
rehabilitation tax credit certificate issued under section 149.311 121936
of the Revised Code. The credit shall equal twenty-five per cent 121937
of the dollar amount indicated on the certificate, but the amount 121938
of the credit allowed for any company for any year shall not 121939
exceed five million dollars. The credit shall be claimed in the 121940
calendar year specified in the certificate and in the order 121941
required under section 5729.98 of the Revised Code. If the credit 121942
exceeds the amount of tax otherwise due in that year, the excess 121943

shall be refunded to the company but, if any amount of the credit 121944
is refunded, the sum of the amount refunded and the amount applied 121945
to reduce the tax otherwise due in that year shall not exceed 121946
three million dollars. The company may carry forward any balance 121947
of the credit in excess of the amount claimed in that year for not 121948
more than five ensuing years, and shall deduct any amount claimed 121949
in any such year from the amount claimed in an ensuing year. 121950

(C) An insurance company claiming a credit under this section 121951
shall retain the rehabilitation tax credit certificate for four 121952
years following the end of the year in which the credit was 121953
claimed, and shall make the certificate available for inspection 121954
by the tax commissioner upon the request of the tax commissioner 121955
during that period. 121956

Sec. 5729.98. (A) To provide a uniform procedure for 121957
calculating the amount of tax due under this chapter, a taxpayer 121958
shall claim any credits and offsets against tax liability to which 121959
it is entitled in the following order: 121960

(1) The credit for an insurance company or insurance company 121961
group under section 5729.031 of the Revised Code; 121962

(2) The credit for eligible employee training costs under 121963
section 5729.07 of the Revised Code; 121964

(3) The credit for purchases of qualified low-income 121965
community investments under section 5729.16 of the Revised Code; 121966

(4) The nonrefundable job retention credit under division 121967
(B)(1) of section 122.171 of the Revised Code; 121968

(5) The offset of assessments by the Ohio life and health 121969
insurance guaranty association against tax liability permitted by 121970
section 3956.20 of the Revised Code; 121971

(6) The refundable credit for rehabilitating a historic 121972
building under section 5729.17 of the Revised Code. 121973

<u>(7)</u> The refundable credit for Ohio job retention under	121974	
division (B)(2) <u>or (3)</u> of section 122.171 of the Revised Code;	121975	
(7) <u>(8)</u> The refundable credit for Ohio job creation under	121976	
section 5729.032 of the Revised Code;	121977	
(8) <u>(9)</u> The refundable credit under section 5729.08 of the	121978	
Revised Code for losses on loans made under the Ohio venture	121979	
capital program under sections 150.01 to 150.10 of the Revised	121980	
Code.	121981	
(B) For any credit except the refundable credits enumerated	121982	
in this section, the amount of the credit for a taxable year shall	121983	
not exceed the tax due after allowing for any other credit that	121984	
precedes it in the order required under this section. Any excess	121985	
amount of a particular credit may be carried forward if authorized	121986	
under the section creating that credit. Nothing in this chapter	121987	
shall be construed to allow a taxpayer to claim, directly or	121988	
indirectly, a credit more than once for a taxable year.	121989	
Sec. 5731.02. (A) A tax is hereby levied on the transfer of	121990	
the taxable estate, determined as provided in section 5731.14 of	121991	
the Revised Code, of every person dying on or after July 1, 1968,	121992	
<u>and before January 1, 2013,</u> who at the time of death was a	121993	
resident of this state, as follows:	121994	
If the taxable estate is:	The tax shall be:	121995
Not over \$40,000	2% of the taxable estate	121996
Over \$40,000 but not over	\$800 plus 3% of the excess over	121997
\$100,000	\$40,000	
Over \$100,000 but not over	\$2,600 plus 4% of the excess over	121998
\$200,000	\$100,000	
Over \$200,000 but not over	\$6,600 plus 5% of the excess over	121999
\$300,000	\$200,000	
Over \$300,000 but not over	\$11,600 plus 6% of the excess	122000
\$500,000	over \$300,000	

Over \$500,000 \$23,600 plus 7% of the excess 122001
over \$500,000.

(B) A credit shall be allowed against the tax imposed by 122002
division (A) of this section equal to the lesser of five hundred 122003
dollars or the amount of the tax for persons dying on or after 122004
July 1, 1968, but before January 1, 2001; the lesser of six 122005
thousand six hundred dollars or the amount of the tax for persons 122006
dying on or after January 1, 2001, but before January 1, 2002; or 122007
the lesser of thirteen thousand nine hundred dollars or the amount 122008
of the tax for persons dying on or after January 1, 2002. 122009

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 122010
so much of the taxable estate of every person dying on or after 122011
July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ 122012
death, was not a resident of this state, as consists of real 122013
property situated in this state, tangible personal property having 122014
an actual situs in this state, and intangible personal property 122015
employed in carrying on a business within this state unless 122016
exempted from tax under the provisions of section 5731.34 of the 122017
Revised Code. 122018

(B) The amount of the tax on such real and tangible personal 122019
property shall be determined as follows: 122020

(1) Determine the amount of tax which would be payable under 122021
Chapter 5731. of the Revised Code if the decedent had died a 122022
resident of this state with all ~~his~~ the decedent's property 122023
situated or located within this state; 122024

(2) Multiply the tax so determined by a fraction, the 122025
denominator of which shall be the value of the gross estate 122026
wherever situated and the numerator of which shall be the said 122027
gross estate value of the real property situated and the tangible 122028
personal property having an actual situs in this state and 122029
intangible personal property employed in carrying on a business 122030

within this state and not exempted from tax under section 5731.34 122031
of the Revised Code. The product shall be the amount of tax 122032
payable to this state. 122033

(C) In addition to the tax levied by division (A) of this 122034
section, an additional tax is hereby levied on such real and 122035
tangible personal property determined as follows: 122036

(1) Determine the amount of tax which would be payable under 122037
division (A) of section 5731.18 of the Revised Code, if the 122038
decedent had died a resident of this state with all ~~his~~ the 122039
decedent's property situated or located within this state; 122040

(2) Multiply the tax so determined by a fraction, the 122041
denominator of which shall be the value of the gross estate 122042
wherever situated and the numerator of which shall be the said 122043
gross estate value of the real property situated and the tangible 122044
property having an actual situs in this state and intangible 122045
personal property employed in carrying on a business within this 122046
state and not exempted from tax under section 5731.34 of the 122047
Revised Code. The product so derived shall be credited with the 122048
amount of the tax determined under division (B) of this section. 122049

Sec. 5731.21. (A)(1)(a) Except as provided under division 122050
(A)(3) of this section, the executor or administrator, or, if no 122051
executor or administrator has been appointed, another person in 122052
possession of property the transfer of which is subject to estate 122053
taxes under section 5731.02 or division (A) of section 5731.19 of 122054
the Revised Code, shall file an estate tax return, within nine 122055
months of the date of the decedent's death, in the form prescribed 122056
by the tax commissioner, in duplicate, with the probate court of 122057
the county. The return shall include all property the transfer of 122058
which is subject to estate taxes, whether that property is 122059
transferred under the last will and testament of the decedent or 122060
otherwise. The time for filing the return may be extended by the 122061

tax commissioner. 122062

(b) The estate tax return described in division (A)(1)(a) of 122063
this section shall be accompanied by a certificate, in the form 122064
prescribed by the tax commissioner, that is signed by the 122065
executor, administrator, or other person required to file the 122066
return, and that states all of the following: 122067

(i) The fact that the return was filed; 122068

(ii) The date of the filing of the return; 122069

(iii) The fact that the estate taxes under section 5731.02 or 122070
division (A) of section 5731.19 of the Revised Code, that are 122071
shown to be due in the return, have been paid in full; 122072

(iv) If applicable, the fact that real property listed in the 122073
inventory for the decedent's estate is included in the return; 122074

(v) If applicable, the fact that real property not listed in 122075
the inventory for the decedent's estate, including, but not 122076
limited to, survivorship tenancy property as described in section 122077
5302.17 of the Revised Code or transfer on death property as 122078
described in sections 5302.22 and 5302.23 of the Revised Code, 122079
also is included in the return. In this regard, the certificate 122080
additionally shall describe that real property by the same 122081
description used in the return. 122082

(2) The probate court shall forward one copy of the estate 122083
tax return described in division (A)(1)(a) of this section to the 122084
tax commissioner. 122085

(3) A person shall not be required to file a return under 122086
division (A) of this section if the decedent was a resident of 122087
this state and the value of the decedent's gross estate is 122088
twenty-five thousand dollars or less in the case of a decedent 122089
dying on or after July 1, 1968, but before January 1, 2001; two 122090
hundred thousand dollars or less in the case of a decedent dying 122091

on or after January 1, 2001, but before January 1, 2002; or three 122092
hundred thirty-eight thousand three hundred thirty-three dollars 122093
or less in the case of a decedent dying on or after January 1, 122094
2002. No return shall be filed for estates of decedents dying on 122095
or after January 1, 2013. 122096

(4)(a) Upon receipt of the estate tax return described in 122097
division (A)(1)(a) of this section and the accompanying 122098
certificate described in division (A)(1)(b) of this section, the 122099
probate court promptly shall give notice of the return, by a form 122100
prescribed by the tax commissioner, to the county auditor. The 122101
auditor then shall make a charge based upon the notice and shall 122102
certify a duplicate of the charge to the county treasurer. The 122103
treasurer then shall collect, subject to division (A) of section 122104
5731.25 of the Revised Code or any other statute extending the 122105
time for payment of an estate tax, the tax so charged. 122106

(b) Upon receipt of the return and the accompanying 122107
certificate, the probate court also shall forward the certificate 122108
to the auditor. When satisfied that the estate taxes under section 122109
5731.02 or division (A) of section 5731.19 of the Revised Code, 122110
that are shown to be due in the return, have been paid in full, 122111
the auditor shall stamp the certificate so forwarded to verify 122112
that payment. The auditor then shall return the stamped 122113
certificate to the probate court. 122114

(5)(a) The certificate described in division (A)(1)(b) of 122115
this section is a public record subject to inspection and copying 122116
in accordance with section 149.43 of the Revised Code. It shall be 122117
kept in the records of the probate court pertaining to the 122118
decedent's estate and is not subject to the confidentiality 122119
provisions of section 5731.90 of the Revised Code. 122120

(b) All persons are entitled to rely on the statements 122121
contained in a certificate as described in division (A)(1)(b) of 122122
this section if it has been filed in accordance with that 122123

division, forwarded to a county auditor and stamped in accordance 122124
with division (A)(4) of this section, and placed in the records of 122125
the probate court pertaining to the decedent's estate in 122126
accordance with division (A)(5)(a) of this section. The real 122127
property referred to in the certificate shall be free of, and may 122128
be regarded by all persons as being free of, any lien for estate 122129
taxes under section 5731.02 and division (A) of section 5731.19 of 122130
the Revised Code. 122131

(B) An estate tax return filed under this section, in the 122132
form prescribed by the tax commissioner, and showing that no 122133
estate tax is due shall result in a determination that no estate 122134
tax is due, if the tax commissioner within three months after the 122135
receipt of the return by the department of taxation, fails to file 122136
exceptions to the return in the probate court of the county in 122137
which the return was filed. A copy of exceptions to a return of 122138
that nature, when the tax commissioner files them within that 122139
period, shall be sent by ordinary mail to the person who filed the 122140
return. The tax commissioner is not bound under this division by a 122141
determination that no estate tax is due, with respect to property 122142
not disclosed in the return. 122143

(C) If the executor, administrator, or other person required 122144
to file an estate tax return fails to file it within nine months 122145
of the date of the decedent's death, the tax commissioner may 122146
determine the estate tax in that estate and issue a certificate of 122147
determination in the same manner as is provided in division (B) of 122148
section 5731.27 of the Revised Code. A certificate of 122149
determination of that nature has the same force and effect as 122150
though a return had been filed and a certificate of determination 122151
issued with respect to the return. 122152

Sec. 5731.39. (A) No corporation organized or existing under 122153
the laws of this state shall transfer on its books or issue a new 122154

certificate for any share of its capital stock registered in the 122155
name of a decedent, or in trust for a decedent, or in the name of 122156
a decedent and another person or persons, without the written 122157
consent of the tax commissioner. 122158

(B) No safe deposit company, trust company, financial 122159
institution as defined in division (A) of section 5725.01 of the 122160
Revised Code or other corporation or person, having in possession, 122161
control, or custody a deposit standing in the name of a decedent, 122162
or in trust for a decedent, or in the name of a decedent and 122163
another person or persons, shall deliver or transfer an amount in 122164
excess of three-fourths of the total value of such deposit, 122165
including accrued interest and dividends, as of the date of 122166
decedent's death, without the written consent of the tax 122167
commissioner. The written consent of the tax commissioner need not 122168
be obtained prior to the delivery or transfer of amounts having a 122169
value of three-fourths or less of said total value. 122170

(C) No life insurance company shall pay the proceeds of an 122171
annuity or matured endowment contract, or of a life insurance 122172
contract payable to the estate of a decedent, or of any other 122173
insurance contract taxable under Chapter 5731. of the Revised 122174
Code, without the written consent of the tax commissioner. Any 122175
life insurance company may pay the proceeds of any insurance 122176
contract not specified in this division (C) without the written 122177
consent of the tax commissioner. 122178

(D) No trust company or other corporation or person shall pay 122179
the proceeds of any death benefit, retirement, pension or profit 122180
sharing plan in excess of two thousand dollars, without the 122181
written consent of the tax commissioner. Such trust company or 122182
other corporation or person, however, may pay the proceeds of any 122183
death benefit, retirement, pension, or profit-sharing plan which 122184
consists of insurance on the life of the decedent payable to a 122185
beneficiary other than the estate of the insured without the 122186

written consent of the tax commissioner. 122187

(E) No safe deposit company, trust company, financial 122188
institution as defined in division (A) of section 5725.01 of the 122189
Revised Code, or other corporation or person, having in 122190
possession, control, or custody securities, assets, or other 122191
property (including the shares of the capital stock of, or other 122192
interest in, such safe deposit company, trust company, financial 122193
institution as defined in division (A) of section 5725.01 of the 122194
Revised Code, or other corporation), standing in the name of a 122195
decedent, or in trust for a decedent, or in the name of a decedent 122196
and another person or persons, and the transfer of which is 122197
taxable under Chapter 5731. of the Revised Code, shall deliver or 122198
transfer any such securities, assets, or other property which have 122199
a value as of the date of decedent's death in excess of 122200
three-fourths of the total value thereof, without the written 122201
consent of the tax commissioner. The written consent of the tax 122202
commissioner need not be obtained prior to the delivery or 122203
transfer of any such securities, assets, or other property having 122204
a value of three-fourths or less of said total value. 122205

(F) No safe deposit company, financial institution as defined 122206
in division (A) of section 5725.01 of the Revised Code, or other 122207
corporation or person having possession or control of a safe 122208
deposit box or similar receptacle standing in the name of a 122209
decedent or in the name of the decedent and another person or 122210
persons, or to which the decedent had a right of access, except 122211
when such safe deposit box or other receptacle stands in the name 122212
of a corporation or partnership, or in the name of the decedent as 122213
guardian or executor, shall deliver any of the contents thereof 122214
unless the safe deposit box or similar receptacle has been opened 122215
and inventoried in the presence of the tax commissioner or the 122216
commissioner's agent, and a written consent to transfer issued; 122217
provided, however, that a safe deposit company, financial 122218

institution, or other corporation or person having possession or 122219
control of a safe deposit box may deliver wills, deeds to burial 122220
lots, and insurance policies to a representative of the decedent, 122221
but that a representative of the safe deposit company, financial 122222
institution, or other corporation or person must supervise the 122223
opening of the box and make a written record of the wills, deeds, 122224
and policies removed. Such written record shall be included in the 122225
tax commissioner's inventory records. 122226

(G) Notwithstanding any provision of this section: 122227

(1) The tax commissioner may authorize any delivery or 122228
transfer or waive any of the foregoing requirements under such 122229
terms and conditions as the commissioner may prescribe; 122230

(2) An adult care facility, as defined in section ~~3722.01~~ 122231
5119.70 of the Revised Code, or a home, as defined in section 122232
3721.10 of the Revised Code, may transfer or use the money in a 122233
personal needs allowance account in accordance with section 122234
5111.113 of the Revised Code without the written consent of the 122235
tax commissioner, and without the account having been opened and 122236
inventoried in the presence of the commissioner or the 122237
commissioner's agent. 122238

Failure to comply with this section shall render such safe 122239
deposit company, trust company, life insurance company, financial 122240
institution as defined in division (A) of section 5725.01 of the 122241
Revised Code, or other corporation or person liable for the amount 122242
of the taxes and interest due under the provisions of Chapter 122243
5731. of the Revised Code on the transfer of such stock, deposit, 122244
proceeds of an annuity or matured endowment contract or of a life 122245
insurance contract payable to the estate of a decedent, or other 122246
insurance contract taxable under Chapter 5731. of the Revised 122247
Code, proceeds of any death benefit, retirement, pension, or 122248
profit sharing plan in excess of two thousand dollars, or 122249
securities, assets, or other property of any resident decedent, 122250

and in addition thereto, to a penalty of not less than five 122251
hundred or more than five thousand dollars. 122252

Sec. 5733.0610. (A) A refundable corporation franchise tax 122253
credit granted by the tax credit authority under section 122.17 or 122254
division (B)(2) or (3) of section 122.171 of the Revised Code may 122255
be claimed under this chapter in the order required under section 122256
5733.98 of the Revised Code. For purposes of making tax payments 122257
under this chapter, taxes equal to the amount of the refundable 122258
credit shall be considered to be paid to this state on the first 122259
day of the tax year. The refundable credit shall not be claimed 122260
for any tax years following the calendar year in which a 122261
relocation of employment positions occurs in violation of an 122262
agreement entered into under section 122.171 of the Revised Code. 122263

(B) A nonrefundable corporation franchise tax credit granted 122264
by the tax credit authority under division (B)(1) of section 122265
122.171 of the Revised Code may be claimed under this chapter in 122266
the order required under section 5733.98 of the Revised Code. 122267

Sec. 5733.23. In addition to all other remedies for the 122268
collection of any taxes or penalties due under law, whenever any 122269
taxes, fees, or penalties due from any corporation have remained 122270
unpaid for a period of ninety days, or whenever any corporation 122271
has failed for a period of ninety days to make any report or 122272
return required by law, or to pay any penalty for failure to make 122273
or file such report or return, the attorney general, upon the 122274
request of the tax commissioner, shall file a petition in the 122275
court of common pleas in the county of the state in which such 122276
corporation has its principal place of business for a judgment for 122277
the amount of the taxes or penalties appearing to be due, the 122278
enforcement of any lien in favor of the state, and an injunction 122279
to restrain such corporation and its officers, directors, and 122280
managing agents from the transaction of any business within this 122281

state, other than such acts as are incidental to liquidation or 122282
winding up, until the payment of such taxes, fees, and penalties, 122283
and the costs of the proceeding which shall be fixed by the court, 122284
or the making and filing of such report or return. 122285

Such petition shall be in the name of the state. All or any 122286
of the corporations having their principal places of business in 122287
the county may be joined in one suit. On the motion of the 122288
attorney general, the court of common pleas shall enter an order 122289
requiring all defendants to answer by a day certain, and may 122290
appoint a special master commissioner to take testimony, with such 122291
other power and authority as the court confers, and permitting 122292
process to be served by registered mail and by publication in a 122293
newspaper of general circulation ~~published~~ in the county, which 122294
publication need not be made more than once, setting forth the 122295
name of each delinquent corporation, the matter in which such 122296
corporation is delinquent, the names of its officers, directors, 122297
and managing agents, if set forth in the petition, and the amount 122298
of any taxes, fees, or penalties claimed to be owing by said 122299
corporation. 122300

All or any of the officers, directors, shareholders, or 122301
managing agents of any corporation may be joined as defendants 122302
with such corporation. 122303

If it appears to the court upon hearing that any corporation 122304
which is a party to such proceeding is indebted to the state for 122305
taxes, fees, or penalties, judgment shall be entered therefor with 122306
interest; and if it appears that any corporation has failed to 122307
make or file any report or return, a mandatory injunction may be 122308
issued against such corporation, its officers, directors, and 122309
managing agents, enjoining them from the transaction of any 122310
business within this state, other than acts incidental to 122311
liquidation or winding up, until the making and filing of all 122312
proper reports or returns and until the payment in full of all 122313

taxes, fees, and penalties. 122314

If the officers, directors, shareholders, or managing agents 122315
of a corporation are not made parties in the first instance, and a 122316
judgment or an injunction is rendered or issued against such 122317
corporation, such officers, directors, shareholders, or managing 122318
agents may be made parties to such proceedings upon the motion of 122319
the attorney general, and, upon notice to them of the form and 122320
terms of such injunction, they shall be bound thereby as fully as 122321
if they had been made parties in the first instance. 122322

In any action authorized by this section, a statement of the 122323
commissioner, or the secretary of state, when duly certified, 122324
shall be prima-facie evidence of the amount of taxes, fees, or 122325
penalties due from any corporation, or of the failure of any 122326
corporation to file with the commissioner or the secretary of 122327
state any report required by law, and any such certificate of the 122328
commissioner or the secretary of state may be required in evidence 122329
in any such proceeding. 122330

On the application of any defendant and for good cause shown, 122331
the court may order a separate hearing of the issues as to any 122332
defendant. 122333

The costs of the proceeding shall be apportioned among the 122334
parties as the court deems proper. 122335

The court in such proceeding may make, enter, and enforce 122336
such other judgments and orders and grant such other relief as is 122337
necessary or incidental to the enforcement of the claims and lien 122338
of the state. 122339

In the performance of the duties enjoined upon ~~him~~ the 122340
attorney general by this section the attorney general may direct 122341
any prosecuting attorney to bring an action, as authorized by this 122342
section, in the name of the state with respect to any delinquent 122343
corporations within ~~his~~ the prosecuting attorney's county, and 122344

like proceedings and orders shall be had as if such action were 122345
instituted by the attorney general. 122346

Sec. 5733.351. (A) As used in this section, "qualified 122347
research expenses" has the same meaning as in section 41 of the 122348
Internal Revenue Code. 122349

(B)(1) A nonrefundable credit is allowed against the tax 122350
imposed by section 5733.06 of the Revised Code for tax year 2002 122351
for a taxpayer whose taxable year for tax year 2002 ended before 122352
July 1, 2001. The credit shall equal seven per cent of the excess 122353
of qualified research expenses incurred in this state by the 122354
taxpayer between January 1, 2001, and the end of the taxable year, 122355
over the taxpayer's average annual qualified research expenses 122356
incurred in this state for the three preceding taxable years. 122357

(2) A nonrefundable credit also is allowed against the tax 122358
imposed by section 5733.06 of the Revised Code for each tax year, 122359
commencing with tax year 2004, and in the case of a corporation 122360
subject to division (G)(2) of section 5733.01 of the Revised Code 122361
ending with tax year 2008. The credit shall equal seven per cent 122362
of the excess of qualified research expenses incurred in this 122363
state by the taxpayer for the taxable year over the taxpayer's 122364
average annual qualified research expenses incurred in this state 122365
for the three preceding taxable years. 122366

(3) The taxpayer shall claim the credit allowed under 122367
division (B)(1) or (2) of this section in the order required by 122368
section 5733.98 of the Revised Code. Any credit amount in excess 122369
of the tax due under section 5733.06 of the Revised Code, after 122370
allowing for any other credits that precede the credit under this 122371
section in the order required under section 5733.98 of the Revised 122372
Code, may be carried forward for seven taxable years, but the 122373
amount of the excess credit allowed in any such year shall be 122374
deducted from the balance carried forward to the next year. A 122375

corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.51 of the Revised Code, provided that the total number of taxable years under this section and calendar years under Chapter 5751. of the Revised Code for which the credit is carried forward shall not exceed seven.

(C) In the case of a qualifying controlled group, the credit allowed under division (B)(1) or (2) of this section to taxpayers in the qualifying controlled group shall be computed as if all corporations in the qualifying controlled group were a consolidated, single taxpayer. For purposes of this division, an insurance company subject to the tax levied under section 5727.18 or Chapter 5729. of the Revised Code may be considered a member of a qualifying controlled group by the group, even though the insurance company is not subject to the tax levied under section 5733.06 of the Revised Code. The credit shall be allocated to such taxpayers in any amount elected for the taxable year by the qualifying controlled group. The election shall be revocable and amendable during the period prescribed by division (B) of section 5733.12 of the Revised Code.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by

exchange, and by any means whatsoever: 122407

(1) All transactions by which title or possession, or both, 122408
of tangible personal property, is or is to be transferred, or a 122409
license to use or consume tangible personal property is or is to 122410
be granted; 122411

(2) All transactions by which lodging by a hotel is or is to 122412
be furnished to transient guests; 122413

(3) All transactions by which: 122414

(a) An item of tangible personal property is or is to be 122415
repaired, except property, the purchase of which would not be 122416
subject to the tax imposed by section 5739.02 of the Revised Code; 122417

(b) An item of tangible personal property is or is to be 122418
installed, except property, the purchase of which would not be 122419
subject to the tax imposed by section 5739.02 of the Revised Code 122420
or property that is or is to be incorporated into and will become 122421
a part of a production, transmission, transportation, or 122422
distribution system for the delivery of a public utility service; 122423

(c) The service of washing, cleaning, waxing, polishing, or 122424
painting a motor vehicle is or is to be furnished; 122425

(d) Until August 1, 2003, industrial laundry cleaning 122426
services are or are to be provided and, on and after August 1, 122427
2003, laundry and dry cleaning services are or are to be provided; 122428

(e) Automatic data processing, computer services, or 122429
electronic information services are or are to be provided for use 122430
in business when the true object of the transaction is the receipt 122431
by the consumer of automatic data processing, computer services, 122432
or electronic information services rather than the receipt of 122433
personal or professional services to which automatic data 122434
processing, computer services, or electronic information services 122435
are incidental or supplemental. Notwithstanding any other 122436

provision of this chapter, such transactions that occur between 122437
members of an affiliated group are not sales. An "affiliated 122438
group" means two or more persons related in such a way that one 122439
person owns or controls the business operation of another member 122440
of the group. In the case of corporations with stock, one 122441
corporation owns or controls another if it owns more than fifty 122442
per cent of the other corporation's common stock with voting 122443
rights. 122444

(f) Telecommunications service, including prepaid calling 122445
service, prepaid wireless calling service, or ancillary service, 122446
is or is to be provided, but not including coin-operated telephone 122447
service; 122448

(g) Landscaping and lawn care service is or is to be 122449
provided; 122450

(h) Private investigation and security service is or is to be 122451
provided; 122452

(i) Information services or tangible personal property is 122453
provided or ordered by means of a nine hundred telephone call; 122454

(j) Building maintenance and janitorial service is or is to 122455
be provided; 122456

(k) Employment service is or is to be provided; 122457

(l) Employment placement service is or is to be provided; 122458

(m) Exterminating service is or is to be provided; 122459

(n) Physical fitness facility service is or is to be 122460
provided; 122461

(o) Recreation and sports club service is or is to be 122462
provided; 122463

(p) On and after August 1, 2003, satellite broadcasting 122464
service is or is to be provided; 122465

(q) On and after August 1, 2003, personal care service is or 122466
is to be provided to an individual. As used in this division, 122467
"personal care service" includes skin care, the application of 122468
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 122469
piercing, tanning, massage, and other similar services. "Personal 122470
care service" does not include a service provided by or on the 122471
order of a licensed physician or licensed chiropractor, or the 122472
cutting, coloring, or styling of an individual's hair. 122473

(r) On and after August 1, 2003, the transportation of 122474
persons by motor vehicle or aircraft is or is to be provided, when 122475
the transportation is entirely within this state, except for 122476
transportation provided by an ambulance service, by a transit bus, 122477
as defined in section 5735.01 of the Revised Code, and 122478
transportation provided by a citizen of the United States holding 122479
a certificate of public convenience and necessity issued under 49 122480
U.S.C. 41102; 122481

(s) On and after August 1, 2003, motor vehicle towing service 122482
is or is to be provided. As used in this division, "motor vehicle 122483
towing service" means the towing or conveyance of a wrecked, 122484
disabled, or illegally parked motor vehicle. 122485

(t) On and after August 1, 2003, snow removal service is or 122486
is to be provided. As used in this division, "snow removal 122487
service" means the removal of snow by any mechanized means, but 122488
does not include the providing of such service by a person that 122489
has less than five thousand dollars in sales of such service 122490
during the calendar year. 122491

(u) Electronic publishing service is or is to be provided to 122492
a consumer for use in business, except that such transactions 122493
occurring between members of an affiliated group, as defined in 122494
division (B)(3)(e) of this section, are not sales. 122495

(4) All transactions by which printed, imprinted, 122496

overprinted, lithographic, multilithic, blueprinted, photostatic, 122497
or other productions or reproductions of written or graphic matter 122498
are or are to be furnished or transferred; 122499

(5) The production or fabrication of tangible personal 122500
property for a consideration for consumers who furnish either 122501
directly or indirectly the materials used in the production of 122502
fabrication work; and include the furnishing, preparing, or 122503
serving for a consideration of any tangible personal property 122504
consumed on the premises of the person furnishing, preparing, or 122505
serving such tangible personal property. Except as provided in 122506
section 5739.03 of the Revised Code, a construction contract 122507
pursuant to which tangible personal property is or is to be 122508
incorporated into a structure or improvement on and becoming a 122509
part of real property is not a sale of such tangible personal 122510
property. The construction contractor is the consumer of such 122511
tangible personal property, provided that the sale and 122512
installation of carpeting, the sale and installation of 122513
agricultural land tile, the sale and erection or installation of 122514
portable grain bins, or the provision of landscaping and lawn care 122515
service and the transfer of property as part of such service is 122516
never a construction contract. 122517

As used in division (B)(5) of this section: 122518

(a) "Agricultural land tile" means fired clay or concrete 122519
tile, or flexible or rigid perforated plastic pipe or tubing, 122520
incorporated or to be incorporated into a subsurface drainage 122521
system appurtenant to land used or to be used ~~directly~~ primarily 122522
in production by farming, agriculture, horticulture, or 122523
floriculture. The term does not include such materials when they 122524
are or are to be incorporated into a drainage system appurtenant 122525
to a building or structure even if the building or structure is 122526
used or to be used in such production. 122527

(b) "Portable grain bin" means a structure that is used or to 122528

be used by a person engaged in farming or agriculture to shelter 122529
the person's grain and that is designed to be disassembled without 122530
significant damage to its component parts. 122531

(6) All transactions in which all of the shares of stock of a 122532
closely held corporation are transferred, if the corporation is 122533
not engaging in business and its entire assets consist of boats, 122534
planes, motor vehicles, or other tangible personal property 122535
operated primarily for the use and enjoyment of the shareholders; 122536

(7) All transactions in which a warranty, maintenance or 122537
service contract, or similar agreement by which the vendor of the 122538
warranty, contract, or agreement agrees to repair or maintain the 122539
tangible personal property of the consumer is or is to be 122540
provided; 122541

(8) The transfer of copyrighted motion picture films used 122542
solely for advertising purposes, except that the transfer of such 122543
films for exhibition purposes is not a sale; 122544

(9) On and after August 1, 2003, all transactions by which 122545
tangible personal property is or is to be stored, except such 122546
property that the consumer of the storage holds for sale in the 122547
regular course of business; 122548

(10) All transactions in which "guaranteed auto protection" 122549
is provided whereby a person promises to pay to the consumer the 122550
difference between the amount the consumer receives from motor 122551
vehicle insurance and the amount the consumer owes to a person 122552
holding title to or a lien on the consumer's motor vehicle in the 122553
event the consumer's motor vehicle suffers a total loss under the 122554
terms of the motor vehicle insurance policy or is stolen and not 122555
recovered, if the protection and its price are included in the 122556
purchase or lease agreement; 122557

(11)(a) Except as provided in division (B)(11)(b) of this 122558
section, on and after October 1, 2009, all transactions by which 122559

health care services are paid for, reimbursed, provided, 122560
delivered, arranged for, or otherwise made available by a medicaid 122561
health insuring corporation pursuant to the corporation's contract 122562
with the state. 122563

(b) If the centers for medicare and medicaid services of the 122564
United States department of health and human services determines 122565
that the taxation of transactions described in division (B)(11)(a) 122566
of this section constitutes an impermissible health care-related 122567
tax under section 1903(w) of the "Social Security Act," 49 Stat. 122568
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 122569
adopted thereunder, the director of job and family services shall 122570
notify the tax commissioner of that determination. Beginning with 122571
the first day of the month following that notification, the 122572
transactions described in division (B)(11)(a) of this section are 122573
not sales for the purposes of this chapter or Chapter 5741. of the 122574
Revised Code. The tax commissioner shall order that the collection 122575
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 122576
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 122577
shall cease for transactions occurring on or after that date. 122578

Except as provided in this section, "sale" and "selling" do 122579
not include transfers of interest in leased property where the 122580
original lessee and the terms of the original lease agreement 122581
remain unchanged, or professional, insurance, or personal service 122582
transactions that involve the transfer of tangible personal 122583
property as an inconsequential element, for which no separate 122584
charges are made. 122585

(C) "Vendor" means the person providing the service or by 122586
whom the transfer effected or license given by a sale is or is to 122587
be made or given and, for sales described in division (B)(3)(i) of 122588
this section, the telecommunications service vendor that provides 122589
the nine hundred telephone service; if two or more persons are 122590
engaged in business at the same place of business under a single 122591

trade name in which all collections on account of sales by each 122592
are made, such persons shall constitute a single vendor. 122593

Physicians, dentists, hospitals, and veterinarians who are 122594
engaged in selling tangible personal property as received from 122595
others, such as eyeglasses, mouthwashes, dentifrices, or similar 122596
articles, are vendors. Veterinarians who are engaged in 122597
transferring to others for a consideration drugs, the dispensing 122598
of which does not require an order of a licensed veterinarian or 122599
physician under federal law, are vendors. 122600

(D)(1) "Consumer" means the person for whom the service is 122601
provided, to whom the transfer effected or license given by a sale 122602
is or is to be made or given, to whom the service described in 122603
division (B)(3)(f) or (i) of this section is charged, or to whom 122604
the admission is granted. 122605

(2) Physicians, dentists, hospitals, and blood banks operated 122606
by nonprofit institutions and persons licensed to practice 122607
veterinary medicine, surgery, and dentistry are consumers of all 122608
tangible personal property and services purchased by them in 122609
connection with the practice of medicine, dentistry, the rendition 122610
of hospital or blood bank service, or the practice of veterinary 122611
medicine, surgery, and dentistry. In addition to being consumers 122612
of drugs administered by them or by their assistants according to 122613
their direction, veterinarians also are consumers of drugs that 122614
under federal law may be dispensed only by or upon the order of a 122615
licensed veterinarian or physician, when transferred by them to 122616
others for a consideration to provide treatment to animals as 122617
directed by the veterinarian. 122618

(3) A person who performs a facility management, or similar 122619
service contract for a contractee is a consumer of all tangible 122620
personal property and services purchased for use in connection 122621
with the performance of such contract, regardless of whether title 122622
to any such property vests in the contractee. The purchase of such 122623

property and services is not subject to the exception for resale 122624
under division (E)(1) of this section. 122625

(4)(a) In the case of a person who purchases printed matter 122626
for the purpose of distributing it or having it distributed to the 122627
public or to a designated segment of the public, free of charge, 122628
that person is the consumer of that printed matter, and the 122629
purchase of that printed matter for that purpose is a sale. 122630

(b) In the case of a person who produces, rather than 122631
purchases, printed matter for the purpose of distributing it or 122632
having it distributed to the public or to a designated segment of 122633
the public, free of charge, that person is the consumer of all 122634
tangible personal property and services purchased for use or 122635
consumption in the production of that printed matter. That person 122636
is not entitled to claim exemption under division (B)(42)(f) of 122637
section 5739.02 of the Revised Code for any material incorporated 122638
into the printed matter or any equipment, supplies, or services 122639
primarily used to produce the printed matter. 122640

(c) The distribution of printed matter to the public or to a 122641
designated segment of the public, free of charge, is not a sale to 122642
the members of the public to whom the printed matter is 122643
distributed or to any persons who purchase space in the printed 122644
matter for advertising or other purposes. 122645

(5) A person who makes sales of any of the services listed in 122646
division (B)(3) of this section is the consumer of any tangible 122647
personal property used in performing the service. The purchase of 122648
that property is not subject to the resale exception under 122649
division (E)(1) of this section. 122650

(6) A person who engages in highway transportation for hire 122651
is the consumer of all packaging materials purchased by that 122652
person and used in performing the service, except for packaging 122653
materials sold by such person in a transaction separate from the 122654

service. 122655

(7) In the case of a transaction for health care services 122656
under division (B)(11) of this section, a medicaid health insuring 122657
corporation is the consumer of such services. The purchase of such 122658
services by a medicaid health insuring corporation is not subject 122659
to the exception for resale under division (E)(1) of this section 122660
or to the exemptions provided under divisions (B)(12), (18), (19), 122661
and (22) of section 5739.02 of the Revised Code. 122662

(E) "Retail sale" and "sales at retail" include all sales, 122663
except those in which the purpose of the consumer is to resell the 122664
thing transferred or benefit of the service provided, by a person 122665
engaging in business, in the form in which the same is, or is to 122666
be, received by the person. 122667

(F) "Business" includes any activity engaged in by any person 122668
with the object of gain, benefit, or advantage, either direct or 122669
indirect. "Business" does not include the activity of a person in 122670
managing and investing the person's own funds. 122671

(G) "Engaging in business" means commencing, conducting, or 122672
continuing in business, and liquidating a business when the 122673
liquidator thereof holds itself out to the public as conducting 122674
such business. Making a casual sale is not engaging in business. 122675

(H)(1)(a) "Price," except as provided in divisions (H)(2), 122676
(3), and (4) of this section, means the total amount of 122677
consideration, including cash, credit, property, and services, for 122678
which tangible personal property or services are sold, leased, or 122679
rented, valued in money, whether received in money or otherwise, 122680
without any deduction for any of the following: 122681

(i) The vendor's cost of the property sold; 122682

(ii) The cost of materials used, labor or service costs, 122683
interest, losses, all costs of transportation to the vendor, all 122684
taxes imposed on the vendor, including the tax imposed under 122685

Chapter 5751. of the Revised Code, and any other expense of the vendor;	122686 122687
(iii) Charges by the vendor for any services necessary to complete the sale;	122688 122689
(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	122690 122691 122692 122693 122694
(v) Installation charges;	122695
(vi) Credit for any trade-in.	122696
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	122697 122698 122699 122700 122701 122702 122703 122704 122705
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	122706 122707 122708 122709 122710 122711
(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.	122712 122713 122714 122715 122716

(iii) The price reduction or discount is identified as a 122717
third party price reduction or discount on the invoice received by 122718
the consumer, or on a coupon, certificate, or other document 122719
presented by the consumer. 122720

(c) "Price" does not include any of the following: 122721

(i) Discounts, including cash, term, or coupons that are not 122722
reimbursed by a third party that are allowed by a vendor and taken 122723
by a consumer on a sale; 122724

(ii) Interest, financing, and carrying charges from credit 122725
extended on the sale of tangible personal property or services, if 122726
the amount is separately stated on the invoice, bill of sale, or 122727
similar document given to the purchaser; 122728

(iii) Any taxes legally imposed directly on the consumer that 122729
are separately stated on the invoice, bill of sale, or similar 122730
document given to the consumer. For the purpose of this division, 122731
the tax imposed under Chapter 5751. of the Revised Code is not a 122732
tax directly on the consumer, even if the tax or a portion thereof 122733
is separately stated. 122734

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 122735
section, any discount allowed by an automobile manufacturer to its 122736
employee, or to the employee of a supplier, on the purchase of a 122737
new motor vehicle from a new motor vehicle dealer in this state. 122738

(v) The dollar value of a gift card that is not sold by a 122739
vendor or purchased by a consumer and that is redeemed by the 122740
consumer in purchasing tangible personal property or services if 122741
the vendor is not reimbursed and does not receive compensation 122742
from a third party to cover all or part of the gift card value. 122743
For the purposes of this division, a gift card is not sold by a 122744
vendor or purchased by a consumer if it is distributed pursuant to 122745
an awards, loyalty, or promotional program. Past and present 122746
purchases of tangible personal property or services by the 122747

consumer shall not be treated as consideration exchanged for a 122748
gift card. 122749

(2) In the case of a sale of any new motor vehicle by a new 122750
motor vehicle dealer, as defined in section 4517.01 of the Revised 122751
Code, in which another motor vehicle is accepted by the dealer as 122752
part of the consideration received, "price" has the same meaning 122753
as in division (H)(1) of this section, reduced by the credit 122754
afforded the consumer by the dealer for the motor vehicle received 122755
in trade. 122756

(3) In the case of a sale of any watercraft or outboard motor 122757
by a watercraft dealer licensed in accordance with section 122758
1547.543 of the Revised Code, in which another watercraft, 122759
watercraft and trailer, or outboard motor is accepted by the 122760
dealer as part of the consideration received, "price" has the same 122761
meaning as in division (H)(1) of this section, reduced by the 122762
credit afforded the consumer by the dealer for the watercraft, 122763
watercraft and trailer, or outboard motor received in trade. As 122764
used in this division, "watercraft" includes an outdrive unit 122765
attached to the watercraft. 122766

(4) In the case of transactions for health care services 122767
under division (B)(11) of this section, "price" means the amount 122768
of managed care premiums received each month by a medicaid health 122769
insuring corporation. 122770

(I) "Receipts" means the total amount of the prices of the 122771
sales of vendors, provided that the dollar value of gift cards 122772
distributed pursuant to an awards, loyalty, or promotional 122773
program, and cash discounts allowed and taken on sales at the time 122774
they are consummated are not included, minus any amount deducted 122775
as a bad debt pursuant to section 5739.121 of the Revised Code. 122776
"Receipts" does not include the sale price of property returned or 122777
services rejected by consumers when the full sale price and tax 122778
are refunded either in cash or by credit. 122779

(J) "Place of business" means any location at which a person 122780
engages in business. 122781

(K) "Premises" includes any real property or portion thereof 122782
upon which any person engages in selling tangible personal 122783
property at retail or making retail sales and also includes any 122784
real property or portion thereof designated for, or devoted to, 122785
use in conjunction with the business engaged in by such person. 122786

(L) "Casual sale" means a sale of an item of tangible 122787
personal property that was obtained by the person making the sale, 122788
through purchase or otherwise, for the person's own use and was 122789
previously subject to any state's taxing jurisdiction on its sale 122790
or use, and includes such items acquired for the seller's use that 122791
are sold by an auctioneer employed directly by the person for such 122792
purpose, provided the location of such sales is not the 122793
auctioneer's permanent place of business. As used in this 122794
division, "permanent place of business" includes any location 122795
where such auctioneer has conducted more than two auctions during 122796
the year. 122797

(M) "Hotel" means every establishment kept, used, maintained, 122798
advertised, or held out to the public to be a place where sleeping 122799
accommodations are offered to guests, in which five or more rooms 122800
are used for the accommodation of such guests, whether the rooms 122801
are in one or several structures, except as otherwise provided in 122802
division (G) of section 5739.09 of the Revised Code. 122803

(N) "Transient guests" means persons occupying a room or 122804
rooms for sleeping accommodations for less than thirty consecutive 122805
days. 122806

(O) "Making retail sales" means the effecting of transactions 122807
wherein one party is obligated to pay the price and the other 122808
party is obligated to provide a service or to transfer title to or 122809
possession of the item sold. "Making retail sales" does not 122810

include the preliminary acts of promoting or soliciting the retail 122811
sales, other than the distribution of printed matter which 122812
displays or describes and prices the item offered for sale, nor 122813
does it include delivery of a predetermined quantity of tangible 122814
personal property or transportation of property or personnel to or 122815
from a place where a service is performed, regardless of whether 122816
the vendor is a delivery vendor. 122817

(P) "Used directly in the rendition of a public utility 122818
service" means that property that is to be incorporated into and 122819
will become a part of the consumer's production, transmission, 122820
transportation, or distribution system and that retains its 122821
classification as tangible personal property after such 122822
incorporation; fuel or power used in the production, transmission, 122823
transportation, or distribution system; and tangible personal 122824
property used in the repair and maintenance of the production, 122825
transmission, transportation, or distribution system, including 122826
only such motor vehicles as are specially designed and equipped 122827
for such use. Tangible personal property and services used 122828
primarily in providing highway transportation for hire are not 122829
used directly in the rendition of a public utility service. In 122830
this definition, "public utility" includes a citizen of the United 122831
States holding, and required to hold, a certificate of public 122832
convenience and necessity issued under 49 U.S.C. 41102. 122833

(Q) "Refining" means removing or separating a desirable 122834
product from raw or contaminated materials by distillation or 122835
physical, mechanical, or chemical processes. 122836

(R) "Assembly" and "assembling" mean attaching or fitting 122837
together parts to form a product, but do not include packaging a 122838
product. 122839

(S) "Manufacturing operation" means a process in which 122840
materials are changed, converted, or transformed into a different 122841
state or form from which they previously existed and includes 122842

refining materials, assembling parts, and preparing raw materials 122843
and parts by mixing, measuring, blending, or otherwise committing 122844
such materials or parts to the manufacturing process. 122845
"Manufacturing operation" does not include packaging. 122846

(T) "Fiscal officer" means, with respect to a regional 122847
transit authority, the secretary-treasurer thereof, and with 122848
respect to a county that is a transit authority, the fiscal 122849
officer of the county transit board if one is appointed pursuant 122850
to section 306.03 of the Revised Code or the county auditor if the 122851
board of county commissioners operates the county transit system. 122852

(U) "Transit authority" means a regional transit authority 122853
created pursuant to section 306.31 of the Revised Code or a county 122854
in which a county transit system is created pursuant to section 122855
306.01 of the Revised Code. For the purposes of this chapter, a 122856
transit authority must extend to at least the entire area of a 122857
single county. A transit authority that includes territory in more 122858
than one county must include all the area of the most populous 122859
county that is a part of such transit authority. County population 122860
shall be measured by the most recent census taken by the United 122861
States census bureau. 122862

(V) "Legislative authority" means, with respect to a regional 122863
transit authority, the board of trustees thereof, and with respect 122864
to a county that is a transit authority, the board of county 122865
commissioners. 122866

(W) "Territory of the transit authority" means all of the 122867
area included within the territorial boundaries of a transit 122868
authority as they from time to time exist. Such territorial 122869
boundaries must at all times include all the area of a single 122870
county or all the area of the most populous county that is a part 122871
of such transit authority. County population shall be measured by 122872
the most recent census taken by the United States census bureau. 122873

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.	122874 122875 122876
(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.	122877 122878 122879 122880
(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.	122881 122882 122883 122884 122885 122886
(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:	122887 122888 122889
(i) Examining or acquiring data stored in or accessible to the computer equipment;	122890 122891
(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.	122892 122893
For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.	122894 122895 122896 122897 122898
(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.	122899 122900 122901
(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services	122902 122903

other than automatic data processing, computer services, or	122904
electronic information services, including but not limited to:	122905
(a) Accounting and legal services such as advice on tax	122906
matters, asset management, budgetary matters, quality control,	122907
information security, and auditing and any other situation where	122908
the service provider receives data or information and studies,	122909
alters, analyzes, interprets, or adjusts such material;	122910
(b) Analyzing business policies and procedures;	122911
(c) Identifying management information needs;	122912
(d) Feasibility studies, including economic and technical	122913
analysis of existing or potential computer hardware or software	122914
needs and alternatives;	122915
(e) Designing policies, procedures, and custom software for	122916
collecting business information, and determining how data should	122917
be summarized, sequenced, formatted, processed, controlled, and	122918
reported so that it will be meaningful to management;	122919
(f) Developing policies and procedures that document how	122920
business events and transactions are to be authorized, executed,	122921
and controlled;	122922
(g) Testing of business procedures;	122923
(h) Training personnel in business procedure applications;	122924
(i) Providing credit information to users of such information	122925
by a consumer reporting agency, as defined in the "Fair Credit	122926
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	122927
as hereafter amended, including but not limited to gathering,	122928
organizing, analyzing, recording, and furnishing such information	122929
by any oral, written, graphic, or electronic medium;	122930
(j) Providing debt collection services by any oral, written,	122931
graphic, or electronic means.	122932
The services listed in divisions (Y)(2)(a) to (j) of this	122933

section are not automatic data processing or computer services. 122934

(Z) "Highway transportation for hire" means the 122935
transportation of personal property belonging to others for 122936
consideration by any of the following: 122937

(1) The holder of a permit or certificate issued by this 122938
state or the United States authorizing the holder to engage in 122939
transportation of personal property belonging to others for 122940
consideration over or on highways, roadways, streets, or any 122941
similar public thoroughfare; 122942

(2) A person who engages in the transportation of personal 122943
property belonging to others for consideration over or on 122944
highways, roadways, streets, or any similar public thoroughfare 122945
but who could not have engaged in such transportation on December 122946
11, 1985, unless the person was the holder of a permit or 122947
certificate of the types described in division (Z)(1) of this 122948
section; 122949

(3) A person who leases a motor vehicle to and operates it 122950
for a person described by division (Z)(1) or (2) of this section. 122951

(AA)(1) "Telecommunications service" means the electronic 122952
transmission, conveyance, or routing of voice, data, audio, video, 122953
or any other information or signals to a point, or between or 122954
among points. "Telecommunications service" includes such 122955
transmission, conveyance, or routing in which computer processing 122956
applications are used to act on the form, code, or protocol of the 122957
content for purposes of transmission, conveyance, or routing 122958
without regard to whether the service is referred to as voice-over 122959
internet protocol service or is classified by the federal 122960
communications commission as enhanced or value-added. 122961
"Telecommunications service" does not include any of the 122962
following: 122963

(a) Data processing and information services that allow data 122964

to be generated, acquired, stored, processed, or retrieved and 122965
delivered by an electronic transmission to a consumer where the 122966
consumer's primary purpose for the underlying transaction is the 122967
processed data or information; 122968

(b) Installation or maintenance of wiring or equipment on a 122969
customer's premises; 122970

(c) Tangible personal property; 122971

(d) Advertising, including directory advertising; 122972

(e) Billing and collection services provided to third 122973
parties; 122974

(f) Internet access service; 122975

(g) Radio and television audio and video programming 122976
services, regardless of the medium, including the furnishing of 122977
transmission, conveyance, and routing of such services by the 122978
programming service provider. Radio and television audio and video 122979
programming services include, but are not limited to, cable 122980
service, as defined in 47 U.S.C. 522(6), and audio and video 122981
programming services delivered by commercial mobile radio service 122982
providers, as defined in 47 C.F.R. 20.3; 122983

(h) Ancillary service; 122984

(i) Digital products delivered electronically, including 122985
software, music, video, reading materials, or ring tones. 122986

(2) "Ancillary service" means a service that is associated 122987
with or incidental to the provision of telecommunications service, 122988
including conference bridging service, detailed telecommunications 122989
billing service, directory assistance, vertical service, and voice 122990
mail service. As used in this division: 122991

(a) "Conference bridging service" means an ancillary service 122992
that links two or more participants of an audio or video 122993
conference call, including providing a telephone number. 122994

"Conference bridging service" does not include telecommunications services used to reach the conference bridge. 122995
122996

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 122997
122998
122999

(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 123000
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 123002
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 123007
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 123012
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(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of dollars of 123021
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which the number declines with use in a known amount. 123026

(5) "Prepaid wireless calling service" means a 123027
telecommunications service that provides the right to utilize 123028
mobile telecommunications service as well as other 123029
non-telecommunications services, including the download of digital 123030
products delivered electronically, and content and ancillary 123031
services, that must be paid for in advance and that is sold in 123032
predetermined units of dollars of which the number declines with 123033
use in a known amount. 123034

(6) "Value-added non-voice data service" means a 123035
telecommunications service in which computer processing 123036
applications are used to act on the form, content, code, or 123037
protocol of the information or data primarily for a purpose other 123038
than transmission, conveyance, or routing. 123039

(7) "Coin-operated telephone service" means a 123040
telecommunications service paid for by inserting money into a 123041
telephone accepting direct deposits of money to operate. 123042

(8) "Customer" has the same meaning as in section 5739.034 of 123043
the Revised Code. 123044

(BB) "Laundry and dry cleaning services" means removing soil 123045
or dirt from towels, linens, articles of clothing, or other fabric 123046
items that belong to others and supplying towels, linens, articles 123047
of clothing, or other fabric items. "Laundry and dry cleaning 123048
services" does not include the provision of self-service 123049
facilities for use by consumers to remove soil or dirt from 123050
towels, linens, articles of clothing, or other fabric items. 123051

(CC) "Magazines distributed as controlled circulation 123052
publications" means magazines containing at least twenty-four 123053
pages, at least twenty-five per cent editorial content, issued at 123054
regular intervals four or more times a year, and circulated 123055
without charge to the recipient, provided that such magazines are 123056

not owned or controlled by individuals or business concerns which 123057
conduct such publications as an auxiliary to, and essentially for 123058
the advancement of the main business or calling of, those who own 123059
or control them. 123060

(DD) "Landscaping and lawn care service" means the services 123061
of planting, seeding, sodding, removing, cutting, trimming, 123062
pruning, mulching, aerating, applying chemicals, watering, 123063
fertilizing, and providing similar services to establish, promote, 123064
or control the growth of trees, shrubs, flowers, grass, ground 123065
cover, and other flora, or otherwise maintaining a lawn or 123066
landscape grown or maintained by the owner for ornamentation or 123067
other nonagricultural purpose. However, "landscaping and lawn care 123068
service" does not include the providing of such services by a 123069
person who has less than five thousand dollars in sales of such 123070
services during the calendar year. 123071

(EE) "Private investigation and security service" means the 123072
performance of any activity for which the provider of such service 123073
is required to be licensed pursuant to Chapter 4749. of the 123074
Revised Code, or would be required to be so licensed in performing 123075
such services in this state, and also includes the services of 123076
conducting polygraph examinations and of monitoring or overseeing 123077
the activities on or in, or the condition of, the consumer's home, 123078
business, or other facility by means of electronic or similar 123079
monitoring devices. "Private investigation and security service" 123080
does not include special duty services provided by off-duty police 123081
officers, deputy sheriffs, and other peace officers regularly 123082
employed by the state or a political subdivision. 123083

(FF) "Information services" means providing conversation, 123084
giving consultation or advice, playing or making a voice or other 123085
recording, making or keeping a record of the number of callers, 123086
and any other service provided to a consumer by means of a nine 123087
hundred telephone call, except when the nine hundred telephone 123088

call is the means by which the consumer makes a contribution to a 123089
recognized charity. 123090

(GG) "Research and development" means designing, creating, or 123091
formulating new or enhanced products, equipment, or manufacturing 123092
processes, and also means conducting scientific or technological 123093
inquiry and experimentation in the physical sciences with the goal 123094
of increasing scientific knowledge which may reveal the bases for 123095
new or enhanced products, equipment, or manufacturing processes. 123096

(HH) "Qualified research and development equipment" means 123097
capitalized tangible personal property, and leased personal 123098
property that would be capitalized if purchased, used by a person 123099
primarily to perform research and development. Tangible personal 123100
property primarily used in testing, as defined in division (A)(4) 123101
of section 5739.011 of the Revised Code, or used for recording or 123102
storing test results, is not qualified research and development 123103
equipment unless such property is primarily used by the consumer 123104
in testing the product, equipment, or manufacturing process being 123105
created, designed, or formulated by the consumer in the research 123106
and development activity or in recording or storing such test 123107
results. 123108

(II) "Building maintenance and janitorial service" means 123109
cleaning the interior or exterior of a building and any tangible 123110
personal property located therein or thereon, including any 123111
services incidental to such cleaning for which no separate charge 123112
is made. However, "building maintenance and janitorial service" 123113
does not include the providing of such service by a person who has 123114
less than five thousand dollars in sales of such service during 123115
the calendar year. 123116

(JJ) "Employment service" means providing or supplying 123117
personnel, on a temporary or long-term basis, to perform work or 123118
labor under the supervision or control of another, when the 123119
personnel so provided or supplied receive their wages, salary, or 123120

other compensation from the provider or supplier of the employment 123121
service or from a third party that provided or supplied the 123122
personnel to the provider or supplier. "Employment service" does 123123
not include: 123124

(1) Acting as a contractor or subcontractor, where the 123125
personnel performing the work are not under the direct control of 123126
the purchaser. 123127

(2) Medical and health care services. 123128

(3) Supplying personnel to a purchaser pursuant to a contract 123129
of at least one year between the service provider and the 123130
purchaser that specifies that each employee covered under the 123131
contract is assigned to the purchaser on a permanent basis. 123132

(4) Transactions between members of an affiliated group, as 123133
defined in division (B)(3)(e) of this section. 123134

(5) Transactions where the personnel so provided or supplied 123135
by a provider or supplier to a purchaser of an employment service 123136
are then provided or supplied by that purchaser to a third party 123137
as an employment service, except "employment service" does include 123138
the transaction between that purchaser and the third party. 123139

(KK) "Employment placement service" means locating or finding 123140
employment for a person or finding or locating an employee to fill 123141
an available position. 123142

(LL) "Exterminating service" means eradicating or attempting 123143
to eradicate vermin infestations from a building or structure, or 123144
the area surrounding a building or structure, and includes 123145
activities to inspect, detect, or prevent vermin infestation of a 123146
building or structure. 123147

(MM) "Physical fitness facility service" means all 123148
transactions by which a membership is granted, maintained, or 123149
renewed, including initiation fees, membership dues, renewal fees, 123150

monthly minimum fees, and other similar fees and dues, by a 123151
physical fitness facility such as an athletic club, health spa, or 123152
gymnasium, which entitles the member to use the facility for 123153
physical exercise. 123154

(NN) "Recreation and sports club service" means all 123155
transactions by which a membership is granted, maintained, or 123156
renewed, including initiation fees, membership dues, renewal fees, 123157
monthly minimum fees, and other similar fees and dues, by a 123158
recreation and sports club, which entitles the member to use the 123159
facilities of the organization. "Recreation and sports club" means 123160
an organization that has ownership of, or controls or leases on a 123161
continuing, long-term basis, the facilities used by its members 123162
and includes an aviation club, gun or shooting club, yacht club, 123163
card club, swimming club, tennis club, golf club, country club, 123164
riding club, amateur sports club, or similar organization. 123165

(OO) "Livestock" means farm animals commonly raised for food 123166
~~or~~, food production, ~~and includes~~ or other agricultural purposes, 123167
including, but ~~is~~ not limited to, cattle, sheep, goats, swine, ~~and~~ 123168
poultry, and captive deer. "Livestock" does not include 123169
invertebrates, ~~fish,~~ amphibians, reptiles, ~~horses,~~ domestic pets, 123170
animals for use in laboratories or for exhibition, or other 123171
animals not commonly raised for food or food production. 123172

(PP) "Livestock structure" means a building or structure used 123173
exclusively for the housing, raising, feeding, or sheltering of 123174
livestock, and includes feed storage or handling structures and 123175
structures for livestock waste handling. 123176

(QQ) "Horticulture" means the growing, cultivation, and 123177
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 123178
and nursery stock. As used in this division, "nursery stock" has 123179
the same meaning as in section 927.51 of the Revised Code. 123180

(RR) "Horticulture structure" means a building or structure 123181

used exclusively for the commercial growing, raising, or 123182
overwintering of horticultural products, and includes the area 123183
used for stocking, storing, and packing horticultural products 123184
when done in conjunction with the production of those products. 123185

(SS) "Newspaper" means an unbound publication bearing a title 123186
or name that is regularly published, at least as frequently as 123187
biweekly, and distributed from a fixed place of business to the 123188
public in a specific geographic area, and that contains a 123189
substantial amount of news matter of international, national, or 123190
local events of interest to the general public. 123191

(TT) "Professional racing team" means a person that employs 123192
at least twenty full-time employees for the purpose of conducting 123193
a motor vehicle racing business for profit. The person must 123194
conduct the business with the purpose of racing one or more motor 123195
racing vehicles in at least ten competitive professional racing 123196
events each year that comprise all or part of a motor racing 123197
series sanctioned by one or more motor racing sanctioning 123198
organizations. A "motor racing vehicle" means a vehicle for which 123199
the chassis, engine, and parts are designed exclusively for motor 123200
racing, and does not include a stock or production model vehicle 123201
that may be modified for use in racing. For the purposes of this 123202
division: 123203

(1) A "competitive professional racing event" is a motor 123204
vehicle racing event sanctioned by one or more motor racing 123205
sanctioning organizations, at which aggregate cash prizes in 123206
excess of eight hundred thousand dollars are awarded to the 123207
competitors. 123208

(2) "Full-time employee" means an individual who is employed 123209
for consideration for thirty-five or more hours a week, or who 123210
renders any other standard of service generally accepted by custom 123211
or specified by contract as full-time employment. 123212

(UU)(1) "Lease" or "rental" means any transfer of the 123213
possession or control of tangible personal property for a fixed or 123214
indefinite term, for consideration. "Lease" or "rental" includes 123215
future options to purchase or extend, and agreements described in 123216
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 123217
the amount of consideration may be increased or decreased by 123218
reference to the amount realized upon the sale or disposition of 123219
the property. "Lease" or "rental" does not include: 123220

(a) A transfer of possession or control of tangible personal 123221
property under a security agreement or a deferred payment plan 123222
that requires the transfer of title upon completion of the 123223
required payments; 123224

(b) A transfer of possession or control of tangible personal 123225
property under an agreement that requires the transfer of title 123226
upon completion of required payments and payment of an option 123227
price that does not exceed the greater of one hundred dollars or 123228
one per cent of the total required payments; 123229

(c) Providing tangible personal property along with an 123230
operator for a fixed or indefinite period of time, if the operator 123231
is necessary for the property to perform as designed. For purposes 123232
of this division, the operator must do more than maintain, 123233
inspect, or set-up the tangible personal property. 123234

(2) "Lease" and "rental," as defined in division (UU) of this 123235
section, shall not apply to leases or rentals that exist before 123236
June 26, 2003. 123237

(3) "Lease" and "rental" have the same meaning as in division 123238
(UU)(1) of this section regardless of whether a transaction is 123239
characterized as a lease or rental under generally accepted 123240
accounting principles, the Internal Revenue Code, Title XIII of 123241
the Revised Code, or other federal, state, or local laws. 123242

(VV) "Mobile telecommunications service" has the same meaning 123243

as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does

not include multiple items of printed material delivered to a 123276
single address. 123277

(AAA) "Computer" means an electronic device that accepts 123278
information in digital or similar form and manipulates it for a 123279
result based on a sequence of instructions. 123280

(BBB) "Computer software" means a set of coded instructions 123281
designed to cause a computer or automatic data processing 123282
equipment to perform a task. 123283

(CCC) "Delivered electronically" means delivery of computer 123284
software from the seller to the purchaser by means other than 123285
tangible storage media. 123286

(DDD) "Prewritten computer software" means computer software, 123287
including prewritten upgrades, that is not designed and developed 123288
by the author or other creator to the specifications of a specific 123289
purchaser. The combining of two or more prewritten computer 123290
software programs or prewritten portions thereof does not cause 123291
the combination to be other than prewritten computer software. 123292
"Prewritten computer software" includes software designed and 123293
developed by the author or other creator to the specifications of 123294
a specific purchaser when it is sold to a person other than the 123295
purchaser. If a person modifies or enhances computer software of 123296
which the person is not the author or creator, the person shall be 123297
deemed to be the author or creator only of such person's 123298
modifications or enhancements. Prewritten computer software or a 123299
prewritten portion thereof that is modified or enhanced to any 123300
degree, where such modification or enhancement is designed and 123301
developed to the specifications of a specific purchaser, remains 123302
prewritten computer software; provided, however, that where there 123303
is a reasonable, separately stated charge or an invoice or other 123304
statement of the price given to the purchaser for the modification 123305
or enhancement, the modification or enhancement shall not 123306
constitute prewritten computer software. 123307

(EEE)(1) "Food" means substances, whether in liquid, 123308
concentrated, solid, frozen, dried, or dehydrated form, that are 123309
sold for ingestion or chewing by humans and are consumed for their 123310
taste or nutritional value. "Food" does not include alcoholic 123311
beverages, dietary supplements, soft drinks, or tobacco. 123312

(2) As used in division (EEE)(1) of this section: 123313

(a) "Alcoholic beverages" means beverages that are suitable 123314
for human consumption and contain one-half of one per cent or more 123315
of alcohol by volume. 123316

(b) "Dietary supplements" means any product, other than 123317
tobacco, that is intended to supplement the diet and that is 123318
intended for ingestion in tablet, capsule, powder, softgel, 123319
gelcap, or liquid form, or, if not intended for ingestion in such 123320
a form, is not represented as conventional food for use as a sole 123321
item of a meal or of the diet; that is required to be labeled as a 123322
dietary supplement, identifiable by the "supplement facts" box 123323
found on the label, as required by 21 C.F.R. 101.36; and that 123324
contains one or more of the following dietary ingredients: 123325

(i) A vitamin; 123326

(ii) A mineral; 123327

(iii) An herb or other botanical; 123328

(iv) An amino acid; 123329

(v) A dietary substance for use by humans to supplement the 123330
diet by increasing the total dietary intake; 123331

(vi) A concentrate, metabolite, constituent, extract, or 123332
combination of any ingredient described in divisions 123333
(EEE)(2)(b)(i) to (v) of this section. 123334

(c) "Soft drinks" means nonalcoholic beverages that contain 123335
natural or artificial sweeteners. "Soft drinks" does not include 123336
beverages that contain milk or milk products, soy, rice, or 123337

similar milk substitutes, or that contains greater than fifty per 123338
cent vegetable or fruit juice by volume. 123339

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 123340
tobacco, or any other item that contains tobacco. 123341

(FFF) "Drug" means a compound, substance, or preparation, and 123342
any component of a compound, substance, or preparation, other than 123343
food, dietary supplements, or alcoholic beverages that is 123344
recognized in the official United States pharmacopoeia, official 123345
homeopathic pharmacopoeia of the United States, or official 123346
national formulary, and supplements to them; is intended for use 123347
in the diagnosis, cure, mitigation, treatment, or prevention of 123348
disease; or is intended to affect the structure or any function of 123349
the body. 123350

(GGG) "Prescription" means an order, formula, or recipe 123351
issued in any form of oral, written, electronic, or other means of 123352
transmission by a duly licensed practitioner authorized by the 123353
laws of this state to issue a prescription. 123354

(HHH) "Durable medical equipment" means equipment, including 123355
repair and replacement parts for such equipment, that can 123356
withstand repeated use, is primarily and customarily used to serve 123357
a medical purpose, generally is not useful to a person in the 123358
absence of illness or injury, and is not worn in or on the body. 123359
"Durable medical equipment" does not include mobility enhancing 123360
equipment. 123361

(III) "Mobility enhancing equipment" means equipment, 123362
including repair and replacement parts for such equipment, that is 123363
primarily and customarily used to provide or increase the ability 123364
to move from one place to another and is appropriate for use 123365
either in a home or a motor vehicle, that is not generally used by 123366
persons with normal mobility, and that does not include any motor 123367
vehicle or equipment on a motor vehicle normally provided by a 123368

motor vehicle manufacturer. "Mobility enhancing equipment" does 123369
not include durable medical equipment. 123370

(JJJ) "Prosthetic device" means a replacement, corrective, or 123371
supportive device, including repair and replacement parts for the 123372
device, worn on or in the human body to artificially replace a 123373
missing portion of the body, prevent or correct physical deformity 123374
or malfunction, or support a weak or deformed portion of the body. 123375
As used in this division, "prosthetic device" does not include 123376
corrective eyeglasses, contact lenses, or dental prosthesis. 123377

(KKK)(1) "Fractional aircraft ownership program" means a 123378
program in which persons within an affiliated group sell and 123379
manage fractional ownership program aircraft, provided that at 123380
least one hundred airworthy aircraft are operated in the program 123381
and the program meets all of the following criteria: 123382

(a) Management services are provided by at least one program 123383
manager within an affiliated group on behalf of the fractional 123384
owners. 123385

(b) Each program aircraft is owned or possessed by at least 123386
one fractional owner. 123387

(c) Each fractional owner owns or possesses at least a 123388
one-sixteenth interest in at least one fixed-wing program 123389
aircraft. 123390

(d) A dry-lease aircraft interchange arrangement is in effect 123391
among all of the fractional owners. 123392

(e) Multi-year program agreements are in effect regarding the 123393
fractional ownership, management services, and dry-lease aircraft 123394
interchange arrangement aspects of the program. 123395

(2) As used in division (KKK)(1) of this section: 123396

(a) "Affiliated group" has the same meaning as in division 123397
(B)(3)(e) of this section. 123398

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials;

editorials, columns, reader commentary, or features; photos or 123431
images; archival or research material; legal notices, identity 123432
verification, or public records; scientific, educational, 123433
instructional, technical, professional, trade, or other literary 123434
materials; or other similar information which has been gathered 123435
and made available by the provider to the consumer in an 123436
electronic format. Providing electronic publishing includes the 123437
functions necessary for the acquisition, formatting, editing, 123438
storage, and dissemination of data or information that is the 123439
subject of a sale. 123440

(MMM) "Medicaid health insuring corporation" means a health 123441
insuring corporation that holds a certificate of authority under 123442
Chapter 1751. of the Revised Code and is under contract with the 123443
department of job and family services pursuant to section 5111.17 123444
of the Revised Code. 123445

(NNN) "Managed care premium" means any premium, capitation, 123446
or other payment a medicaid health insuring corporation receives 123447
for providing or arranging for the provision of health care 123448
services to its members or enrollees residing in this state. 123449

(OOO) "Captive deer" means deer and other cervidae that have 123450
been legally acquired, or their offspring, that are privately 123451
owned for agricultural or farming purposes. 123452

(PPP) "Gift card" means a document, card, certificate, or 123453
other record, whether tangible or intangible, that may be redeemed 123454
by a consumer for a dollar value when making a purchase of 123455
tangible personal property or services. 123456

Sec. 5739.02. For the purpose of providing revenue with which 123457
to meet the needs of the state, for the use of the general revenue 123458
fund of the state, for the purpose of securing a thorough and 123459
efficient system of common schools throughout the state, for the 123460
purpose of affording revenues, in addition to those from general 123461

property taxes, permitted under constitutional limitations, and 123462
from other sources, for the support of local governmental 123463
functions, and for the purpose of reimbursing the state for the 123464
expense of administering this chapter, an excise tax is hereby 123465
levied on each retail sale made in this state. 123466

(A)(1) The tax shall be collected as provided in section 123467
5739.025 of the Revised Code. The rate of the tax shall be five 123468
and one-half per cent. The tax applies and is collectible when the 123469
sale is made, regardless of the time when the price is paid or 123470
delivered. 123471

(2) In the case of the lease or rental, with a fixed term of 123472
more than thirty days or an indefinite term with a minimum period 123473
of more than thirty days, of any motor vehicles designed by the 123474
manufacturer to carry a load of not more than one ton, watercraft, 123475
outboard motor, or aircraft, or of any tangible personal property, 123476
other than motor vehicles designed by the manufacturer to carry a 123477
load of more than one ton, to be used by the lessee or renter 123478
primarily for business purposes, the tax shall be collected by the 123479
vendor at the time the lease or rental is consummated and shall be 123480
calculated by the vendor on the basis of the total amount to be 123481
paid by the lessee or renter under the lease agreement. If the 123482
total amount of the consideration for the lease or rental includes 123483
amounts that are not calculated at the time the lease or rental is 123484
executed, the tax shall be calculated and collected by the vendor 123485
at the time such amounts are billed to the lessee or renter. In 123486
the case of an open-end lease or rental, the tax shall be 123487
calculated by the vendor on the basis of the total amount to be 123488
paid during the initial fixed term of the lease or rental, and for 123489
each subsequent renewal period as it comes due. As used in this 123490
division, "motor vehicle" has the same meaning as in section 123491
4501.01 of the Revised Code, and "watercraft" includes an outdrive 123492
unit attached to the watercraft. 123493

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

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(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

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(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

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(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

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(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as

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defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable

purposes in this state, no part of the net income of which inures 123588
to the benefit of any private shareholder or individual, and no 123589
substantial part of the activities of which consists of carrying 123590
on propaganda or otherwise attempting to influence legislation; 123591
sales to offices administering one or more homes for the aged or 123592
one or more hospital facilities exempt under section 140.08 of the 123593
Revised Code; and sales to organizations described in division (D) 123594
of section 5709.12 of the Revised Code. 123595

"Charitable purposes" means the relief of poverty; the 123596
improvement of health through the alleviation of illness, disease, 123597
or injury; the operation of an organization exclusively for the 123598
provision of professional, laundry, printing, and purchasing 123599
services to hospitals or charitable institutions; the operation of 123600
a home for the aged, as defined in section 5701.13 of the Revised 123601
Code; the operation of a radio or television broadcasting station 123602
that is licensed by the federal communications commission as a 123603
noncommercial educational radio or television station; the 123604
operation of a nonprofit animal adoption service or a county 123605
humane society; the promotion of education by an institution of 123606
learning that maintains a faculty of qualified instructors, 123607
teaches regular continuous courses of study, and confers a 123608
recognized diploma upon completion of a specific curriculum; the 123609
operation of a parent-teacher association, booster group, or 123610
similar organization primarily engaged in the promotion and 123611
support of the curricular or extracurricular activities of a 123612
primary or secondary school; the operation of a community or area 123613
center in which presentations in music, dramatics, the arts, and 123614
related fields are made in order to foster public interest and 123615
education therein; the production of performances in music, 123616
dramatics, and the arts; or the promotion of education by an 123617
organization engaged in carrying on research in, or the 123618
dissemination of, scientific and technological knowledge and 123619
information primarily for the public. 123620

Nothing in this division shall be deemed to exempt sales to 123621
any organization for use in the operation or carrying on of a 123622
trade or business, or sales to a home for the aged for use in the 123623
operation of independent living facilities as defined in division 123624
(A) of section 5709.12 of the Revised Code. 123625

(13) Building and construction materials and services sold to 123626
construction contractors for incorporation into a structure or 123627
improvement to real property under a construction contract with 123628
this state or a political subdivision of this state, or with the 123629
United States government or any of its agencies; building and 123630
construction materials and services sold to construction 123631
contractors for incorporation into a structure or improvement to 123632
real property that are accepted for ownership by this state or any 123633
of its political subdivisions, or by the United States government 123634
or any of its agencies at the time of completion of the structures 123635
or improvements; building and construction materials sold to 123636
construction contractors for incorporation into a horticulture 123637
structure or livestock structure for a person engaged in the 123638
business of horticulture or producing livestock; building 123639
materials and services sold to a construction contractor for 123640
incorporation into a house of public worship or religious 123641
education, or a building used exclusively for charitable purposes 123642
under a construction contract with an organization whose purpose 123643
is as described in division (B)(12) of this section; building 123644
materials and services sold to a construction contractor for 123645
incorporation into a building under a construction contract with 123646
an organization exempt from taxation under section 501(c)(3) of 123647
the Internal Revenue Code of 1986 when the building is to be used 123648
exclusively for the organization's exempt purposes; building and 123649
construction materials sold for incorporation into the original 123650
construction of a sports facility under section 307.696 of the 123651
Revised Code; building and construction materials and services 123652
sold to a construction contractor for incorporation into real 123653

property outside this state if such materials and services, when 123654
sold to a construction contractor in the state in which the real 123655
property is located for incorporation into real property in that 123656
state, would be exempt from a tax on sales levied by that state; 123657
and, until one calendar year after the construction of a 123658
convention center that qualifies for property tax exemption under 123659
section 5709.084 of the Revised Code is completed, building and 123660
construction materials and services sold to a construction 123661
contractor for incorporation into the real property comprising 123662
that convention center; 123663

(14) Sales of ships or vessels or rail rolling stock used or 123664
to be used principally in interstate or foreign commerce, and 123665
repairs, alterations, fuel, and lubricants for such ships or 123666
vessels or rail rolling stock; 123667

(15) Sales to persons primarily engaged in any of the 123668
activities mentioned in division (B)(42)(a) ~~or~~, (g), or (h) of 123669
this section, to persons engaged in making retail sales, or to 123670
persons who purchase for sale from a manufacturer tangible 123671
personal property that was produced by the manufacturer in 123672
accordance with specific designs provided by the purchaser, of 123673
packages, including material, labels, and parts for packages, and 123674
of machinery, equipment, and material for use primarily in 123675
packaging tangible personal property produced for sale, including 123676
any machinery, equipment, and supplies used to make labels or 123677
packages, to prepare packages or products for labeling, or to 123678
label packages or products, by or on the order of the person doing 123679
the packaging, or sold at retail. "Packages" includes bags, 123680
baskets, cartons, crates, boxes, cans, bottles, bindings, 123681
wrappings, and other similar devices and containers, but does not 123682
include motor vehicles or bulk tanks, trailers, or similar devices 123683
attached to motor vehicles. "Packaging" means placing in a 123684
package. Division (B)(15) of this section does not apply to 123685

persons engaged in highway transportation for hire. 123686

(16) Sales of food to persons using supplemental nutrition 123687
assistance program benefits to purchase the food. As used in this 123688
division, "food" has the same meaning as in 7 U.S.C. 2012 and 123689
federal regulations adopted pursuant to the Food and Nutrition Act 123690
of 2008. 123691

(17) Sales to persons engaged in farming, agriculture, 123692
horticulture, or floriculture, of tangible personal property for 123693
use or consumption ~~directly~~ primarily in the production by 123694
farming, agriculture, horticulture, or floriculture of other 123695
tangible personal property for use or consumption ~~directly~~ 123696
primarily in the production of tangible personal property for sale 123697
by farming, agriculture, horticulture, or floriculture; or 123698
material and parts for incorporation into any such tangible 123699
personal property for use or consumption in production; and of 123700
tangible personal property for such use or consumption in the 123701
conditioning or holding of products produced by and for such use, 123702
consumption, or sale by persons engaged in farming, agriculture, 123703
horticulture, or floriculture, except where such property is 123704
incorporated into real property; 123705

(18) Sales of drugs for a human being that may be dispensed 123706
only pursuant to a prescription; insulin as recognized in the 123707
official United States pharmacopoeia; urine and blood testing 123708
materials when used by diabetics or persons with hypoglycemia to 123709
test for glucose or acetone; hypodermic syringes and needles when 123710
used by diabetics for insulin injections; epoetin alfa when 123711
purchased for use in the treatment of persons with medical 123712
disease; hospital beds when purchased by hospitals, nursing homes, 123713
or other medical facilities; and medical oxygen and medical 123714
oxygen-dispensing equipment when purchased by hospitals, nursing 123715
homes, or other medical facilities; 123716

(19) Sales of prosthetic devices, durable medical equipment 123717

for home use, or mobility enhancing equipment, when made pursuant 123718
to a prescription and when such devices or equipment are for use 123719
by a human being. 123720

(20) Sales of emergency and fire protection vehicles and 123721
equipment to nonprofit organizations for use solely in providing 123722
fire protection and emergency services, including trauma care and 123723
emergency medical services, for political subdivisions of the 123724
state; 123725

(21) Sales of tangible personal property manufactured in this 123726
state, if sold by the manufacturer in this state to a retailer for 123727
use in the retail business of the retailer outside of this state 123728
and if possession is taken from the manufacturer by the purchaser 123729
within this state for the sole purpose of immediately removing the 123730
same from this state in a vehicle owned by the purchaser; 123731

(22) Sales of services provided by the state or any of its 123732
political subdivisions, agencies, instrumentalities, institutions, 123733
or authorities, or by governmental entities of the state or any of 123734
its political subdivisions, agencies, instrumentalities, 123735
institutions, or authorities; 123736

(23) Sales of motor vehicles to nonresidents of this state 123737
under the circumstances described in division (B) of section 123738
5739.029 of the Revised Code; 123739

(24) Sales to persons engaged in the preparation of eggs for 123740
sale of tangible personal property used or consumed directly in 123741
such preparation, including such tangible personal property used 123742
for cleaning, sanitizing, preserving, grading, sorting, and 123743
classifying by size; packages, including material and parts for 123744
packages, and machinery, equipment, and material for use in 123745
packaging eggs for sale; and handling and transportation equipment 123746
and parts therefor, except motor vehicles licensed to operate on 123747
public highways, used in intraplant or interplant transfers or 123748

shipment of eggs in the process of preparation for sale, when the 123749
plant or plants within or between which such transfers or 123750
shipments occur are operated by the same person. "Packages" 123751
includes containers, cases, baskets, flats, fillers, filler flats, 123752
cartons, closure materials, labels, and labeling materials, and 123753
"packaging" means placing therein. 123754

(25)(a) Sales of water to a consumer for residential use, 123755
except the sale of bottled water, distilled water, mineral water, 123756
carbonated water, or ice; 123757

(b) Sales of water by a nonprofit corporation engaged 123758
exclusively in the treatment, distribution, and sale of water to 123759
consumers, if such water is delivered to consumers through pipes 123760
or tubing. 123761

(26) Fees charged for inspection or reinspection of motor 123762
vehicles under section 3704.14 of the Revised Code; 123763

(27) Sales to persons licensed to conduct a food service 123764
operation pursuant to section 3717.43 of the Revised Code, of 123765
tangible personal property primarily used directly for the 123766
following: 123767

(a) To prepare food for human consumption for sale; 123768

(b) To preserve food that has been or will be prepared for 123769
human consumption for sale by the food service operator, not 123770
including tangible personal property used to display food for 123771
selection by the consumer; 123772

(c) To clean tangible personal property used to prepare or 123773
serve food for human consumption for sale. 123774

(28) Sales of animals by nonprofit animal adoption services 123775
or county humane societies; 123776

(29) Sales of services to a corporation described in division 123777
(A) of section 5709.72 of the Revised Code, and sales of tangible 123778

personal property that qualifies for exemption from taxation under 123779
section 5709.72 of the Revised Code; 123780

(30) Sales and installation of agricultural land tile, as 123781
defined in division (B)(5)(a) of section 5739.01 of the Revised 123782
Code; 123783

(31) Sales and erection or installation of portable grain 123784
bins, as defined in division (B)(5)(b) of section 5739.01 of the 123785
Revised Code; 123786

(32) The sale, lease, repair, and maintenance of, parts for, 123787
or items attached to or incorporated in, motor vehicles that are 123788
primarily used for transporting tangible personal property 123789
belonging to others by a person engaged in highway transportation 123790
for hire, except for packages and packaging used for the 123791
transportation of tangible personal property; 123792

(33) Sales to the state headquarters of any veterans' 123793
organization in this state that is either incorporated and issued 123794
a charter by the congress of the United States or is recognized by 123795
the United States veterans administration, for use by the 123796
headquarters; 123797

(34) Sales to a telecommunications service vendor, mobile 123798
telecommunications service vendor, or satellite broadcasting 123799
service vendor of tangible personal property and services used 123800
directly and primarily in transmitting, receiving, switching, or 123801
recording any interactive, one- or two-way electromagnetic 123802
communications, including voice, image, data, and information, 123803
through the use of any medium, including, but not limited to, 123804
poles, wires, cables, switching equipment, computers, and record 123805
storage devices and media, and component parts for the tangible 123806
personal property. The exemption provided in this division shall 123807
be in lieu of all other exemptions under division (B)(42)(a) or 123808
(n) of this section to which the vendor may otherwise be entitled, 123809

based upon the use of the thing purchased in providing the 123810
telecommunications, mobile telecommunications, or satellite 123811
broadcasting service. 123812

(35)(a) Sales where the purpose of the consumer is to use or 123813
consume the things transferred in making retail sales and 123814
consisting of newspaper inserts, catalogues, coupons, flyers, gift 123815
certificates, or other advertising material that prices and 123816
describes tangible personal property offered for retail sale. 123817

(b) Sales to direct marketing vendors of preliminary 123818
materials such as photographs, artwork, and typesetting that will 123819
be used in printing advertising material; of printed matter that 123820
offers free merchandise or chances to win sweepstake prizes and 123821
that is mailed to potential customers with advertising material 123822
described in division (B)(35)(a) of this section; and of equipment 123823
such as telephones, computers, facsimile machines, and similar 123824
tangible personal property primarily used to accept orders for 123825
direct marketing retail sales. 123826

(c) Sales of automatic food vending machines that preserve 123827
food with a shelf life of forty-five days or less by refrigeration 123828
and dispense it to the consumer. 123829

For purposes of division (B)(35) of this section, "direct 123830
marketing" means the method of selling where consumers order 123831
tangible personal property by United States mail, delivery 123832
service, or telecommunication and the vendor delivers or ships the 123833
tangible personal property sold to the consumer from a warehouse, 123834
catalogue distribution center, or similar fulfillment facility by 123835
means of the United States mail, delivery service, or common 123836
carrier. 123837

(36) Sales to a person engaged in the business of 123838
horticulture or producing livestock of materials to be 123839
incorporated into a horticulture structure or livestock structure; 123840

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; 123841
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(38) Sales to a professional racing team of any of the following: 123846
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(a) Motor racing vehicles; 123848

(b) Repair services for motor racing vehicles; 123849

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication. 123850
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; 123858
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(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or 123861
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distribution system, including only those motor vehicles as are 123872
specially designed and equipped for such use. The exemption 123873
provided in this division shall be in lieu of all other exemptions 123874
in division (B)(42)(a) or (n) of this section to which a provider 123875
of electricity may otherwise be entitled based on the use of the 123876
tangible personal property or service purchased in generating, 123877
transmitting, or distributing electricity. 123878

(41) Sales to a person providing services under division 123879
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 123880
personal property and services used directly and primarily in 123881
providing taxable services under that section. 123882

(42) Sales where the purpose of the purchaser is to do any of 123883
the following: 123884

(a) To incorporate the thing transferred as a material or a 123885
part into tangible personal property to be produced for sale by 123886
manufacturing, assembling, processing, or refining; or to use or 123887
consume the thing transferred directly in producing tangible 123888
personal property for sale by mining, including, without 123889
limitation, the extraction from the earth of all substances that 123890
are classed geologically as minerals, production of crude oil and 123891
natural gas, ~~farming, agriculture, horticulture, or floriculture,~~ 123892
or directly in the rendition of a public utility service, except 123893
that the sales tax levied by this section shall be collected upon 123894
all meals, drinks, and food for human consumption sold when 123895
transporting persons. Persons engaged in rendering ~~farming,~~ 123896
~~agricultural, horticultural, or floricultural services, and~~ 123897
services in the exploration for, and production of, crude oil and 123898
natural gas, for others are deemed engaged directly in ~~farming,~~ 123899
~~agriculture, horticulture, and floriculture,~~ or the exploration 123900
for, and production of, crude oil and natural gas. This paragraph 123901
does not exempt from "retail sale" or "sales at retail" the sale 123902
of tangible personal property that is to be incorporated into a 123903

structure or improvement to real property.	123904
(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	123905 123906
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	123907 123908
(d) To use or consume the thing directly in commercial fishing;	123909 123910
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	123911 123912 123913 123914
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	123915 123916 123917 123918 123919
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	123920 123921 123922
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	123923 123924 123925 123926 123927 123928
(i) To use the thing transferred as qualified research and development equipment;	123929 123930
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar	123931 123932 123933

facility when the inventory is primarily distributed outside this 123934
state to retail stores of the person who owns or controls the 123935
warehouse, distribution center, or similar facility, to retail 123936
stores of an affiliated group of which that person is a member, or 123937
by means of direct marketing. This division does not apply to 123938
motor vehicles registered for operation on the public highways. As 123939
used in this division, "affiliated group" has the same meaning as 123940
in division (B)(3)(e) of section 5739.01 of the Revised Code and 123941
"direct marketing" has the same meaning as in division (B)(35) of 123942
this section. 123943

(k) To use or consume the thing transferred to fulfill a 123944
contractual obligation incurred by a warrantor pursuant to a 123945
warranty provided as a part of the price of the tangible personal 123946
property sold or by a vendor of a warranty, maintenance or service 123947
contract, or similar agreement the provision of which is defined 123948
as a sale under division (B)(7) of section 5739.01 of the Revised 123949
Code; 123950

(l) To use or consume the thing transferred in the production 123951
of a newspaper for distribution to the public; 123952

(m) To use tangible personal property to perform a service 123953
listed in division (B)(3) of section 5739.01 of the Revised Code, 123954
if the property is or is to be permanently transferred to the 123955
consumer of the service as an integral part of the performance of 123956
the service; 123957

(n) To use or consume the thing transferred primarily in 123958
producing tangible personal property for sale by farming, 123959
agriculture, horticulture, or floriculture. Persons engaged in 123960
rendering farming, agriculture, horticulture, or floriculture 123961
services for others are deemed engaged primarily in farming, 123962
agriculture, horticulture, or floriculture. This paragraph does 123963
not exempt from "retail sale" or "sales at retail" the sale of 123964
tangible personal property that is to be incorporated into a 123965

<u>structure or improvement to real property.</u>	123966
(o) To use or consume the thing transferred in acquiring,	123967
formatting, editing, storing, and disseminating data or	123968
information by electronic publishing.	123969
As used in division (B)(42) of this section, "thing" includes	123970
all transactions included in divisions (B)(3)(a), (b), and (e) of	123971
section 5739.01 of the Revised Code.	123972
(43) Sales conducted through a coin operated device that	123973
activates vacuum equipment or equipment that dispenses water,	123974
whether or not in combination with soap or other cleaning agents	123975
or wax, to the consumer for the consumer's use on the premises in	123976
washing, cleaning, or waxing a motor vehicle, provided no other	123977
personal property or personal service is provided as part of the	123978
transaction.	123979
(44) Sales of replacement and modification parts for engines,	123980
airframes, instruments, and interiors in, and paint for, aircraft	123981
used primarily in a fractional aircraft ownership program, and	123982
sales of services for the repair, modification, and maintenance of	123983
such aircraft, and machinery, equipment, and supplies primarily	123984
used to provide those services.	123985
(45) Sales of telecommunications service that is used	123986
directly and primarily to perform the functions of a call center.	123987
As used in this division, "call center" means any physical	123988
location where telephone calls are placed or received in high	123989
volume for the purpose of making sales, marketing, customer	123990
service, technical support, or other specialized business	123991
activity, and that employs at least fifty individuals that engage	123992
in call center activities on a full-time basis, or sufficient	123993
individuals to fill fifty full-time equivalent positions.	123994
(46) Sales by a telecommunications service vendor of 900	123995
service to a subscriber. This division does not apply to	123996

information services, as defined in division (FF) of section 123997
5739.01 of the Revised Code. 123998

(47) Sales of value-added non-voice data service. This 123999
division does not apply to any similar service that is not 124000
otherwise a telecommunications service. 124001

(48)(a) Sales of machinery, equipment, and software to a 124002
qualified direct selling entity for use in a warehouse or 124003
distribution center primarily for storing, transporting, or 124004
otherwise handling inventory that is held for sale to independent 124005
salespersons who operate as direct sellers and that is held 124006
primarily for distribution outside this state; 124007

(b) As used in division (B)(48)(a) of this section: 124008

(i) "Direct seller" means a person selling consumer products 124009
to individuals for personal or household use and not from a fixed 124010
retail location, including selling such product at in-home product 124011
demonstrations, parties, and other one-on-one selling. 124012

(ii) "Qualified direct selling entity" means an entity 124013
selling to direct sellers at the time the entity enters into a tax 124014
credit agreement with the tax credit authority pursuant to section 124015
122.17 of the Revised Code, provided that the agreement was 124016
entered into on or after January 1, 2007. Neither contingencies 124017
relevant to the granting of, nor later developments with respect 124018
to, the tax credit shall impair the status of the qualified direct 124019
selling entity under division (B)(48) of this section after 124020
execution of the tax credit agreement by the tax credit authority. 124021

(c) Division (B)(48) of this section is limited to machinery, 124022
equipment, and software first stored, used, or consumed in this 124023
state within the period commencing June 24, 2008, and ending on 124024
the date that is five years after that date. 124025

(49) Sales of materials, parts, equipment, or engines used in 124026
the repair or maintenance of aircraft or avionics systems of such 124027

aircraft, and sales of repair, remodeling, replacement, or 124028
maintenance services in this state performed on aircraft or on an 124029
aircraft's avionics, engine, or component materials or parts. As 124030
used in division (B)(49) of this section, "aircraft" means 124031
aircraft of more than six thousand pounds maximum certified 124032
takeoff weight or used exclusively in general aviation. 124033

(50) Sales of full flight simulators that are used for pilot 124034
or flight-crew training, sales of repair or replacement parts or 124035
components, and sales of repair or maintenance services for such 124036
full flight simulators. "Full flight simulator" means a replica of 124037
a specific type, or make, model, and series of aircraft cockpit. 124038
It includes the assemblage of equipment and computer programs 124039
necessary to represent aircraft operations in ground and flight 124040
conditions, a visual system providing an out-of-the-cockpit view, 124041
and a system that provides cues at least equivalent to those of a 124042
three-degree-of-freedom motion system, and has the full range of 124043
capabilities of the systems installed in the device as described 124044
in appendices A and B of part 60 of chapter 1 of title 14 of the 124045
Code of Federal Regulations. 124046

(51) Any transfer or lease of tangible personal property 124047
between the state and a successful proposer in accordance with 124048
sections 126.60 to 126.605 of the Revised Code, provided the 124049
property is part of a project as defined in section 126.60 of the 124050
Revised Code and the state retains ownership of the project or 124051
part thereof that is being transferred or leased, between the 124052
state and JobsOhio in accordance with section 4313.02 of the 124053
Revised Code. 124054

(C) For the purpose of the proper administration of this 124055
chapter, and to prevent the evasion of the tax, it is presumed 124056
that all sales made in this state are subject to the tax until the 124057
contrary is established. 124058

(D) The levy of this tax on retail sales of recreation and 124059

sports club service shall not prevent a municipal corporation from 124060
levying any tax on recreation and sports club dues or on any 124061
income generated by recreation and sports club dues. 124062

(E) The tax collected by the vendor from the consumer under 124063
this chapter is not part of the price, but is a tax collection for 124064
the benefit of the state, and of counties levying an additional 124065
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 124066
Code and of transit authorities levying an additional sales tax 124067
pursuant to section 5739.023 of the Revised Code. Except for the 124068
discount authorized under section 5739.12 of the Revised Code and 124069
the effects of any rounding pursuant to section 5703.055 of the 124070
Revised Code, no person other than the state or such a county or 124071
transit authority shall derive any benefit from the collection or 124072
payment of the tax levied by this section or section 5739.021, 124073
5739.023, or 5739.026 of the Revised Code. 124074

Sec. 5739.021. (A) For the purpose of providing additional 124075
general revenues for the county or supporting criminal and 124076
administrative justice services in the county, or both, and to pay 124077
the expenses of administering such levy, any county may levy a tax 124078
at the rate of not more than one per cent at any multiple of 124079
one-fourth of one per cent upon every retail sale made in the 124080
county, except sales of watercraft and outboard motors required to 124081
be titled pursuant to Chapter 1548. of the Revised Code and sales 124082
of motor vehicles, and may increase the rate of an existing tax to 124083
not more than one per cent at any multiple of one-fourth of one 124084
per cent. 124085

The tax shall be levied and the rate increased pursuant to a 124086
resolution of the board of county commissioners. The resolution 124087
shall state the purpose for which the tax is to be levied and the 124088
number of years for which the tax is to be levied, or that it is 124089
for a continuing period of time. If the tax is to be levied for 124090

the purpose of providing additional general revenues and for the 124091
purpose of supporting criminal and administrative justice 124092
services, the resolution shall state the rate or amount of the tax 124093
to be apportioned to each such purpose. The rate or amount may be 124094
different for each year the tax is to be levied, but the rates or 124095
amounts actually apportioned each year shall not be different from 124096
that stated in the resolution for that year. If the resolution is 124097
adopted as an emergency measure necessary for the immediate 124098
preservation of the public peace, health, or safety, it must 124099
receive an affirmative vote of all of the members of the board of 124100
county commissioners and shall state the reasons for such 124101
necessity. The board shall deliver a certified copy of the 124102
resolution to the tax commissioner, not later than the sixty-fifth 124103
day prior to the date on which the tax is to become effective, 124104
which shall be the first day of the calendar quarter. 124105

Prior to the adoption of any resolution under this section, 124106
the board of county commissioners shall conduct two public 124107
hearings on the resolution, the second hearing to be not less than 124108
three nor more than ten days after the first. Notice of the date, 124109
time, and place of the hearings shall be given by publication in a 124110
newspaper of general circulation in the county, or as provided in 124111
section 7.16 of the Revised Code, once a week on the same day of 124112
the week for two consecutive weeks, the second publication being 124113
not less than ten nor more than thirty days prior to the first 124114
hearing. 124115

Except as provided in division (B)(3) of this section, the 124116
resolution shall be subject to a referendum as provided in 124117
sections 305.31 to 305.41 of the Revised Code. 124118

If a petition for a referendum is filed, the county auditor 124119
with whom the petition was filed shall, within five days, notify 124120
the board of county commissioners and the tax commissioner of the 124121
filing of the petition by certified mail. If the board of 124122