

Budget Language Guidance: Fiscal Years 2014 – 2015



State of Ohio
Office of Budget & Management

Budget Language Guidance

Fiscal Years 2014-2015

Important Notes about the Language-Submission Process

Most state agencies will submit language requests for possible inclusion in one or more of the FY 2014-2015 budget bills: Operating, Transportation, Bureau of Workers' Compensation and Ohio Industrial Commission. The Office of Budget and Management (OBM) has prepared this guidance to assist agencies as they prepare their language requests, review them within the agency and then submit them to OBM for consideration. Included here are:

- Overview and Significant Issues page 3
- Language-Submission Checklist page 7
- Submission Mechanics and Tutorial page 8
- *Appendix A* – Drafting Conventions page 9
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OBM asks that agencies keep the following points in mind and use the provided **Language-Submission Checklist** (page 7) as they prepare their language requests:

- **All language requests must be submitted to OBM no later than:**
 - September 17, 2012 for non-cabinet agencies
 - October 1, 2012 for cabinet agencies
 - November 1, 2012 for legislative and judicial agencies, and constitutional officeholders.
- **All language requests must be budget related**, meaning the language submitted specifically supports part of the agency's budget request. Issues not related to the budget should be pursued in separate legislation.
- Given the complexity and significance of the operating budget, **an agency's legal and legislative staff should be involved early in the budget language development process**, along with the budget and fiscal staff. It is especially important that all language be reviewed by legal and legislative staff prior to submission.
- Each agency's language request will be accompanied by a **Budget Language Summary Form**, which will be used by decision-makers as they evaluate numerous requests from many agencies. **An effective, carefully written summary will plainly and succinctly describe the request**, its purpose, effect and effect if not enacted, cost (including the cost of implementation), background and reason for inclusion in the bill. The summary should be written to be easily understood by a general audience, without unexplained acronyms, code references, technical terms or jargon.
- The **Budget Language Portal**, used for submitting language items, will be **available in mid-July, 2012**. A separate notice will be sent at that time, along with a user's guide.

Overview and Significant Issues

Under Ohio law, OBM is responsible for preparing the Executive Budget, which includes state agencies' budget requests and any language associated with those requests [ORC 126.02].

Language requests may:

- Authorize particular expenditures,
- Authorize new or changed programs for which appropriations are made,
- Prescribe requirements or formulas for expenditures associated with appropriations,
- Create new funds,
- Provide for the deposit of revenue,
- Authorize the award of grants and/or
- Authorize the transfer of cash.

Like agency budget request submissions, all agency language requests must be submitted to OBM by:

- September 17, 2012 for non-cabinet agencies,
- October 1, 2012 for cabinet agencies, and
- November 1, 2012 for legislative and judicial agencies, and constitutional officeholders,

for possible inclusion in the "As Introduced" versions of the budget bills. OBM may ask agencies to submit additional language items after these deadlines that reflect priorities of the administration.

In the review of language requests, OBM may ask for clarification, additional information, and or redrafts from the agency. After a request is initially approved by OBM, it is sent by OBM to the Legislative Service Commission (LSC) for drafting. Time permitting, agencies may have an opportunity to review the LSC drafts. However, submission to LSC for drafting does not guarantee inclusion in one of the budget bills; further review of the requests will occur. OBM will notify LSC and the agencies if requests are approved for inclusion in the budget bills.

Language issues may also arise following bill introduction during legislative consideration of the budget bills. To address these issues, amendments may be offered in the House, Senate, or in Conference Committee; however, all agency language requests, including agency amendment requests, must be submitted to OBM.

Significant Issues for Language Requests

Budget Related:

Language requests must be budget related. Language is budget related if it is:

- Related to expenditures or revenues;
- Required to avoid costs or penalties (the agency must describe the specific penalty and the associated cost that the agency will face without the language);
- Required to obtain federal moneys; or
- Necessary to implement an agency's budget.

Additionally, the agency must draw a direct connection between the language and the effect on the agency's budget in order for the language to qualify as budget-related. Consequently, agencies wishing to submit language requests must complete the required Language and Program Crosswalk found in Appendix J of the FY 2014-2015 Operating Budget Guidance, and

submit the crosswalk with their operating budget request.

Agencies should pursue non-budget issues in separate legislation.

Codified and Uncodified Law:

The budget bills contain two types of budget language: codified and uncodified law. Codified law remains in effect until it is repealed or amended by the General Assembly. Uncodified law is not permanent and is therefore not codified in the Revised Code. Some uncodified law is temporary. Examples of temporary law include: appropriations, language describing the use of appropriations, and other provisions that are related to the implementation of the budget. Temporary law is found in the agency appropriation sections and in the back of the budget act following the appropriation sections.

Appropriations must be made in temporary law because an appropriation cannot be made for a period longer than two years [Article II, Section 22 of the Ohio Constitution]. Temporary law in the budget that meets the requirements of ORC 1.471 becomes effective immediately when the Governor signs the final bill. Unless otherwise indicated in the act, temporary law in the budget expires at the end of the operating biennium. If the language should remain in effect permanently, it should be codified.

Permanent law example

OHIO REVISED CODE
SECTION 911.05

When a special assessment is made on real property owned by the Ohio Rail Development Commission and leased under authority of sections [4981.11](#) to [4981.26](#) of the Revised Code, the installments of the assessment shall be paid by the lessee of such real property so long as such property is leased and any installment thereof remaining unpaid at the termination of any such lease shall thereafter be paid by the issuer so long as such property is owned by it.

Temporary law example

AM.SUB. H.B. 153, 129th GENERAL ASSEMBLY
SECTION 205.10. DEPARTMENT OF PUBLIC SAFETY

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30) to be distributed to the Ohio Task Force One – Urban Search and Rescue Unit and other urban search and rescue programs around the state.

Drafting Language Requests:

Language requests must be drafted according to the technical drafting requirements for codified (Revised Code) and uncodified law. Agencies should have the appropriate legal and/or legislative staff members within the agency review all drafts for potential conflicts with existing law or policy.

Language requests may include a number of related sections of law, and should be drafted from the most recent version of the current law. Permanent law changes should be drafted from the most recent version of the law appearing in the Revised Code (and include all affected sections), whereas temporary law changes should be drafted from the most recent version of the law appearing in the sessions laws, as signed by the Governor.

For temporary law, this means that agencies should review the temporary law in their appropriations section and in the back of the bill in the current budget act (H.B. 153, H.B. 114, H.B. 123, H.B. 124), as well as in any subsequent bills amending the agencies' budgets such as any of the Mid-Biennium Review (MBR) bills. If agencies require assistance with this, they should contact their OBM Budget Analyst.

The technical drafting requirements for permanent and temporary law are generally the same:

- All current permanent or temporary law must appear in regular case.
- Strike through with a horizontal line any current permanent or temporary law that should be deleted.
- All changes to permanent or temporary law should appear in regular case and be underlined.

For temporary law provisions, agencies should update language that should be continued: update dollar amounts, dates, and years referenced in current temporary language (for example: In fiscal year 2014). Note: Agencies need not change the appropriation line item (ALI) amounts as part of this exercise. This will be done separately. Changes to ALI names should be discussed with the agency's OBM Budget Analyst.

Agencies also should supply a title for each section and subsection in their appropriation section and in the back of the bill for temporary law. The title must be in all capitals (e.g. URBAN/RURAL INITIATIVE; STATE SPECIAL PROJECTS). If a current section/subsection of temporary law does not have a title, assign a title to it and underline it (e.g. URBAN/RURAL INITIATIVE; STATE SPECIAL PROJECTS).

Agencies should arrange the language referencing appropriations in the same order as the appropriations. General language that does not refer to an appropriation should follow all the appropriation-specific language. Typically, agency-specific language should appear in the agency's appropriation section and not in the back of the bill that follows all the agency appropriations. Agencies should fix any current language that is now out of order, and put all new language in the proper order.

Any decision to put agency-specific language in the back of the bill should be made in consultation with OBM. Agencies must use the drafting conventions to illustrate changes to the temporary law (strikethrough and underlining), but the bill will not show the language with the underlining and strikes. Instead, the bill will show the language exactly as requested: the new language added and the old language deleted.

Since most temporary law expires at the end of the biennium, there is no carry-over language to actually amend. Therefore, temporary law is "new" in each budget bill.

Agencies should prepare the initial drafts of permanent and temporary law changes. Although OBM may revise the drafts, LSC ultimately is responsible for the final preparation of the permanent and temporary law and for the placement of the language in the appropriate section

of the bill and of the Revised Code.

Budget Language Summary Form Submission:

When submitting language requests, agencies are required to complete a Budget Language Summary Form, through the Budget Language Portal (available in mid-July). The agency must include succinct and meaningful summaries on the Budget Language Summary Form. The summaries play a critical role in explaining the importance and reasoning for the requests (see examples in *Appendix B*).

Agencies are reminded to use the summaries to explain the reason for the language to the decision makers in the budget process: it is advised that the use of acronyms and technical terms should be avoided as they may confuse those not familiar with the day-to-day operations of the submitting agency.

Agencies should submit a Budget Language Summary Form for each permanent law request. Additionally, all initial temporary law requests should be submitted with a single Budget Language Summary Form as follows:

- No changes to current temporary law, changes to current temporary law, or new temporary law
If there will be no changes to current temporary law, changes to current temporary law, or new temporary law, agencies should submit a Budget Language Summary Form that states: “No changes to current temporary law”; “Changes to current temporary law”; or “New temporary law”, as applicable, for the short title; and provide OBM a copy of current temporary law contained in the latest version of the budget. Agencies should provide both the temporary law in the appropriation section and any temporary law included in the back of the current budget following the appropriation sections.
- No temporary law
If agencies do not have temporary law provisions in the current budget and are not requesting any temporary law in the new budget, they do not need to submit anything.

Effective Dates:

Language also must be assigned the correct effective date. Most changes to law (i.e. amendment or repeal of current law or new law) do not take effect for ninety days so that the voters of the state may exercise their right to initiate a referendum on the law prior to the law becoming effective [Article II, Section 1c of the Ohio Constitution]. Appropriations for the current expenses of state government, and related sections of law, are not subject to voter referendum and are immediately effective. [Article II, Section 1d of the Ohio Constitution].

As required under ORC 1.471, a codified or uncodified section of law will be effective immediately when:

- It is an appropriation for current expenses;
- It earmarks all or a portion of an appropriation for current expenses; or
- Implementation of the section depends upon an appropriation for current expenses that is also contained in the budget bill.

OBM and agencies must be confident that a request for an immediate effective date is justified since an immediate effective date will preclude the voters’ right of referendum on that law. Based on this consideration, OBM may change the effective date. The General Assembly will

ultimately determine which sections will be effective immediately as required by ORC 1.471.

Language Request Checklist

Use of this checklist is highly recommended to help you determine if a language request is appropriate for the budget bill and ensure that all elements of the request have been given careful consideration. **Evaluate each language request using this checklist.**

- Is the language budget-related (i.e. related to expenditures or revenues; required to avoid costs or penalties; required to obtain federal funding; or necessary to implement the agency's budget)?
- Is the summary statement in the Budget Language Summary Form sufficient and written to be understood by a general audience? Is the summary statement written in a manner to help the decision makers understand the need for the language? Is the information accurate and explained appropriately on the form?
- Does the language request conform to applicable drafting conventions?
- What is the budget and operational impact of implementing the language request? Is the proposed cost realistic to achieve the stated goals and objectives? Are there unintended or secondary consequences to consider?
- Is the language request correctly drafted as codified or temporary? (Temporary would mean uncoded language that is "in use" for the two-year budget period. Codified would mean codified language that is "in use" permanently, or at least until repealed or amended.)
- Has the correct effective date been included? Should it be immediately effective because the language is: directly related to the agency's expenditures or revenues; an earmark of all/portion of an appropriation; or implementation is directly dependent upon the agency's appropriations?
- Who are the stakeholders? Who benefits from the language requested, who will support it, and who is likely to oppose it? Who is affected by the language?
- Has the agency's legal counsel and/or legislative liaison approved the language?
- Has the agency completed the required Appendix J Language and Program Crosswalk found in the FY 2014-2015 Operating Budget Guidance?

Submission Mechanics and Tutorial

Agencies must work closely with their OBM Budget Analyst when submitting language requests. Developing budget language is a collaborative effort and OBM requires that all language receives approval from in-house legal counsel and pertinent senior staff before submitting requests for the budget bill.

Agencies will use the Budget Language Summary Form to submit requests for language to be included in the budget bills. OBM is asking that only Legislative Liaison and agency legislative staff members submit budget language. All Legislative Liaisons will be pre-registered for the Budget Language Submission Portal. Additional users and new staff may gain access to the portal by submitting a Language Portal Access Form available the OBM website at www.obm.ohio.gov/language/. Completed forms should be returned to your OBM Budget Analyst.

The Budget Language Portal will be available for use in mid-July, 2012. A separate notice will be sent at that time, along with a user's guide.

APPENDIX A: **DRAFTING CONVENTIONS**

Appendix A discusses common language provisions that appear in the budget bill. These provisions include: receipt of new revenue and the creation and abolishment of state funds; names, numbers, and order of budget fund groups and line items; appropriations and cash transfers; earmarks; compensation for members of boards, commissions, and other entities; and deadlines.

Receipt of New Revenue

On occasion, agencies may receive a new stream of revenue, which must be deposited into the state treasury to the credit of a fund. If an agency fund does not exist that may appropriately receive the new revenue, then the revenue must be deposited in the state's General Revenue Fund. However, if this revenue is required to support specific agency activities, then it may be appropriate to deposit the revenue in a separate fund, which must be created if it does not exist. Agencies are encouraged to discuss fund creation with their OBM Budget Analyst to determine the best option.

A new revenue stream also may be shared by two or more agencies. In this case, it is important to consider how each agency's spending will be tracked and whether separate funds or a shared fund is appropriate. Again, agencies should consult their OBM Budget Analyst when making this decision.

Creation and Abolishment of State Funds

A fund may be created in one of three ways: in the Revised Code; by Controlling Board action; or in the temporary law in the appropriations section of the budget bill. A fund should be created in codified law if it is intended to exist for more than three years. The Controlling Board may create a fund between budget bills; agencies should request adding a Controlling Board-created fund to the Revised Code in the next budget bill. A fund that is experimental or temporary in nature should be created in temporary instead of permanent law. If it is intended to last longer than the appropriations in a budget act, then the fund should be created in permanent law in either separate legislation or in the budget bill.

Language that creates a fund must include all of the following:

- Whether the fund is in the state treasury or is a custodial fund. Nearly all state funds should be in the state treasury. A custodial fund (outside the state treasury) can only be created in the Revised Code.
- The source of receipts to be deposited in and credited to the fund.
- The authorized uses of cash in the fund.

When referring to a fund in temporary law, both the fund name and fund number should be indicated. However, only the fund name should be used in the Revised Code.

Example of a fund created in the Revised Code containing all the requirements:

SECTION Xxxx.xx. There is hereby created in the state treasury the commercial vehicle information systems/networks fund. Money received from the United States department of transportation's commercial vehicle intelligent transportation system infrastructure deployment program shall be credited to the fund. The public utilities commission of Ohio shall use the fund to deploy the Ohio commercial vehicle information systems and networks project and to expedite and improve the safety of motor carrier operations through electronic exchange of data by means of on-highway electronic systems.

Example of a fund created in temporary law containing all the requirements:

SECTION 203.12.27. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P30).

A fund also may be consolidated with another, or abolished. For example, an obsolete fund should be abolished when it is no longer needed or when superseded. Agencies should consider the following when drafting language to consolidate or abolish a fund:

- Are there encumbrances or other outstanding obligations in the fund to be abolished or consolidated that must be met? If so, determine if they must be met prior to the close-out of the fund or if the obligations are to be transferred to another fund.
- Is there a need to certify funds prior to the consolidation or abolishment of the fund?
- Is there a deadline by which the consolidation or abolishment must occur?
- If established in the Revised Code, has the section been amended or repealed? If an entire Revised Code section is to be repealed, do so by listing the section in the title and in the repeal clause as being repealed outright.
- If future revenues are to be received, determine where they are to be deposited.
- Determine who is responsible for the transfer.

Example of abolishing a fund and creating a new one:

SECTION 27.05. FUND ADJUSTMENTS

Effective July 1, 2013, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Driver's Treatment and Intervention Fund (Fund 4740), which is abolished in division (L)(2)(a) of section 4511.191 of the revised code, as amended by this act, to the Statewide Treatment and Prevention Fund (Fund 4750), which is created in section 4301.30 of the revised code and was formerly named the Alcoholism Detoxification Centers Fund. The director shall cancel any existing encumbrances against appropriation item 038628, DWI Treatment in Fund 4740, and reestablish them against appropriation item 038621, Statewide Treatment and Prevention in Fund 4750. The amounts of the established encumbrances are hereby appropriated.

Budget fund group names (e.g. GRF) and fund numbers are also included in the budget bill. They are accounting conventions that are listed in the appropriation section of the budget bill. For clarity, use the budget fund name followed by the fund number in parentheses in temporary law provisions. The fund name only must be referenced at the beginning of a paragraph or group of related paragraphs. Only the budget fund name should be listed in the Revised Code;

the budget fund group names and fund numbers should not be referenced in permanent law. A line-item name should reflect its use.

Traditionally, each agency's appropriation section is ordered as follows:

- General Revenue Fund (GRF) appropriations;
- General Services Fund (GSF) appropriations;
- Federal Special Revenue Fund (FED) appropriations;
- State Special Revenue Fund (SSR) appropriations; and,
- All other fund group appropriations.

Within each section, appropriation items are grouped alphanumerically by the first three digits of the budget fund number and then in order by the line item number.

All appropriations are drafted in temporary law as a result of the two-year limitation on appropriations found in Article II, Section 22 of the Ohio Constitution, which states:

No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

An appropriation is an authorization by the General Assembly to make expenditures, or incur liabilities, from the state treasury for a specific purpose. Once money has been deposited in the state treasury, it typically may be removed only upon the General Assembly's authorization (i.e. pursuant to an appropriation). Therefore, an appropriation only authorizes and places a limit upon the amount of spending from a fund that may be permitted during the period of the appropriation.

An appropriation appears in one of two formats: line item or language. An appropriation line item (ALI) should include a title that reflects how the appropriation will be used. A line-item name should reflect its use.

A language appropriation may be used if the amount required for a purpose is uncertain or indefinite. However, **the use of language appropriations is strongly discouraged.**

Example language appropriation:

SECTION 303.09 RE-ISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants under section 117.47 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management

It is also possible for both an ALI and language appropriation to be made for the same item. For example:

<u>Fund</u>	<u>ALI</u>	<u>ALI Title</u>	<u>FY14</u>	<u>FY15</u>
6720	005601	Continuing Judicial Education	\$126,000	\$120,000

The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and

grants received for the purpose of continuing judicial education. The foregoing appropriation item, 005601, Continuing Judicial Education, shall be used to pay for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

Cash, on the other hand, is defined as the actual balance available to support an appropriation. For purposes of the budget bill, it is important to distinguish between an appropriation and cash. While an appropriation may be described as the “permission to spend,” sufficient cash must be available to support the spending. As an analogy, the appropriation may be thought of as a check that may be “cashed” only if there is sufficient cash in the account (i.e. the state treasury) to match the expenditure.

Typically, when cash needs to be moved between funds, it is transferred between funds in the state treasury, rather than paid out of one fund and then deposited back into the state treasury to the credit of another fund.

A transfer results in a decrease in the fund balance of the “sending” fund and a corresponding increase in the fund balance of the “receiving” fund. There are three basic requirements for transfers: 1) language establishes authority for the transaction; 2) the OBM Director makes all transfers of money between state funds, though the head of another state agency may initiate the request for transfer; and 3) the State Treasurer makes all transfers between custodial funds or between a custodial fund and a state fund.

Agencies should consider the following when drafting transfers:

- Identify who will make the transfer, the OBM Director or the State Treasurer;
- Specify a date, time frame, or deadline for making the transfer, for example, “within thirty days of the effective date of this act, or as soon as possible thereafter”;
- Specify the fund name and number of both the sending and receiving funds, since many fund names are similar;
- State that “cash” is being transferred;
- State how the transfer process will begin by identifying a “trigger” (i.e. a request from the agency’s director);
- Insert the transfer language in the appropriations section of the “sending” agency and, if possible, cross-reference the transfer in the appropriations section of the receiving agency.

Transfers typically fall into one of several categories:

- Transfer of cash with or without appropriations;
- Transfer by means of an intrastate transfer voucher (certain ISTVs require statutory language specifically authorizing);
- Transfer to consolidate or abolish funds or to terminate the operation of a state agency;
or
- Transfer from a custodial fund to a state fund.

A transfer without an accompanying appropriation is the most straightforward, since cash is transferred from one fund to another. It is not transferred from a fund to an ALLI.

Example:

Upon the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer up to \$12,000 in cash from Fund 4610, Operating Expenses, to Fund 4E80, HEFC Administration, in each fiscal year of the biennium.

Although it increases the cash balance of a fund, a transfer does not authorize the expenditure of the amount transferred. Before it can be spent, the transferred amount must be appropriated to the receiving fund. This can be done by appropriation line item or by language appropriation. Appropriation line item is the preferred approach, since it is easy to understand and research; an appropriation can be created if one does not currently exist for the purpose; and a current appropriation can be amended if it fits the purpose of the transfer.

Example ALI:

Fund	ALI	ALI Title	FY14	FY15
5C20	100605	MARCS Administration	\$6,632,527	\$9,268,178
			<u>\$10,062,474</u>	<u>\$13,743,368</u>

In the alternative, though strongly discouraged, a language appropriation may be used.

Example:

SECTION ____. The Director of Budget and Management may transfer up to \$18,000 cash in fiscal year 2014 and up to \$16,000 cash in fiscal year 2015 from the Pharmacy Board Operating Fund (Fund 5N20) to the Central Service Agency Fund (Fund 1150). The amount of the transfer is hereby appropriated to the Department of Administrative Services for appropriation item 100632, Central Service Agency, and shall be used to purchase the necessary equipment, products, and services to install and maintain a local area network for the professional licensing boards, and to support their licensing applications.

Cash also may be transferred using an intrastate transfer voucher (ISTV) as authorized under ORC 131.34. This statute allows an ISTV to be used to transfer cash between state agencies to pay for goods purchased or services rendered, or when statutory language specifically authorizes or requires a transfer by ISTV. The former type of ISTV occurs without specific statutory authority and is similar to payment to a vendor. An example is payment to the Department of Administrative Services for telecommunications charges.

ISTV transactions are initiated by agencies, but the State Accounting division of OBM reviews, approves, and enters these transactions into OAKS. ISTVs post as disbursements against the appropriations of the paying agencies and as revenue in the receiving agencies' funds. ISTVs reduce the paying agencies' appropriations, but do not impact the receiving agencies' appropriations.

Example:

Of the foregoing appropriation item 335508, Services for Severely Mentally Disabled, \$2.7 million cash shall be transferred in each fiscal year from the General Revenue Fund to the Family Stability Incentive Fund (Fund 4N80). The transfer shall be made using an intrastate transfer voucher.

While a transfer moves cash between funds, an earmark sets aside a portion of an appropriation for a specific purpose. When drafting language, agencies should consider the amount to expend on the stated purpose: a flat amount; a minimum amount; or a maximum amount. Also, how difficult will it be to meet the requirements as written? What if the entire earmarked amount is not needed? Agencies must ensure that the total amount earmarked does not exceed the amount appropriated in the line item.

Example:

Of the foregoing appropriation item 200422, School Management Assistance, \$1,000,000 in fiscal year 2012 and \$1,000,000 in fiscal year 2013 shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The budget bill also may include provisions concerning the compensation of members of a board, commission, or other entity. If members of a board, commission, or other entity will be paid or reimbursed for their expenses, agencies should indicate the source from which such expenses are to be paid and the rate of reimbursement.

The OBM travel statute, ORC 126.31(B), provides that, notwithstanding any other statute to the contrary, the payment of travel expenses for any board or commission member, state employee, state officer, or consultant to a state agency, whose compensation is paid in whole or in part from state funds, shall be paid at rates set by rule of the OBM Director. Agencies should avoid stating in law that such compensated persons will be reimbursed for their actual and necessary travel expenses, since, in most instances, the notwithstanding provision requires that such persons will be reimbursed for travel according to the OBM travel rule.

Travel and other expenses of uncompensated state board or commission members or volunteers are not governed by the OBM travel statute and OBM travel rule. If expenses are to be reimbursed, the enabling statute creating an uncompensated board or commission should specify the rate of reimbursement for travel and other expenses and the source of payment. Agencies should indicate: whether the board or commission is responsible for the expenses of all members; whether an agency which staffs or supports the entity will pay the expenses; whether an entity is comprised of various state officials; and whether each member's own agency will pick up its member's expenses.

One final provision that typically appears in the budget bill is deadlines. When drafting language, agencies should be mindful of necessary deadlines and should consider whether deadline dates for items such as reports, transfers, or required actions have been reasonably established. Agencies also should consider the consequences if the deadlines are not met.

APPENDIX B: **BUDGET LANGUAGE SUMMARY STATEMENT EXAMPLES**

Appendix B provides examples of acceptable Summary Statements for budget language summary form submissions.

1. The Department of Commerce seeks to eliminate a burdensome process and fee presently levied on small businesses that seek to issue securities. Several companies operating, or looking to operate, in Ohio are seeking to launch online investment platforms for small business security issuers. The products they offer are similar to micro-loans or micro-credit. However the ORC would require these small securities, less than \$50,000, to comply with the same regulations as securities with values of millions of dollars. This language would allow the Director of Commerce to waive the \$50.00 filing fee and other provisions of the ORC for securities with values of less than \$50,000. The loss of fee revenues would be off-set by the anticipated increase in small business owners expanding their businesses.
2. Institutions of higher education are allowed under the ORC (section 3345.54) to enter into lease and/or leaseback agreements with “conduit entities” for auxiliary facilities, such as housing, dining and parking facilities; hospitals and medical clinics, bookstores, auditoriums, exhibition halls, etc. Presently “conduit entities” is limited to charitable entities as defined by law. This provision will expand the definition of “conduit entities” to include any appropriate legal entity. This will allow higher education institutions greater flexibility in seeking these agreements, and lessen the need for state capital funding.
3. DAS wishes to transfer \$975,000 in cash from the defunct Workforce Development Fund (Fund 5D70) to the Human Resources Operating Fund (Fund 1250) to implement new functionality of recent upgrades to the OAKS-HCM module. The cash remaining in Fund 5D70 was collected from state agencies to support a workforce training and development program that was transferred to OCSEA several years ago. As part of the program transfer to OCSEA, DAS transferred an agreed-upon amount of cash to OCSEA, repaid the federal share to the U.S. Department of Health and Human Services, and now wishes to use the remaining funds for implementing new functionalities of the OAKS-HCM module. Use of funds include training for state employees on the new functionalities of OAKS-HCM, contractual services for implementing civil service testing decentralization, and training on the use of the new enterprise performance management system. *[Note: although this example uses several acronyms – DAS, OAKS-HCM, OCSEA – these are ones which are common throughout state government.]*
4. Language was included in the FY 2012-13 biennial operating budget bill (H.B. 153) that allowed for the transition of children from residential treatment facilities to less-costly home/community settings via the HOME First component of the Ohio Home Care Program. The language in H.B. 153 defined residential treatment facilities as those licensed or certified by the Department of Mental Health (ODMH). This inadvertently excluded from the HOME First program children in residential treatment facilities licensed or certified by the Department of Jobs and Family Services (ODJFS). This was not intended. The proposed language will expand the definition of residential treatment facilities to include those licensed or certified by either ODMH or ODJFS. This will allow

an additional 200 children to potentially transition into home/community settings, and result in Medicaid savings.

5. Permits money in the Airport Assistance Fund to be used to pay operating costs associated with the Department of Transportation's Office of Aviation. Funding for the Airport Assistance Fund comes from a state aircraft registration fee, and is used exclusively for providing grants to public-owned airport for pavement maintenance and obstruction removal. This provision will allow the Director of Transportation to supplement the Aviation Office's GRF funding with money from the Airport Assistance Fund. The operations of the Aviation Office are not eligible for state motor fuel tax funds. This action will elevate the department's reliance on the GRF.
6. This language will amend section 5149.311 of the Ohio Revised Code to allow probation departments that supervise offenders sentenced by municipal courts to be eligible recipients of probation improvement and incentive grants. Under the current statute, courts of common pleas are the only eligible recipients of these grants. The goal of this language is to incentivize the municipal courts to keep offender oversight within their jurisdiction and out of the oversight of the Department of Rehabilitation and Corrections.

*Office of Budget and Management
June, 2012*