



OHIO AUDITOR OF STATE
KEITH FABER



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OHIO AUDITOR OF STATE KEITH FABER



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Dave Yost
Ohio Attorney General
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Honorable Attorney General Yost:

The Ohio Auditor of State (AOS) has completed certain procedures related to the Ohio Attorney General's Office (AG), specifically related to the Ohio Peace Officer Training Academy (OPOTA), under our authority of Ohio Revised Code (ORC) Section 117.11.

Our tests and analysis were performed in reference to certain applicable sections of criteria, including the Ohio Constitution, statutory requirements of the ORC and AG internal policies and procedures as applicable.

This report is issued under the authority of the Auditor of State's office to conduct audits in the public interest and includes an explanation of our analysis and work performed as part of this engagement. This engagement is not a financial or performance audit, the objectives of which would be vastly different. Therefore, it is not within the scope of this work to conduct a comprehensive and detailed examination of the Attorney General's complete office operations.

On July 30, 2020, we held an exit conference with representatives of AG's office. On August 5, 2020, the AG submitted an official response to this report and changes were made to this report as deemed appropriate. The response is included as Attachment D to this report.

A handwritten signature in black ink that reads "Keith Faber".

Keith Faber
Auditor of State

March 17, 2020

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OVERVIEW

The Auditor of State (AOS) received a request from the Attorney General's Office (AG) on April 23, 2019 requesting a review be performed over the following:

To ensure the funds were properly used by the Ohio Peace Officer Training Academy and by the Ohio Highway Patrol, I ask that you undertake a financial audit of those funds for the past three fiscal years...

I ask that you consider a financial and compliance review to encompass the following:

- 1. Over the past three years, how much casino revenue money has been transferred into the Law Enforcement Training Fund and how was it expended?*
- 2. Were fund expenditures consistent with law?*

We interviewed several Ohio Peace Officer Training Academy (OPOTA) and AG representatives and reviewed several revenue, expenditure, and fund activity reports generated from the State accounting system, (OAKS). In order to obtain an understanding of the activity of OPOTA, we expanded our analysis to cover all funds and activity associated with OPOTA. Our period for the engagement included fiscal years ended June 30, 2016, June 30, 2017, and June 30, 2018. After delays in starting the engagement, initiation of the work, and discussion with the AG's office representatives, we also included fiscal year ended June 30, 2019 activity in our analysis. We also chose to look at the activity of three prior fiscal years (back to fiscal year 2013) to establish a baseline to perform portion of our analysis. This was all communicated to the AG's office in a Letter of Arrangement dated December 3, 2019.

BACKGROUND

In order to obtain an understanding and additional details, AOS met with several representatives from the AG's office on July 9, 2019, to discuss the activity regarding OPOTA and the use of casino revenues. Representatives of the AG's office included the AG's Chief of Staff, the (now former) Director of OPOTA, the (now former) attorney for OPOTA and a former business manager for OPOTA. Prior to our meeting, the Director of OPOTA sent AOS an email with several reports and attachments, including a funding memo that was discussed during that meeting.

The funding memo, dated August 5, 2015, included in this report as Attachment A, discusses the two major funding sources of OPOTA; Tuition Revenues and Casino Revenues, and how each funding source is to be used, according to the statutes, as interpreted on that date. The following bullet points are excerpts from the memo:

- The tuition fund was established by Ohio Revised Code section 109.79. This section would seem to require the Commission to set tuition rates so that the costs of running the academy are covered solely by funds generated from tuition. However, it does not actually require the tuition funds be used to cover academy costs, but rather simply requires that they be enough to cover the costs. For example, if the academy needs \$3,000,000 to operate annually, tuition fees would need to be at least \$3,000,000 but could be used to cover other costs, while other funding is used to cover the costs of the academy.
- The language found in RC 5753.03 is very broad and would suggest that the share of casino taxes distributed to OPOTA could be used for almost anything that the academy or commission does. Commission and academy functions relating to private security would probably be the only functions not allowed to be funded based on the language in RC 5753.03. However, the language in the Ohio

Constitution and RC 3772.01 is more restrictive than what is found in RC 5753.03, requiring that casino funds be used for “additional training opportunities to the law enforcement community.”..... Additional opportunities could encompass several different ideas. Casino funds could theoretically be used to reduce the costs of tuition for advanced training courses, thus allowing more officers to have the opportunity to attend OPOTA courses. As “law enforcement community” is not defined anywhere, casino funds could also be used to run basic training academies at OPOTA..... In short, additional training opportunities would be new training, improved training, or current training provided in some way to reach additional officers. It should be noted that additional opportunities should be based on what was available when the casino amendments and statutes were passed.

- While individual LETOs (Law Enforcement Training Officers) regularly develop new courses, they do not do so in a way that could be easily tracked for budgeting purposes..... it would be difficult to verify how much time each training officer was spending on the new courses, thus making it difficult to allocate casino funds to a set percentage of a training officer’s duties. As such, it would be problematic to allocate casino funds to pay for current non-mobile academy LETOs as the additional training they would be providing would likely be both immaterial and unable to be tracked in comparison to the training they already do.

AOS requested an updated opinion from the current AG administration to determine if there were any changes to the AG’s position included within this funding memo. We received an updated response from the AG’s office, dated July 26, 2019, which is included as Attachment B to this report. The following bullet points are excerpts from this memo:

1. The expenditure of moneys deposited in the Ohio law enforcement fund is not limited to new and additional courses and offerings added after the creation of the fund, but may be utilized for any purpose which enhances public safety by improving, enlarging, or increasing the value and benefit of training opportunities for the Ohio law enforcement community. This conclusion assumes that the commission is now and will continue to comply with the requirement of R.C. 109.79 as to the creation and funding of a gaming-related curriculum and the offering of training thereunder; and
2. There is no statutory limitation which precludes the expenditure of tuition funds generated by the academy for proper public purposes of the commission other than the actual operation of the academy on the condition that the academy’s operations are fully-funded as is reasonably necessary as determined by the commission.

There were several meetings between the AOS and representatives of the AG’s office, including members of OPOTA and the Ohio Peace Officer Training Commission (OPOTC), to gain a better understanding on how the revenues in the Casino Fund were being spent and to help determine if those expenditures were in accordance with the Ohio Constitution and the Ohio Revised Code.

As we state above the purpose of our meetings were to gain a better understanding of;

- How OPOTA operated, how OPOTA was funded, how OPOTA’s activity was tracked in the AG’s accounting ledgers;
- How does OPOTA track “additional training” or demonstrate Casino Funds were used to “enhance public safety by improving, enlarging, or increasing the value and benefit of training opportunities for the Ohio law enforcement community”;

- What policies were in place to make sure the Casino monies were being expended in accordance with the Ohio Constitution and Ohio Revised Code.

ANALYSIS

OPOTA Operations

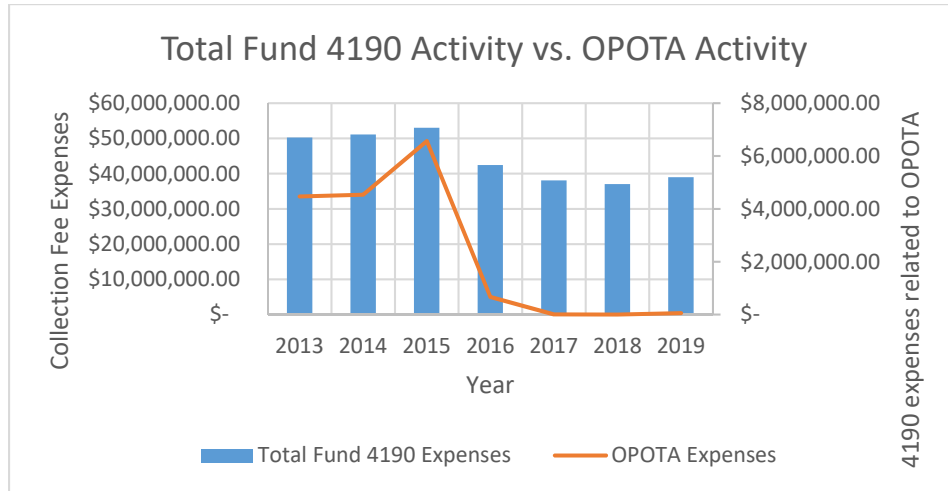
The Academy maintained several funds, including but not limited to the following, Tuition Fund (Fund 4210), Casino Fund (Fund 5LR0) and, Law Enforcement Assistance Program Fund (Fund 5L50). Ohio Rev. Code Section 109.79(A) requires the Ohio Peace Officer Training Commission to “determine tuition costs sufficient in the aggregate to pay the costs of operating the academy.” AOS interpreted this to mean that OPOTA should establish tuition rates at a level to collect enough tuition revenue to cover all cost related to the operations of OPOTA. During meetings we inquired if the Academy was aware of this requirement and if the tuition rates were established to cover all operating costs. In response, AG representatives informed us they were aware that this is not occurring and stated this would not be possible, if OPOTA wants to stay competitive with the private training academies.

Prior to receiving casino funds, the academy was supplementing OPOTA’s operations with monies from the Collection Fees Fund (Fund 4190). AOS was informed that the prior administration made a decision to cease utilizing collection fees to supplement the Tuition Funds revenue shortfall. The Academy provided AOS with the AG’s “crosswalk”, their guide to allocating expenses to the various OPOTA funds. Upon review of the cross walks for fiscal years 2015 through 2019 and inquiry with various AG representatives we noted the following changes in the funding structure of OPOTA’s activities throughout this period.

- FY15 – Non-payroll expenditures were accounted for in fund 4190
 - Payroll was divided based on the following:
 - Advance training was accounted for in fund 4210, except individuals that were hired to instruct courses provided by the Mobile Academy. This payroll was accounted for in the Casino Fund 5LR0.
 - Admin and Commission staff payroll was accounted for in fund 4190.
- FY16 – Non-payroll expenditures were changed and accounted for in the following funds:
 - All Advance Training – fund 5LR0
 - Commission Staff – fund 4210
 - Admin – fund 4190
 - Payroll was also changed to follow the same rule set as non-payroll expenditures; i.e. All Advance training accounted for in fund 5LR0.
- FY17, FY 18 & FY 19 - followed the same rule set as FY16, except Admin was accounted for in fund 5LR0 instead of fund 4190.

We have compiled a graph that represents the changes in fund 4190 (Collections Fees Fund), showing when the OPOTA expenditures were moved out of fund 4190 and into the Casino Fund, fund 5LR0:

Figure 1



As demonstrated in the graph above, as casino revenues became available, expenditures were moved from fund 4190 into fund 5LR0. Per our inquiry with AG representatives and various documentation provided, the change in the charges to the funds occurred due to the fact the collection fees were less than expected and could no longer supplement OPOTA operations. We performed a review of the collection fees, fund 4190, for FY13-FY19:

Figure 2

Year	Fund 4190 Revenue
2013	\$ 45,280,485.36
2014	45,265,405.83
2015	40,984,682.72
2016	43,167,523.83
2017	37,468,360.80
2018	39,664,692.43
2019	39,151,591.27
Total	\$ 290,982,742.24

Figure 3

Year	Collections Fund Total Expenditures (Fund 4190)	Total OPOTA Expenditures Within Fund 4190
2013	\$ 50,219,297.43	\$ 4,467,773.94
2014	51,113,398.09	4,533,149.68
2015	53,019,455.36	6,566,077.65
2016	42,415,131.43	666,180.68
2017	38,079,584.52	6,681.94
2018	37,028,227.07	-
2019	38,969,439.12	53,703.13
Total	\$ 310,844,533.02	\$ 16,293,567.02

Our analysis of Fund 4190 (Figure 2 and 3) demonstrated that the fund expenditures exceeded fund revenues in four out of the seven years we reviewed, totaling nearly \$20 million in excess expenditures during the entire seven year period.

Review of the expenditure crosswalk, presented by the AG, indicates that these expenditures were to be accounted for in the Casino Fund in FY16, however, based on our expenditure analysis below, we have determined that the AG's office did not allocate its expenditures based on the crosswalk. According to the Legislative Services Greenbook (Greenbook) for FY16 and FY17, the AG's office received an additional \$2.5 million each year in the Tuition Fund. These additional monies, from the General Assembly, allowed the AG's office to allocate more of their expenditures to the Tuition Fund, without supplementing the shortfall in tuition revenues with collection fees or casino revenues. Not until FY18 and FY19 did we see the Casino Fund supplementing the loss of the collection monies.

Use of Casino Fund Policies

We requested the AG's policies related to the spending of the casino monies. The only policy we received was the expenditure crosswalk and the organization chart. According to AG representatives, payroll was allocated based on the organization chart; simply, if an employee on the organization chart was not listed under the Commission, then the employee was to be paid out of the Casino Fund. Those that were listed under the Commission were to be paid out of the Tuition Fund. All of the non-payroll expenditures were to be allocated based on the crosswalk.

Based upon this understanding we concluded that the AG's office considered the Tuition and Casino funds to be one in the same; meaning that both funds could be expended for the same purposes and the only limitation related to the expenditures associated with the Commission activity.

We asked the AG's office if our conclusion was correct; their response, in part, stated:

For Funds 4210, 5L50, 5LRO, and 5900 expenditures are made/limited based on the legal basis/purpose of each fund.

Fund 4210 Police Officer Training Academy Fee - Legal basis Section 221.10 of H.B 49. Purpose- used to fund the costs of operating training Academy programs

Fund 5LR0 Peace Officer Training- Casino - Legal basis ORC 109.79 and 5753.03; Section 221.10 of H.B 49 of the 132nd G.A.(originally established by H.B 487 of the 129th G.A). Purpose- supporting the law enforcement training efforts of the Academy.

Furthermore, while the AG's office indicated that "additional training" could be supported in various ways, such as offering free courses, updating curriculum, offering additional opportunities for the same course, etc. the AG's office was unable to provide support for these expenditures, in a measurable format that could be used to determine the hours worked by the OPOTA employees and/or materials/services purchased that were utilized to provide additional training. Due to the conflicting legal opinions and lack of measurable support, we determined the best approach was to analyze the data to determine how expenses were allocated among all OPOTA/OPOTC funds.

Revenue Analysis

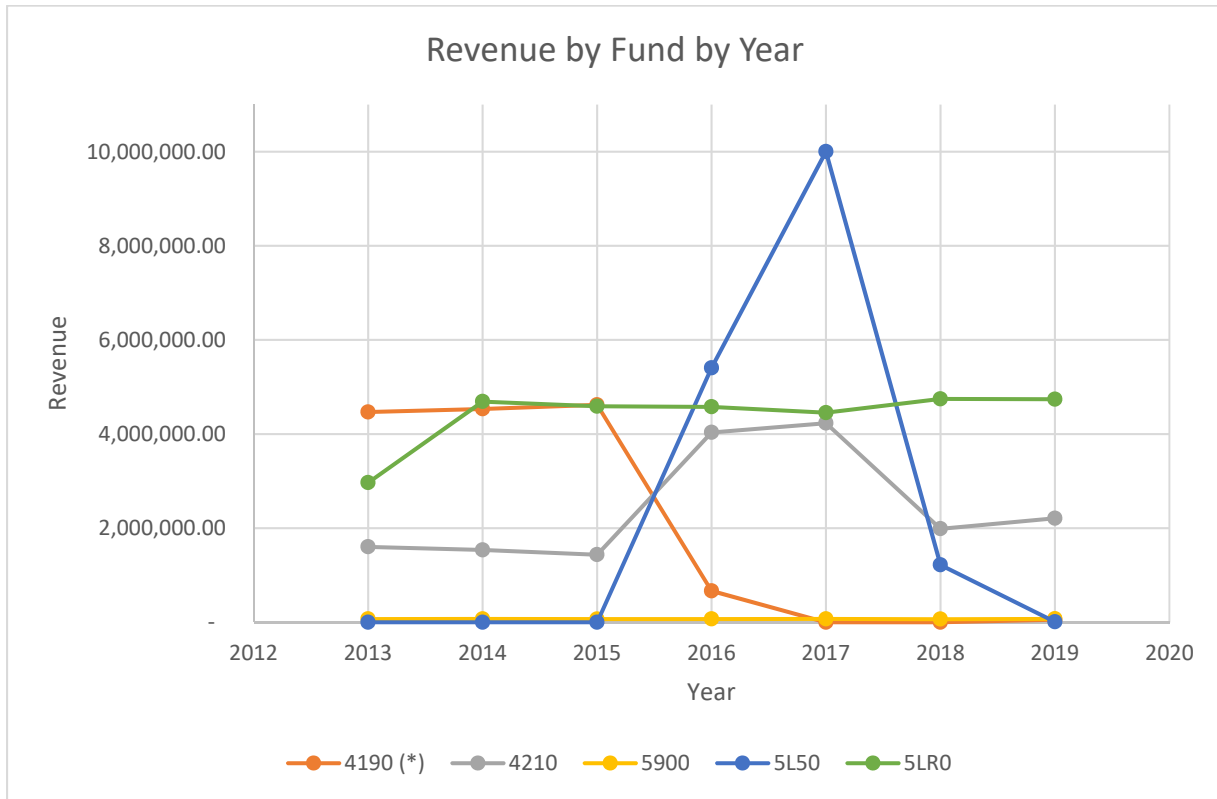
The financial data clearly indicates that tuition revenues were not set at a rate to cover the full cost of OPOTA's operations; the average annual tuition revenue was approximately \$1.7 million and total OPOTA expenditures were approximately \$6 million annually. Thus the AG's office, up to FY 2016, supplemented the short fall of the tuition revenue (in Fund 4210) with Collection Fees (from Fund 4190). For instance, in 2013 through 2015, Fund 4190 Collections accounted for approximately 50% of OPOTA's operating cost. In 2016 the funding activity shifted from fund 4190 to the tuition fund and casino fund. In FY 2016 and 2017 the Tuition fund (fund 4210) received an additional \$2.5 million from the General Assembly, this is why the shift to 4210 in FY 2016 and 2017 and why in FY 2018 and 2019 the shift of funding moved to the Casino Fund (5LR0).

Additionally, we reviewed and confirmed the total casino revenues that were receipted into the AG's Casino Revenue Fund (Fund 5LR0). AOS obtained the total transfers into Fund 5LR0, in order to confirm these amounts, AOS accessed the Quarterly Distributions – Casino Revenue reports from the Ohio Department of Taxation's website. The amounts on the Department of Taxation's website indicate 2% of the gross casino revenues that are allocated to the Law Enforcement Trust Fund (5JNO), from this 2%, AOS calculated the 85% of these revenues that should have then been posted to the AG's Casino Revenue Fund. See Figure 4 below for our results:

Figure 4

	(A)	(B)	(C)	(D)
Date	Gross Casino Revenue into Law Enforcement Trust Fund (5JNO)	85% of Column C - amount given to OPOTA (AG's office)	Transfer in Per GL-0059 Report	Variance
7/9/2015	\$1,284,119.71	\$1,091,501.75	\$1,091,501.75	-
10/9/2015	1,332,332.23	1,132,482.40	1,132,482.40	-
1/8/2016	1,345,121.10	1,143,352.94	1,143,352.94	-
4/8/2016	1,423,779.10	1,210,212.24	1,210,212.24	-
7/8/2016	1,306,306.49	1,110,360.52	1,110,360.52	-
10/7/2016	1,309,518.54	1,113,090.76	1,113,090.76	-
1/10/2017	1,207,759.46	1,026,595.54	1,026,595.54	-
4/4/2017	1,415,417.61	1,203,104.97	1,203,104.97	-
7/10/2017	1,360,982.46	1,156,835.09	1,156,835.09	-
10/10/2017	1,326,011.30	1,127,109.61	1,127,109.61	-
1/12/2018	1,299,076.05	1,104,214.64	1,104,214.64	-
4/11/2018	1,423,433.68	1,209,918.63	1,209,918.63	-
7/13/2018	1,392,498.36	1,183,623.61	1,183,623.61	-
10/10/2018	1,345,817.86	1,143,945.18	1,143,945.18	-
1/11/2019	1,345,184.04	1,143,406.43	1,143,406.43	-
4/11/2019	1,436,696.16	1,221,191.74	1,221,191.74	-
7/11/2019	1,430,310.16	1,215,763.64	1,215,763.64	-
(A)	Amounts were obtained from the Ohio Department of Taxation's website (tax.ohio.gov) - Distributions - Casino Tax (Quarterly Revenue by Fund) reports			
(B)	Recalculated; Amount from (A) * 85% = amount transferred to OPOTA (AG's Office) into the Casino Revenue Fund (Fund 5LRO)			
(C)	Agrees to the transfer in amount on the GL-0059 Report from the Power BI system			
(D)	Variance (amount in (B) - (C))			

Figure 5



According to AG representatives and the Greenbook: Analysis of Enacted Budget, fiscal year 2016 and 2017, the AG received an additional \$2.5 million in FY16 and 17 from the General Assembly to support the Tuition Fund (4210). The increase is not related to an increase in tuition revenue. Excluding the additional monies from the General Assembly, the average revenue generated from training was \$1.7 million per year. As you will see in our expenditure analysis, this allowed the AG's office to allocate more expenditures to the Tuition fund while reducing the reliance on the collection fees to supplement this fund.

Additionally the FY16 and FY17 Greenbook stated the following:

Law Enforcement Assistance Program (DPF line item 055619)

This line item is used to: (1) pay reimbursements for law enforcement continuing professional training programs for peace officers and troopers, and (2) pay costs incurred by the Attorney General in administering those training programs. For these purposes, the budget appropriates \$7.8 million in FY 2016 and \$12.8 million in FY 2017, significant increases for FY 2015 expenditures of \$2,153,215. This line item's appropriation is supported by money drawn from the Law Enforcement Assistance Fund (Fund 5L50). This fund has no dedicated revenue source. Historically, its revenue has come in the form of cash transfers from various funds used by the Attorney General.

The budget also:

- *Requires the Ohio Peace Officer Training Commission to direct every appointing authority to require each of its appointed peace officers and troopers to complete a total of 11 hours of continuing professional training in calendar year (CY) 2016, and a total of 20 hours of continuing professional training in CY 2017.*
- *Requires the state reimburse each public appointing authority 100% of the cost of continuing professional training for all 11 hours of training required in CY 2016, and for the first 11 of the required 20 hours in CY 2017.*
- *Requires the state, for the remaining 9 hours of required training in FY 2017, reimburse each public appointing authority, for the first 50 full-time officers or troopers trained, at the rate of 100% of the cost of continuing professional training.*
- *Requires the state reimburse each public appointing authority, for any full-time officers or troopers trained after the first 50 full-time officers or troopers are trained, 80% of the cost of continuing professional training for the remaining 9 of the 20 hours of training required in CY 2017.*

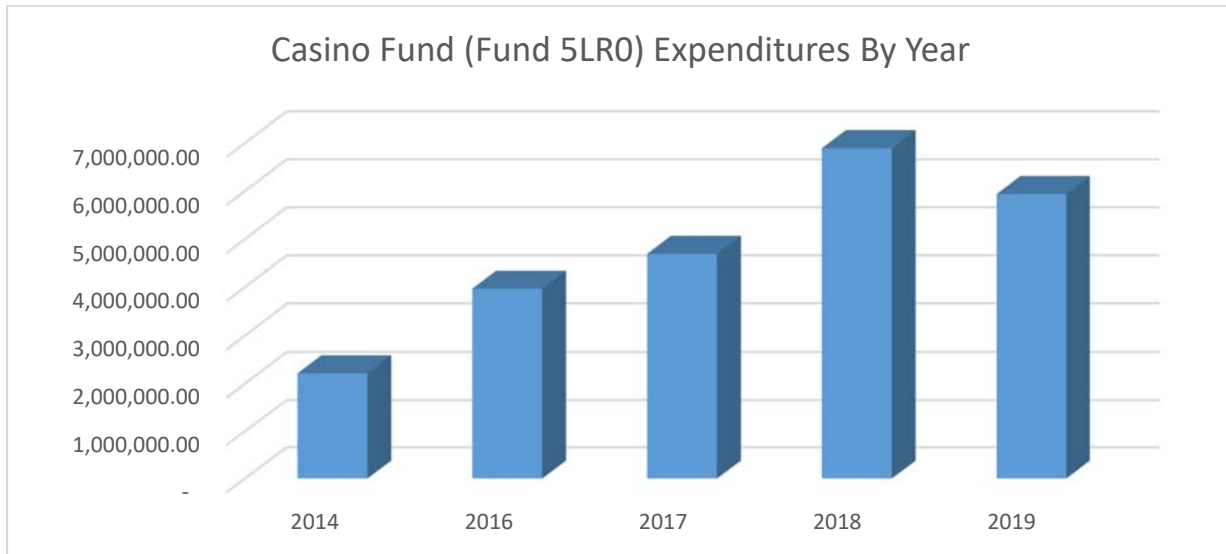
In order to provide funding for the required state reimbursements noted in the above graph, the budget alters the distribution of money in the Local Government Fund by specifying that \$5.0 million in FY 2016 and \$10.0 million in FY 2017 be distributed through county undivided local government funds to Fund 5L50, instead of directly from the Department of Taxation to municipal corporations.

The graph above doesn't reflect the monies transferred, approximately \$2 million, from the Casino fund in 2015. This transfer was made to allow the AG's office to start preparing for the mandatory training requirements, according to AG representatives.

Expenditure Analysis

The following chart indicates the Casino Fund's expenditures by year to see how the expenditures changed over time. (Note that the table below starts in FY2014, which is the first year that Fund 5LRO had substantial expenditures.)

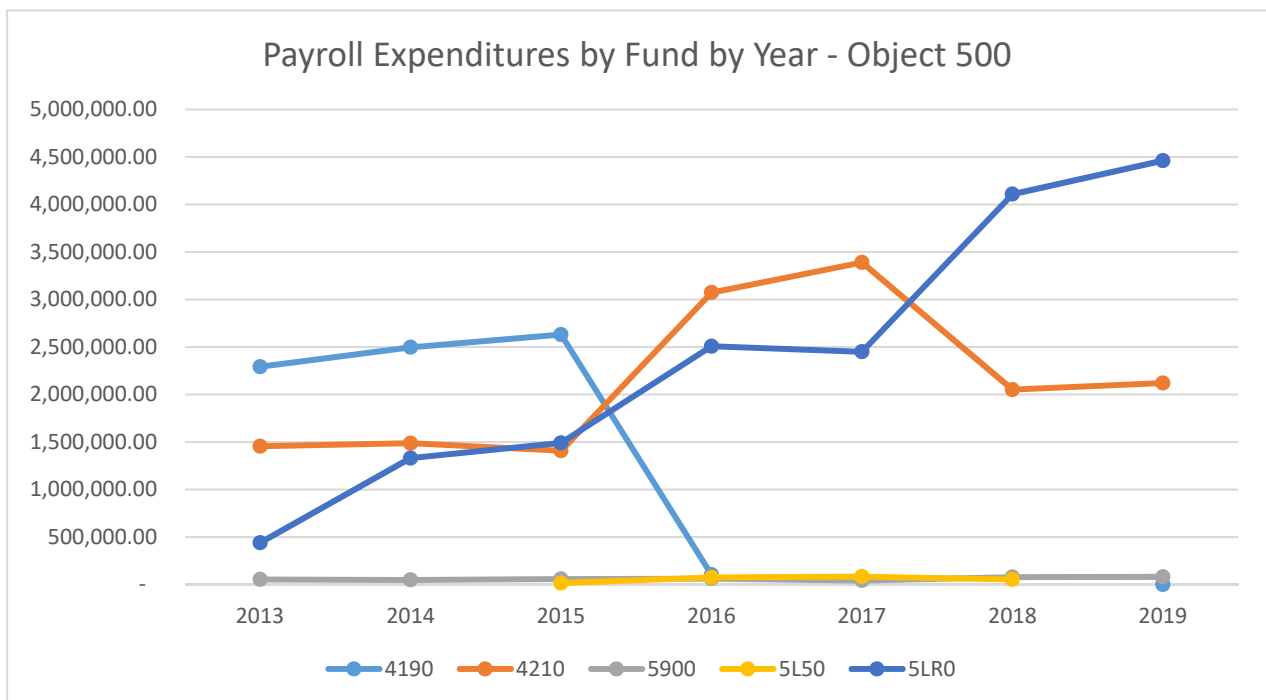
Figure 6



The following are items of significance that we noted from our analysis. We only included explanations of the specific object codes if significant changes were noted:

A. Payroll (Object 500):

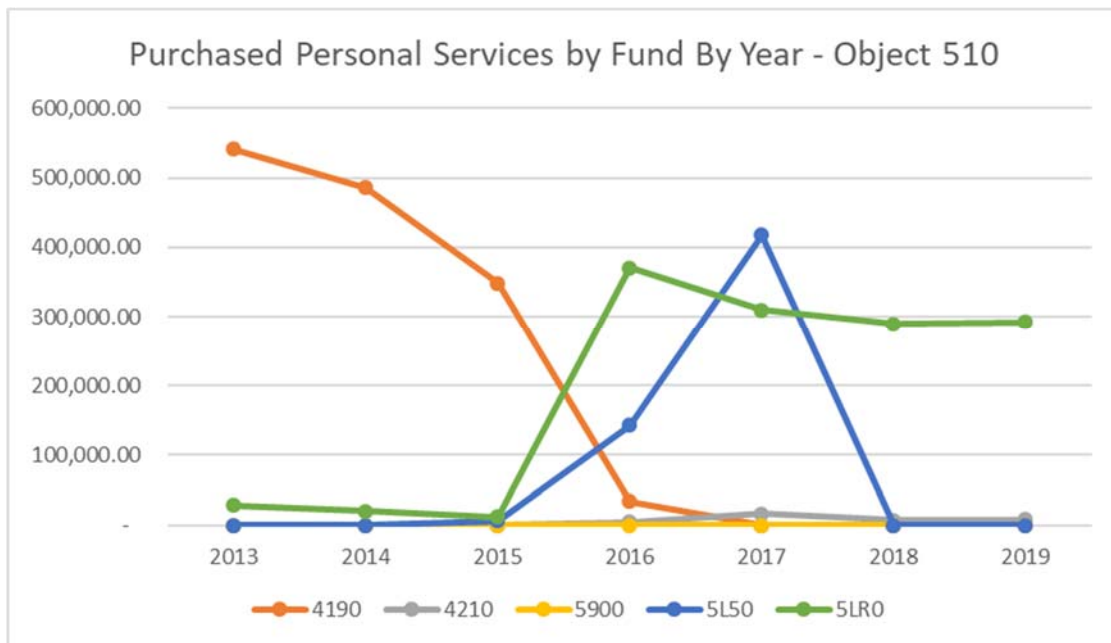
Figure 7



- a. During FY14 & FY15, the payroll expenditures in both the 4210 fund and the 5LR0 fund made up approximately 50% of the total payroll expenditures for OPOTA and were nearly a 50/50 split between the funds.
- b. In FY16, nearly 96% of all the OPOTA payroll expenditures were paid from these two funds: 53% from Fund 4210 and 43% from Fund 5LR0. FY17 reported similar results.
- c. For FY18 & FY19, we noted that the payroll expenditures were 98-99% accounted for in these two funds; 65% and 67% from Fund 5LR0 in FY18 and FY19, respectively and 33% and 32% in Fund 4210 in FY18 and FY19, respectively.

B. Purchased Services (Object 510):

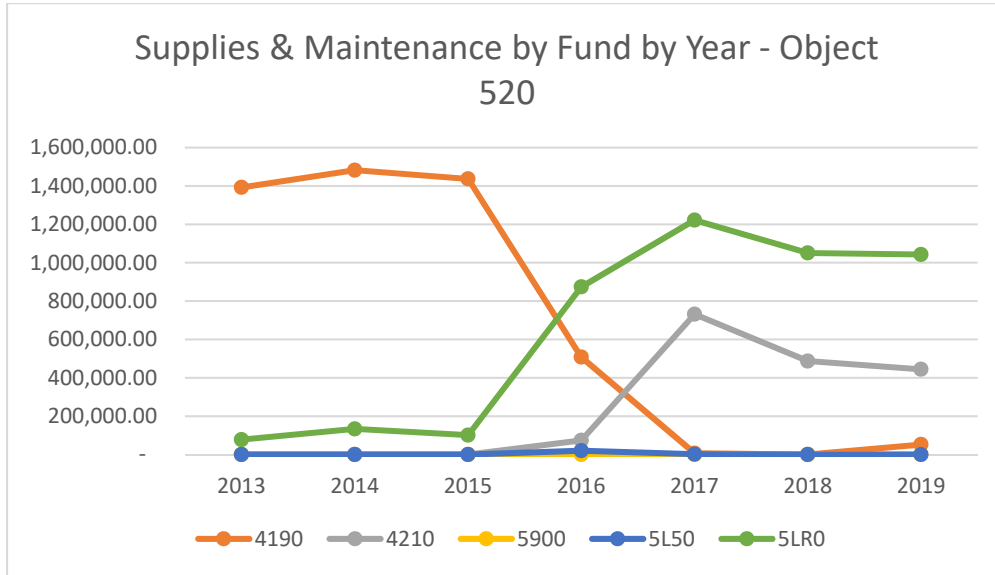
Figure 8



- a. Fund 4210 funds less than 3% in any one year of OPOTA's total purchased services expenditures, therefore, we focused more on the changes in the 5LR0 fund.
- b. Prior to FY16, less than 5% of OPOTA's purchased service expenditures were being paid from Fund 5LR0.
- c. In FY16 through FY19, the 5LR0 fund accounted for these expenditures 67%, 42%, 97% and 97%, respectively.

C. Supplies and Maintenance (Object 520):

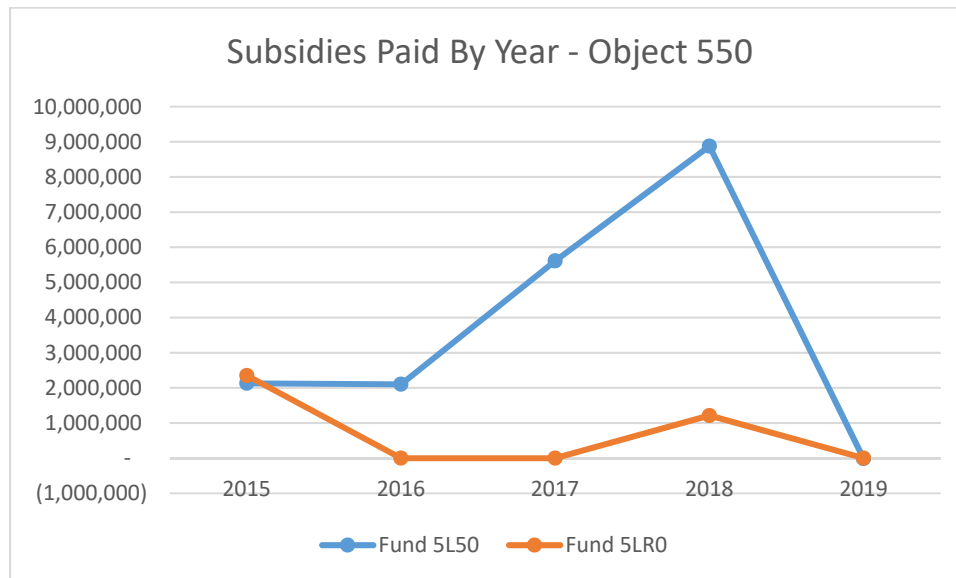
Figure 9



- a. Prior to FY16, less than 10% of these expenditures were being funded by funds 4210 and 5LR0
- b. In FY16, we noted that 59% of these expenditures were paid from Fund 5LR0 and only 5% from Fund 4210.
- c. In FY17 through FY19, we noted that these expenditures were funded as follows: between 62% and 68% from Fund 5LR0 and between 29% and 37% from Fund 4210.

D. Subsidies (Object 550):

Figure 10



- a. Fund 5L50 (Commission Fund) pays out subsidies to governments whose officers attend the training for obtaining their certification and the required CPT training. We noted a significant increase in the amount paid for these subsidies during FY17 & FY18. Based on our inquiry with OPOTA staff, we have determined that this was due to additional monies from the legislature (\$5 million in FY16 and \$10 in FY17) to pay for additional subsidies.
- b. Additionally, we noted there were some subsidies paid from the 5LR0 fund in FY15 and FY18. Per our review of the expenditure ledgers and inquiry with the AG’s financial department, we determined this was to cover the additional subsidies that the Commission was being required to pay, but the 5L50 Fund didn’t have enough money to cover.

RESULTS

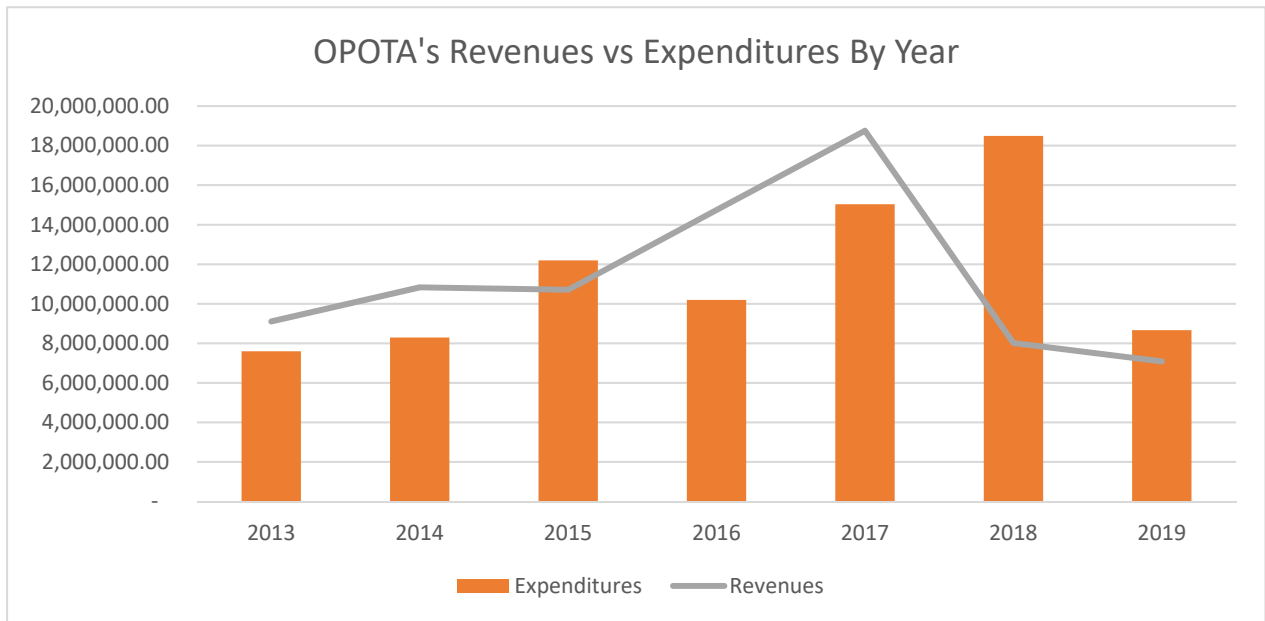
Supplementing OPOTA’s Operations with Casino Funds

The financial data indicates that tuition was not established at a rate high enough to cover the full cost of OPOTA’s operations; the average tuition revenue generated was approximately \$1.7 million and average OPOTA expenditures were approximately \$6 million annually. Thus the AGO, up until FY16, supplemented the short fall of the tuition (in Fund 4210) with Collection Fees (from fund 4190). For instance, in FY13 through FY15, Fund 4190 Collections accounted for approximately 50% of OPOTA’s operating cost (see figure 1). In FY16 the funding activity shifted to eliminate the 4190 funding and place all funding on tuition and casino revenue. FY16 and FY17 Tuition fund (fund 4210) received an additional \$2.5 million from the General Assembly, this allowed the major shift in expenditures to

4210 in FY16 and FY17 and why in FY18 and FY19 the shift of funding moved to the Casino Fund (5LR0), (see figures 7-9).

Furthermore, OPOTA's total expenditures only increased 18%, or \$1,538,226, when comparing FY12 to FY19. FY12 represents the final year OPOTA's activities were not funded with Casino revenues. During this period Casino Revenue averaged \$4,394,731 per year in Fund 5LR0. See Figure 11 below for a representation of this analysis.

Figure 11



In the above figure, however, we need note that this includes all funds that have revenues and expenditures related to the operations of OPOTA. In 2016 and 2017, OPOTA received additional funding subsidies for local governments for mandated training. They paid the employees' salaries for the time they were in attendance at the training. This resulted in the spike in revenues noted in 2016 and 2017. OPOTA reimbursed the local governments in the subsequent year; this accounts for the spike in expenditures, 2017 and 2018.

In our testing and analysis of revenues to address objective 1: to determine, over the past three years, how much casino revenue money has been transferred into the Law Enforcement Training Fund and how was it expended. Figure 4 demonstrates the total dollar amount of revenue transferred into the Casino Revenue fund and that the correct amount was transferred in, we identified no variance in the required amount transferred into such fund. We have identified how it was expended in Figures 6 through 10, and the narrative within the Analysis section of this report.

In our testing and analysis of expenditures to address objective 2: were fund expenditures consistent with law. There were expenditure inconsistencies between years and expenditures were allocated based on revenue availability, from additional appropriations, and transfers, and expenditures were not made in accordance with the crosswalks identified nor in a manner that tracked expenditures of Casino Revenues for "additional" training as required. Figures 6 through 10, and the additional narrative demonstrate how the funds were expended; as well as demonstrate that there was apparent noncompliance in that the expenditures were not consistent with law.

CONCLUSION/RECOMMENDATIONS

Article XV, §6(C)(2) of the Ohio Constitution established a thirty-three percent tax on the gross casino revenue received by the operator of each Casino in Ohio. Two percent of that tax is required to be distributed to “a state law enforcement training fund to enhance public safety by providing additional training opportunities to the law enforcement community.” Ohio Const. Art. XV, §6(C)(3)(f). The General Assembly established that fund in the state treasury as the Ohio Law Enforcement Training Fund. O.R.C. 5753.03(A)(6). Each month, after transferring the required amount to the Tax Refund Fund in the state treasury, the Director of Budget and Management is required to transfer two percent of the remainder of the casino tax revenue to the Ohio Law Enforcement Training Fund. O.R.C. 5753.03(D)(5). Eighty-five percent of the money credited to the Ohio Law Enforcement Training Fund is required to be distributed to the Police Officer Training Academy Fund “for the purpose of supporting the law enforcement training efforts of the Ohio peace officer training academy[.]” O.R.C. 5753.03(D). Information received from the Ohio Attorney General’s office indicates that the Police Officer Training Academy Fund is the Casino Fund (Fund 5LR0).

O.R.C. 109.79(A) requires the Ohio Peace Officer Training Commission to “determine tuition costs sufficient in the aggregate to pay the costs of operating the academy.” In addition, the Commission is required to “use money distributed to the Ohio peace officer training academy from the Ohio law enforcement training fund to first support the academy’s training programs for gaming agents and gaming-related curriculum.” O.R.C. 109.79(A).

In the course of conducting this engagement, the Ohio Auditor of State’s office has received multiple opinions from the Ohio Attorney General’s office addressing the use of those revenues. The most recent opinion (see attachment C) asserts that the Ohio Peace Officer Training Commission’s use of the moneys complies with the Ohio Constitution and the Ohio Revised Code. Specifically, the opinion asserts that Section 6(C)(3)(f) of Article XV of the Ohio Constitution is not self-executing, and requires additional enabling legislation. According to the opinion, insofar as O.R.C. 5753.03 is enabling legislation, the operative language restricting the use of the casino tax revenue that has been distributed to the Police Officer Training Academy Fund is found in O.R.C. 5753.03(D), which states that the casino tax revenue shall be used “for the purpose of supporting the law enforcement training efforts of the Ohio peace officer training academy[.]” The opinion concludes, therefore, that this provision permits the use the casino tax revenue for any purpose that supports the training efforts of the Ohio Peace Officer Training Academy (OPOTA). If this interpretation were applied, the Auditor of State’s audit of the Casino Fund (Fund 5LR0) would not result in a finding of noncompliance.

An alternative interpretation of the pertinent Constitutional provisions and Revised Code sections suggests, however, that Ohio Const. Art. XV, §6(C)(3)(f) must be read together with O.R.C. 109.09(A) and O.R.C. 5753.03. Under this approach, the Ohio Peace Officer Training Commission is required to charge tuition for its operating costs and may supplement its costs with casino tax revenue. That casino tax revenue must be used to pay the costs of gaming-related curriculum and to provide additional training opportunities. Although casino tax revenue may be used to support the training efforts of OPOTA, the revenues must also be used to provide additional training opportunities to law enforcement officers. Accordingly, in order to determine whether the casino tax revenue was used lawfully, the revenue spent must be compared with the cost of creating and offering additional training opportunities. If this interpretation of the pertinent constitutional and statutory provisions were applied, the Auditor of State’s audit of the Casino Fund (Fund LR0) would result in a finding of noncompliance. However, the current state of records prevents a conclusion as to the amount of casino tax revenue that may have been spent in violation of the law.

The interplay of the above-referenced constitutional provisions and statutes has created confusion with respect to the lawful use of casino tax revenue that has been distributed to the Peace Officer Training Academy Fund. The

apparent difference in interpretations demonstrates the necessity for further clarification from the General Assembly.

We recommend that the state constitution and the statutes regarding these casino monies should be reviewed and clarified so that consistent application of the statutes and constitution can be achieved by the AG office. In addition, we recommend that there should be clarification as to what constitutes “additional training” opportunities. We believe that in order to demonstrate the casino revenues were used as intended, there should be some form of measurement to demonstrate that monies were used for additional training or to enhance OPOTA’s training operations.

Regarding our recommendations for the AG’s office, we believe that they should review their policies and procedures, along with their expenditure “crosswalk”, particularly related to the expenditure of the casino funds. The AG’s office should implement procedures to allow them to demonstrate the casino revenues were used in accordance with the laws; whether it be for enhancing and improving training or for additional training. Included within these procedures should be the types of documentation that the AG’s office will prepare and maintain to support additional training or enhancement in a form that is measureable. Items that should be considered for these procedures include, but not limited to: training course listings with dates of implementation, support for employees’ time to prepare and train on these courses, rosters of course attendees along with the number of course hours, etc. Most importantly the support maintained should be able to support the dollar amount of the casino fund expenditures and be related to OPOTA’s additional training opportunities.

ATTORNEY GENERAL RESPONSE TO FINDINGS

The Attorney General’s response to the matters that were identified in the Conclusion/Recommendations section above can be found in Attachment D.

ATTACHMENT A – FUNDING MEMO

To: Stephen Schumaker, and Mary Davis

From: Justin Hykes

Date: 8/5/2015

Subject: OPOTC/A Funding Sources

The Ohio Peace Officer Training Academy (OPOTA) receives funds from several different sources in our Fiscal Year 2016 budget; however, this memo will examine the two main sources (the tuition fund and casino funds) and how they may statutorily be used.

Tuition Funds

The tuition fund was established by Ohio Revised Code section 109.79. Ohio Revised Code section 109.79(A) paragraph three states “The Ohio peace officer training commission shall determine tuition costs sufficient in the aggregate to pay the costs of operating the academy.” This section would seem to require the Commission to set tuition rates so that the costs of running the academy are covered solely by funds generated from tuition. However, it does not actually require the tuition funds be used to cover academy costs, but rather simply requires that they be enough to cover the costs. For example, if the academy needs \$3,000,000 to operate annually, tuition fees would need to be at least \$3,000,000 but could be used to cover other costs, while other funding is used to cover the costs of the academy.

Casino Funds

The casino funds are mandated by both the Ohio Constitution and the Ohio Revised Code to go to OPOTA. Article XV, Section 6(C)(3)(f) of the Ohio Constitution states that “two percent of the tax on gross casino revenue shall be distributed to a state law enforcement training fund to enhance public safety by providing additional training opportunities to the law enforcement community.” Revised Code section 3772.01(T) defines the Ohio law enforcement training fund as “the state law enforcement training fund described in Section 6(C)(3)(f) of Article XV, Ohio Constitution, the money in which shall be used to enhance public safety by providing additional training opportunities to the law enforcement community.” Additionally, Revised Code section 5753.03(D)(5) states that “2% of the taxes levied against the casinos shall be transferred to the Ohio law enforcement training fund to support law enforcement functions in the state.” Section (D)(7) goes on to state that, “of the money credited to the Ohio law enforcement training fund, the director of budget and management shall distribute eighty-five per cent of the money to the police officer training academy fund for the purpose of supporting the law enforcement training efforts of the Ohio peace officer training academy...”

The language found in RC 5753.03 is very broad and would suggest that the share of casino taxes distributed to OPOTA could be used for almost anything that the academy or commission does. Commission and academy functions relating to private security would probably be the only functions not allowed to be funded based on the language in RC 5753.03. However, the language in the Ohio Constitution and RC 3772.01 is more restrictive than what is found in RC 5753.03, requiring that casino funds be used for “additional training opportunities to the law enforcement community.”

Additional opportunities could encompass several different ideas. Casino funds could theoretically be used to reduce the costs of tuition for advanced training courses, thus allowing more officers to have the opportunity to attend OPOTA courses. As “law enforcement community” is not defined anywhere, casino funds could also be used to run basic training academies at OPOTA. OPOTA does not currently run basic academies, so doing so would be an additional training opportunity for the law enforcement community, as that term could easily be extended to cadets or people wanting to become peace officers. Upgrades to equipment and facilities, or new equipment or facilities could also come from casino funds. Upgrades could allow current courses to be improved or reworked so that they could create additional opportunities. For example, adding audio/video capabilities to a classroom so that a course could be streamed to officers across the state would be an additional training opportunity. Using funds to rent or construct facilities for more scenario based training would also be permitted as they would be used for additional training opportunities. Funds could also be used to create new courses or hire new training officers (LETOs) to teach either new courses or teach existing courses if the additional manpower was used to offer those courses to more officers, thereby creating additional opportunities.

In short, additional training opportunities would be new training, improved training, or current training provided in some way to reach additional officers. It should be noted that additional opportunities should be based on what was available when the casino amendments and statutes were passed. As such, our mobile academy initiatives will always be additional opportunities, because they would not have existed without the casino funds.

What this all means

Currently, the only new trainings being contemplated are the CPT courses being developed for 2016. While individual LETOs regularly develop new courses, they do not do so in a way that could be easily tracked for budgeting purposes. This same issue will likely occur with the new CPT courses as well. As we are not planning on hiring new LETOs to teach the CPT courses, it would be difficult to verify how much time each training officer was spending on the new courses, thus making it difficult to allocate casino funds to a set percentage of a training officer’s duties. As such, it would be problematic to allocate casino funds to pay for current non-mobile academy LETOs as the additional training they would be providing would likely be both immaterial and unable to be tracked in comparison to the training they already do.

ATTACHMENT B - OPOTA MEMO July 26, 2019

MEMORANDUM

TO; BRENDA RINEHART, FIRST ASSISTANT ATTORNEY GENERAL

FROM: MARK ALTIER, CHIEF, OPINIONS SECTION

RE: OHIO PEACE OFFICER TRAINING ACADEMY FUNDING

DATE: July 26, 2019

You have asked me to provide you with my analysis and thoughts on certain issues and questions incident to the funding of the Ohio Peace Officer Training Academy (OPOTA). You requested that, as I conduct my analysis and reach my conclusions, I utilize my knowledge and experience garnered during my four years as Chief Legal Counsel for the Ohio Auditor of State. I understand that the questions which you raise may be fairly summarized as set out below:

1. May tuition revenue received by OPOTA which exceeds the amounts necessary to cover the operating costs of the Academy and which are so devoted be utilized for other purposes in support of the Ohio Peace Officer Training Commission and the office and activities of its Executive Director?
2. Is money received from the law enforcement training fund restricted in use to the creation, support, and operation of services, programs, and activities which were not offered or in existence as of the adoption of Article XV, Section 6 of the Ohio Constitution (December 3, 2009) or the adoption of R.C. 3772.01(T) (September 10, 2010), but have been created and made available thereafter?

Article XV, Section 6 of the Ohio Constitution which relates, in relevant part, to “casino gambling” contains subsection (3)(f) which provides that:

(f) Two percent of the tax on gross casino revenue shall be distributed to a state law enforcement training fund to enhance public safety by providing additional training opportunities to the law enforcement community.

R.C. 5753.03(A)(10) creates the “peace officer training academy fund”, and subsection (D)(5) provides that “...each calendar quarter, the director of budget and management shall transfer...” two percent of the proceeds of the tax levied by R.C. 5753.02 upon casino revenues to “the peace officer training academy fund.” R.C. 3772.01(T) defines the “Ohio law enforcement training fund” as the “...fund described in Section 6(C)(3)(f) of Article XV, Ohio Constitution, the money in which shall be used to enhance public safety by providing additional training opportunities to the law enforcement community.”

It is my understanding that it has been suggested that the use of the phrase “additional training opportunities” as set forth in the provisions noted above requires that moneys realized from the casino revenue tax and distributed to the peace officer training fund are restricted in use to new programs which have been created since the adoption of the empowering constitutional amendment and legislative enactments. The interpretation and application of these provisions turns on the meaning of the word “additional.” Absent statutory definition, words generally should be accorded their natural, literal, common, or plain meaning. R.C. 1.42; *State v. Dorso*, 4 Ohio St. 3d 60, 446 N.E. 2d 449 (1983); *Lake County National Bank v. Koysdar*, 36 Ohio St. 2d 189, 305 N.E. 2d 199 (1973); *In re Appropriation for Highway Purposes*, 18 Ohio St. 2d, 214, 249 N.E. 2d 48 (1969); *Baker v. Powhatan Mining Co.*, 146 Ohio St. 600, 67 N.E. 2d 714 (1946); *Carter v. Youngstown*, 146 Ohio St. 203, 65 N.E. 2d 63 (1946); and *Eastman v. State*, 131 Ohio St. 1, 1 N.E. 2d 140 (1936).

It is apparent, however, that words may be subject to multiple definitions as to their natural, literal, common, or plain meaning depending on the context and usage of the same. I find that the word “additional” may be defined as “Existing or coming by way of addition.” *Webster’s Third New International Dictionary, Unabridged*, Merriam Webster Incorporated, 1993, p. 24. Included in the definition of the word “addition” is “something added that improves or increases value” noting as a synonym “augmentation.” *Id.*, p. 24. To “augment” means “to enlarge or increase, especially in size, amount, or degree” or to “make bigger.” *Id.*, p. 143. It appears perfectly viable to interpret the language here at issue so that the portions of the casino revenue tax deposited in the Ohio law enforcement training fund ultimately may be utilized for any purpose which enhances public safety by improving, enlarging, or increasing the value and benefit of training opportunities for the Ohio law enforcement community. I find nothing which justifies the conclusion that expenditures from that fund are limited to new programs or offerings, and I find that interpretation overly restrictive and counter-productive as to public benefit.

I note, as well, that R.C. 109.79 provides, in relevant part, that:

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

The Ohio peace officer training commission shall create a gaming-related curriculum for gaming agents. The Ohio peace officer training commission shall use money distributed to the Ohio peace officer training academy from the Ohio law enforcement training fund to first support the academy’s training program for gaming agents and gaming-related curriculum.

The statute clearly charges the peace officer training commission with the responsibility to set the tuition costs of the academy in an amount adequate to cover the costs of its operation. Of course, it is incumbent upon the commission to ensure that the academy is properly funded and operational. As set forth, the costs of acquiring facilities for the academy and equipping them are to be borne by appropriations from the General Assembly and from other sources as indicated. In addition, the statute mandates that the commission create a gaming-related curriculum for gaming agents, and that the cost of providing instruction under this curriculum be defrayed from moneys deposited in the Ohio law enforcement fund. I find nothing, however, in the section which indicates or suggests that any surplus moneys which are generated as a result of tuition payments incident to OPOTA and which are not required for the operation of the academy may not be expended for other public purposes incident to the operation of the commission.

It is my opinion, therefore, that:

1. The expenditure of moneys deposited in the Ohio law enforcement fund is not limited to new and additional courses and offerings added after the creation of the fund, but may be utilized for any purpose which enhances public safety by improving, enlarging, or increasing the value and benefit of training opportunities for the Ohio law enforcement community. This conclusion assumes that the commission is now and will continue to comply with the requirement of R.C. 109.79 as to the creation and funding of a gaming-related curriculum and the offering of training thereunder; and

There is no statutory limitation which precludes the expenditure of tuition funds generated by the academy for proper public purposes of the commission other than the actual operation of the academy on the condition that the academy's operations are fully-funded as is reasonably necessary as determined by the commission.

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DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-466-1653
Fax 866-365-3465

January 29, 2020

Mr. Robert R. Hinkle
Chief Deputy Auditor
Ohio Auditor of State
88 E. Broad Street
Columbus, Ohio 43215

Re: Correspondence from January 14, 2020

Dear Mr. Hinkle:

Thank you for your recent letter containing several initial findings by your office. I appreciate the opportunity to review your questions and provide feedback.

At our request, your Office was engaged to provide a review of expenditures from the casino funds received by the Attorney General's Office (AGO) and deposited into the State Law Enforcement Training Fund. During your review, it was identified that the way in which the AGO paid for payroll expenses at the Ohio Peace Officer Training Academy (OPOTA) began to change between FY15 and FY16.

Your initial findings indicate that in FY14 and FY15 approximately 50% of OPOTA payroll expenditures were covered by, and split between, Fund 5LR0 ("Casino Fund") and Fund 4210 ("Tuition Fund"). In FY16 and FY17 nearly 96% of OPOTA payroll expenses were paid for by these two funds (53% Tuition, 43% Casino), and in FY18 and FY19, respectively, 98-99% of OPOTA payroll expenses were paid for by the funds (33-32% Tuition, 65-67% Casino). While these two funds were traditionally used to pay OPOTA payroll expenses, OPOTA's reliance on them to fund payroll increased between FY16 and FY19. This increase led to questions by your Office and I appreciate the opportunity to provide this response.

Payroll Expenditures (Object 500)

Question 1: *What documentation does the AGO have to support the shift in Payroll and Benefits to the Casino Fund?*

AGO Response: As your findings indicate, your Office has reviewed documents that show OPOTA's increased reliance on Casino and Tuition Funds to cover payroll expenses. This

increased reliance occurred during a prior AGO administration and we have found no documented explanation for the shift. We are not able to make representations on behalf of a prior administration.

Before turning to your second question it is important to first consider what expenditure restrictions Ohio law places on the Casino Fund. By way of background, Ohio law creates two separate funds in the state treasury, the "Ohio law enforcement training fund," Ohio Revised Code (R.C.) 5753.03(A)(6), and the "peace officer training academy fund." R.C. 5753.03(A)(10). The money deposited into these funds comes from the taxes imposed on Ohio's casinos. *See* R.C. 5753.02 (imposing a 33% tax on casino gross revenue). Specifically, two percent of the casino tax money is transferred to the "Ohio law enforcement training fund to support law enforcement functions in the state." R.C. 5753.03(D)(5). Once this casino tax revenue is deposited into the law enforcement training fund, the director of budget and management is required to distribute eighty-five percent of the money to the police officer training academy fund "for the purpose of supporting the law enforcement training efforts of the peace officer training academy."¹ R.C. 5753.03(0)(7). The police officer training academy fund into which this money is deposited is the Casino Fund (Fund 5LR0) referred to, above.

Ohio law sets forth only one specific requirement for the use of the Casino Fund. R.C. 109.79(A) provides that the Ohio Peace Officer Training Commission ("OPOTC") "shall use money distributed ... to the peace officer training academy from the Ohio law enforcement training fund to first support the academy's training program for gaming agents and gaming related curriculum." R.C. 109.79(A). In order to fulfill this requirement OPOTC, through OPOTA, uses money to fund training and gaming -related curriculum for gaming agents and did so for the duration of FY14 through FY19.

After using the Casino Fund as directed by R.C. 109.79, OPOTA is required to use the money in that fund "for the purpose of supporting law enforcement training efforts of the Ohio peace officer training academy." R.C. 5753.03(D)(7). So, to summarize, under Ohio law all money deposited into the law enforcement training fund pursuant to R.C. 5753.03(A)(6) is to be used "to support law enforcement functions in the state," and eighty-five percent of that money is to be used by OPOTA "for the purpose of supporting law enforcement training efforts of the Ohio peace office training academy." R.C. 5753.03(D)(7).

Paying OPOTA staff, purchasing services and supplies and providing maintenance for the training academy undoubtedly supports the law enforcement training efforts of OPOTA. So too

¹ The remaining fifteen percent of the law enforcement training fund is distributed to the office of criminal justice services, a division of the Ohio Department of Public Safety, into its casino tax revenue fund. R.C. 5753.03(D)(7). Expenditures from that fund are not under the purview of the AGO and are outside the scope of this response.

does providing subsidies to agencies whose officers attend OPOTA trainings. Thus, all of these expenditures fall squarely within the AGO's spending authority set forth in R.C. 5753.03(A)(7) and the AGO complied with Ohio law when using the Casino Fund for these purposes.

This conclusion is not altered by Article XV, Section 6(C)(3)(f) of the Ohio Constitution, which provides: "Two percent of the tax on gross casino revenue shall be distributed to a state law enforcement training fund to enhance public safety by providing additional training opportunities to the law enforcement community." This Constitutional provision is not self-executing. That is, the provision does not allow the AGO to spend anything. Instead, it requires enabling legislation to be effective. R.C. 5753.02 and R.C. 5753.03 are two pieces of such enabling legislation. It was only after those statutes were passed that the Casino Fund came into existence, and the AGO had the authority to spend it.

Both R.C. 5753.02 and R.C. 5753.03, like all Ohio statutes, are entitled to a strong presumption of constitutionality. *City of Toledo v. State*, 154 Ohio St.3d 41, 2018-Ohio-2358, 18. The presumption of constitutionality is only rebutted when it is clear beyond a reasonable doubt that the statute and the constitution are clearly incompatible. *State v. Mole*, 149 Ohio St.3d 215, 2016-Ohio-5124, 11. When the General Assembly passed these statutes it determined that the Casino Fund could be used to "support[] the law enforcement efforts of the Ohio peace officer training academy." That determination is presumed to be constitutional and not in conflict with the Art. XV, Section 6 of the Ohio Constitution. Thus, the General Assembly's determination in R.C. 5753.03 that the Casino Fund can be used to "support" law enforcement is presumed to be compatible with the language in Ohio's Constitution that such money be used for "additional law enforcement training opportunities." Therefore, any expenditure of Casino Fund money made in compliance with R.C. 5753.03 enjoys a strong presumption of constitutionality.

As the constitutional provision is not self-executing and does not allow the AGO to spend any money, the inquiry as to whether the Casino Fund was spent in compliance with Art. XV, Section 6 is not applicable. Simply put, Art. XV, Section 6 is not the correct benchmark by which Casino Fund expenditures must be judged because it does not allow for *any* expenditures. The presumptively constitutional statutes, without which the Casino Fund and the AGO's authority to spend it would not exist, provide the appropriate spending standard. And, because the AGO spent Casino Fund dollars in compliance with those statutes, the inquiry ends there.²

² A second revised code section, R.C. 3772.01(T), also provides a definition of a "law enforcement training fund." This definition, however, does not govern the Casino Fund. R.C. 3772.01(T) states that "'Ohio law enforcement training fund' means the state law enforcement training fund described in Section 6(C)(3)(f) of Article XV, Ohio Constitution, the money of which shall be used to enhance public safety by providing additional training opportunities to the law enforcement community." The explicit language O.R.C. 3772.01, however, states that the (Continues)

The analysis above is particularly important to your second question, to which I will turn to next.

Question 2: *How does the AGO believe that shifting the majority of payroll to the Casino Fund meets Attorney Altier's conclusion on the use of Casino Funds, see appendix A.*

AGO Response: Like Art. XV, Section 6, the memorandum is not the applicable standard for Casino Fund expenditures. Further, the memorandum does not address the question raised in your correspondence-whether the Casino Fund may be used to pay for a larger percentage of OPOTA's payroll expenditures. The memorandum instead considers two different questions, and is based on a different factual assumption. Specifically, the memorandum addresses a situation in which OPOTA tuition fees more than cover the operation of the academy. As is recognized in your letter, however, for a number of years there has not been an excess of tuition money. Moreover, although we believe the conclusion of the memorandum is accurate, as discussed above, the controlling law regarding use of the Casino Fund is R.C. 5753.03(0).

Nevertheless, the Casino Fund expenditures are entirely consistent with the memorandum.

Consider, the following analysis from the memorandum:

"[I]t appears perfectly viable to interpret the language here at issue so that the portions of the casino revenue tax deposited in the Ohio law enforcement training fund ultimately **may be utilized for any purpose which enhances public safety by improving, enlarging, or increasing the value and benefit of training opportunities for the Ohio law enforcement community. I find nothing which justifies the conclusion that expenditures from that fund are limited to new programs or offerings,** and I find that interpretation overly restrictive and counter-productive as to public benefit." [emphasis added]

Paying trainers improves and increases the value of law enforcement training because it allows law enforcement training to occur. If OPOTA could not pay its trainers, then it would not be able to provide training - the trainers are not volunteers. It would not be rational to restrict this

definitions are for use "in this chapter." Nothing in Revised Code Chapter 5753, the chapter creating the fund in question, cites to or references the definitions in R.C. 3772.01. Moreover, R.C. Chapter 3772 never itself creates, or even mentions, a law enforcement training fund. We cannot presume why the legislature defined a term that it ended up not using, but what is clear is that the fund questioned in your letter is created by, and governed by, the language in R.C. 5753.03(D)(5). *See also LBO Analysis of Attorney General Executive Budget Proposal*, Legislative Budget Office of the Legislative Service Commission, 10 (March 2019) (citing R.C. 109.79 and R.C. 5753.03, and *not* citing R.C. 3722.01, as the legal basis for fund 5LRO.)

money only to augmented training, if at the same time no resources were available to pay the instructors to deliver that training. Moreover, as the memorandum recognizes, the Casino fund does not have to be used on *new* programs or offerings.

This rationale also applies to supplies, maintenance, purchased services, and other the expenses questioned in your letter. Training does not occur in a vacuum. The use of the Casino Fund to fund these expenses improves, enlarges and increases the value and benefit of training opportunities because the expenses allow trainings to occur. If the Casino Fund did not cover these expenses, then the programs and training offered by OPOTA would be cut back significantly.

Purchased Services (Object 510)

Question 1: *How does the AGO believe that shifting the majority of Purchase Services expenditures to the Casino Fund meets Attorney Altier 's conclusion on the use of Casino funds, see appendix A.*

AGO Response: The expenditures were made to support law enforcement training activities in accordance with R.C. 5753.03. For further analysis, please see our response above.

Question 2: *For the items listed below in a-d, please explain how they meet the definition of additional learning opportunities that allows for the expenditures to be paid out of the Casino Fund (2018 and 2019 detail is attached to letter):*

- a. *Reimb Board Member-Travel Rule*
- b. *Membership Dues*
- c. *Vendor Offered Train/Cert Fee*
- d. *Non Cash Awards Other Than Lot*

AGO Response: The expenditures were made to support law enforcement training activities in accordance with R.C. 5753.03. For further analysis, please see our response above.

Question 3: *Since these expenditures were allocated between the Tuition and Casino Fund, we would like a further explanation, and support, of how the allocation of these expenditures were determined.*

AGO Response: The allocation of purchased services expenditures was determined by the department purchasing the item. In other words, if a contractor was needed in one of the advanced training departments, then the cost was assigned to the Casino Fund. However, if a contractor was needed in the professional standards department, then the cost was assigned to the Tuition Fund.

Supplies and Maintenance (Object 520)

Question 1: *How does the AGO believe that shifting the majority of Supplies and Maintenance expenditures to the Casino Fund meets Attorney A/tier's conclusion on the use of Casino Funds, see appendix A.*

AGO Response: The expenditures were made to support law enforcement training activities in accordance with R.C. 5753.03. For further analysis, please see our response above.

Question 2: *For the items listed below in a-e, please explain how they meet the definition of additional learning opportunities that allows for the expenditures to be paid out of the Casino Fund (2018 and 2019 detail is attached to letter):*

- a. Food-Wards I Cadets I Students, Etc.*
- b. Books, Paper Subscriptions, Etc.*
- c. Food-State Function*
- d. Cleaning & Maintenance Supply, Equipment*
- e. Weapons, Ammo, Security, Safety*

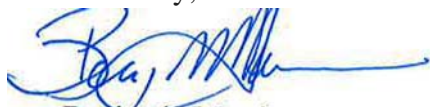
AGO Response: The expenditures were made to support law enforcement training activities in accordance with R.C. 5753.03. For further analysis, please see our response above.

Question 3: *Since these expenditures were allocated between the Tuition and Casino Fund, we would like a further explanation, and support, of how the allocation of these expenditures were determined.*

AGO Response: The allocation of supplies and maintenance expenditures was determined by the department purchasing the item. In other words, if a contractor was needed in one of the advanced training departments, then the cost was assigned to the Casino Fund. However, if a contractor was needed in the professional standards department, then the cost was assigned to the Tuition Fund.

In conclusion, as discussed above, as long as the AGO uses the police officer training academy fund to fund law enforcement training efforts of OPOTA, and first uses the fund to support training for gaming agents and gaming related courses, the AGO is lawfully using the Casino Fund. This is true regardless of whether or not the AGO uses any discretionary funds to also fund operations of OPOTA. It is also true regardless of what percentage the overall funding of OPOTA changed by in a certain period, including the 18% increase in funding between 2012 and 2019.

Sincerely,



Benjamin Marrison

Chief of Staff

Office of Ohio Attorney General Dave Yost

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DAVE YOST
OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

August 5, 2020

Keith Faber
Ohio Auditor of State
88 East Broad St., 10th Floor
Columbus, Ohio 43215

Re: Audit Report

Dear Auditor Faber,

On behalf of the Attorney General's office, we would like to thank the Auditor of State's office for its review of revenues and expenditures at the Ohio Peace Officer Training Academy (OPOTA).

We firmly believe the OPOTA funding has been spent in compliance with state law, but agree the law is open to different interpretations. Consequently, we agree with the Auditor of State that clarifying language from the General Assembly could remove the ambiguity, specifically the definition of "additional training opportunities".

Since this administration took office in January 2019, OPOTA's operations – financial and programmatic – have been under careful review as evidenced by our request to have the Auditor's office perform this external assessment. Revenues have been fully evaluated, as have expenses. This evaluation led to the May 22, 2020 announcement that OPOTA was being overhauled to better align expenses with resources, to improve the training offered to law enforcement, and to consistently provide the men and women who protect us with enhanced, upgraded training every year.

The state of policing has changed significantly, and will continue to evolve. OPOTA must adapt to those evolving needs. We are evaluating all courses to ensure that what is offered to law enforcement enhances their ability to protect and serve. Going forward, OPOTA will provide new training opportunities to law enforcement that are more convenient to access and more meaningful in the performance of their work. This training will require the resources that come from the casino tax as well as other, additional resources.

We will take into consideration your recommendation to enhance our policies and procedures related to the casino funds to demonstrate how our practices are in accordance with the law.

30 E. Broad Street, 17th Floor, | Columbus, OH | 43215

www.OhioAttorneyGeneral.gov

Depending on legislative changes, this will likely include some course documentation requirements, and additional tracking of related expenditures.

We appreciate the diligence and professionalism of the staff from the Auditor of State's office in reviewing this matter.

Yours,



Dave Yost
Ohio Attorney General

OHIO AUDITOR OF STATE KEITH FABER



OFFICE OF THE OHIO ATTORNEY GENERAL

FRANKLIN COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

This is a true and correct copy of the report, which is required to be filed pursuant to Section 117.26, Revised Code, and which is filed in the Office of the Ohio Auditor of State in Columbus, Ohio.



Certified for Release 8/20/2020

88 East Broad Street, Columbus, Ohio 43215
Phone: 614-466-4514 or 800-282-0370

This report is a matter of public record and is available online at
www.ohioauditor.gov